

SPONSOR: JANET VENECZ  
COUNCILWOMAN AT LARGE

ORDINANCE NO. 9468

AN ORDINANCE AUTHORIZING THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, TO MAKE TEMPORARY LOANS TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF THE GENERAL FUND AND PARK AND RECREATION FUND AND IN ANTICIPATION OF CURRENT TAXES LEVIED IN THE YEAR 2019 AND COLLECTIBLE IN THE YEAR 2020 ESTIMATED TO BE RECEIVED ON OR BEFORE DECEMBER 31, 2020; AUTHORIZING THE ISSUANCE OF TAX ANTICIPATION WARRANTS TO EVIDENCE SUCH LOANS AND THE SALE OF SUCH WARRANTS TO THE HAMMOND LOCAL PUBLIC IMPROVEMENT BOND BANK; AND APPROPRIATING AND PLEDGING THE TAXES TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON.

WHEREAS, the Common Council (the "Council") of City of Hammond, Indiana (the "Issuer"), has determined that there will be an insufficient amount of money in the General Fund and Park and Recreation Fund of the Issuer (collectively, the "Funds") to meet the current expenses of the Issuer payable from such Funds during the fiscal year ending on the last day of December 2020, and prior to settlement and distribution of taxes levied for such Funds in 2019 and collectible in 2020; and

WHEREAS, the Council now finds that an emergency exists to borrow money with which to pay current expenses and 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, the Council has determined to participate in the 2020C Advance Funding Program (the "Program") established by The Hammond Local Public Improvement Bond Bank (the "Bond Bank") whereby the Bond Bank will purchase the temporary loan tax anticipation warrants of the Issuer; and

WHEREAS, the levy proposed for collection for the Funds in 2020 is estimated to produce in the aggregate, with respect to such Funds, an amount equal to or in excess of the principal of and interest on the temporary loans for such Funds; and

WHEREAS, a necessity exists for the making of temporary loans evidenced by temporary loan tax anticipation warrants for the Funds in anticipation of the receipt of current revenues for such Funds levied for the year 2019 and in the course of collection in 2020, and the Council 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 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 Issuer has not previously issued temporary loan tax anticipation warrants payable from 2020 tax revenues with respect to the Funds; and

WHEREAS, the Council seeks to authorize the issuance of such tax anticipation warrants with respect to the Funds and the sale of such tax anticipation warrants pursuant to the provisions of INDIANA CODE 36-4-6-19 and 36-4-6-20, as amended (the "Act"), and to sell the tax anticipation warrants to the Bond Bank pursuant to the provisions of INDIANA CODE 5-1.4 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond, Lake County, Indiana, as follows:

Section 1. It is hereby found and declared that an emergency exists for the borrowing of money with which to pay current expenses from the General Fund and Park and Recreation Fund and therefore, the Issuer is hereby authorized to make temporary loans in anticipation of taxes levied for the year 2019 and in the course of collection for such Funds in 2020, which loans shall be evidenced by temporary loan tax anticipation warrants of the Issuer (the "Warrants") issued pursuant to the provisions of the Act. A separate Warrant or Warrants shall be issued for each Fund and for each maturity of each Fund, and all Warrants shall be dated as of the date of delivery thereof to the Bond Bank. The Issuer is authorized to issue Warrants for the Funds in principal amounts not to exceed the following amount for each Fund:

General Fund	\$10,436,000
Park and Recreation Fund	2,198,000

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 under the terms of a warrant purchase agreement between the Bond Bank and the Issuer to be entered into prior to the sale of the Warrants to the Bond Bank (together with any supplements thereto, referred to as the "Warrant Purchase Agreement"), in accordance with the provisions of INDIANA CODE 5-1.4. Interest shall be calculated on the basis of a 360 day year comprised of twelve 30-day months. The Warrants for the General Fund shall mature on or before December 31, 2020 in amounts which do not exceed 80% of the anticipated collections on the respective maturity date for the fund (the "Due Date"). The Warrants for the Parks and Recreation Fund shall mature on or before December 31, 2020, in amounts which do not exceed 80% of the anticipated collections on the respective maturity date for the Due Date.

The Issuer is authorized to make payments of principal of 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 (Indianapolis time) on the Due Date to The Bank of New York Trust Company, N.A. (or if The Bank of New York Trust Company, N.A. is not selected or determined by the Bond Bank at the time of issuance of The Hammond Local Public Improvement Bond Bank Advance Funding Program Notes, Series 2020C, to serve as the Trustee, then to such other corporate trustee as may be specified as the Trustee in the Note Indenture), the Bond Bank's Trustee (the "Trustee") under the Note Indenture to be dated as of the first day of the month of the sale of the Notes. Subject to Section 10 hereof, the Warrants may not be prepaid prior to the Due Date without the express written consent of the Bond Bank. In the event that the principal of and interest on the

Warrants are not paid in full on the Due Date, the total amount due and owing on such Due Date (equal to the unpaid principal and accrued interest thereon to such Due Date) shall thereafter bear interest at the per annum rate equal to the Reinvestment Rate (as defined in the Warrant Purchase Agreement) until paid.

Section 2. The principal of and interest on the Warrants shall be payable from tax revenues to be received in the respective Fund upon which such Warrant is issued. There is hereby appropriated and pledged to the payment of the principal of and interest on the Warrants issued with respect to each Fund, a sufficient amount of the taxes levied for 2019 and payable in 2020 for such Fund, and in anticipation of which the Warrants are issued. The principal amount of all Warrants maturing on any date shall be based on the 2020 annual budget levy for the Fund as estimated or certified by the Indiana Department of Local Government Finance, and in anticipation of which the Warrants are issued. For purposes of this Ordinance, fifty percent (50%) of the annual budget levy shall be deemed to equal the amount of taxes estimated by the County Auditor to be collected for and distributed to such Fund at each of the June 2020 and December 2020 settlement and distribution of such revenues.

Section 3. The Warrants issued hereunder with respect to the Funds shall be executed in the name of the Issuer by the manual or facsimile signature of the Mayor 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. All Warrants shall be payable in lawful money of the United States of America at the principal office of the Trustee.

Section 4. The Warrants with respect to each 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 LAKE

CITY OF HAMMOND

TAX ANTICIPATION WARRANT (\_\_\_\_\_ FUND)

Warrant Fund: \_\_\_\_\_ Fund

Dated Date: \_\_\_\_\_, 2020

Due Date: \_\_\_\_\_, 2020

Principal Sum: \$ \_\_\_\_\_

Interest Rate: \_\_\_\_\_% per annum

FOR VALUE RECEIVED, on or before the Due Date set forth above (the "Due Date"), City of Hammond, Indiana (the "Issuer"), shall pay to The Hammond Local Public Improvement Bond Bank (the "Bond Bank") the Principal Sum set forth above plus interest at the Interest Rate per annum set forth above, with such interest to be computed on the basis of a 360-day year comprised of twelve 30 day months. In the event that the principal of and interest on this Warrant are not paid in full to the Bond Bank at the principal corporate trust office of the Trustee (as defined

in the Agreement) in immediately available funds on or before 12:00 noon (Indianapolis time) on the Due Date, the total amount due and owing on the Due Date (the principal and accrued interest to the Due Date) shall thereafter bear interest at the per annum rate equal to the Reinvestment Rate (as defined in the Warrant Purchase Agreement with the Bond Bank defined below) until paid.

All payments of principal and interest to be made by the Issuer 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 Due Date to the Trustee in Indianapolis, Indiana (or to such other place of payment as may be specified in notice given by the Trustee or Bond Bank). This Warrant may not be prepaid prior to the Due Date except as permitted in Warrant Purchase Agreement between the Bond Bank and the Issuer, dated as of [\_\_\_\_\_, 2020].

This Warrant evidences a temporary loan to provide funds to meet current expenses of the Fund set forth above (the "Fund") and has been authorized by an Ordinance passed and adopted by the Hammond Common Council, 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 in the year 2019 payable in 2020, 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 Fund tax levy distributions to be received in the Fund.

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 Fund tax levy from which this Warrant is payable is a valid and legal levy; and that the Issuer 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 Hammond has caused this Warrant to be executed in its corporate name by the Mayor and attested by the Controller of the Issuer, all as of the Dated Date set forth above.

CITY OF HAMMOND, INDIANA

\_\_\_\_\_  
Mayor, City of Hammond, Indiana

Attest:

\_\_\_\_\_  
Controller, City of Hammond, Indiana

[End of Form of Warrant]

Section 5. The Controller is hereby authorized and directed to have the Warrants prepared, and each of the 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 6. The Controller, on behalf of the Issuer, is authorized to sell the Warrants to the Bond Bank pursuant to the Warrant Purchase Agreement. The Issuer specifically approves the terms of the Warrant Purchase Agreement that allow the Bond Bank or its designee to intercept any funds due to the Issuer from the State of Indiana if the Issuer defaults in the payment of principal of or interest on the Warrants. The Warrants shall be accompanied by an approving opinion of Taft Stettinius & Hollister LLP, bond counsel, and a certification as to no litigation pending as of the date of delivery of the Warrants 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 and the execution of the Warrants, on behalf of the Issuer by any of the officers of the Issuer, or such other officers as may be permitted by law, in accordance with this Ordinance, are hereby authorized and approved.

Section 7. The proper officers of the Issuer are hereby authorized to deliver the Warrants to the Bond Bank, upon receipt from the Bond Bank of the payment or otherwise as appropriate and in accordance with the terms of the Warrant Purchase Agreement.

Section 8. Each of the officers of the Issuer 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.

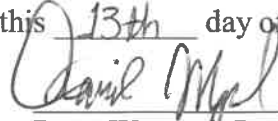
Section 9. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer may prepay all or a portion of the principal of and interest on the Warrants in the manner and at the times set forth in the Warrants and Section 3.6 of the Warrant Purchase Agreement.

Section 10. This Ordinance shall be in full force and effect from and after the time it has been adopted and approved by the Council. All ordinances in conflict herewith are, to the extent of such conflict, hereby repealed. For the benefit of the Bond Bank, the Council hereby finds and determines that the adoption and approval of this Ordinance is intended to be, and for all purposes shall be deemed to be, a resolution authorizing the sale of obligations within the meaning of INDIANA CODE 5-1-14-13, and accordingly no action to contest the validity of any Warrants authorized herein, and hereafter issued, may be brought more than fifteen (15) days after the date set forth below.

Section 11. Notwithstanding any other provision of this Ordinance or any Warrant, in the event any determination has been made by any court of proper jurisdiction whereby a finding or ruling is made to the effect that, absent application of this provision, the aggregate amount of any Warrant (whether as to its principal or interest amounts or both) exceeds the maximum amount that is permitted by law to be issued and outstanding for the maturity date stated therein (such excess over any such limitation referred to as the "Excess Amount") and such would otherwise cause a Warrant to be invalid, then the form of the Warrant that was issued shall be deemed to be

modified from that stated on its face in such a manner to first deem the Excess Amount to be a separate additional Warrant identical in terms to the original except that it shall have as its “due date” December 31, 2020, and its “principal sum” an amount equal to the maximum remaining permitted amount for all warrants with such a due date (a “Replacement Warrant”), provided, however, if an Excess Amount exceeds the principal amount of such a Replacement Warrant, such remaining balance should be treated as a fee charged by the Bond Bank pursuant to Section 5.5 of its Warrant Purchase Agreement with the Qualified Entity and not treated as part of the principal sum of any Warrant or Replacement Warrant.

ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana, to the Mayor, for approval and signature this 13th day of July, 2020.



\_\_\_\_\_  
Dave Woerpel, President  
Hammond Common Council

Attest:



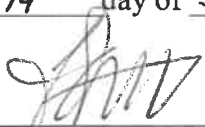
\_\_\_\_\_  
Robert J. Golec, City Clerk

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City, for his approval on the 14th day of July, 2020.



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Robert J. Golec, City Clerk

The foregoing Ordinance No. 9468, consisting of seven (7) pages, including this page was Approved by the Mayor on the 14<sup>th</sup> day of July, 2020.



\_\_\_\_\_  
Thomas M. McDermott, Jr., Mayor  
City of Hammond, Indiana

PASSED by the Common Council on the 13th day of July, 2020 and Approved by the Mayor on the 14<sup>th</sup> day of July, 2020.



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Robert J. Golec, City Clerk