

ORDINANCE 91-33-CL/CM

AN ORDINANCE authorizing Tippecanoe County, Indiana (the "Issuer"), to make temporary loans to meet current running expenses for the use of the County Welfare Fund of the Issuer, in anticipation of and not in excess of current taxes levied in the year 1991, and collectable in the year 1992; authorizing the issuance of temporary loan tax anticipation warrants to evidence such loans and the sale of such warrants to the Indiana Bond Bank; and appropriating and pledging the taxes to be received in such fund to the punctual payment of such warrants including the interest thereon.

WHEREAS, the Tippecanoe County Auditor (the "Auditor") and the Director of the Tippecanoe County Department of Welfare have represented to the Board of Commissioners of the County of Tippecanoe (the "Board"), and the Tippecanoe County Council (the "Council") now finds that there will be insufficient amounts in the County Welfare Fund of the Issuer (the "Fund") to meet the current expenses of the Issuer payable from such Fund during the fiscal year ending December 31, 1992, and prior to the respective June and December settlements and distributions of taxes levied for such Fund; and

WHEREAS, the Council now finds that an emergency exists for the borrowing of money to pay current expenses and that temporary loans for the Fund 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, the Council hereby determines to participate in the 1992 Composite Advance Funding Program (the "Program") established by the Indiana Bond Bank (the "Bond Bank") whereby the Bond Bank will purchase the temporary loan tax anticipation warrants of the Issuer; and

WHEREAS, in order to participate in the Program, the Board will be required to issue and sell its temporary loan tax anticipation warrants to the Bond Bank prior to the final certification of the annual budget levy and the tax rates for the Fund for fiscal year 1992 by the Indiana State Board of Tax Commissioners; and

WHEREAS, the levy proposed for collection for the Fund in the year 1992 is estimated to produce in the aggregate, with respect to such Fund, an amount equal to or in excess of the principal and interest cost of making temporary loans for such Fund; and

WHEREAS, a necessity exists for the making of temporary loans evidenced by temporary loan tax anticipation warrants for the Fund in anticipation of the receipt of current revenues for the Fund actually levied and in the course of collection for the year 1992 and the Council hereby authorizes the making of temporary loans to procure the amounts necessary, in combination with other available amounts, to meet such current expenses for the Fund 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 Issuer has not previously issued temporary loan tax anticipation warrants payable from 1992 tax revenues with respect to the Fund; and

WHEREAS, the Council seeks to authorize the issuance of such temporary loan tax anticipation warrants with respect to the Fund and the sale of such warrants to the Bond Bank pursuant to the provisions of Indiana Code 5-1.5, 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 Tippecanoe:

Section 1. It is hereby found and declared that an emergency exists for the borrowing of money and therefore the Issuer is hereby authorized to make temporary loans to meet current running expenses pursuant to the provisions of Indiana Code 12-1-11 and Indiana Code 36-2-6 for the use and benefit of the Fund of the Issuer in anticipation of current tax revenues actually levied and in the course of collection for the Fund for the year 1992, which loans shall be evidenced by temporary loan tax anticipation warrants of the Issuer (the "Warrants"). Each Warrant shall be dated as of the date of delivery thereof to the Bond Bank. The Issuer is hereby authorized to issue a Warrant maturing and payable on June 30, 1992 in a principal amount not to exceed \$1,059,016 and a Warrant maturing and payable on December 31, 1992, in a principal amount not to exceed \$1,059,016.

The Warrants shall bear interest prior to maturity at a rate or rates per annum not to exceed a maximum of six and one-half percent (6.50%). The exact rate or rates of interest are to be determined under the terms of a warrant purchase agreement to be entered into between the Bond Bank and the Issuer prior to the sale of the Warrants to the Bond Bank (the "Warrant Purchase Agreement"), in accordance with the provisions of Indiana Code 5-1.5. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Section 2. The offices of the Issuer are authorized to deliver a principal amount of Warrants up to or less than (sic) the maximum amount established for each maturity date in Section 1 hereof in order to comply with all applicable laws and any requirements of the Bond Bank. The Issuer shall not be permitted to prepay the Warrants pursuant to the terms of the Warrant Purchase Agreement. The Warrants will be delivered on or about January 7, 1992 or otherwise as appropriate and in accordance with the terms of the Warrant Purchase Agreement.

Section 3. The principal of and interest on the Warrants, together with all necessary costs incurred in connection with the issuance of the Warrants, shall be payable from tax revenues to be received in the Fund upon which such Warrant is issued. There is hereby appropriated and pledged to the payment of all Warrants issued with respect to the Fund, including interest and all necessary costs incurred in connection with the issuance and sale of the Warrants, a sufficient amount of the taxes, levied in 1991, and payable in 1992, for the Fund and in anticipation of which the Warrants have been issued, for the punctual payment of the principal of and interest on the Warrants evidencing such temporary loans, together with such issuance costs. Neither the principal amount of all Warrants maturing on or prior to June 30, 1992, nor the principal amount of all Warrants maturing after June 30, 1992 and on or prior to December 31, 1992, shall exceed forty percent (40%) of the annual budget levy for such Fund as estimated or certified by the Indiana State Board of Tax Commissioners.

Section 4. The Warrants issued hereunder with respect to the Fund shall be executed in the name of the Issuer by the manual or facsimile signatures of the members of the Board and the corporate seal of the Issuer affixed thereto and attested by the manual signature of the Auditor. All Warrants shall be payable in lawful money of the United States of America at the principal corporate trust office of INB National Bank in Indianapolis, Indiana, as Trustee under the Note Indenture with the Bond Bank, dated as of January 1, 1992. Further, the Warrants shall not be delivered and no payment shall be made therefor (sic) prior to January 1, 1992.

Section 5. The Warrants with respect to the Fund shall be issued in substantially the following form (all blanks, including the appropriate amounts, dates and other information to be properly completed prior to the execution and delivery thereof):

FORM OF WARRANT
UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF TIPPECANOE

Due Date: [June 30 or
December 31], 1992

Principal (not to exceed): \$ _____

TIPPECANOE COUNTY, INDIANA
TEMPORARY LOAN TAX ANTICIPATION WARRANT
(County Welfare Fund)

FOR VALUE RECEIVED, on or before [June 30 or December 31], 1992, Tippecanoe County, Indiana (the "Issuer"), shall pay to the Indiana Bond Bank (the "Bond Bank") the amount of \$ _____ pursuant to a certain Warrant Purchase Agreement between the Bond Bank and the Borrower, dated as of _____ (the "Agreement").

In addition, the Issuer on the Due Date hereof shall pay to the Bond Bank interest at the rate of _____% per annum, with such interest to be calculated on the basis of a 360-day year comprised of twelve 30-day months. Under the Note Indenture dated as of January 1, 1992, INB National Bank, Indianapolis, Indiana, is serving as the Bond Bank's Trustee (the "Trustee").

All payments of principal and interest to be made by the Borrower to the Bond Bank shall be made by paying the amount due in funds that are available for immediate transfer or investment on or before 12:00 noon (Indianapolis time) on the payment date to the Trustee in Indianapolis, Indiana. This warrant may not be prepaid prior to the Due Date.

This Warrant evidences a temporary loan to provide funds to meet current expenses of the County Welfare Fund and has been authorized by an ordinance passed and adopted by the Tippecanoe County Council on _____, 1991, in accordance with Indiana Code, Title 36, Article 2, Chapter 6, and Indiana Code, Title 12, Article 1, Chapter 11, and all other acts amendatory thereof or supplemental thereto.

This Warrant is issued in anticipation of the tax levy which has been made for the County Welfare Fund in the year 1992 which tax levy is now in the course of collection. 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 the revenues to be derived from the County Welfare Fund tax levy.

It is further hereby certified, recited, and declared that all acts, conditions, and things required by law 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 County Welfare Fund tax levy from which (together with other amounts in the County Welfare Fund) this Warrant is payable, is a valid and legal levy; and that the Borrower will reserve a sufficient amount of the proceeds of the County Welfare Fund tax levy 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 Board of County Commissioners of the County of Tippecanoe has caused this Warrant to be executed in its corporate name by the signatures of its duly elected, qualified, and acting Commissioners, and its corporate seal to be hereunto affixed and attested by the duly elected, qualified, and acting County Auditor, all as of the _____ day of January, 1992.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF TIPPECANOE

ATTEST:

(SEAL)

(End of Form of Warrant)

Section 6. The Auditor is hereby authorized and directed to have the Warrants prepared, and the members of the Board are hereby authorized and directed to execute all Warrants in the manner and substantially the form provided in this Ordinance.

Section 7. The Auditor, on behalf of the Issuer, is authorized to sell the Warrants to the Bond Bank. The Warrant Purchase Agreement shall set forth the definitive terms and conditions for such sale. Warrants sold to the Bond Bank shall be accompanied by all documentation required by the Bond Bank pursuant to the provisions of Indiana Code 5-1.5 and the Warrant Purchase Agreement, including without limitation an approving opinion of Baker & Daniels, specially designated bond counsel for the Warrants; certification and guarantee of signatures; and certification as to no litigation pending as of the date of delivery of the Warrants to the Bond Bank challenging the validity or issuance of the Warrants. The entry by the Issuer into the Warrant Purchase Agreement and the execution of the Warrant Purchase Agreement on behalf of the Issuer by the members of the Board, in accordance with this Ordinance, are hereby authorized, approved, and ratified.

Section 8. The proper officers of the Issuer are hereby authorized to deliver the Warrants to the Bond Bank, upon receipt from the Bond Bank of payment in accordance with the terms of the Warrant Purchase Agreement.

Section 9. The Auditor and other appropriate officers of the Issuer 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 10. The Issuer hereby covenants that the Issuer 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 which would result in constituting any of the Warrants as "arbitrage bonds" under the Internal Revenue Code of 1986, as amended, 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 and all other appropriate officers 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.

Section 11. This Ordinance shall be in full force and effect from and after the time it has been adopted by the Council.

Section 12. All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

FORWARDED TO THE BOARD
BOARD OF PUBLIC WORKS

Adopted and approved by the County Council of Tippecanoe County, Indiana, this 10th day of December, 1991.

TIPPECANOE COUNTY COUNCIL

James A. Andrew

Edgar B. Harger

C. Wesley Shook

Stephen M. Lange

John L. Knochel

Gene Jones

Lillian E. Cote

ATTEST:

Betty J. Michael
Betty J. Michael, Auditor

The foregoing Ordinance was presented by me to the Board of Commissioners of the County of Tippecanoe at 9:30 o'clock A.M., on December 2, 1991.

Betty J. Michael
Betty J. Michael
Tippecanoe County Auditor

The foregoing Ordinance is hereby approved by the Board of Commissioners of the County of Tippecanoe as of this 2nd day of December, 1991. The Tippecanoe County Auditor is hereby authorized and directed to announce such approval to the Tippecanoe County Council.

BOARD OF COMMISSIONERS OF THE COUNTY OF TIPPECANOE

Keith E. McMillin
Keith E. McMillin

Nola J. Gentry
Nola J. Gentry

Hubert D. Yount
Hubert D. Yount