

TITLE 2

BUSINESS

Chapters:

1. County Innkeepers Tax
2. Food and Beverage Tax and Civic Center Authority
3. Temporary Sales Facilities for Motor Vehicles
4. Tax Abatement
5. Property and/or Real Property Taxes
6. Tax Warrants and Bonds
7. Dog Tax

CHAPTER 1

COUNTY INNKEEPERS TAX

2-1-1. Application of Ordinance.

This ordinance applies to all persons engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in the county in any of the following:

hotel
motel
boat motel
inn
college or university memorial union
tourism cabin

and such shall be taxed at a rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed pursuant to IC 6-2.5.

2-1-2. Non-applicability.

This chapter does not apply to gross income received in a transaction in which:

1. a student rents lodging in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in that county, or
2. a person rents a room, lodging or accommodations for a period of thirty (30) days or more.

2-1-3. Collections and Audits of Innkeepers' Tax.

- A. As previously provided in Ordinance No. 1983-0-2, the Innkeeper's Tax shall be paid monthly to the Treasurer.
- B. The Treasurer may create forms for use by taxpayers for filing and collection of Innkeeper's Tax.
- C. For lodging facilities obligated to collect Innkeeper's Tax, a monthly report shall be submitted to the Treasurer, along with payment of any Innkeeper's Tax collected, by the 20th calendar day of the month following the month of collection, i.e. an Innkeeper's Tax monthly report shall be submitted by February 20th for activity in January.
- D. For purposes of this Ordinance, an Innkeeper's Tax monthly report shall be considered timely submitted if the envelope used to mail the report, and any payment, via first class US mail is postmarked on the 20th day of the month or before. The Treasurer shall also accept reports and any payments at the Treasurer's office.
- E. A monthly report is due from any lodging facility covered by the Innkeeper's tax law even if no Innkeeper's Tax has been collected in that previous calendar month.

- F. If the 20th day of the month falls on a Saturday, Sunday, or legal holiday, the Innkeeper's tax monthly report shall be submitted by the next following business dat.
- G. Any monthly reports submitted after the due date must include a penalty calculated at 10% of the Innkeeper's Tax paid or to be paid, without prorating for the number of days that the monthly report is overdue.
- H. Recognizing that Indiana Code 6-9-29-3 provides that the Treasurer has the same rights and powers with the respect to collecting the Innkeeper's Tax as does the Department of State Revenue, the Treasurer is authorized to conduct audits and investigations of taxpayers concerning collection and payment of Innkeeper's Tax. Specifically, but not exclusive, the Treasurer may examine the books, records, papers, or other data bearing on the correctness of the Innkeeper's Tax returns, including those pertinent records of third parties handling funds for the credit of, or acting as an agent for, any lodging facility subject to the Innkeeper's Tax.
- I. Pursuant to Indiana Code 6-8.1-3-12, the Treasurer has concurrent jurisdiction with the Indiana Department of Revenue to investigate and audit Innkeeper's tax returns and reports; further, pursuant to Indiana Code 6-8.1-3-12(g)(3), at the discretion of the Treasurer, the cost of the audit of Innkeeper's Tax may be charged or assessed against the lodging facility audited.
- J. After completion of the audit, the results of the audit will be provided to the lodging facility by the audit firm or Treasurer.
- K. Upon receipt of the audit results, the Treasurer shall either:
 - 1. Remit to the lodging facility the amount of the Innkeeper's Tax overpaid; or
 - 2. Send a statement to the lodging facility for the amount of the Innkeeper's Tax due, requesting payment within thirty (30) business days of the date of the statement.
- L. The Treasurer may retain accountants or investigators for purposes of conducting audits of lodging facilities subject to the Innkeeper's tax; the Treasurer may retain legal counsel for purpose of the bringing of enforcement actions for collection of the Innkeeper's Tax and cost thereof.
(Ordinance No. 2008-004, Council meeting, 3/25/08)

2-1-4. Repealer.

This ordinance shall repeal all other ordinances that are inconsistent with the provisions and interest stated herein.

2-1-5. Effective Date.

This ordinance shall be in full force and effect from and after its passage or approval according to the laws of Indiana.

(Ordinance, Council meeting, 3/29/83; Ordinance 1993-21, Council meeting, 5/25/93)

CHAPTER 2

FOOD AND BEVERAGE TAX AND CIVIC CENTER AUTHORITY

2-2-1. County Food and Beverage Tax and Civic Center Authority.

There is hereby imposed an excise tax known as the county food and beverage tax, on those transactions described in IC 6-9-21-4, which transactions occur after the last day of the month that succeeds the month in which this ordinance is adopted.

2-2-2. Tax Amount.

The county food and beverage tax hereby imposed shall equal one percent (1%) of the gross retail income received by the merchant from the transaction as set forth in IC 6-9-21-5.

2-2-3. Civic Center Authority.

There is hereby established a civic center authority, composed of nine (9) members. The nine (9) members shall be appointed as follows:

- A. four (4) members appointed by the mayor of Muncie;
- B. three (3) members appointed by the board of commissioners; and
- C. two (2) members appointed by the council;

provided that no more than five (5) members of the civic center authority may be affiliated with the same political party and all members must reside in the county.

2-2-4. Powers.

The civic center authority herein established shall be known as the Delaware County Civic Center Authority and shall have all those powers given such authority under IC 6-9-21.

2-2-5. Effective Date.

This ordinance shall be in full force and effect upon adoption and thereafter a certified copy of the ordinance shall be sent to the commissioner of the Indiana Department of Revenue.

2-2-6. Repealer.

The council covenants with all persons with whom the Civic Center Authority enters into leases or contractual arrangements for the purpose of acquiring, operating, maintaining, and promoting the use of the civic center, that the taxes imposed by this ordinance shall not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of such taxes or reduce the rates or amounts of such taxes, so long as such leases or contractual arrangements remain in effect.

(Ordinance, Council meeting, 6/24/86)

CHAPTER 3

TEMPORARY SALES FACILITIES FOR MOTOR VEHICLES

2-3-1. Definitions.

The following words and phrases when used within the ordinance herein, shall have the following words respectively subscribed to them in this section:

Motor vehicle means every vehicle which is self-propelled, but shall not include farm equipment, including farm tractors, implements of husbandry, and other similar vehicles.

Person means every natural person, firm, partnership, association, or corporation.

Dealer means a person who sells to the general public for delivery in the City of Muncie, or the county a minimum of twelve (12) vehicles per year.

Established place of business shall mean a permanent enclosed building or structure owned or leased for the purposes of bartering, trading, and selling motor vehicles, which meets the minimum standards prescribed by the Bureau of Motor Vehicles under any rules adopted under IC 4-22-2, and shall not include a residence, tent, temporary stand, or permanent quarters temporarily occupied.

Temporary sales facilities means any location which is utilized for the bartering, trading, or selling of motor vehicles which does not qualify as an established place of business.

New motor vehicle means every motor vehicle which has not been previously titled under IC 9-1-2-1 and carries a manufacturer's certificate of origin and has not been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

Used motor vehicle shall include any motor vehicle which has been previously titled under IC 9-1-2-1 and has been previously transferred by any manufacturer, distributor, or dealer to an ultimate purchaser, whether such transfer has occurred within or outside Indiana.

County shall mean the corporate territorial limits of Delaware County, including any incorporated towns.

City shall mean within the corporate limits of the City of Muncie.

(NOTE: Title 9, Articles 1-12 repealed.)

2-3-2. Established Place of Business Required.

No dealer shall be involved in the sale of any motor vehicles, in the city or county, whether they qualify as new motor vehicles or used motor vehicles, unless such dealer has an established place of business within said city or county.

Any dealer with an established place of business within the city or county shall be entitled to operate at his/her established place of business within the city or county any temporary sales facility. No other temporary sales facilities for the sale of motor vehicles shall be permitted within the city or county.

2-3-3. Penalties.

Any person who shall violate any of the provisions of this section shall be guilty of a violation, punishable by a fine of not more than one thousand dollars (\$1,000.00) per day. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to immediately cease and desist the continued operation of the temporary sales facility upon immediate notice from the city or its duly appointed representative or from the county or their duly appointed representative for the violation herein. When not otherwise specified, each day that a violation shall occur herein shall constitute a separate offense.

(Ordinance No. 48-1992 and 50-1992, Commissioners' meeting, 12/21/92)

CHAPTER 4

TAX ABATEMENT

2-4-1. Tax Abatement Reporting Committee and Procedures.

The Delaware County Auditor shall mail or distribute the executed CF-1 Compliance with Statement of Benefits forms to the applicant if approved by Delaware County Council.

(Resolution 2004-014, Council meeting, 5/25/04, Amendment to Resolution 1997-016-A, Council meeting, 1/17/98.).

The name of the Tax Abatement Committee is hereby changed to the Delaware County Council Tax Abatement Oversight and Procedure Committee. Said Committee shall continue to operate at the direction of the Delaware County Council and shall report to said Council at its regular monthly meeting.

The Committee shall prepare and adopt forms to be used in the administering of said program.

The Delaware County Auditor and the Tax Abatement Compliance Officer from the Muncie-Delaware County Chamber of Commerce shall be ex-officio members of said committee.

Applicants who receive Tax Abatements shall file with the Committee on an annual basis a County Tax Abatement Update Questionnaire. Also, upon receipt by the Auditor's office of a company's annual Form CF-I-Compliance with Statement of Benefits, copies shall be provided by the Auditor's office to the Tax Abatement Committee Chairperson and the County Compliance Officer with ten (10) days of receipt to allow the committee to review in a timely manner.

(Resolution No. 1997-016-A, Council meeting, 1/17/98)

The Chamber of Commerce Compliance Officer will forward to the recipient a Tax Abatement Compliance Report at least sixty (60) days prior to the annual reporting date. The recipient shall complete said report and return it to the Compliance Officer thirty (30) days prior to the reporting date.

Upon receipt of a Tax Abatement Report, the Compliance Officer will notify the Chairman of the Committee and forward the reports to the Delaware County Auditor for processing and distribution to committee members.

The Delaware County Auditor's office and the Chamber of Commerce office will maintain a supply of forms and shall provide sufficient copies of said reports for distribution to the public at the Council's monthly meetings.

The members of the Committee shall, by annual scheduled visitation to the premises of each recipient of an abatement, verify the information provided in the Compliance Report.

Upon receipt of new applications for tax abatement, the Compliance Officer, shall within ten (10) days of the receipt thereof, provide a copy to the Committee Chairperson and to the Delaware County Auditor's office.

The Committee shall continue to review said applications and make its recommendations to the Council.
(Resolution No. 1997-016, Council meeting, 9/13/97)

2-4-2. Tax Abatement Criteria.

The following criteria be duly approved and finally adopted for the granting of tax abatements on new manufacturing equipment:

1. The County Council may consider a tax abatement on new manufacturing equipment fixing the duration of said abatement for either a five (5) year period or a ten (10) year period.

For a five (5) year personal property tax abatement the following criteria must be met:

- a. Use of new or rehabilitated machinery or equipment must be within major groups 20-39 and 42 of the Standard Industrial Classification manual, published by the United States Office of Management and Budget, and
- b. All existing jobs will be retained as certified by the petitioner, and
- c. At least twenty percent (20%) of the new jobs to be created should be targeted to Job Training Program-eligible individuals.

For a ten (10) year personal property tax abatement the following criteria must be met:

Use of new or rehabilitated machinery or equipment must be within major groups 20-39 and 42 of the Standard Industrial Classification manual, published by the United States Office of Management and Budget, and

- a. All existing jobs will be retained as certified by the petitioner, and
- b. At least two hundred fifty (250) new jobs will be created by the applicant within a five (5) year period, and at least one hundred twenty-five (125) of these within three (3) years from the time of approval.

2. The percentages to be used for deductions are as follows:

a.	For a five (5) year period-	
	Year of deduction	Percent
	1st	100%
	2nd	95%
	3 rd	80%
	4 th	65%
	5 th	50%
	6 th and thereafter	0%

	For a ten (10) year period-	
	Year of deduction	Percent
	1st	100%
	2nd	95%
	3 rd	90%
	4 th	85%
	5 th	80%
	6 th	70%

7 th	55%
8 th	40%
9 th	30%
10 th	25%
11 th and thereafter	0%

As a condition of approval of any abatement requests, all companies receiving abatements agree to update the County Council on a semi-annual basis with regard to the status of employment at their respective facilities during the term of any abatements.

The Delaware County Auditor shall take such further actions as may be required to carry out the purposes of this ordinance.

(Ordinance No. 1994-39, Council meeting, 12/28/94)

1. "New research and development equipment" meaning any tangible personal property that:
 - (A) Is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;
 - (B) Consists of:
 - (i) Laboratory equipment;
 - (ii) Research and development equipment;
 - (iii) Computers and computer software;
 - (iv) Telecommunications equipment, or
 - (v) Testing equipment
 - (C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new product, new uses of existing product, or improving or testing existing products; and
 - (D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy history, or similar projects.

2. New logistical distribution equipment meaning any tangible personal property that:
 - (A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:
 - (i) in which a deduction for tangible personal property is allowed; and
 - (ii) located in Delaware County, Indiana, and
 - (B) consists of:
 - (i) racking equipment
 - (ii) scanning or coding equipment; or

- (iii) separators;
 - (iv) conveyors;
 - (v) fork lifts or lifting equipment (including “walk behinds”);
 - (vi) transitional moving equipment;
 - (vii) packaging equipment;
 - (viii) sorting and picking equipment; or
 - (ix) software for technology used in logistical distribution; and
 - (C) is used for the storage or distribution of goods, services, or information; and
 - (D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.
3. New information technology equipment tangible personal property that:
- (A) is installed after June 30, 2004 and before January 1, 2006, in an economic revitalization area:
 - (i) in which a deduction for tangible personal property is allowed; and
 - (ii) is located in Delaware County, Indiana; and
 - (B) consists of equipment, including software, used in the fields of:
 - (i) information processing;
 - (ii) office automation;
 - (iii) telecommunication facilities and networks;
 - (iv) informatics;
 - (v) network administration;
 - (vi) software development; and
 - (vii) fiber optics; and
 - (C) before being installed as described in clause (A) was never used by its owner for any purpose in Indiana.
- (Ordinance 2004-002, Council meeting, 5/23/04, Amending Ordinance 1994-39)**

CHAPTER 5

PROPERTY AND/OR REAL PROPERTY TAXES

2.5.1. Electronic Transmission of Statements and Other Information for Property Taxes and Special Assessments.

1. The County hereby authorizes the electronic transmission of statements and other information for property taxes and special assessments first due and payable after 2011.
2. The County hereby authorizes each County taxpayer (hereafter the “person”) to direct the County Treasurer and County Auditor to transmit the following to the person by electronic mail and as applicable: (1) a statement that would otherwise be sent by the County Treasurer to the person by regular mail under I.C. 6-1.1-22-8.1(a)(1), including a statement that reflects installment payment due dates under I.C. 6-1.1-22-9.5 or I.C. 6-1.1-22-9.7; (2) a provisional tax statement that would otherwise be sent by the County Treasurer to the person by regular mail under I.C. 6-1.1-22-5-6; (3) a reconciling tax statement that would otherwise be sent by the County Treasurer to the person by regular mail under any of the following: (A) I.C. 6-1.1-22-9, (B) I.C. 6-1.1-22-9.7, (C) I.C. 6-1.1-22-5-12, including a statement that reflects installment payment due dates under I.C. 6-1.1-22-5-18-5; (4) a statement that would otherwise be sent by the County Auditor to the person by regular mail under I.C. 6-1.1-17-3(b); (5) any other information that: (A) concerns the property taxes or special assessment, and (B) would otherwise be sent; (i) by the County Treasurer or the County Auditor to the person by regular mail; and (ii) before the last date the property taxes or special assessments may be paid without becoming delinquent.
3. This ordinance takes affect with the _____ (**select first or second**) installments of property taxes of _____ (**select tax billing year for ordinance to be effective**) and shall continue indefinitely.
4. Notice shall be given to County taxpayers of the option to direct electronic transmission of statements and other information for property taxes and special assessments in compliance with all applicable statutory provisions.
5. The County Treasurer and County Auditor shall have the authority to electronically submit to County taxpayers their statements and other information for property taxes and assessments first due and payable after 2011.
6. The County Auditor and County Treasurer are authorized to negotiate and execute a contract with a provider to obtain such administrative, technical, clerical and related services (“E-Billing Services”) in order to implement a program for the electronic transmission of statements and other information for property taxes and special assessments.
7. The E-Billing Services contract shall provide for the delivery of such services by a contractor in compliance with all applicable statutory provisions for the electronic transmission of statement and other information for property taxes and special assessments. The E-Billing Services contract shall also provide for the payment of fee(s) for each parcel that a county taxpayer elects to participate in the electronic transmission of statements and other information for property taxes and special assessments.

(Ordinance No. 2012-024, Commissioners 9/4/12)

2.5.2. Establishing the Intent to Conduct a Commissioners' Sale for Delinquent Property Taxes.

The County Executive shall acquire liens and receive tax sale certificates of the properties listed on Exhibit A that are severely delinquent and sell said certificates at a properly advertised Commissioner Tax Certificate sale.

(Resolution No. 2012-022, Commissioners, 12/3/12)

2.5.3. Boards and Commissions Appointments, Personal Property and/or Real Property Taxes.

Any individual being considered or currently serving on a board or commission that owes outstanding real or personal property taxes and after careful examination as to any exigent circumstances, may be removed from board or commission, as to serve the best interest of the public.

(Ordinance No. 2011-033, Commissioners)

2.5.4. Application of the 2007 Additional Homestead Credit to Delinquent Property Taxes.

Any homestead property tax refund shall be applied first against any delinquent property taxes owed in Delaware County by that tax payer, and that any such refund shall be sent by the Treasurer directly to the taxpayer. Prior to issuing disbursement of any such refund, the County Auditor and County Treasurer shall search the records of delinquent property taxes and determine whether any taxpayer who is entitled to such a refund owes any delinquent real or personal property taxes. After applying the refund to any such delinquent taxes owed, the remainder of the refund, if any, shall be paid or transmitted as provided by Public Law 234-2007 and as set forth above.

(Ordinance No. 2007-029, rules suspended, Commissioners, 12/17/07)

2-5-5. Property Tax Liability.

Where the property tax liability for real estate, personal property or a mobile home assessed for a particular year is less than twenty-five dollars (\$25.00), such tax liability shall be due in one (1) installment on May 10th of the year that the property tax liability is due.

(Ordinance, Council meeting, 4/28/87)

CHAPTER 6

TAX WARRANTS AND BONDS

2.6.1. Nebo Road Issuance of Bonds.

Section 1. Findings: Public Benefits

The County Council hereby finds and determines that the Project involves the acquisition, construction, renovation, and equipping of an “economic development facility” as that phrase is used in the Act; that the Project will increase or retain employment opportunities and increase diversification of economic development in the County, will improve and promote the economic stability, development, and welfare in the County, will encourage and promote the expansion of industry, trade, and commerce in the County and the location of other new industries in the County; that the public benefits to be accomplished and insufficient diversification of industry, are greater than the costs of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issuance of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the County; and (ii) complies with the Act.

Section 2. Approval of Financing

The proposed financing of the Project by issuance of the Bonds under the Act, in the form that such financing was approved by the Commission, is hereby approved.

Section 3. Authorization of the Bonds

The issuance of the Bonds, payable solely from revenues and receipts delivered from the Financing Agreement, is hereby authorized.

Section 4. Terms of the Bonds

- a. The Bonds, in the aggregate principal amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Board of Commissioner and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five (25) years after the date of issuance; (iv) bear interest at such rates as determined through negotiation with the purchaser thereof, with such interest payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registrations on the bond register as provided in the Loan Agreement; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office as provided in the Loan Agreement; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

- b. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the County, but shall be special and limited obligations of the County, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Auditor of the County is hereby directed, in the name and on behalf of the County, to insert them into the minutes of the County Council and to keep them on file.

(Ordinance No. 2012-008, Council)

2.6.2. Bell Aquaculture Revenue Bond.

- Section 1. The proposal issuance of the Bonds in the aggregate principal amount not to exceed \$15,000,000 for the benefit of the Borrower complies with the purposes and provisions of I.C. 36-7-11.9 and 12, and will be of benefit to the health and welfare of Delaware County and its citizens.
- Section 2. The Bonds in the aggregate principal amount not to exceed Fifteen Million Dollars (\$15,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Board of the President or Acting President of the Board of Commissioner and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than forty (40) years after the date of issuance; (iv) bear interest at such rates (while the Bonds bear interest at the variable rate defined in the Bond Documents, such rate shall not exceed ten percent (10%) per annum) as determined through negotiations with the purchaser thereof, with such interest payable as provided in the Bond Documents; (v) be issuable in such denominations as set forth in the Bond Documents; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Bond Documents; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office as provided in the Bond Documents; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Bond Documents (as defined below); (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Bond Documents.
- Section 3. The proceeds of the Bonds will be used solely to pay certain costs of the Project, including certain costs of issuance of the Bonds.
- Section 4. The substantially final forms of the Trust Indenture; the Bonds; the Loan Agreement; the Note; the Tax Regulatory Agreement; the Preliminary Offering Memorandum; and the Bond Purchase Agreement (the "Bond Documents") presented to this meeting are hereby approved. The Board of Commissioners and Auditor of the Issuer are hereby authorized, in the name and on behalf of the Issuer, without further approval of the County Council or the Commission, to approve such changes in the Bond Documents as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof; provided, however, that such changes may not affect terms approved by this Ordinance pursuant to Indiana Code 36-7-12-27(a)(1) through (a)(10).
- Section 5. The Bonds shall not in any respect be a general obligation of the Issuer, nor shall they be payable in any manner from revenues raised by taxation. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or

taxing power of, the Issuer, but shall be special and limited obligations of the Issuer, payable solely from revenues and other amounts derived from the Bond Documents.

Section 6. The Project will not have an adverse competitive effect on any similar facilities already under construction or in operation in Delaware County. Based on oral and written presentations of evidence before the County, it is further found that:

- (a) No member of the public or competitor presented any evidence of substantial probative value establishing that the Project would leave any adverse competitive effect on any other business in Delaware County, Indiana in any respect.
- (b) There are no competitors to the Borrowers in Delaware County, Indiana.
- (c) In the absence of any evidence of any adverse competitive effects, the benefits to the public from the creation of job opportunities to be generated by the Project clearly indicate that the Project should be supported by the issuance of economic development revenue bonds.

Section 7. The Auditor of the Issuer shall initial and then insert a copy of the forms of documents approved by this Ordinance in the minute book.

Section 8. All hearings required by law which precede the actions and recommendations within this Ordinance have been held in accordance with the requirements of state and federal law, including but not limited to the requirements of the Act and the Code and regulation promulgated thereto.

(Ordinance No. 2012-016, Council, 5/22/12)

2.6.3. Issuance of Bonds of DC Redevelopment.

1. The County Council hereby approves the issuance of the Bonds, in an aggregate principal amount not to exceed Three Million Two Hundred Thousand Dollars (\$3,200,000), to finance the costs of the Project and to pay all incidental expenses incurred in connection therewith, including the costs of issuance of the Bonds.
2. The proper officers of the County are hereby authorized and directed, for and on behalf of the County, to execute and deliver any contract, agreement, certificate, instrument, or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Ordinance, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument, or other document or such person's taking of such action.

(Ordinance No. 2012-017, Council, 5/30/12)

2.6.4. Brevini Indiana Taxable Economic Revenue Bonds.

Section 1. Findings: Public Benefits

The County Council hereby finds and determines that the Project involves the acquisition, construction, renovation and equipping of an "economic development facility" as that phrase is used in the Act; that the Project will increase employment opportunities and increase diversification of economic development in the County, will improve and promote the economic stability, development and welfare in the County, will encourage and promote the expansion of industry, trade, and commerce in the County and the location of other new

industries in the County; that the public benefits to be accomplished by this Bond Ordinance, intending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public service (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issuance of the Bonds under the Act; (i) will be of benefit to the health and general welfare of the County; and (ii) complies with the Act.

Section 2. Approval of Financing

The proposed financing of the Project by the issuance of the Bonds under the Act, in the form that such financing was approved by Commission, is hereby approved.

Section 3. Authorization of the Bonds

The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds

- a. The Bonds, in the aggregate principal amount not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Board of Commissioners and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five (25) years after the date of issuance; (iv) bear interest as such rates (not exceeding ten percent (10%) per annum) as determined through negotiation with the purchaser thereof, with such interest payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Loan Agreement; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office as provided in the Loan Agreement; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.
- b. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the County, but shall be special and limited obligations of the County, payable solely from revenues and other amounts derived from the Financing Agreements. Forms to the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Auditor of the County is hereby directed, in the name and on behalf of the County, to insert them into the minutes of the County Council and to keep them on file.

Section 5. Sale of the Bonds

The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to sell the Bonds to a purchaser or purchasers selected by such officers at such prices (not less than 97% of the par amount thereof) and on such terms as may be determined at the time of sale.

Section 6. Execution and Delivery of Financing Agreements

The Board of Commissioners and Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse and deliver the Loan Agreement, and the Bonds, submitted to the County Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements

The Board of Commissioners and the Auditor of the County are hereby authorized, in the name and on behalf of the County, are hereby authorized, in the name and behalf of the County, without further approval of the County Council, or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. General

The Board of Commissioner and Auditor of the County, and each of them, are hereby authorized and directed, in the name and behalf of the County, to execute or endorse any and all agreements, documents, and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or any of them, to be necessary or desirable in order to carry out and comply with the intent, conditions, and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected by, and hereby is, ratified and approved.

Section 9. Binding Effects

The provisions of this Bond Ordinance and the Financing Agreement securing the Bonds shall constitute a binding contract between the County and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 10. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. Effective Date

This Bond Ordinance shall be in full force and effect immediately upon adoption and compliance with I.C. § 36-2-6.

Section 12. Copies of Financing Agreement on File

Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Auditor of the County, and are available for public inspection in accordance with I.C. § 36-1-5-4.

(Ordinance No. 2012-018, Council)

2.6.5. Approving Issuance of Bonds of Delaware County Redevelopment Commission.

1. The Board of Commissioners hereby approves the issuance of the Bonds, in an aggregate principal amount not to exceed Three Million Two Hundred Thousand Dollars (\$3,200,000) to finance the costs of the Project and to pay all incidental expenses incurred in connection therewith, including the costs of issuance of the Bonds.
2. The proper officers of the County are hereby authorized and directed, for and on behalf of the County, to execute and deliver and contract, agreement, certificate, instrument or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Resolution, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument or other document or such person's taking of such action.
3. This Resolution shall be in full force and effect from and after its passage.
(Resolution No. 2012-011, Commissioners, 6/4/12)

2.6.6. Delaware County EDIT Corporation Approving a First Amended Capital Improvement Plan and Authorizing and Approving the Issuance.

- Section 1. The Board of Directors of the Delaware County EDIT Corporation hereby approves the First Amended Capital Improvement Plan in the form presented at this meeting.
- Section 2. The Board of Directors hereby authorizes and approves the issuance by Delaware County of up to \$7,000,000 of County Economic Development Income Tax Revenue Bonds (with a property tax pledge) to finance all or a portion of the capital projects set forth in the First Amended Capital Improvement Plan. The application of the EIDT revenues to the payment of said bonds is hereby authorized and approved for all purposes.
(Ordinance No. 2011-001, Board of Directors of the Delaware County EDIT Corporation, 1/25/2011)

2.6.7. Amending 2008-003, Authorizing DC to Issue its Taxable Economic Development Revenue Bonds for the Benefit of IBM.

- Section 1. The portion of the bonds authorized by the Prior Ordinance to be issued on behalf of IBM shall be designated as the Delaware County, Indiana, Taxable Economic Development Revenue Bonds, Series 2011 (Daleville Area Project) (the "Bonds"). The Bonds to be issued on behalf of IBM shall be issued in the maximum principal amount of Four Hundred Fifty Thousand Dollars (\$450,000).
- Section 2. The proceeds of the Bonds will be loaned to IBM to be used for the financing of a portion of the equipping and furnishing of a customer service center (the "Project"). The Project is to be located in the area within the County heretofore designated as the "Daleville Redevelopment Area."
- Section 3. The Project will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the County.
- Section 4. The Bonds shall finally mature not later than February 1, 2017. The Bonds will be payable as to principal and interest from TIF Revenues (subject to the satisfaction of certain job creation commitments by IBM as required by the Delaware County Redevelopment Commission) and

the note payments made by the IBM as provided in the Prior Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the County nor are the Bonds payable in any manner from revenues raised by taxation (except to the extent of the pledge of TIF Revenues). After the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

Section 5. The Prior Ordinance shall remain in full force and effect except as modified hereby.

Section 6. This Ordinance shall be effective upon its passage by the County Council, in accordance with procedures as required by law.
(Ordinance No.2011-017, Council, 5/31/11)

2.6.8. Issuance of EDIT Revenue Bonds.

Section 1. Authorization for Bonds and Appropriation of Proceeds.

In order to provide financing for the Project and incidental expenses in connection therewith and on account of the issuance of the 2012 Bonds, the County shall borrow money and issue the 2012 Bonds as herein authorized.

Section 2. General Terms of Bonds.

In order to procure said loan for such purposes, the Auditor is hereby authorized and directed to have prepared and to issue and sell negotiable bonds of the County, in one or more series, in an aggregate principal amount not to exceed the Authorized Amount, to be designated "Delaware County, Indiana County Economic Development Income Tax Revenue Bonds, Series 2010 (With Property Tax Pledge)" for the purpose of providing financing for the Project and incidental expenses, such expenses to include without limitation all expenses of every kind incurred preliminary to the funding of the Project, and costs of issuing the 2010 Bonds. Such 2010 Bonds shall be signed in the name of the County by the manual or facsimile signatures of a majority of the Board of Commissioners of the County (the "*Commissioners*") and attested by the manual or facsimile signature of the Auditor of the County (the "*Auditor*"), who shall affix the seal of the County to each of the 2010 Bonds manually or shall have the seal imprinted or impresses thereon by facsimile or other means. In case any officer before the delivery of the 2010 Bonds, such signatures shall nevertheless be valid and sufficient for all purposes as if such officers had remained in office until delivery thereof. The 2010 Bonds shall also be authenticated by the manual signature of the Registrar (as hereafter defined). Subject to the provisions of this Ordinance regarding the registration of the 2010 Bonds, the 2010 Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

The 2010 Bonds are, as to all the principal thereof and interest due thereon, obligations of the County, payable from the County's distributive share of the county economic development income tax revenues, levied and collected pursuant to I.C. 6-3.5-7-1, *et seq.*, (the "*EDIT Revenues*"), on a parity with the Prior Obligations. The Council hereby pledges the EDIT Revenues to the 2010 Bonds pursuant to Indiana Code § 6-3.5-7-14, and this pledge shall be binding from the time this Ordinance is adopted. The pledge of the EDIT Revenues shall be on a parity with the pledge of the pledge of the EDIT Revenues to the Prior Obligations. The EDIT Revenues received by the County are immediately subject to the lien of this pledge without any further act. The 2010 Bonds shall, to the extent that the EDIT Revenues are insufficient for such purpose, be payable from ad valorem taxes to be levied on all taxable property in the County.

The 2010 Bonds shall be issued in any denomination, shall be numbered consecutively from 1 upward, shall be originally dated as of the first day of the month in which the 2010 Bonds are sold or the date of issuance as deemed by the Auditor at the time of sale. The 2010 Bonds shall bear interest payable semi-annually on June 1 and December 1 of each year, beginning on the June 1 or December 1 determined by the Auditor at the time of sale, at a rate or rates not exceeding seven percent (7.0%) per annum (the exact rate or rates to be determined by negotiation pursuant to Section 6 of this Ordinance). Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. The 2010 Bonds shall mature serially on June 1 and December 1 as finally determined by the Commissioner and the Auditor as evidenced by delivery of the executed initial issue of the 2010 Bonds to the Registrar for authentication, provided that the original aggregate principal amount of all series of the 2010 Bonds does not exceed the final maturity shall be no later than December 1, 2020.

The 2010 Bonds may be issued as draw bonds, as determined by the Commissioners and the Auditor on the date of the issuance of the 2010 Bonds.

All payments of interest on the 2010 Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof as of the first (1st) day of the month in which interest is payable at the addresses as they appear on the registration books kept by the Registrar (the "*Registration Record*") or at such other address as is provided to the Paying Agent (as herein defined) in writing by such registered owner. All principal payments on the 2010 Bonds shall be made upon surrender thereof at the principal corporate trust office of the Paying Agent, in any coin or currency of the United States of America which on the date of such payment shall be legal tender for the payment of public and private debts.

Interest on 2010 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date thereof unless such 2010 Bonds are authenticated after the first (1st) day of the month in which interest from such interest payment date, in which case they shall bear interest from the original date, until the principal shall be fully paid.

Each 2010 Bond shall be transferable or exchangeable only upon the books of the County kept for the purpose by the Register, by the registered owner thereof in person, or by his attorney duly authorized in writing, upon surrender of such 2010 Bonds together with a written instrument of transfer or exchange satisfactory to the Register duly executed by the registered owner or his attorney duly authorized in writing, and thereupon a new fully registered 2010 Bond or Bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefore. The costs of such transfer or exchange shall be borne by the County, except for any tax or governmental charge required to be paid in connection therewith, which shall be payable by the person requesting such transfer or exchange. The County, the Registrar and the Paying Agent may treat and consider the persons in whose names such 2010 Bonds are registered as the absolute owners thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

In the event any 2010 Bond is mutilated, lost, stolen, or destroyed, the County may execute and the Registrar may authenticate a new bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new bond shall be marked in a manner to distinguish it from the bond for which it was issued, provided that, in the case of any mutilated bond, such mutilated bond shall first be surrendered to the Registrar, and in the case of any lost, stolen, or destroyed bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to them. In the event any such bond shall have matured, instead of issuing a duplicate bond, the County and the Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The County and the Registrar may charge the owner of such 1020 Bond with their

reasonable fees and expenses in this connection. Any bond issued pursuant to this paragraph shall be deemed an original, substitute contractual obligation of the County, whether or not the lost, stolen, or destroyed 2010 Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other 2010 Bonds issued hereunder.

Section 3. Terms of Redemption.

The Commissioners and the Auditor may designate maturities of the 2010 Bonds (or a portion thereof) that shall be subject to optional redemption and/or maturity sinking fund redemption, and the corresponding redemption dates, amounts and prices (including premium, if any). Except as otherwise set forth in this Ordinance, the Commissioners and the Auditor are hereby authorized and directed to determine the terms governing any such redemption, including the terms of any related notice. Interest on the 2010 Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named, and thereafter, such 2010 Bonds shall no longer be protected by this ordinance and shall not be deemed to be outstanding hereunder, and the holders thereof shall have the right only to receive the redemption price.

All 2010 Bonds which have been redeemed shall be canceled and shall not be reissued; provided, however, that one or more new registered bonds shall be issued for the unredeemed portion of any 2010 Bond without charge to the holder thereof. No later than the date fixed for redemption, funds shall be deposited with the Paying Agent or another paying agent to pay, and such agent is hereby authorized and directed to apply such funds to the payment of, the 2010 Bonds or portions thereof called for redemption, including accrued interest thereon to the redemption date. No payment shall be made upon any 2010 Bond or portion thereof called for redemption until such 2010 Bond shall have been delivered for payment or cancellation or the Registrar shall have received the items required by this Ordinance with the respects to any mutilated, lost, stolen or destroyed 2010 Bond.

Section 4. Appointment of Registrar and Paying Agent.

The Auditor is hereby authorized to serve as, or to appoint a qualified financial institution to serve as, registrar and paying agent for the 2010 Bonds (the “*Registrar*” or “*Paying Agent*”). The Registrar is hereby charged with the responsibility of authenticating the 2010 Bonds, and shall keep and maintain at its principal corporate trust office books for the registration and transfer of the 2010 Bonds. The Commissioners are hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of the Registrar and Paying Agent. The Auditor is authorized to pay such fees at the institution may charge for the services it provides as Registrar and Paying Agent.

The Registrar and the Paying Agent may at any time resign as Registrar and Paying Agent by giving 30-days’ written notice to the County Auditor and to each registered owner of the 2010 Bonds then outstanding, and such registration will take effect at the end of such 30 days or upon the earlier appointment of a successor Registrar and Paying Agent by the County. Such notice to the County Auditor may be served personally or be sent by first-class or registered mail. The Registrar and Paying Agent may be removed at any time as the Registrar and the Paying Agent by the County, in which event the County may appoint a successor Registrar and Paying Agent. The County shall notify each registered owners as they appear on the Registration Record. Any predecessor Registrar and Paying Agent shall deliver all the Bonds, cash and investments in its possession and the Registration Record to the successor Registrar and Paying Agent. At all times, the same entity shall serve as the Registrar and Paying Agent.

Section 5. Form of Bonds.

- (a) The form and tenor of the 2010 Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof.
- (b) The 2010 Bonds may, in compliance with all applicable laws, initially be issued and held in book-entry form on the books on the central depository system, The Depository Trust Company, its successors or any successor central depository system appointed by the County from time to time (the "Clearing Agency") without physical distribution of 2010 Bonds to the purchasers. The following provisions of this Section apply in such event.
 - 1. One definitive Bond of each maturity shall be delivered to the Clearing Agency (or its agent) and held in its custody. The County, the Registrar and the Paying Agent may, in conjunction therewith, do or perform or cause to be done or performed any acts or things not adverse to the rights of the holders of the 2010 Bonds as are necessary or appropriate to accomplish or recognize such book-entry form bonds.
 - 2. During any time that the 2010 Bonds remain and are held in book-entry form on the books of a Clearing Agency: (A) any such 2010 Bonds may be registered upon the books kept by the Registrar in the name of such Clearing Agency or any nominee thereof, including Cede & Co., as partnership nominee of The Depository Trust Company; (B) except as otherwise described in the continuing disclosure contract described in Section 6 hereof, the Clearing Agency in whose name such Bond is so registered shall be, and the County, the Registrar and the Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest on such Bonds, the receiving of notice and the giving of consent. (C) except as otherwise described in the Continuing Disclosure Agreement described in Section 12 hereof, neither the County nor the Registrar or the Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency or any person on behalf of which, or otherwise with respect to which, any such participant holds any interest in any 2010 Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any 2010 Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any 2010 Bond, the receiving of notice or the giving of consent; and (D) the Clearing Agency is not required to present any 2010 Bond called for partial redemption prior to receiving payment, so long as the Registrar, the Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.
 - 3. If either the County receives notice from the Clearing Agency which is currently the registered owner of the 2010 Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the 2010 Bonds or the County elects to discontinue its use of such Clearing Agency as a Clearing Agency for the 2010 Bonds, then the County, the Registrar and the Paying Agent each shall do or perform or cause to be done or performed all acts or things, not adverse to the rights of the holders of the Clearing Agency for the 2010 Bonds and to transfer the ownership of each of the 2010 Bonds to such person or persons, including any other Clearing Agency, as the holders of the 2010 Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the 2010 Bonds, shall be paid by the County.

4. During any time that the 2010 Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respects to the identity of any beneficial owner of the 2010 Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the 2010 Bonds as the 2010 Bondholders, and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.
5. During any time that the 2010 Bonds are held in book-entry form on the books of a Clearing Agency, the Commissioner, the County Auditor and/or the Registrar are authorized to execute and deliver a Letter of Representations agreement with the Clearing Agency or a Blanket Issuer Letter of Representations (the "DTC Letter of Representations"), and the provisions of any such DTC Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of the Registrar under this Ordinance, agrees that it will (A) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (B) comply with all requirements of the Clearing Agency, including, without limitation, same day funds settlement payment procedures. Further, during any time that the 2010 Bonds are held in book-entry form, the provisions of this Section shall control over conflicting provisions in any other section hereof.

Section 6. Sale of Bonds.

The Board of Commissioners and Auditor shall either sell the 2010 Bonds at public sale pursuant to Indiana Code § 5-1-11 or shall negotiate the sale of the 2010 Bonds on such terms as they deem desirable as evidenced by their execution and delivery of the 2010 Bonds; provided all such terms shall comply with the terms of this Ordinance. After the 2010 Bonds have been properly sold and executed, the County Treasurer shall receive from the purchasers, payment for the 2010 Bonds and shall provide for delivery of the 2010 Bonds to the purchasers. The Auditor is hereby authorized and directed to obtain legal opinion as to the validity of the 2010 Bonds from Barnes & Thornburg, and to furnish such opinion to the purchasers of the 2010 Bonds.

The Commissioners and/or County Auditor are hereby authorized to deem final an official statements with respects to the 2010 Bonds, as of its date, in accordance with the provisions of the SEC Rule, subject to completion as permitted by the SEC Rule, and the Council further authorizes the distribution of the deemed final official statement, and the execution, delivery and distribution of such document as further modified and amended with the approval of the Commissioners and/or County Auditor in the form of a final official statement.

In order to assist any underwriter of the 2010 Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available disclosure about the County and the Bonds to participants in the municipal securities market, the Council hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the County and dated the date of issuance with the terms thereof. The execution and delivery by the Commissioners and the County Auditor of the continuing disclosure contract and the performance by the County of its obligations thereunder by or through any employee or agent of the County are hereby approved, and the County shall comply with and carry out the terms thereof.

Section 7 Funds and Accounts

- a. Sinking Fund. The EDIT Revenues received by the County shall be used and applied by the County only as provided in this Ordinance. All such revenues shall be segregated and kept in special accounts separate and apart from all other funds of the County and shall be used and applied as set forth in this Ordinance. There is hereby created and established a fund known as the “Delaware County 2010 Economic Development Income Tax Revenue Bond Sinking Fund” (the “*Sinking Fund*”). As they are received, the County shall set apart and pay all of the EDIT Revenues into the Sinking Fund to be used to pay the interest on and the principal of the 2010 Bonds; provided, however, that no deposit shall be made into such account whenever the balance therein is sufficient to pay the interest and principal payments on the 2010 Bonds coming due in the succeeding twelve (12) months.
- b. Excess Funds. There is hereby created and established a fund known as the “Delaware County 2010 Economic Development Income Tax Revenue Excess Fund” (the “Excess Funds”). The EDIT Revenues remaining after making the required deposits to the Sinking Fund for appropriation and use as permitted by law. In the event of any deficiency at any time in the Sinking Fund, funds may withdrawn from the Excess Fund and deposited into the Sinking Fund in the amount of such deficiency.
- c. Separate Funds and Accounts. All funds in said accounts shall be segregated and kept separate and apart from all other funds of the County and shall be deposited in lawful depositories of the County and continuously held and secured or invested as provided by law. Interest earned in each such account shall be credited to such account.

Section 8. Use of Bond Proceeds.

The proceeds received from the sale of the 2010 Bonds shall be deposited in the “Delaware County, Indiana 2010 Economic Development Income Tax Revenue Project Fund” (the “*Project Fund*”). The proceeds deposited in the Project Fund shall be expended only for the purpose of paying expenses incurred in connection with the Project together with the expenses incidental thereto and on account of the issuance of the 2010 Bonds. Any balance remaining in the Project Fund after the completion of the Project which is not required to meet unpaid obligations incurred in connection therewith and on account of the issuance of the 2010 Bonds may be used to pay debt services on the 2010 Bonds or otherwise used as permitted by law.

Section 9. Defeasance.

If, when the 2010 Bonds or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the 2010 Bonds or any portion thereof for redemption have been given, and the whole amount of the principal and the interest so due and payable upon such 2010 Bonds or any portion thereof then outstanding shall be paid, or (i) cash, or (ii) direct non-callable obligations of (including obligations issued or held in book entry form on the book of) the Department of Treasury of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, the principal of and the interest on which when due without reinvestment will provide sufficient money, or (iii) any combination of the foregoing, shall be held irrevocable in trust for such purpose, and provisions shall also be made for paying all fees and expenses for the payment or redemption of 2010 Bonds, then and in that case the 2010 Bonds or such designated portion thereof shall no longer be deemed outstanding or secured by this Ordinance.

Section 10. Tax Covenants.

In order to preserve the exclusion of interest on the 2010 Bonds and as an Inducement to purchasers of the 2010 Bonds, the County represents, covenants and agrees that:

- a. The County will not take any action or fail to take any action with respect to the 2010 Bonds that would result in the loss of the exclusion from the gross income for federal income tax purpose of interest on the 2010 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986 as in effect on the date of issuance of the Tax-Exempt Bonds (the “*Code*”), including without limitation, the taking is such action as is necessary to rebate or cause to be rebated arbitrage profits on the 2010 Bond proceeds or other monies treated as 2010 Bond proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes.
- b. The County will file an information report Form 8038-G with the Internal Revenue Service as required by Section 149 of the Code.
- c. The County will not make any investment or do any other act or thing during the period that any 2010 Bond is outstanding hereunder which would cause any Tax-Exempt Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the regulations applicable thereto as in effect on the date of delivery of the 2010 Bonds.

Notwithstanding any other provisions of this Ordinance, the foregoing covenants and authorization (the “*Tax Sections*”) which are designed to preserve the exclusion of interest on the Tax-Exempt Bonds from gross income under the federal income tax law (the “*Tax Exemption*”) need not be complied with to the extent the County receives an opinion of nationally recognized bond counsel that compliance with such Tax Section is unnecessary to preserve the Tax Exemption.

Section 11. Amendment.

Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the 2010 Bonds then outstanding shall have the right, from time to time, to consent to and approve the adoption by the County of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the County for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this Ordinance, or in any supplement ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting: (a) An extension of the maturity of the principal of or interest on any 2010 Bond, without the consent of the holder of each 2010 Bond so affected; (b) a reduction in the principal amount of any 2010 Bond or the rate of interest thereon, or a change in the monetary medium in which such amounts are payable, without the consent of the holder of each 2010 Bond so affected; (c) a preference or priority of any 2010 Bond over any other 2010 Bond, without the consent of the holders of all 2010 Bonds then outstanding; or (d) a reduction in the aggregate principal amount of the 2010 Bonds required for consent to such supplemental ordinance, without the consent of the holders of all 2010 Bonds then outstanding.

If the County shall desire to obtain any such consent, it shall cause the Registrar to mail a notice, postage prepaid, to the addresses appearing on the registration books held by the Registrar. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Registrar for inspection by all owners of the 2010 Bonds. The Registrar shall not, however, be

subject to any liability to any owners of the 2010 Bonds by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental ordinance when consented to and approved as herein provided.

Whenever at any time within one year after the date of the mailing of such notice, the County shall receive any instrument or instruments purporting to be executed by the owners of the 2010 Bonds of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the 2010 Bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental ordinance described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Registrar, thereupon, but not otherwise, the County may adopt such supplemental ordinance in substantially such form, without liability or responsibility to any owners of the 2010 Bonds, whether or not such owners shall have consented thereto.

No owner of any 2010 Bond shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the County or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties, and obligations under this Ordinance of the County and all owners of the 2010 Bonds then outstanding, shall thereafter be determined exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments.

Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the County and of the owners of the 2010 Bonds, and the terms and provisions of the 2010 Bonds and this Ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the County and the consent of the owners of all the 2010 Bonds then outstanding.

Without notice to or consent of the owners of the 2010 Bonds, the County may, from time to time and at any time, adopt such ordinances supplemental hereto and shall not be inconsistent with the terms and provisions hereof (which supplemental ordinances shall thereafter from a part hereof), for the following purposes: (a) to cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance; (b) to grant to or confer upon the owners of the 2010 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2010 Bonds; (c) to provide for the refunding or advance refunding of the 2010 Bonds; or (d) to make any other change which, in the determination of the Council in its sole discretion, is not the prejudice of the owners of the 2010 Bonds.

Section 12. Parity Obligations.

The County reserves the right to authorize and issue additional bonds, payable from the EDIT Revenues or otherwise pledge the EDIT Revenues to secure lease rental payments or other obligations, ranking on a parity with the 2010 Bonds and the Prior Bonds (such bonds, lease rentals payments or other obligations, "*Parity Obligation*"). In the event any Parity Obligations are issued pursuant to this Section 12, the terms "2010 Bonds" in this Ordinance shall, unless the context otherwise requires, be deemed to refer to the 2010 Bonds and such Parity Obligations and other changes may be made herein as required to reflect the issuance of such Parity Obligations. Subject to the prior satisfaction of all the terms of this Section 12, applicable to Parity Obligations generally, the future issuance of additional Parity Obligations is hereby authorized upon the adoption by the Council of an ordinance or ordinances supplemental hereto, which Parity Obligations shall have the same terms and be subject to the same provisions as set forth herein, except as otherwise provided by

such supplemental ordinance. The Authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

- a. Any such Parity Obligations shall not cause the County to exceed its debt limitation under Article 13, Section 1, of the Indiana Constitution as of the date of issuance.
- b. All interest and principal payments with respect to the 2010 Bonds, the Prior Bonds, and any outstanding Parity Obligations shall have been paid in accordance with their terms.
- c. All required deposits into the Sinking Fund shall have been made in accordance with the provisions of this Ordinance.
- d. Either: (1) the EDIT Revenues of the County in the fiscal year immediately preceding the issuance of the additional Parity Obligations shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding 2010 Bonds, Prior Bonds, and other Parity Obligations and the additional Parity Obligations proposed to be issued; or (2) the EDIT Revenues for the first full fiscal year immediately succeeding the issuance of any such additional Parity Obligations shall be projected by a certified public accountant to be at least equal to one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding 2010 Bonds, Prior Bonds, and other Parity Obligations and the additional Parity Obligations proposed to be issued. For purposes of this subsection, the records of the County shall be analyzed and all showings prepared by a certified public accountant or independent financial advisor employed by the County for that purpose.
- e. The interest on the additional Parity Obligations shall be payable semiannually on June 1 and December 1 in the years in which principal is payable.

Except as otherwise provided in this Section, so long as any of the 2010 Bonds are outstanding, no additional bonds or other obligations secured by pledge of any portion of the EDIT Revenues of the County shall be authorized, executed or issued by the County except such as shall be made subordinate and junior in all respects to the 2010 Bonds, unless all of the 2010 Bonds are redeemed and retired coincidentally with the delivery of such additional bonds or other obligations, or as provided in Section 9 hereof, funds sufficient to effect such redemption are available and set aside for that purpose at the time of issuance of such additional bonds or other obligations.

Section 13. No Conflict.

All ordinance, resolutions, and orders or parts thereof in conflict with the provisions of this Ordinance, except the Prior Ordinance, are to the extent of such conflict hereby repealed. After the issuance of the 2010 Bonds and so long as any of the 2010 Bonds or interest thereon remains unpaid, except as expressly provided herein, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the 2010 Bonds, nor shall the County adopt any law, ordinance or resolution which in any way adversely affects the rights of the holders. None of the provisions of this Ordinance shall be construed to adversely affect the right of the owners of the Prior Bonds.

Section 14. Severability.

If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. Holidays, Etc.

If the date of making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Ordinance, shall be a legal holiday or a day on which banking institutions in the county or the city in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effort as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Section 16. Authority to Effectuate this Ordinance.

The Board, the County Auditor and the County Treasurer are hereby authorized and directed to take any and all other actions on behalf of the County as may be necessary, appropriate or desirable to carry out the purposes of this Ordinance and the issuance and sale of the 2010 Bonds in accordance with the Act and this Ordinance.

Section 17. Effectiveness. This Ordinance shall be in full force and effect from and after its passage.
(Ordinance No. 2010-039, Council, 11/23/10)

2.6.9. Appropriating the Proceeds Derived from the Sale of EDIT Revenue Bonds.

1. There is hereby appropriated a sum not to exceed Seven Million Dollars (\$7,000,000) out of the proceeds of the Bonds, together with all investment earnings thereon, for the purpose of providing funds to pay the costs of the Project, including related costs and the costs of issuing the Bonds, as provided in the Ordinance. Such appropriations shall be in addition to all appropriations provided for in the existing budget and shall continue in effect until the completion of the described purposes.
2. The President of the County Council and the Auditor of the County and other appropriate officers of the County are hereby authorized to take all such actions and execute all such instruments as are necessary or desirable to effectuate this Ordinance, including the filing of a report of this appropriation with the Indiana Department of Local Government Finance.
3. The Bonds are hereby designated as “qualified tax-exempt obligations” for the purposes of Paragraph (3) of Section 265(b) of the Internal Revenue Code of 1986, as amended (the “Code”), and any or all officials, officers, members, employees, and agents of the County are hereby authorized to execute on behalf of the County any documents necessary or appropriate to evidence further such designation. The reasonably anticipated amount of “tax-exempt obligations” (as such term is used in Section 265(b) of the Code) (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) which will be issued by the County or otherwise on behalf of the County or subordinate entities during calendar year 2010 does not exceed \$30,000,000, and not more than \$30,000,000 of obligations issued by the County or otherwise on behalf of the County or subordinate entities have been or shall be designated “qualified tax-exempt obligations” during calendar year 2010.

4. The Auditor of the County shall sell the Bonds at public sale in accordance with Indiana Code 5-1-11.
5. This ordinance shall be full force and effect from and after its adoption.
(Ordinance No. 2010-040, Council, 12/7/13)

2.6.10. Preliminary Determination to Issue Delaware County Economic Development Income Tax Revenue Bonds and Authorizing and Approving other Actions.

Section 1. The Council hereby makes a preliminary determination to issue the Bonds, pursuant to IC 6-3.5-7, as amended, in an original aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000), for the purpose of financing all or a portion of the costs of the Project. The Bonds will have a maximum term not to exceed ten (10) years and a maximum interest rate not exceeding 7% annum. The Bonds shall be payable solely from the EDIT Revenues (which EDIT Revenues are projected to be sufficient to retire the Bonds in full) and, solely if and to the extent that EDIT Revenues are insufficient to retire the Bonds in full, a pledge of ad valorem property taxes of the County.

Section 2. The officers and representatives of the County are hereby directed as required by law to cause to be posted and published notice of the determination of the County to issue the Bonds.

Section 3. The County hereby declares its intent, pursuant to Treas. Reg. §1.105-2 and IC 5-1-14-6(c), that costs incurred by or on behalf of the County in financing costs of the Project be reimbursed from the proceeds of the Bonds.

Section 4. The officers and representatives of the County and any member of the County Council or the Delaware County Board of Commissioners are hereby authorized, empowered and directed, on behalf of the County, to take any other action as such individual deems necessary or desirable to effectuate the foregoing resolutions, and any actions heretofore made or taken be, and hereby are, ratified and approved.

Section 5. This resolution shall be in full force and effect from and after its adoption.
(Resolution No. 2010-035, Council, 11/12/10)

2.6.11. Approving the Pledge of Certain Revenues to Issuance of Certain Delaware County Taxable Economic Development Revenue Bonds and Certain Related Matters.

1. The Board of Commissioners hereby approves of the pledge of the CRED Revenues to the payment of the Bonds, as provided in the Pledge Resolution.
2. The Board of Commissioners hereby approves the form of the Interlocal Agreement presented at this meeting in its substantially final form and authorizes each of the members of the Board of Commissioners to execute, and the Auditor of the County to attest, the Interlocal Agreement substantially in the form presented at this meeting with such changes in form or substance as may be suggested by counsel and approved by such officers, consistent with the provisions of this Resolution, each such approval to be conclusively evidenced by such officers' execution thereof.
3. The members of the Board of Commissioners and the Auditor of the County are, and each of them is, hereby authorized and directed to take all such actions and to execute all such instruments, documents and certificates as are necessary or desirable to carry out the transactions contemplated by this Resolution, in such forms as the members of the Board of Commissioners and the Auditor of the County executing the same shall deem proper, to be conclusively evidenced by the execution thereof.

4. This Resolution shall be in full force and effect from and after its adoption by the Board of Commissioners.

(Resolution No. 2010-036, Commissioners, 11/12/10)

2.6.12. Adopting First Amended Capital Improvement Plan and Recommending the Issuance of County Economic Development Income Tax Revenue Bonds.

Section 1. The Board of Commissioners of Delaware County, Indiana hereby repeals the existing Capital Improvement Plan and adopts the First Amended Capital Improvement Plan in the form presented at this meeting.

Section 2. Two copies of the attached First Amended Capital Improvement Plan shall be kept on file in the office of the Delaware County Auditor for public inspection.

Section 3. The Board of Commissioners hereby recommend the approval by the Delaware County Council of up to \$10,000,000 of County Economic Development Income Tax Revenue Bonds (with a property tax pledge) to finance all or a portion of the capital projects set forth in the First Amended Capital Improvement Plan.

(Resolution No. 2010-037, Commissioners, 11/12/10)

2.6.13. Taxable Economic Development Revenue Bonds.

Section 1. It is hereby found that the financing of a portion of the economic development facilities referred to in the Loan Agreement approved by the Commission and presented to the County Council, the issuance and sale of the Delaware County, Indiana, Taxable Economic Development Revenue Bonds, Series 2010 (DSE Project) (the “bonds”), in one or more series, the loan of the proceeds of the Bonds to the Borrower for the financing of a portion of the costs of the Project (as hereinafter defined), the payment of the Bonds from TIF Revenues (as defined in the Financing Agreement) and from note payments of the Borrower under the Loan Agreement and Note, and the securing of said Bonds under a financing agreement complies with the purpose and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the County and its citizens.

Section 2. The proceeds of the Bonds in the amount of Three Hundred Twenty-Five Thousand Dollars (\$325, 000) will be loaned to the Borrower and used for the financing of a portion of the costs of the acquisition, construction, and renovation of land and/or facilities for use by the Company in its trucking transportation and repair operations (the “Project”). The Project is to be located in the area within the County heretofore designated as the “Daleville Redevelopment Area.” Notwithstanding anything in this Ordinance to the contrary, no proceeds of the Bonds loaned to the Borrower shall be used to finance either furniture of office-related equipment.

Section 3. At the public hearing held before the Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in the County, and subsequently found, based on the findings of fact approved in connection with the Report of the Commission, that the Project would not have an adverse competitive effect because there are no other similar businesses located in the proximity of the area. The County Council hereby confirms the findings set forth in the Commission’s resolution and Report, and concludes that the Project will not have an adverse competitive effect on any other similar facilities located in the County, and the facilities will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the County.

Section 4. The substantially final forms of the Loan Agreement, the Note and the Financing Agreement attached hereto are hereby approved (herein collectible referred to as the “Financing Documents”), and the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the County Council and kept on file by the Auditor of the County (the “Auditor”). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Auditor for public inspection.

Section 5. The County shall issue its Bonds, in one or more series, in an aggregate principal amount not to exceed Three Hundred Twenty-Five Thousand Dollars (\$325,000). Each series of the Bonds shall finally mature not later than February 1, 2011. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of a portion of the Project, as more particularly set out in the Financing Agreement and the Loan Agreement, incorporated herein by reference, which Bonds will be payable as to principal and interest from TIF Revenues and the note payments made by the Borrower under the Loan Agreement and the Note or as otherwise provided in the above-described Financing Agreement. Payments of principal and interest in lawful money of the United States of America by check mailed or delivered to the registered owners as provided on the Financing Agreement. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the County nor are the Bonds payable in any manner from revenues raised by taxation (except to the extent of the pledge of TIF Revenues). At the option of the Auditor, any series of the Bonds may be issued as “draw down” bonds such that the principal of such series of Bonds shall not be payable and the interest thereon shall not accrue until such principal amount has been advanced pursuant to disbursements made pursuant to the Financing Agreement.

Section 6. The Board of Commissioners of the County (the “Board of Commissioners”) and the Auditor are authorized and directed to sell the Bonds to the original purchasers thereof at a price of not less than ninety-nine percent (99%) of the principal amount thereof. The Bonds shall bear interest at a taxable rate or rates not exceeding eight percent (8.0%) per annum.

Section 7. The Board of Commissioners and the Auditor are, and each of them is, authorized and directed to execute, attest and affix or imprint by any means the seal of the County to the documents constituting the Financing Documents approved herein on behalf of the County and any other documents which may be necessary or desirable prior to. On or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Board of Commissioner and the Auditor are, and each of them is, hereby expressly authorized to approve any modifications or additions to the Ordinance with the review and advice of counsel to the County Council. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, maximum interest rate on, or terms of the Bonds described in Indiana Code 36-7-12-27 as approved by the County Council by this Ordinance without further consideration by the County Council. The signatures of the Board of Commissioners and the Auditor on the Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Bonds to the purchaser or purchasers of the Bonds as set forth in the Financing Agreement after receipt of payment for the Bonds made to the Auditor. The Bonds shall be originally dated the date of issuance and delivery thereof.

Section 8. The provisions of this Ordinance and the Financing Agreement securing the Bonds shall constitute a contract binding between the County and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

Section 9. This Ordinance shall be effective upon its passage by the County Council, in accordance with procedures as required by law.

(Ordinance No. 2010-024, Council, 7/27/10)

2.6.14. Issuance of Economic Development Revenue Bonds Twoson Tool.

Section 1. Small Issue Election of the Issuer.

The issuer hereby elects to have the provisions as to the \$10,000,000 limitation contained in Section 144(a)(4) of the Code apply to the Bonds.

Section 2. Arbitrage Provisions.

Subject to the obligations of the Borrower set forth in the Loan Agreement between the Issuer and the Borrower relating to the Bonds and the Tax Compliance Certificate from the Borrower, the Issuer will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchaser thereof, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed under that Section.. The Board of Commissioners of the Issuer and the Auditor of the Issuer, or any other officer having responsibility with the respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the forgoing, or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and regulations thereunder.

Section 3. Public Hearing.

Pursuant to the provisions if Indiana Code 36-7-12-24(a) and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), notice of publication of which was published in *The Star Press*, being a newspaper of general circulation in Delaware County, Indiana on June 8, 2010. At a public hearing held by the County Council prior to the adoption of this Ordinance and prior to the issuance of the Bonds, and public has been given an opportunity to express their views for or against the Project.

Section 4. Original Ordinance.

Except as specifically emended herein, all provisions and terms of the Original Ordinance shall remain in full force and effect.

Section 5. Effective Date.

This Ordinance shall be in full force and effect immediately upon adoption in compliance with Indiana Code 36-2-6.

(Ordinance No. 2010-015A, Council, 7/27/10)

2.6.15. Refinance Warrants Tax Anticipation.

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 June 30, 2009, 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 2009A (County General Fund), in aggregate principal amount of &1,740,000; Tax Anticipation Warrants,

Series 2009A (County Lease Rental Fund), in aggregate principal amount of \$468,000; Tax Anticipation Warrants, Series 2009A (Board of Health Fund), in aggregate principal amount of \$129,000; Tax Anticipation Warrants, Series 2009A (General Obligation Bond Fund), in aggregate principal amount of \$347,000, (collectively, the "Warrants"), subject to applicable law, issued pursuant to the provisions of Indiana Code 36-2-6-18, 5-4-5-2, 5-1-5-3, and 5-1-5-13, as in effect on the date of the issuance of the warrants.

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 December 31, 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 interest 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 09RD-1 upwards. The Warrants may be issued as draw-down warrants on draw terms acceptable to the Auditor.

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.

Section 4. PLEDGE OF REVENUES. A sufficient amount of the taxes levied for the Funds 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 finding 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 respects 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 executable 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 less than Thirty Million (\$30,000,000) of tax-exempt obligations in the current calendar year, the Warrants are hereby designated as qualified tax-exempt obligations for the purposes 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.
(Ordinance No. 2009-015, Council, 5/26/09)

2.6.16. Muncie Public Library.

1. That the Delaware County Council hereby approves the issuance of bonds by the Library for the purpose of obtaining funds to be applied on the cost of the Refunding, in a principal amount not to exceed \$3,795,000.
(Resolution No. 2009-011, Council, 4/28/09)

2.6.17. Tax Anticipation Warrants for 2008.

Section 1. Authorization and Terms.

- a. A temporary loan is hereby authorized to be made for and on behalf of the Children and Family Fund in an amount not to exceed Two Million Three Hundred Thousand Dollars (\$2,300,000), and all of the proceeds of such loan shall be placed in the Children and Family Fund. The loan shall be evidenced by the Children and Family Fund Warrants, which shall be designated “tax Anticipation Warrants (Children and Family Fund), Series 2008B” (the “Warrants”). The proceeds of the Warrants shall be used to pay the costs of issuance of the Warrants (unless the County Auditor elects to have the Purchaser of the Warrants pay such costs) and to meet the expenses of the County Payable out of the Children and Family Fund and must be met prior to the receipt of the 2008 taxes. A sufficient amount of the 2008 Taxes to be derived from the Children and Family Fund levy is

hereby appropriated and pledged for the payment of the principal amount and interest at maturity of the Warrants. The County Auditor is hereby authorized and directed to pay the principal of and interest on the Warrants out of the 2008 Taxes to be derived from the Children and Family Fund levy.

- b. The warrants shall be dated as of the date of delivery thereof, issued in denominations of \$100,000, plus integral multiples of \$1, as shall be requested by the purchaser, numbered consecutively from R-1 upward and bear interest at a rate not to exceed eight percent (8%) per annum (the exact rate to be determined by bidding), which interest shall mature and be payable on December 31, 2008, in an aggregate principal amount not to exceed \$2,300,000. Interest shall be calculated on the basis of the actual number of days elapsed in a year of 365 days. The Warrants will be delivered to the purchaser on or after August 25, 2008. The Warrants shall be executed by the manual or facsimile signature of the Board of Commissioners of the County (the "Board"), and attested by the manual or facsimile of the County Auditor. The Warrants shall be payable at the Office of the Delaware County Treasurer (the "County Treasurer") upon presentation on or after their maturity date.

Section 2. Form of Warrants and Use of Procedures.

The Warrants shall contain a reference to this Ordinance and the date of adoption thereof. The Warrants shall be issued in substantially the form set forth in Exhibit A attached hereto, with all blanks to be properly filled in prior to delivery. The County Auditor is authorized and directed (a) to file and, if required or desirable, to file an information report as provided by applicable federal or State of Indiana rules and regulations and (b) to use the proceeds of the Warrants to pay current expenses of the Children and Family Fund and the costs of issuance thereof unless the County Auditor elects to have the Purchaser of the Warrant pay such costs.

Section 3. Authorization of Sale.

The County Auditor is hereby authorized and directed to give notice of the sale of the Warrants by advertising their sale two times, at least one week apart, with the first publication made at least 15 days before the date of the sale and the second publication made at least three days before the date of the sale, in a newspaper of general circulation published in the County and requiring that sealed bids be submitted to the Auditor by the date set forth in the notice. Upon the receipt of the bids, the County Auditor shall award the Warrants to the bidder or bidders complying with the terms of the sale and offering the lowest net interest cost to the County, to be determined by computing the local interest on the Warrants from the expected closing date to maturity on December 31, 2008, and deducting therefrom the premium bid, if any. Although not a term of their sale, it is requested that each bid show the net dollar interest cost and the net effective interest rate for the Warrants. The Warrants shall bear the same rate of interest stipulated by the winning bidder as determined above. The Board is hereby authorized and directed to execute the Warrants in the form herein provided, and the County Treasurer is hereby authorized and directed to deliver the Warrants when so executed to the purchaser thereof upon payment by such purchaser of the purchase price of the Warrants.

Section 4. Terms of Notice of Sale of Warrants.

The notice of the sale of the Warrants shall provide the terms, maturity date and conditions, one of which is that bids must be accompanied by a certified check or cashier's check in the name of the County in the amount of \$23,000, which is equal to one percent of the maximum aggregate principal amount of the Warrants, to guarantee the County against default by such bidder, and that a bid must be submitted for all the

Warrants. At the discretion of the County Auditor, the County may require the successful purchaser of the Warrants to pay costs of issuance of the Warrants.

Section 5. Qualified Tax-Exempt Obligations.

The County hereby designates the Children and Family Fund Warrants as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 6. Warrants Subject to Prepayment.

The Warrants are subject to optional prepayment, in whole or in part, on any date prior to maturity upon seven (7) days notice to the holder thereof.

Section 7. Other Actions.

Any officer of the County is hereby authorized and directed, in the name and on behalf of the County, to execute and deliver such documents and to take such actions as such officer deems necessary or desirable to effect the foregoing provisions, including, but not limited to, closing certificates, and any such documents heretofore executed and delivered and any such actions heretofore taken are hereby ratified and approved.

Section 8. Effectiveness.

This Ordinance shall be in full force and effect from and after its passage.
(Ordinance No. 2008-019, Council, 7/22/08)

2.6.18. Economic Development Income Tax Release Rental Refunding Bonds.

Section 1. The Board of Commissioners hereby approves the actions of the Corporation to amend the Original Indenture by the First Supplemental Indentures.

Section 2. The Board of Commissioners hereby amends the Plan to add the construction of the 2008 Projects to the Plan and to extend the term of the Plan until the 1998 Bonds have been retired.

Section 3. In all other respects the Plan of the County relating to the use of the EDIT is hereby ratified and confirmed.
(Resolution No. 2008-006, Commissioner, 2-19-08).

2.6.19. Taxable Economic Development Revenue Bonds of 2009 (Brevini).

Section 1. It is hereby found that: (i) the financing of the Projects for the economic development facilities referred to in the Loan Agreement approved by the EDC and presented to this Council; (ii) the issuance and sale of the Delaware County, Indiana Taxable Economic Development Revenue Bonds of 2009 (Brevini USA, Inc. Project) ("Bonds"); (iii) the loan of the proceeds of the Bonds to the Borrower for the construction of the Projects; (iv) the payment of the Bonds from TIF Revenues (as defined in the Loan Agreement) and note payments of the Borrower under the Loan Agreement and Note; and (v) the securing of said Bonds under the Trust Indenture, complies with the purpose and provisions of IC 36-7-11.9 and -12 and will be of benefit to the health and welfare of the County and its citizens.

Section 2. The proceeds of the Bonds will be used for financing the construction of the Projects in or physically connect to the I-690/Park One Economic Development Area located in the County.

Section 3. At the public hearing, the EDC considered whether the construction of the economic development facilities of the Borrower or the construction of the Projects would have an adverse competitive effect on any similar facilities located in or near County, and subsequently found, based on special findings of facts set forth in the Resolution transmitted hereto, that neither the economic development facilities of the Borrower nor the Projects would have an adverse competitive effect. This Council hereby confirms the findings set forth in the EDC's Resolution, and concludes that there is no adverse competitive effect on any other similar facilities in or near the County, and the facilities will be of benefit to the health and welfare of the citizens of the County.

Section 4. The substantially final forms of the Loan Agreement, the Note, the Bond Purchase Agreement, and the Trust Indenture approved by the EDC are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and -12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Council and kept on file by the Auditor for public inspection.

Section 5. The County may issue its Bonds in the aggregate principal amount not to exceed \$3,400,000, in one or more series, maturing no later than February 1, 2013. The Bonds are to be issued for the purpose of procuring funds to pay the costs of the construction of the Projects and costs of issuance, all as more particularly set out in the Trust Indenture and Loan Agreement, incorporated herein by reference. The principal of the Bonds will be payable from the TIF Revenues, and note payments made by the Borrower under the Loan Agreement and Note, or as otherwise provided in the above described Trust Indenture. The Bonds shall be issued in fully registered form in the denomination of \$100,000 and integral multiples of \$5,000 in excess thereof, and shall be redeemable at the option of the Borrower, upon the terms and conditions set forth in the Financing Agreement. Payments on the Bonds are payable in lawful money of the United States of America by check mailed or delivered to the registered owners or by wire transfer as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of County as described in the Trust Indenture.

Section 6. The President of the County Commissioners ("Executive") and Auditor are authorized and directed to sell the Bonds to the original purchasers thereof at the par amount thereof. The Bonds shall bear interest at a rate not to exceed ten percent (10%) per annum and shall be payable semiannually February 1 and August 1.

Section 7. The Executive and the Auditor are authorized and directed to execute, attest, affix, or imprint, by any means, the seal to the documents constituting the Financing Agreement approved herein on behalf of the County and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Executive and the Auditor are hereby expressly authorized to approve any modification or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of bond counsel; it being the express understanding of this Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum aggregate principal amount or term of the Bonds as approved by the Council by this Ordinance without further consideration by the Council. The signatures of the Executive and Auditor on the Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Bonds to the Trustee named in the Trust Indenture, and payment for the Bonds will be made to the Trustee named in the Trust Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchaser thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.

Section 8. The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the County and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or interest thereon remains unpaid.

Section 9. This Ordinance shall be in full force and effect from and after its passage and execution.
(Ordinance No. 2009-004, Council, 2/24/09)

2.6.20. Taxable Economic Development Revenue Bonds, Series 2008 (Daleville Area Project).

1. It is hereby found that the financing of a portion of the economic development facilities referred to in the Loan Agreements approved by the Commission and presented to the County Council, the issuance and sale of the Delaware County, Indiana, Taxable Economic Development Revenue Bonds, Series 2008 (Daleville Area Project) (the "Bonds"), in one or more series (with the series designation to reflect the calendar year of issuance in the event the Bonds are issued in a calendar year other than 2008, together with a letter designation in the event multiple series of Bonds are issued), the loan of the proceeds of the Bonds to the Borrowers for the financing of a portion of the costs of the respective Projects (as hereinafter defined), the payment of the Bonds from TIF Revenues, (as defined in the Financing Agreement) and from the note payments of the Borrowers under the respective Loan Agreement complies with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the County and its citizens.
2. A portion of the proceeds of the Bonds in the amount of Four Hundred Fifty Thousand Dollars (\$450,000) will be loaned to IBM Corporation and used for the financing of a portion of the equipping and furnishing of a customer service center (the "IBM Project"). A portion of the proceeds of the Bonds in the amount of One Hundred Thousand Dollars (\$100,000) will be loaned to Jarden Home Brands, LLC and used for the financing of a portion of the equipping and furnishing of an office/distribution facility (the "Jarden Project", and together with the IBM project, the "Projects"). Each of the Projects is to be located in the area within the County heretofore designated as the 'Daleville Redevelopment Area.'. Notwithstanding anything in the Ordinance to the contrary, no proceeds of the Bonds loaned to IBM Corporation and Jarden Home Brands, LLC shall be used to finance either movable furniture or non-computer related equipment.
3. At the public hearing held before the Commission, the Commission considered whether either of the Projects would have an adverse competitive effect on any similar facilities located in the County, and subsequently found, based on the findings of fact approved in connection with the Report of the Commission, the neither of the Projects would have an adverse competitive effect because there are no other similar facilities located in the County, and the facilities will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the County.
4. The substantially final forms of the Loan Agreement, the Notes and the Financing Agreement approved by the Commission are hereby approved (herein collectively referred to as the "Financing Documents"), and the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the County Council and kept on file by the Auditor of the County (the "Auditor"). In accordance with the provision of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Auditor for public inspection.
5. The County shall issue its Bonds, in one or more series, in an aggregate principal amount not to exceed Five Hundred Fifty Thousand Dollars (\$550,000). Each series of the Bonds shall finally

mature not later than February 1, 2010. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of a portion of the equipping and furnishing of the Projects, as more particularly set out in the Financing Agreement and the Loan Agreements, incorporated herein by reference, which Bonds will be payable as to principal and interest from TIF Revenues and the note payments made by the Borrowers under the Loan Agreement and the Notes or as otherwise provided in the above-described Financing Agreement. The Bonds shall be issued in fully registered form in denominations of One Hundred Thousand Dollars (\$100,000) and integral multiples of One Thousand Dollars (\$1,000) in excess thereof or as otherwise provided in the Financing Agreement, and shall be subject to redemption as provided in Section 3 of the Financing Agreement. Payments of principal and interest are payable in lawful money of the United States of America by check mailed or delivered to the registered owners as provided in the Financing Agreement. The Bonds shall never constitute a general obligation of, and indebtedness of, or a charge against the general credit of the County nor are the Bonds payable in any manner from revenues raised by taxation (except to the extent of the pledge of TIF Revenues). At the option of the Auditor, any series of the Bonds may be issued as "draw down" bonds such that the principal of such series of Bonds shall not be payable and the interest thereon shall not accrue until such principal amount has been advanced pursuant to disbursements made pursuant to the Financing Agreement.

6. The Board of Commissioners of the County (the "Board of Commissioners") and the Auditor are authorized and directed to sell the Bonds to the original purchasers thereof at a price of not less than ninety-nine percent (99%) of the principal amount thereof. The Bonds shall bear interest at a taxable rate or rates not exceeding eight percent (8.0%) per annum.
7. The Board of Commissioners and the Auditor are, and each of them is, authorized and directed to execute, attest and affix or imprint by any means the seal of the County to the documents constituting the Financing Documents approved herein on behalf of the County and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Board of Commissioners and the Auditor are, and each of them is, hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Documents which take place after the date of this Ordinance with the review and advice of the counsel to the County Council, it being the express understanding of the County Council that said Financing Documents are in substantially final form as of the date of this Ordinance. The approval of said modification or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, maximum interest rate on, or terms of the Bonds described in Indiana Code 36-7-12-27 as approved by the County Council by this Ordinance without further consideration by the County Council. The signatures of the Board of Commissioners and the Auditor on the Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Bonds to the purchaser or purchasers of the Bonds as set forth in the Financing Agreement after receipt of payment of the Bonds made to the Auditor. The Bonds shall be originally dated the date of issuance and delivery thereof.
8. The provisions of this Ordinance and the Financing Agreement securing the Bonds shall constitute a contract binding between the County and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

9. This Ordinance shall be effective upon its passage by the County Council, in accordance with procedures as required by law.

(Ordinance No. 2008-003, Council meeting, 3/25/08)

2.6.21. Authorizing the Issuance of Tax Anticipation Warrants.

1. It is declared that an emergency exists for the borrowing of money in an amount hereinafter set forth to pay current expenses payable from funds hereinafter set forth prior to the receipt of revenues for the tax levies receipts for 2007; and,
2. For the purpose of paying the current expenses of said Delaware County payable from the funds and amounts set forth in this Ordinance there shall be issued the Tax Anticipation Warrants of Delaware County in a total principal sum of Two Million Dollars (\$2,000,000.00). Separate Warrants shall be issued and each warrant shall be in denominations of not less than Five Hundred Thousand Dollars (\$500,000.00) and each Warrant shall be payable solely as the principal from taxes levied for 2007 as collected by Delaware County for which Warrant is issued and interest payable for the taxes levied for 2007 from the Family and Children Fund; and,
3. Said Warrants shall each be dated as of the date of delivery herein purchaser and payment therefore; and,
4. Said Warrants shall be payable in lawful money of the United States of America at the office of the Treasurer of Delaware County; and,
5. Said Warrant shall bear interest at a rate(s) not exceeding six percent (6%) per annum to be determined upon the sale thereof, payable upon maturity; and,
6. Said Warrants shall be in such denomination(s) of not less than Five Hundred Thousand Dollars (\$500,000.00) nor more than One Million Dollars (\$1,000,000.00) each and shall be specified by the successful purchaser in their bid; and,
7. Said Warrants shall be numbered with respect to such denomination(s) and shall mature either on December 31, 2007, provided that said Warrants shall be subject to prepayment in whole or in part at any time prior to maturity at the option of Delaware County at the principal amount thereof and accrued interest to the date of prepayment; and,
8. Said Warrant shall be executed by the President of the Delaware County Board of Commissioners and the Delaware County Auditor thereof and the Corporate Seal of Delaware County shall be impresses thereon; and,
9. Said Warrants shall be in substantially the following form, the omissions to be properly completed prior to delivery thereof:
10. Said tax anticipation Warrants shall be sold at public sale after advertisement thereof once each week for two (2) successive weeks in the Muncie Star Press, the first of each such publication to be not less than fifteen (15) days prior to the date fixed for the sale of said Warrants, and the second of each such publication not less than three (3) days prior to the date fixed for the sale of said Warrants.

Bidders shall be required to bid on the entire amount of Warrants herein authorized, but the County shall reserve the right to deliver the Warrants and receive therefore at one time, or from time to time as its option.

Sealed bids shall be received by the Delaware County Auditor until 4 o'clock pm. on the 21st day of May, 2007. They will be presented to the entire Delaware County Council at a regular meeting scheduled for 9 o'clock am on the 22nd day of May, 2007, at which time the Warrants shall be awarded to the lowest and best bidder and the rates of interest, denominations and numbering shall be established. Notice of the sale of said tax anticipation Warrants shall be in substantially the following form:

11. There is here by appropriated and pledged to the payment of said Tax Anticipation Warrants a sufficient amount of taxes levied for the year 2007 for the fund for which the said Warrants have been authorized.
 12. This Ordinance shall be in full force and effect immediately upon its passage by the Delaware County Council.
- (Ordinance No. 2007-008, Council meeting, 4/24/07)**

2.6.22. Authorizing Tax Anticipation Warrants for 2008.

Section 1. Authorization and Terms.

- a. A temporary loan is hereby authorized to be made for and on behalf of the Children and Family Fund in an amount not to exceed Four Million Dollars (\$4,000,000), and all of the proceeds of such loan shall be placed in the Children and Family Fund. The loan shall be evidenced by the Children and Family Fund Warrants, which shall be designated "Tax Anticipation Warrants (Children and Family Fund), Series 2008A" (the "Warrants"). The proceed of the Warrants shall be used to pay the costs of issuance of the Warrants (unless the County Auditor elects to have the Purchaser of the Warrants pay such costs) and to meet the expenses of the County payable out of the Children and Family Fund and included in the regular budget and appropriation adopted for the year 2008, which expenses must be net prior to the receipt of the 2008 Taxes. A sufficient amount of the 2008 Taxes to be derived from the Children and Family Fund levy is hereby appropriated and pledged for the payment of the authorization and directed to pay the principal of and interest on the Warrants out of the 2008 Taxes to be derived from the Children and Family levy.
- b. The Warrants shall be dated as of the date of delivery thereof, issued in denominations of \$100,000, plus integral multiples of \$1, as shall be requested by the purchaser, numbered consecutively from R-1 upward and bear interest at a rate not to exceed eight percent (8%) per annum (the exact rate to be determined by bidding), which interest shall be payable at the time of the payment of the principal of the Warrants. The Warrants shall mature and be payable on December 31, 2008, in an aggregated principal amount not to exceed \$4,000,000. Interest shall be calculated on the basis of the actual number of days elapsed in a year of 365 days. The Warrants will be delivered to the purchaser on or after January 2, 2008. The Warrants shall be executed by the manual or facsimile of the Board of Commissioners of the County (the "Board"), and attested by the manual or facsimile signature of the County Auditor. The Warrants shall be payable at the Office of the Delaware County Treasurer (the "County Treasurer") upon presentation on or after their maturity date.

Section 2. Form of Warrant and Use of Proceeds.

The Warrants shall contain a reference to this ordinance and the Date of the adoption thereof. The Warrants shall be issued in substantially the form set forth in Exhibit A attached hereto, with all blanks to be properly filled in prior to delivery. The County Auditor is authorized and directed (a) to file and, if required or desirable, to file an information report as provided by the applicable federal or State of Indiana rules and regulations and (b) to use the proceeds of the Warrants to pay current expenses of the Children and Family

Fund and the costs of issuance thereof unless the County Auditor elects to have the Purchaser of the Warrants pay such costs.

Section 3. Authorization of Sale.

The County Auditor is hereby authorized and directed to give notice of the sale of the Warrants by advertising their sale two times, at least one week apart, with the first publication made at least 15 days before the date of the sale and the second publication made at least three days before the date of the sale, in a newspaper of general circulation published in the County and requiring that sealed bids be submitted to the Auditor by the date set forth in the notice. Said bids shall stipulate the rate of interest to be charged by such bidder. Upon the receipt of the bids, the County Auditor shall award the Warrants to the bidder or bidders complying with the terms of the sale and offering the lowest net interest cost to the County, to be determined by computing the total interest on the Warrants from the expected closing date to maturity on December 31, 2008, and deducting there from the premium bid, if any. Although not a term of their sale, it is requested that each bid show the net dollar interest cost and the net effective interest rate for the Warrants. The Warrants shall bear the same rate of interest stipulated by the winning bidder as determined above. The Board is hereby authorized and directed to execute the Warrants in the form herein provided, and the County treasurer is hereby authorized and directed to execute the Warrants in the form herein provided, and the County Treasurer is hereby authorized and directed to deliver the Warrants when so executed to the purchaser thereof upon payment by such purchaser of the purchase price of the Warrants.

Section 4. Terms of Notice of Sale of Warrants.

The notice of sale of the Warrants shall provide the terms, maturity date and conditions, one of which is that bids must be accompanied by a certified check or a cashier's check in the name of the County in the amount of \$40,000, which is equal to one percent of the maximum aggregated principal amount of the Warrants, to guarantee the County against default by such bidder, and that a bid must be submitted for all Warrants. At the discretion of the County Auditor, the County may require the successful purchaser of the Warrants to pay the costs of issuance of the Warrants.

Section 5. Qualified Tax-Exempt Obligations.

The County hereby designates the Children and Family Fund Warrants as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 6. Warrants Subject to Prepayment.

The Warrants are subject to optional prepayment, in whole or in part, on any date prior to maturity upon seven (7) days notice to the holder thereof.

Section 7. Other Actions.

Any officer of the County is hereby authorized and directed, in the name and on behalf of the County, to execute and deliver such documents and to take such actions as such officer deems necessary or desirable to effect the foregoing provisions, including, but not limited to, closing certificates, and any such documents heretofore executed and delivered and any such actions heretofore taken are hereby ratified and approved.

Section 8. Effectiveness.

This Ordinance shall be in full force and effect from and after its passage.
(Ordinance No.2007-027, Council meeting, 12/11/07)

2.6.23. Authorizing the issuance of Tax Anticipation Warrants.

1. It is declared that an emergency exists for the borrowing of money in an amount hereinafter set forth to pay current expenses payable from the funds hereinafter set forth prior to the receipt of revenues for the tax levies receipts for 2006; and,
2. For the purpose of paying the current expenses of said Delaware County payable from the funds and amounts set forth in this Ordinance there shall be issued the Tax Anticipation Warrants of Delaware County in a total principal sum of Two Million Dollars (\$2,000,000.00). Separate Warrants shall be issued and each warrant shall be in denominations of not less than Five Hundred Thousand Dollars (\$500,000.00) and each Warrant shall be payable solely as the principal from taxes levied for 2006 as collected by Delaware County for which Warrant is issued and interest payable for the taxes levied for 2006 for the County General Fund; and,
3. Said Warrants shall each be dated as of the date of delivery herein to the purchaser and payment therefore; and,
4. Said Warrants shall be payable in lawful money of the United States of America at the office of the Treasurer of Delaware County; and,
5. Said Warrants shall bear interest at a rate(s) not exceeding six percent (6%) per annum to be determined upon the sale thereof, payable upon maturity; and,
6. Said Warrants shall be in such a denomination(s) of not less than Five Hundred Thousand Dollars (\$500,000.00) nor more than One Million Dollars (\$1,000,000.00) each and shall be specific by the successful purchaser in their bid; and,
7. Said Warrants shall be numbered with respect to such denomination(s) and shall mature either on December 31, 2006, provided that said Warrants shall be subject to prepayment in whole or in part at any time prior to maturity at the option of Delaware County at the principal amount thereof and accrued interest to the date of prepayment; and,
8. Said Warrants shall be executed by the President of the Delaware County Board of Commissioners and by Delaware County Auditor thereof and the Corporate Seal of Delaware County shall be impressed thereon; and,
9. Said Warrants shall be in substantially the following form, the omission to be properly completed prior to delivery thereof:
10. Said tax anticipation warrants shall be sold at public sale after advertisement thereof once each week for two successive weeks in the Muncie Star Press, the first of each such publications to be not less than fifteen (15) days prior to the date fixed for the sale of said warrants, and the second of each such publication not less than three (3) days prior to the date fixed for the sale of said warrants.

Bidders shall be required to bid on the entire amount of warrants herein authorized, but the County shall reserve the right to deliver the warrants and receive payment thereof at one time, or from time to time at its option.

Sealed bids shall be received by the Delaware County Auditor until 4:00 p.m., on May 22, 2006. They will be presented to the entire Delaware County Council at a regular meeting scheduled for 9:00 a.m., May 23, 2006, at which time the warrants shall be awarded to the lowest and best bidder and the rates of interest, denominations and numbering shall be established. Notice of the sale of said tax anticipation warrants shall be in substantially the following form:

11. There is hereby appropriated and pledged to the payment of said tax anticipation warrants a sufficient amount of the taxes levied for the year 2006 for the fund which the said warrants have been authorized.
12. This Ordinance shall be in full force and effect immediately upon its passage by the Delaware County Council.
(Ordinance No. 2006-009, Council meeting)

6.2.24. Authorizing the County to issue its taxable Economic Development Revenue Bonds, Series 2006 (Magna Project).

- Section 1. It is hereby found that the financing of a portion of the economic development facilities referred to in the Loan Agreement approved by the Commission and presented to the County Council, the issuance and sale of the Delaware County, Indiana, Taxable Economic Development Revenue Bonds, Series 2006 (Magna Project) (the "Bonds") (with the series designated to reflect the calendar year of the issuance in the event the Bonds are issued in a calendar year other than 2006), the loan of the proceeds of the Bonds to the Borrower for the financing of a portion of the costs of the Project, the payment of the Bonds from TIF Revenues and CRED Revenues (each as defined in the Trust Indenture) and from the note payments of the Borrower under the Loan Agreement and the Note, and the securing of said Bonds under the Trust Indenture compiles with the purposes and provisions of the Act and will be of the benefit to the health, prosperity, economic stability and general welfare of the County and its citizens.
- Section 2. The proceeds of the Bonds will be used for the financing of a portion of the construction and equipping of a new 150,000 square foot manufacturing facility for the manufacturing of component parts for transfer cases and transmissions (collectively, the "Project"), to be constructed in the area within the County heretofore designated as the "Magna Economic Development Area."
- Section 3. The County Council hereby confirms the findings set forth in the Commission's resolution and Report, and concludes that the facilities will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the County.
- Section 4. The substantially final forms of the Loan Agreement, the Note, the Bond Purchase Agreement and the Trust Indenture approved by the Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in the Act), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the County Council and kept on file by the Auditor of the County (the "Auditor").

In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Auditor for public inspection.

- Section 5. The County shall issue its Bonds in an aggregate principal amount not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000). The Bonds shall finally mature not later than February 1, 2021. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of a portion of the acquisition, construction, installation and equipping of the Project, as more particularly set out in the Trust Indenture and the Loan Agreement, incorporated herein by reference, which Bonds will be payment as to principal and interest from TIF Revenues, CRED Revenues and the note payments made by the Borrower under the Loan Agreement and the Note or as otherwise provided in the above-described Trust Indenture. The Bonds shall be issued in fully registered form in denominations of One Hundred Thousand Dollars (\$100,000) and integral multiples of Five Thousand Dollars (\$5,000) in excess thereof or otherwise provided in the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America by check mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the County nor are the Bonds payable in any manner from revenues raised by taxation (except to the extent of the pledge of TIF Revenues and CRED Revenues).
- Section 6. The Board of Commissioners of the County (the "Board of Commissioners") and the Auditor are authorized and directed to sell the bonds to the original purchasers thereof at a price of not less than one hundred percent (100%) of the principal amount thereof. The Bonds shall bear interest at a taxable rate or rates not exceeding seven percent (7.0%) per annum.
- Section 7. The Board of Commissioners and the Auditor are, and each of them is, authorized and directed to execute, attest and affix or imprint by any means the seal of the County to the documents constituting the Financing Agreement approved herein on behalf of the County and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Board of Commissioners and the Auditor are, and each of them is, hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of counsel to the County Council, it being the express understanding of the County Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, maximum interest rate on, or terms of the Bonds described in Indiana Code 36-7-12-27 as approved by the County Council by this Ordinance without further consideration by the County Council. The signatures of the Board of Commissioners and the Auditor on the Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Bonds to the Trustee named in the Trust Indenture, and payment for the Bonds will be made to the Trustee named in the Trust Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.
- Section 8. The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the County and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would

adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

Section 9. This ordinance shall be effective upon its passage by the County Council, in accordance with procedures as required by law.
(Ordinance No, 2005-006, Council meeting, 11/28/06)

CHAPTER 7

DOG TAX

1-1. Dog Tax Tabled since 4/24/09
(Ordinance No. 2009-016)