

## SPECIAL ORDINANCE NO. 16-2012, AS AMENDED

CITY CLERK

WHEREAS, the Controller and the City Council of the City of Terre Haute (the "City") find that an emergency exists for the borrowing of money with which to meet the expenses of the City that will be incurred in 2012 to be paid from the General Fund of the City, which expenses must be met prior to the receipt of the final settlement and distribution of taxes for the year 2011, collectible in the year 2012, and thereafter, and

WHEREAS, the Controller has presented to the City Council a recommendation that the City issue a warrant for the General Fund in the amount and subject to the terms hereinafter set forth:

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the City Council of the City of Terre Haute, Indiana, that a temporary loan be made for and on behalf of the General Fund of the City in the amount of \$5,020,000, and that the proceeds of such loan shall be placed in the General Fund of the City. The loan shall be used for meeting expenses of the City included in the regular budget and appropriations adopted for the year 2012, which expenses must be met prior to the receipt of the final settlement and distribution of taxes for the year 2012.

Such temporary loan shall be evidenced by a warrant of the City dated as of the date of delivery thereof, bearing interest at a rate not to exceed 8% per annum (the exact rate to be determined by negotiation or competitive bidding as determined by the Controller), which interest shall be payable at the time of the final payment of the principal of said warrant and said warrant shall mature and be payable as follows:

<u>FUND</u>	<u>TOTAL</u>	<u>MATURING</u>
City General	\$5,020,000	December 31, 2012

Interest shall be calculated on a 365 or 366-day basis. A sufficient amount of the revenues of the City to be derived from the General Fund levy is hereby appropriated and pledged for the payment of the principal amount of said warrant to be issued for the General Fund (the "Fund") at maturity on account of the taxes for the year 2011, collectible in the year 2012, and thereafter, and a sufficient amount of the revenues of the City to be derived from such Fund is hereby appropriated and pledged for the payment of interest on said warrant at maturity. The Controller of the City is hereby authorized and directed to pay the principal amount and interest of the warrant from the tax revenues of such Fund upon the presentation thereof at or after maturity. The warrant will be delivered on or about May 23, 2012.

Said warrant shall be signed by the Mayor and the seal of the City shall be affixed thereto and attested by the signature of the Controller of the City.

Said warrant shall be payable at the office of Controller of the City. Said warrant shall, on the face thereof, indicate that it is issued for the General Fund and payable out of the General Fund's revenues.

Said warrant shall be issued in substantially the following form, all blanks to be properly filled in prior to delivery, to-wit:

No. \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF VIGO

CITY OF TERRE HAUTE, INDIANA  
TEMPORARY LOAN WARRANT  
GENERAL FUND

FOR VALUE RECEIVED, The City of Terre Haute, Indiana (the "City"), will pay to \_\_\_\_\_ at the office of the Controller, Terre Haute, Vigo County, Indiana, on December 31, 2012, [to the extent drawn hereunder] the maximum sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) with interest thereon, at the rate of \_\_\_\_\_% per annum, computed from the date hereof to the date of repayment, calculated on a 365 or 366-day basis.

This warrant evidences a temporary loan aggregating Five Million Twenty Thousand Dollars (\$5,020,000) authorized by Ordinance passed and adopted by the City Council of Terre Haute, Indiana on May 10, 2012, and in accordance with Indiana Code, Title 36, Article 4, Chapter 6, and all other acts amendatory thereof or supplemental thereto, for the purpose of procuring a temporary loan for the General Fund of the City.

This warrant is issued in anticipation of the tax levy made for the General Fund in the year 2011, collectible in the year 2012, and thereafter, which tax levy is now in the course of collection and to the payment of the principal amount and the interest thereon, of the revenues to be derived from the General Fund levy, a sufficient amount of the revenues to be derived from the General Fund levy has been and is hereby appropriated and pledged.

It is hereby certified that in the execution of this warrant, all provisions of the Constitution and the statutes of the State of Indiana relating thereto have been complied with, that the General Fund tax levy from which the principal amount of and interest on this warrant is payable, together with other revenues in that Fund, is a valid and legal levy; and that the City will reserve a sufficient amount in the General Fund for the payment of the principal of and interest on this warrant.

IN WITNESS WHEREOF, the City of Terre Haute, Indiana, has caused this warrant to be signed in its name by the Mayor and attested by the Controller as of the \_\_\_\_ day of May, 2012.

CITY OF TERRE HAUTE, INDIANA

By: /s/ to be signed at closing

Mayor

City of Terre Haute, Indiana

Attest:

/s/ to be signed at closing

Controller

City of Terre Haute, Indiana

[END OF FORM OF WARRANT]

The Controller is hereby authorized and directed to have said warrant prepared in the form herein provided and the Controller is hereby directed to negotiate the delivery of the warrant and extension or expansion thereof. The Controller is hereby authorized and directed to work with the financial advisor for the City in order to negotiate the terms of the loan or to effectuate a public sale of said warrant pursuant to the terms of this Ordinance and the Indiana Code. The Controller is authorized to give notice of the letting of said loan by advertising said letting once each week for two (2) successive weeks in legal newspapers of general circulation, published in the City and requiring that sealed, or, by prior arrangement with the City, telecopied bids be submitted to representatives of the City, said bids to stipulate the rate of interest to be charged by such bidder. Bids received reflecting that the City is to receive payment of the warrant in multiple draws over time with interest accruing from the dates of payment made on the warrant will be evaluated by assuming that the full amount of the loan evidenced by the warrant is drawn on the date of delivery of such warrant in calculating the net interest cost to the City. Upon the letting of the loan, the Mayor and the Controller are hereby authorized and directed to execute said warrant in the form herein provided, and the Controller is hereby authorized and directed to deliver said warrant, or such lesser amount for which an approving opinion of bond counsel can be obtained, when so executed on or about May 23, 2012, to the respective purchaser or purchasers thereof, upon payment by said purchaser or purchasers of the purchase price for such warrant, together with the interest, if any, accruing from the date of said warrant to the date of delivery.

In order to preserve the exclusion of interest on the warrant from gross income for federal income tax purposes and as an inducement to purchasers of the warrant, the City represents, covenants and agrees that:

1. No person or entity, other than the City or another governmental unit, will use proceeds of the warrant or property financed by the warrant proceeds, and no person or entity, other than the City or another governmental unit, will own property financed by warrant proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract or to any other type or arrangement that differentiates that person's or entity's use of such property from the use by the public at large.

2. No warrant proceeds will be loaned to any entity or person. No warrant proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the warrant proceeds.

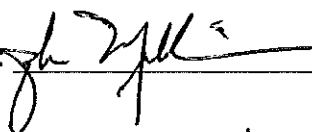
3. The City will, to the extent necessary to preserve the exclusion of interest on the warrant from gross income for federal income tax purposes, rebate all required arbitrage profits on warrant proceeds or other monies treated as warrant proceeds to the federal government as provided in Section 148 of the Internal Revenue Code of 1986, and will set aside such monies in a Rebate Account to be held by the Controller in trust for such purpose.

4. The City will file or cause to be filed an information report with the Internal Revenue Service as required by Section 149 of the Internal Revenue Code of 1986.

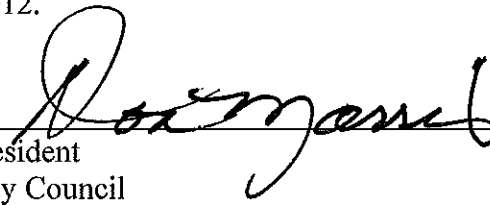
5. The City will not take any action nor fail to take any action with respect to the warrant that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the warrant pursuant to Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the warrant, nor will the City act in any other manner which would adversely affect such exclusion.

[END OF ORDINANCE]


CITY OF TERRE HAUTE, INDIANA

Introduced by: , Councilmember John Mullican.


Passed in open Council this 10<sup>th</sup> day of May, 2012.

By:   
President  
City Council

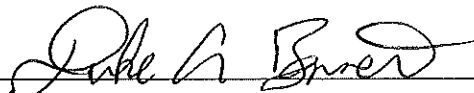
Attest:

  
City Clerk  
City of Terre Haute, Indiana

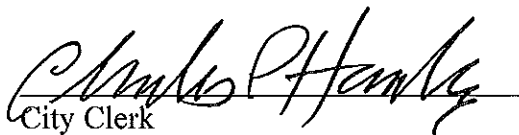
Presented by me to the Mayor this 11<sup>th</sup> day of May, 2012.

By:   
City Clerk  
City of Terre Haute, Indiana

Approved by me, the Mayor, this 11<sup>th</sup> day of MAY, 2012.

By:   
Mayor

Attest:

  
City Clerk  
City of Terre Haute, Indiana