

ORIGINAL

DELAWARE COUNTY, INDIANA

ORDINANCE NO. 2008-019

**ORDINANCE OF THE DELAWARE COUNTY COUNCIL AUTHORIZING
TAX ANTICIPATION WARRANTS FOR 2008**

WHEREAS, the Delaware County Council (the "Council") now finds that an emergency exists for the borrowing of money, with which to meet the expenses of Delaware County (the "County"), which will be incurred in 2008 and are to be paid from the Children and Family Fund of the County (the "Children and Family Fund"), which expenses must be met prior to the receipt of the settlement and distribution of taxes payable in 2008 (the "2008 Taxes"); and

WHEREAS, the Council now finds that the 2008 Taxes are estimated to produce at least \$2,300,000 in the Children and Family Fund, and the Auditor of Delaware County (the "County Auditor") has presented to the Council her recommendation that one or more tax anticipation warrants be issued for the Children and Family Fund in an aggregate principal amount not to exceed \$2,300,000 (the "Children and Family Fund Warrants"), subject to the terms hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE DELAWARE COUNTY COUNCIL, DELAWARE COUNTY, INDIANA, as follows:

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 included in the regular budget and appropriations adopted for the year 2008, which expenses 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 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 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 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 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 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 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 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 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 \$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 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.

PASSED AND ADOPTED this 22nd day of July, 2008.

DELAWARE COUNTY COUNCIL, DELAWARE COUNTY, INDIANA

AYE

NAY

Samuel T. Bates

Mel Botham

Greg Spakeman

Mary Chambers

Cliff

Jeddy Bowman

Joe Kussel

Attest:

Judith Rust
Judy Rust
Auditor of Delaware County