

ORDINANCE NO. 2008-030

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 AND SALE OF TEMPORARY LOAN TAX ANTICIPATION WARRANTS TO EVIDENCE SUCH LOANS; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON

WHEREAS, the County Council (the "County Council") of the County of Delaware, Indiana (the "County") has determined that there will be an insufficient amount of money in each of the County General Fund, the Board of Health Fund, the County Lease Rental Fund, and the General Obligation Bond Fund of the County (or certain departments of the County) (collectively, the "Funds") to meet the respective current running expenses of the County or departments thereof payable from each of such Funds during the fiscal year ending on the last day of December 2008, and prior to the December settlements and distributions of taxes levied for each of such 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 temporary loan 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, there remains to be collected anticipated revenues for the year 2008, and an emergency exists requiring the borrowing of money with which to meet the current running expenses of the County payable from each of the Funds provided for in the 2008 budget, which

expenses must be met in amounts and at times during the year 2008 and prior to the anticipated dates of settlement and distribution of taxes levied for each of the Funds during such year; 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 year 2008, which revenues are not expected to be received until 2009; and

WHEREAS, the County Council desires to authorize the making of such temporary loans to procure the amounts necessary, in combination with other available amounts, to meet such current running expenses for each of the Funds and to pay necessary costs incurred in connection with the issuance and sale of temporary loan tax anticipation warrants to evidence such temporary loans; and

WHEREAS, the levies proposed for collection for each of the Funds for the year 2008 (but not expected to be collected until 2009) are estimated to produce in the aggregate, with respect to each of the respective Funds, amounts in excess of the principal of and interest on the temporary loans for each of the respective Funds; and

WHEREAS, the County Council seeks to authorize the issuance of such temporary loan tax anticipation warrants with respect to each of 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

each of the Funds prior to the receipt of anticipated revenues of the County for the year 2008, which revenues are not expected to be received until 2009. For the purpose of paying the current running expenses of the County payable from each of the Funds, there shall be issued tax anticipation warrants of the County designated "County of Delaware, Indiana, Tax Anticipation Warrants, Series 2008C" (further designated to reflect the specific fund) (the "Warrants"), in an aggregate principal amount not to exceed Three Million One Hundred and Thirty-One Thousand Dollars (\$3,131,000) but in no event exceeding eighty percent (80%) of the tax levy estimated for the respective fund, 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. A separate Warrant or Warrants shall be issued with respect to each of the Funds. The County is authorized to issue Warrants from the following Funds in combined amounts not exceeding the following with respect to each of the Funds, subject to applicable law:

<u>Fund</u>	<u>Maximum Principal Amount</u>
County General Fund	\$1,740,000
Board of Health Fund	\$129,000
County Lease Rental Fund	\$468,000
General Obligation Bond Fund	\$794,000

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

The Warrants shall mature not later than June 30, 2009. The final maturity date and final aggregate principal amount of the Warrants shall be set forth in a certificate executed by the

Treasurer of the County prior to the sale of the Warrants. The Warrants shall not be payable prior to maturity. The Warrants shall bear interest prior to maturity at a rate or rates not exceeding eight percent (8%) per annum (the exact rate or rates to be determined by public sale through competitive bidding). 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 08RC-1 upwards, with a letter designation to reflect the series of such Warrants. The Warrants shall be issued in the maximum combined principal amount of not to exceed Three Million One Hundred and Thirty-One Thousand Dollars (\$3,131,000), but in no event exceeding eighty percent (80%) of the tax levy estimated for the respective fund, subject to applicable law, with the Warrants issued with respect to each of the Funds issued up to or less than the maximum principal amount established for each such Fund as set forth in the table above, subject to applicable law.

SECTION 2. SECURITY FOR WARRANTS. The principal of and interest on the Warrants, together with all necessary costs incurred in connection with the issuance and sale of the Warrants, shall be payable from anticipated revenues for the year 2008 (but not expected to be received until 2009) to be received in the respective Fund upon which such Warrant is issued. There is hereby appropriated and pledged to the payment of all Warrants issued with respect to each Fund, including interest and all necessary costs incurred in connection with the issuance and sale of the Warrants, a sufficient amount of anticipated revenues for the year 2008, which revenues are not expected to be received until 2009, for such Fund and in anticipation of which the Warrants are issued, for the punctual payment of the principal of and interest on the Warrants evidencing such temporary loans, together with such issuance costs, if any, subject to the

application of the tax revenues to be received in the Fund to any long term lease or debt obligations due contemporaneously with such Warrants; provided, however, that the appropriation of moneys to the repayment of Warrants shall not cause the County to violate the provisions of Indiana law or any contract, grant or other agreement to which the County is a party. The principal amount of all Warrants maturing on any date shall be based on the anticipated date by which the respective revenues are expected to be received. The County covenants and agrees that it shall, if it fails to make any payment required herein when due, promptly undertake all actions, including the issuance of warrants issued to refund the unpaid Warrants that: (i) are necessary to cure such nonpayment, (ii) are legally available to cure such nonpayment, and (iii) do not, in the opinion of bond counsel, cause any of the Warrants to be considered debt of the County within the meaning of Article 13, Section 1 of the Indiana Constitution or laws of the State of Indiana.

SECTION 3. EXECUTION OF WARRANTS. The Warrants issued hereunder shall be executed in the name of the County by the manual or facsimile signatures of the County Commissioners of the County and attested by the manual or facsimile signature of the Auditor of the County, provided that at least one of such signatures is manually affixed. In case any official whose manual or facsimile signature shall appear on any Warrant shall cease to be such official before the delivery of such Warrant, such signature shall nevertheless be valid and sufficient for all purposes the same as if such official had remained in office until delivery of the Warrant.

SECTION 4. FORM OF WARRANT. The Warrants shall be issued in substantially the following form (with all blanks, changes, additions and deletions, including the appropriate amounts, dates and other information to be properly completed prior to the execution and delivery thereof, as conclusively evidenced by the signatures of the officers of the County affixed thereon):

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF DELAWARE

TEMPORARY LOAN TAX ANTICIPATION WARRANT, SERIES 2008C
(_____ FUND)

Warrant Fund: _____ Fund
 Dated Date: _____, 2008
 Due Date: June 30, 2009
 Principal Sum: \$ _____
 Interest Rate: _____ percent per annum

FOR VALUE RECEIVED, on the Due Date set forth above (the "Due Date"), the County of Delaware, Indiana (the "Borrower"), shall pay to _____ (the "Holder") the Principal Sum set forth above, together with interest thereon at the per annum Interest Rate set forth above, with such interest to be computed on the basis of a three hundred sixty-five (365)-day year from the date of issuance to the date of maturity. This warrant is not payable prior to maturity.

This warrant is one of a series of tax anticipation warrants aggregating _____, (\$ _____) in principal amount, for the purpose of providing funds to meet current expenses of the _____ Fund of the County set forth above (the "Fund"), and has been authorized by Ordinance No. _____, passed and adopted by the County Council of the County of Delaware, Indiana, on _____, 2008 in accordance with Indiana Code 36-2-6-18 and all other acts amendatory thereof or supplemental thereto.

This warrant is payable solely from anticipated revenues for the year 2008, which revenues are not expected to be received until 2009. There has been irrevocably appropriated and pledged to the payment in full of the principal of and interest on this warrant a sufficient amount of such anticipated revenues, including, without limitation, the revenues to be derived from the Fund's tax levies, subject to the application of the tax revenues to be received in the Fund to any long term lease or debt obligations due contemporaneously with this warrant; provided that the appropriation of moneys to the repayment of this warrant shall not cause the Borrower to violate the provisions of Indiana law or any contract, grant or other agreement to which the Borrower is a party. The principal of and interest on this warrant shall be payable in lawful money of the United States of America at the principal office of the Treasurer of Delaware County, Indiana.

It is further hereby certified, recited and declared that all acts, conditions and things required by law to be done precedent to the issuance and execution of this warrant have been properly done, have happened and have been performed in the manner required by the

constitution and statutes of the State of Indiana relating thereto; that the Fund's tax levies from which (together with other amounts in the Fund) this warrant is payable are valid and legal levies; and that the Borrower will reserve a sufficient amount of the proceeds of the Fund's tax levies currently in the course of collection for the timely payment of the principal of and interest on this warrant in accordance with its terms.

IN WITNESS WHEREOF, the County of Delaware, Indiana, has caused this warrant to be executed in its corporate name by the manual or facsimile signature of the County Commissioners of the County of Delaware, Indiana, and attested by the manual or facsimile signature of the Auditor of the County of Delaware, Indiana, all as of the above Dated Date.

COUNTY OF DELAWARE, INDIANA

By: _____
County Commissioner

County Commissioner

County Commissioner

ATTEST:

Judith Rust, Auditor

[End of Form of Warrant]

Notwithstanding anything in this Ordinance to the contrary (including the form of Warrant in this Section 4 herein), each Warrant (as well as any other papers or certification delivered in connection therewith) can be signed by two of the County Commissioners and need not be signed by all members of the Board of County Commissioners.

SECTION 5. ISSUANCE, SALE 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 sold by public sale through competitive bidding. The Auditor, on behalf of the County, is authorized and directed to have the Warrants prepared in the form herein provided and is further directed to give notice of the sale of the Warrants by advertising once each week for two successive weeks in accordance with the provisions and requirements of Indiana law and requiring that sealed bids be submitted to the County, said bids to stipulate the rate of interest to be charged by such bidder.

Although not a term of sale, it is requested that each bid show the net dollar interest cost and net effective interest rate for each Warrant. Each Warrant shall bear the rate of interest stipulated by the winning bidder as determined above.

Upon the award of the Warrants by the County to the bidder who has submitted the lowest rate of interest, the proper officers of the County are hereby authorized and directed to execute the Warrants in the form herein provided and to deliver the Warrants when so executed to the purchaser thereof upon payment by said purchaser of the purchase price of such 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 reasonably expects to issue more than Ten Million Dollars (\$10,000,000) of tax-exempt obligations in the current calendar year, the Warrants are **NOT** designated as qualified tax-exempt obligations for purposes 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.

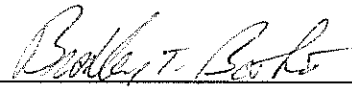
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DULY ADOPTED BY THE COUNTY COUNCIL OF THE COUNTY OF DELAWARE, DELAWARE COUNTY, INDIANA, THIS 28 TH DAY OF October, 2008.



JOE RUSSELL




BRADLEY BOOKOUT




MEL BOTKIN




MARY CHAMBERS



TED BOWMAN



RONALD QUAKENBUSH



CHRIS MATCHETT

ATTEST:



JUDITH RUST, AUDITOR