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RESOLUTION NO. 2020-1

**RESOLUTION OF THE TOWNSHIP BOARD OF WABASH TOWNSHIP, TIPPECANOE COUNTY, INDIANA, DETERMINING THAT AN EMERGENCY EXISTS, ISSUING A SPECIAL ORDER AUTHORIZING THE ISSUANCE OF THE EMERGENCY BORROWING NOTE OF 2020 AND APPROPRIATING THE PROCEEDS THEREOF AND ALL INVESTMENT EARNINGS THEREON**

**WHEREAS**, pursuant to Indiana Code § 36-6-6-14, as amended, if the township board of a township determines that a need for fire and emergency services or other emergency exists, it may issue a special order (the "Special Order") authorizing the township trustee to borrow a specified amount of money sufficient to meet such emergency; and

**WHEREAS**, pursuant to Indiana Code § 36-6-6-14(d), as amended, in determining whether a fire and emergency services need exists requiring the expenditure of money not included in the township's budget estimates and levy, the township board is required to consider: (i) the current and projected certified and non-certified public safety payroll needs of the township; (ii) the current and projected need for fire and emergency services within the jurisdiction served by the township; (iii) any applicable national standards or recommendations for the provision of fire protection and emergency services; (iv) current and projected growth in the number of residents and other citizens served by the township, emergency service runs, certified and non-certified personnel, and other appropriate measures of public safety needs in the jurisdiction served by the township; (v) salary comparisons for certified and non-certified public safety personnel in the township and other surrounding or comparable jurisdictions; (vi) prior annual expenditures for fire and emergency services, including all amounts budgeted under Indiana Code § 36-6-6; (vii) current and projected growth in the assessed value of property requiring protection in the jurisdiction served by the township; and (viii) other factors directly related to the provision of public safety within the jurisdiction served by the township; and

**WHEREAS**, the Township Board (the "Board") of Wabash Township, Tippecanoe County, Indiana (the "Township"), having given consideration to the criteria set forth in Indiana Code § 36-6-6-14(d), as amended, hereby determines that a need for fire and emergency services and other emergencies exists (the "Emergency") that requires the financing of certain capital and/or operating expenses of the Township (the "Expenses"); and

**WHEREAS**, the Board hereby finds that there are not sufficient funds available or provided for in the existing budget and tax levy which may be applied to pay the Expenses; and

**WHEREAS**, the Board has considered the issuance of an emergency borrowing note of the Township in a maximum principal amount not to exceed Four Hundred Forty Thousand Dollars (\$440,000) (the "Note") to meet the Emergency, finance the Expenses and to pay the expenses incurred in connection with or on account of the issuance of the Note; and

**WHEREAS**, the original principal amount of the Note, together with the outstanding principal amount of previously issued obligations which constitute a debt of the Township, is no more than two percent (2%) of the most recent and final adjusted value of taxable property in the Township as determined under Indiana Code § 36-1-15; and

**WHEREAS**, the Board hereby finds that an extraordinary emergency exists for the making of the additional appropriation set forth herein and notice of a public hearing on said appropriation has been duly given by publication as required by law, and the public hearing on said appropriation, at which all taxpayers had an opportunity to appear and express their views as to such appropriation, has been held; and

**WHEREAS**, the Board now finds that all conditions precedent to the adoption of a resolution issuing the Special Order and authorizing the issuance of the Note have been complied with in accordance with Indiana Code § 36-6-6-14(d), Indiana Code § 36-1-4-9, Indiana Code § 36-1-3-6 and other applicable provisions of the Indiana Code (collectively, the "Act").

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF WABASH TOWNSHIP OF TIPPECANOE COUNTY, INDIANA, THAT:

**SECTION 1. Declaration of Emergency.** The Board hereby determines that the Emergency exists which requires the financing of the Expenses. This Resolution shall constitute the Special Order of the Board. The Board hereby issues the Special Order, incorporated herein by the terms of this Resolution, authorizing the trustee for the Township (the "Trustee") to borrow an amount of money to meet such emergency pursuant to the provisions of the Act and this Resolution.

**SECTION 2. Authorization for Note.** In order to provide for the financing for the Expenses and pay incidental expenses incurred in connection therewith and on account of the issuance of the Note, the Township shall borrow money and issue the Note as herein authorized.

**SECTION 3. Appropriation of Note Proceeds and Investment Earnings Thereon.** There is hereby appropriated a sum not to exceed Four Hundred Forty Thousand Dollars (\$440,000) out of the proceeds of the Note deposited in the 2020 Note Fund (as hereinafter defined), together with all investment earnings thereon, for the use by the Trustee in paying for the Expenses and the costs of issuance of the Note, as provided in this Resolution. Such appropriation shall be in addition to all appropriations provided for in the existing budget and levy, and shall continue in effect until the Expenses and payment of the costs of issuance of the Note have been fully paid. Any surplus of such proceeds shall be credited to the proper fund as provided by law. A certified copy of this Resolution, together with such other proceedings and actions as may be necessary, shall be filed by the Trustee, who shall report the appropriation to the Department of Local Government Finance.

**SECTION 4. General Terms of Note.**

(a) In order to procure said loan for such purposes, the Trustee is hereby authorized and directed to have prepared and to issue and sell the negotiable note of the Township in an aggregate principal amount not to exceed Four Hundred Forty Thousand Dollars (\$440,000), to be designated as the "Wabash Township of Tippecanoe County, Indiana, Emergency Borrowing Note of 2020" for the purpose of providing for the financing of the Expenses and costs of issuing the Note. Such Note shall be signed in the name of the Township by the manual or facsimile signature of the Trustee and attested by the manual or facsimile signature of the Chair or other

officer of the Board. The Trustee shall affix the seal, if any, of the Township to the Note manually or shall have the seal imprinted or impressed thereon by facsimile or other means. In case any officer whose signature or facsimile signature appears on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery thereof. The Note shall also be authenticated by the manual signature of the Registrar (as hereafter defined). Subject to the provisions of this Resolution, the Note shall be fully negotiable instruments under the laws of the State of Indiana.

(b) The Note is, as to all the principal thereof and interest due thereon, a general obligation of the Township, payable from *ad valorem* property taxes on all taxable property within the Township outside the corporate boundaries of any municipalities located therein.

(c) The Note shall be dated as of the date of delivery thereof, numbered consecutively from 20R-1 upward, in such denomination or denominations as shall be requested by the purchaser and determined by the Trustee; provided, however, if necessary to provide an exclusion or exemption from the applicability of all or a portion of the provisions of Rule 15c2-12 promulgated by the U.S. Securities and Exchange Commission, as amended (the "SEC Rule"), as determined by the Trustee based upon the advice of Barnes & Thornburg LLP, as bond counsel to the Township ("Bond Counsel"), the Trustee may set the minimum authorized denomination of the Note at One Hundred Thousand Dollars (\$100,000) and \$1,000 increments in excess thereof, as contemplated by the SEC Rule.

(c) The Note shall bear interest payable at a rate or rates producing a yield not to exceed five percent (5.00%) per annum (the exact rate or rates to be determined by bidding pursuant to Section 8 of this Resolution). Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months (unless such different method shall be requested by the purchaser and determined by the Trustee to be acceptable to the Township, based upon the advice of Reedy Financial Group, P.C., as financial advisor to the Township (the "Financial Advisor"), and shall be payable on June 30 and December 30 of each year, commencing no earlier than December 30, 2020. Interest on the Note may be treated as either excludable from gross income or includable as gross income to the holder or holders thereof, for federal income tax purposes, as shall be determined by the Trustee at the time of sale of the Note, based upon the advice of Bond Counsel and the Financial Advisor.

(d) Principal on the Note shall be payable on the dates and in the amounts as determined by the Trustee at the time of sale of the Note, with a final maturity date no later than December 30, 2021.

(e) All payments of principal and interest on the Note shall be paid by check mailed one business day prior to the interest payment date to the registered owner thereof, on the date which is fifteen (15) days prior to the payment date, at the addresses as they appear on the registration books kept by the Registrar (the "Registration Record") or at such other address as is provided to the Paying Agent (as hereafter defined) in writing by such registered owner.

**SECTION 5.** Prepayment. The Note may be pre-paid on terms and conditions as determined at the time of sale by the Trustee based upon the advice of the Financial Advisor.

**SECTION 6.** Appointment of Registrar and Paying Agent. The Trustee is hereby authorized to serve as, or to appoint a qualified financial institution to serve as, registrar and paying agent for the Note (the "Registrar" or "Paying Agent"). The Registrar shall keep and maintain at its principal office or corporate trust office books for the registration and transfer of the Note. The Trustee is hereby authorized to enter into such agreements or understandings with such financial institution as will enable a financial institution to perform the services required of the Registrar and Paying Agent. The Trustee is authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent.

**SECTION 7.** Form of Note. The form and tenor of the Note shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof:

(Form of Note)

20R-\_\_

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF TIPPECANOE

WABASH TOWNSHIP OF TIPPECANOE COUNTY, INDIANA  
EMERGENCY BORROWING NOTE OF 2020

<u>Interest Rate</u>	<u>Issue Date</u>	<u>Authentication Date</u>	<u>Maturity Date</u>
____%	_____, 2020	_____, 2020	_____, 2021

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL SUM: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

Wabash Township of Tippecanoe County, Indiana (the "Township"), for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Sum stated above on the Maturity Date and in the amounts specified above, and to pay interest thereon until the Principal Sum is paid, at the Interest Rate per annum set forth above, from the Interest Payment Date (as defined herein) next preceding the date on which it is authenticated, unless it is (a) authenticated prior to the closing of business on [June 15, 2021], in which event it will bear interest from the date of authentication, or (b) authenticated after the fifteenth day of June or December and on or before the succeeding Interest Payment Date, in which event it will bear interest from such Interest Payment Date. Interest shall be payable on each June 30 and December 30 of each year, commencing [June 30, 2021] (each, an "Interest Payment Date"), until payment of such Principal Sum shall have been made at maturity, and shall be calculated on the basis of twelve thirty-day months for a 360 day year.

Each installment of principal and interest on this Note is payable in lawful money of the United States of America at the principal office of the Trustee of Wabash Township of Tippecanoe County, Indiana (the "Township Trustee") or by check or draft mailed or delivered by the Township Trustee to the registered owner hereof, as of the date which is fifteen (15) days prior to the installment payment date, at the address as it appears on the registration books kept by the Township Trustee or at such other address as is provided to the Township Trustee in writing by the registered owner. All payments on the Note shall be made in any coin or currency of the United States of America which, on the dates of such payments, shall be legal tender for the payment of public and private debts. Subject to the provisions for registration, this Note is negotiable under the laws of the State of Indiana. The Registered Owner shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent at least fifteen (15) days prior to the payment date.

This Note has been issued pursuant to the provisions of Indiana Code § 36-6-6-14, as amended (the "Act"), and a resolution adopted by the Township Board of the Township, on \_\_\_\_\_, 2020 (the "Resolution"), for the purpose of meeting an emergency need to finance certain capital and/or operating expenses of the Township. Pursuant to the Act, the legislative body of the Township is required at its next annual session to cover the indebtedness created by this Note by making a levy to the credit of the fund for which the amount represented by this Note was borrowed.

PURSUANT TO THE PROVISIONS OF THE ACT AND THE RESOLUTION, THE PRINCIPAL OF THIS NOTE AND THE INTEREST DUE HEREON IS PAYABLE AS A GENERAL OBLIGATION OF THE TOWNSHIP, FROM AN *AD VALOREM* PROPERTY TAX TO BE LEVIED ON ALL TAXABLE PROPERTY WITHIN THE TOWNSHIP [OUTSIDE THE CORPORATE BOUNDARIES OF ANY MUNICIPALITY LOCATED THEREIN].

This Note is not subject to optional redemption prior to maturity.

Notices to the registered owner of this Note shall be deemed to have been given when mailed by first-class mail to the address of such registered owner as it appears in the registration books kept by the Township Trustee.

[The Township has designated this note and the notes of this issue as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.]

The Note maturing on any maturity date are issuable only in the denomination of [\$100,000 and any \$1,000 increments in excess thereof] not exceeding the aggregate principal amount of the Note maturing on such date.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this note have been done and performed in regular and due form as provided by law.

This Note is issuable and has been issued only in fully registered form. This Note shall not be valid or become obligatory for any purpose until the Certificate of Authentication herein shall have been duly executed.


IN WITNESS WHEREOF, Wabash Township of Tippecanoe County, Indiana, has caused this note to be executed in the name of the Township by the manual or facsimile signature of the Township Trustee, its corporate seal, if any, to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by the Chair of the Board.

WABASH TOWNSHIP OF TIPPECANOE  
COUNTY, INDIANA

By:   
Township Trustee

(SEAL)

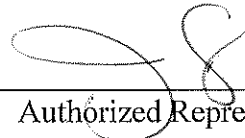
ATTEST:

  
[Chair][Secretary] of the Township Board

CERTIFICATE OF AUTHENTICATION

It is hereby certified that this note is the note described in the withinmentioned Resolution duly authenticated by the Registrar.

TRUSTEE OF WABASH TOWNSHIP OF  
TIPPECANOE COUNTY, INDIANA, as Registrar

By:   
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto W \_\_\_\_\_ (Please Print or Typewrite Name and Address) the within note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney to transfer the within note on the books kept for the registration thereof with full power of substitution in the premises.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of

the within note in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

*(End of Form of Note)*

**SECTION 8. Sale of Note.**

(a) The Note shall be sold in a competitive sale. The Trustee shall cause to be published a notice of sale once each week for two consecutive weeks per Indiana Code § 5-3-1-2. The date fixed for the sale shall not be earlier than fifteen (15) days after the first of such publications and not earlier than three (3) days after the second of such publications. Such sale notice shall state the time and place of sale, the purpose for which the Note is being issued, the total amount thereof, the amount and date of principal payments on the Note, the maximum yield produced by the rate or rates of interest thereon, the time and place of payment, that specifications and information concerning the Note are on file in the office of the Trustee and are available on request, the terms and conditions upon which bids will be received and the sale made and such other information as is required by law or as the Trustee shall deem necessary, including any terms and conditions of sale which provide an exclusion or exemption from the applicability of all or a portion of the provisions of the SEC Rule, in which case the Trustee may set the minimum authorized denomination of the Note at One Hundred Thousand Dollars (\$100,000) as contemplated by the SEC Rule.

(b) As an alternative to the publication of a notice of sale, the Trustee may sell the Note through the publication of a notice of intent to sell the Note and compliance with related procedures pursuant to Indiana Code § 5-1-11-2(b).

(c) All bids for the Note shall be sealed and shall be presented to the Trustee in accordance with the terms set forth in the sale notice. Bidders for the Note shall be required to name the rate or rates of interest that the Note will bear, such rate of interest producing a yield not to exceed five percent (5.00%) per annum, and such interest rate or rates shall be in multiples of one-hundredth of one per cent. The Trustee shall award the Note to the bidder who offers the lowest interest cost, to be determined by computing the total interest on the Note to their maturities and deducting therefrom the premium bid, if any, or adding thereto the amount of the discount, if any. No bid for less than ninety-eight percent (98%) of the par value of the Note and accrued interest shall be considered. The Trustee may require that all bids shall be accompanied by certified or cashier's checks payable to the order of Wabash Township of Tippecanoe County, Indiana, or a surety bond, in an amount not to exceed one percent (1%) of the aggregate principal amount of the Note as a guaranty of the performance of said bid, should it be accepted. In the event no satisfactory bids are received on the day named in the sale notice, the sale may be

continued from day to day thereafter for a period of thirty (30) days without readvertisement; provided, however, that if said sale be continued, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for sale in the sale notice. The Trustee shall have full right to reject any and all bids.

(d) After the Note have been properly sold and executed, the Trustee shall receive from the purchasers payment for the Note and shall provide for delivery of the Note to the purchasers.

(e) The Trustee is hereby authorized and directed to obtain a legal opinion as to the validity of the Note from Barnes & Thornburg LLP, and to furnish such opinion to the purchasers of the Note. The cost of such opinion may be paid out of the proceeds of the Note or from other funds available to the Township.

**SECTION 9. Use of Note Proceeds.** The proceeds received from the sale of the Note shall be deposited in the "Wabash Township of Tippecanoe County, Indiana, 2020 Emergency Borrowing Note Fund" (the "2020 Note Fund"). The proceeds deposited in the 2020 Note Fund shall be expended only for the purpose of financing the Expenses, together with the expenses incidental thereto and on account of the issuance of the Note. Any balance remaining in the 2020 Note Fund after the financing of the Expenses, which is not required to meet unpaid obligations incurred in connection therewith and on account of the issuance of the Note, may be used to pay debt service on the Note or otherwise used as permitted by law.

**SECTION 10. Tax Covenants.** In the event that the Trustee determines to issue the Note on a tax-exempt basis for purposes of federal income tax under Section 103 of the Internal Revenue Code of 1986 as in effect on the date of issuance of the Note (the "Code"), then the following provisions of this section shall apply to the Note.

(a) In order to preserve the exclusion of interest on the Note from gross income for federal income tax purposes (if applicable) and as an inducement to purchasers of the Note, the Township represents, covenants and agrees that:

(i) The Township will not take any action or fail to take any action with respect to the Note that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds pursuant to Section 103 of the Code, including, without limitation, the taking of such action as is necessary to rebate or cause to be rebated arbitrage profits on Note proceeds or other monies treated as Note proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes;

(ii) The Township will file an information report Form 8038-G with the Internal Revenue Service as required by Section 149 of the Code; and

(iii) The Township will not make any investment or do any other act or thing during the period that any Note is outstanding hereunder which would cause any Note to be an



“arbitrage bond” within the meaning of Section 148 of the Code and the regulations applicable thereto as in effect on the date of delivery of the Note.

(b) Notwithstanding any other provisions of this resolution, the foregoing covenants and authorizations (the “Tax Sections”) which are designed to preserve the exclusion of interest on the Note from gross income under federal income tax law (the “Tax Exemption”) need not be complied with to the extent the Township receives an opinion of nationally recognized bond counsel that compliance with such Tax Section is unnecessary to preserve the Tax Exemption.

(c) The Note qualifies for the exception in Section 265 of the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to tax-exempt obligations because: (i) the Note is not a private activity bond within the meaning of Section 141 of the Code; (ii) the Note is hereby designated as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code; (iii) the reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) bonds but excluding other private activity bonds) which will be issued by or on behalf of the Township, all entities which issue obligations on behalf of the Township, and all subordinate entities during the current calendar year of issuance of the Note will not exceed \$10,000,000; and (iv) the Township, all entities which issue obligations on behalf of the Township, and all subordinate entities have not designated more than \$10,000,000 of qualified tax-exempt obligations during the year of issuance.

**SECTION 11. No Conflict.** All ordinances, resolutions, and orders or parts thereof in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed. After the issuance of the Note and so long as any of the Note or interest thereon remains unpaid, except as expressly provided herein, this resolution shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the Note, nor shall the Township adopt any law, ordinance or resolution which in any way adversely affects the rights of such holder.

**SECTION 12. Severability.** If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

**SECTION 13. Holidays, Etc.** If the date of making any payment or the last date for performance of any act or the exercising of any right, as provided in this resolution, shall be a legal holiday or a day on which banking institutions in the Township or the city in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this resolution, and no interest shall accrue for the period after such nominal date.

**SECTION 14. Effectiveness.** This resolution shall be in full force and effect from and after its passage.

**SECTION 15. Other Actions.** Any officer of the Township is hereby authorized and directed, in the name and on behalf of the Township, to execute and deliver such documents and to take such actions as such officer deems necessary or desirable to affect the foregoing resolutions, including, but not limited to, closing certificates, and any such documents heretofore executed and delivered and any such actions heretofore taken be and hereby are ratified and approved.

Passed and Adopted by the Township Board of Wabash Township of Tippecanoe County, Indiana, this 18<sup>th</sup> day of February, 2020.

TOWNSHIP BOARD OF WABASH  
TOWNSHIP OF TIPPECANOE  
COUNTY, INDIANA

(SEAL)

Michelle Witbrock  
Chair

[Signature]  
Secretary

[Signature]  
Member

ATTEST:

[Signature]  
Jennifer Teising, Trustee