

ORDINANCE NO. 2010-020

ORIGINAL

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

WHEREAS, the County Council (the "County Council") of the County of Delaware, Indiana (the "County") has determined that there will be an insufficient amount of money in the County General Fund and the County Board of Health Fund (collectively, the "Funds") to meet the respective current running expenses of the County from the Funds during the fiscal year ending on the last day of December 2010, and prior to the respective June and December settlements and distributions of taxes levied for the Funds; and

WHEREAS, the County Council now finds that an emergency exists for the borrowing of money to pay the County's current running expenses, that temporary loans for the Funds for such purposes should be made, and that tax anticipation warrants evidencing such loans should be issued and sold, subject to the terms and conditions set forth herein and in accordance with the provisions of Indiana law; and

WHEREAS, the County is authorized by Indiana Code 36-2-6-18, as amended, to borrow money to pay such current running expenses by making temporary loans to procure the necessary funds and to evidence such temporary loans by issuing temporary loan tax anticipation warrants in anticipation of the receipt of revenues of the County for the remainder of 2010, including, without limitation, current tax revenues for the Funds actually levied in 2009, currently in the course of collection and payable in 2010; and

WHEREAS, the County Council seeks to authorize the issuance of such temporary loan tax anticipation warrants with respect to the Funds and the sale of such warrants pursuant to the provisions of Indiana Code 36-2-6-18, subject to and dependent upon the terms and conditions hereinafter set forth;

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

**SECTION 1. THE WARRANTS.** It is hereby found and declared that an emergency exists for the borrowing of money with which to pay current running expenses payable from the Funds prior to the receipt of anticipated revenues of the County for the remainder of 2010, including, without limitation, taxes levied in 2009 and payable in 2010 for the Funds. For the purpose of paying the current running expenses of the County payable from the Funds, there shall be issued tax anticipation warrants of the County designated "Tax Anticipation Warrants, Series 2010A (County General Fund), in aggregate principal amount not to exceed \$6,467,000 and Tax Anticipation Warrants, Series 2010A (Board of Health Fund), in aggregate principal amount not to exceed \$205,000 (collectively, the "Warrants"), subject to applicable law, issued pursuant to the provisions of Indiana Code § 36-2-6-18, 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 the 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, 2010. 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.

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 AR-1 upwards. The Warrants may be issued as draw-down warrants on draw terms acceptable to the County 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. FORM OF WARRANTS 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 forms set forth in Exhibit A attached hereto, with all blanks to be properly filled in prior to delivery, as conclusively evidenced by the signatures of the officers of the County affixed thereon. The County Auditor is authorized and directed (a) 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 Funds 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, 2010, 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. 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.

**SECTION 5. 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 respective Warrants.

**SECTION 6. FURTHER ACTIONS.** The County Commissioners and the Auditor of the County are hereby authorized and directed to make such filings and requests, deliver such certifications, execute and deliver such documents and instruments, and otherwise take such actions as are necessary or appropriate to carry out the terms and conditions of this Ordinance and the actions authorized hereby and thereby.

**SECTION 7. TAX COVENANTS.** The County hereby covenants that the County and its officers shall not take any action or fail to take any action with respect to the proceeds of any of the Warrants or any investment earnings thereon that would result in constituting any of the Warrants as “arbitrage bonds” under the Internal Revenue Code of 1986, as amended (the “Code”), and any and all final or proposed regulations or rulings applicable thereto, or which would otherwise cause the interest on any of the Warrants to cease to be excludable from gross income for purposes of federal income taxation; and the Auditor of the County and all other appropriate officers of the County are hereby authorized and directed to take any and all actions and to make and deliver any and all reports, filings and certifications as may be necessary or appropriate to evidence, establish or ensure such continuing exclusion of the interest on the Warrants.

Because the County, together with all entities subordinate thereto, 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 purpose of Section 265(b)(3) of the Code.

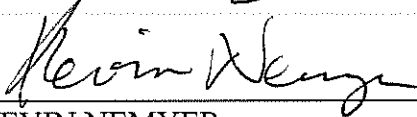
**SECTION 8. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after the time it has been adopted by the County Council.

**SECTION 9. REPEAL OF CONFLICTING ORDINANCES.** All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

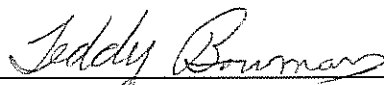
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DULY ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY OF  
DELAWARE, INDIANA, THIS 25<sup>TH</sup> DAY OF MAY, 2010.


  
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JAMES KING

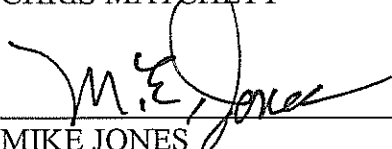
  
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KEVIN NEMYER

  
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MARY CHAMBERS

  
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TED BOWMAN

  
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RONALD QUAKENBUSH

  
\_\_\_\_\_  
CHRIS MATCHETT

  
\_\_\_\_\_  
MIKE JONES

ATTEST:

  
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JUDITH RUST, AUDITOR