

FILED

DEC 14 2018

SPECIAL ORDINANCE NO. 41, 2018

CITY CLERK

AN ORDINANCE AUTHORIZING THE CITY OF TERRE HAUTE, INDIANA TO MAKE TEMPORARY LOANS TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF THE GENERAL FUND OF THE CITY IN ANTICIPATION OF AND NOT IN EXCESS OF CURRENT TAXES ASSESSED IN THE YEAR 2018 FOR COLLECTION IN THE YEAR 2019; AUTHORIZING THE ISSUANCE OF TEMPORARY LOAN TAX ANTICIPATION WARRANTS TO EVIDENCE SUCH LOANS AND THE SALE OF SUCH WARRANTS TO THE PURCHASERS THEREOF; 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 Common Council (the "Fiscal Body") of the City of Terre Haute, Indiana (the "Issuer" or "City") has determined that there will be an insufficient amount of money in the General Fund of the Issuer (the "Fund") to meet the current running expenses of the Issuer payable from such Fund during the fiscal year ending on the last day of December 2019, and prior to the respective June 2019 and December 2019 settlements and distribution of taxes levied for such Fund; and

WHEREAS, the Fiscal Body now finds that an emergency exists for the borrowing of money to pay current running 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 levies proposed for distribution for the Fund in 2019 are estimated to produce in the aggregate, with respect to such Fund, an amount equal to or in excess of the principal of and interest on the 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 such Fund assessed in the year 2018 for collection in the year 2019 and the Fiscal Body desires to authorize the making of temporary loans to procure the amounts necessary, in combination with other available amounts, to meet such current running expenses for such 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 2019 tax revenues with respect to the Fund; and

WHEREAS, the Fiscal Body seeks to authorize the issuance of such temporary loan tax anticipation warrants with respect to the Fund and the sale of such warrants by public sale as the provisions of Indiana Code 5-1-11 require public sale, subject to and dependent upon the terms and conditions hereinafter set forth,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA, AS FOLLOWS:

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 36-4-6-20 for the use and benefit of the Fund of the Issuer in anticipation of estimated current tax revenues assessed in the year 2018 for collection in the year 2019 which loan shall be evidenced by one or more temporary loan tax anticipation time warrants of the Issuer (the "Warrants"). A separate Warrant for each maturity shall be issued and each Warrant shall be dated as of the date of delivery thereof to the purchaser of such Warrant. The Issuer is authorized to issue Warrants maturing and payable no later than 30 days following receipt of the final settlement and in any event no later than December 31, 2019, subject to prepayment, in an aggregate principal amount not to exceed the following for the identified fund(s):

General Fund: \$3,500,000

The Warrants shall bear interest prior to maturity at a rate or rates per annum not to exceed a maximum of 5.0%. The exact rate or rates are to be determined by public sale as the provisions of Indiana Code 5-1-11 require public sale, as determined by the fiscal officer of the City of Terre Haute, Indiana (the "Fiscal Officer"). Interest shall be calculated on a 365-day year basis using actual days lapsed. The principal amount of the Warrants, together with the interest thereon, shall for all purposes be deemed to be the face value of the Warrants. The minimum denomination represented by any Warrant shall be \$100,000 or an integral multiple thereof. The Warrants shall be sold at no less than 98% of the par value thereof.

Section 2. The officers of the Issuer are authorized to deliver a principal amount of the Warrants up to or less than the maximum amount established for any such Fund and maturity date in Section 1. The Warrants will be delivered on a date fixed following an award at public sale; or otherwise as appropriate and in accordance with law.

Section 3. The principal of and interest on the Warrants shall be payable from tax revenues to be received in the Fund upon which such Warrants are issued. There is hereby appropriated and pledged to the payment of the 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 assessed in 2018 for collection in 2019 for such 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, if any.

Section 4. The Warrants may be prepaid prior to their maturity, in whole or in part, upon three (3) 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 of the Warrants to be prepaid, plus accrued interest thereon to the date of prepayment, and without premium. The other specific terms relating to the prepayment of the Warrants shall be set forth in a purchase agreement entered into between the purchaser of the Warrants and the Issuer.

Section 5. The Warrants issued hereunder with respect to the Fund shall be executed in the name of the Issuer, by the manual or facsimile signature of the Mayor of the City, and attested by the Controller of the City, or such other officers of the Issuer as may be permitted by law, provided at least one of such signatures is manually affixed. The Warrants shall be payable in lawful money of the United States of America, at the office of the Controller of the City, upon presentation and surrender of the Warrants.

Section 6. The Warrants with respect to the Fund 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 Issuer affixed thereon):

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF VIGO

CITY OF TERRE HAUTE, INDIANA
TEMPORARY LOAN TAX ANTICIPATION TIME WARRANT

Warrant Fund: General Fund
Dated Date: _____, 2019
Due Date: 30 days following receipt of the final settlement,
but no later than December 31, 2019
Principal Sum: \$ _____
Interest Rate: _____ percent per annum
Registered Owner: _____

FOR VALUE RECEIVED, on the Due Date set forth above (the "Due Date"), the City of Terre Haute, Indiana (the "Borrower"), shall pay to the above Registered Owner the Principal Sum set forth above, together with interest thereon at the per annum Interest Rate set forth above, at the office of the Controller of the City of Terre Haute, Indiana, upon presentation and surrender of this Warrant.

Interest shall be calculated on the basis of a 365-day year based on actual days lapsed. The principal amount set forth above, together with the interest set forth above, shall for all purposes be deemed to be the face value of this Warrant. In the event that the principal of and interest on this Warrant are not paid in full to the Registered Owner in immediately available funds on or before 12:00 noon (Terre Haute time) on the Due Date, the total amount due and owing on the Due Date (the unpaid principal and accrued interest to the Due Date) shall thereafter bear interest at the per annum rate as negotiated until paid. This Warrant may be prepaid upon three (3) days written

notice. The minimum denomination represented by this Warrant shall be \$100,000 or an integral multiple thereof.

This Warrant evidences a temporary loan to provide funds to meet current expenses of the Warrant Fund set forth above (the "Fund") and has been authorized by an ordinance passed and adopted by the Common Council of the City of Terre Haute, Indiana, in accordance with Indiana Code 36-4-6-20 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 Fund, which tax levy is now in the course of collection and distribution. 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 Fund tax levy.

The Warrant has been designated as Qualified Tax-Exempt Obligation pursuant to Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986, as amended.

It is further hereby certified, recited, and declared that all actions, 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 Fund tax levy from which (together with other amounts in the 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 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 City of Terre Haute, Indiana, has caused this Warrant to be executed in the name of the City of Terre Haute, Indiana by the Mayor of the City of Terre Haute, Indiana and attested by the Controller of the City of Terre Haute, Indiana all as of the Dated Date set forth above.

CITY OF TERRE HAUTE, INDIANA

By: _____

Mayor

ATTEST:

Controller

Section 7. The Fiscal Officer is hereby authorized and directed to have the Warrants prepared, and each of the executive officers of the Issuer, or such other officers as may be permitted by law, are hereby authorized and directed to execute the Warrants in the manner and substantially the form provided in this Ordinance, as conclusively evidenced by their execution thereof.

Section 8. The Fiscal Officer, on behalf of the Issuer, is authorized to sell the Warrants to the original purchasers thereof by public sale as the provisions of Indiana Code 5-1-11 may require, and as such Fiscal Officer may determine to be in the best interests of the Issuer. Any Warrants sold hereunder shall be accompanied by an approving opinion of Bose McKinney & Evans LLP, 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 original purchasers thereof challenging the validity or issuance of the Warrants.

Section 9. The proper officers of the Issuer (including, without limitation, the Fiscal Officer), are hereby authorized to deliver the Warrants to the original purchasers thereof, upon receipt from the purchasers of the payment thereof, or otherwise as appropriate and in accordance with the applicable law and this Ordinance.

Section 10. Each of the executive officers of the Issuer (including, without limitation, the Fiscal Officer), or such other officers as may be permitted by law, 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 11. 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 the Warrants or any investment earnings thereon which would result in constituting 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 the Warrants to cease to be excludable from gross income for purposes of federal income taxation; and the Fiscal Officer 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 12. This Ordinance shall be in full force and effect from and after passage by the Fiscal Body and signing by the Mayor. All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

Introduced by: O. Earl Elliott, O. Earl Elliott, Councilman

Passed in open Council this 10 day of January, 2019.

Martha Crossen Martha Crossen, President

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 11 day of January, 2019.

Michelle L. Edwards Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 11TH day of JANUARY, 2019

Duke A. Bennett Duke A. Bennett, Mayor

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk