MARTIN COUNTY COUNCIL
RESOLUTION 10

A PROPOSAL FOR A FISCAL ORDINANCE approving temporary tax anticipation borrowing, authorizing the Board of Commissioners of Martin ("Commissioners") to obtain a temporary loan for the use of the Martin County General Fund during the period from December 15, 2008, through December 15, 1011 in anticipation of commissary funds to be collected by the Martin County Sheriff's Department and thereafter until paid in full ("Funds"), authorizing the issuance of tax anticipation time warrants ("Warrants") to evidence such loan; pledging and appropriating the Funds to be received in the County General Fund to the payment of such Warrant, including the interest thereon; and fixing a time when this ordinance shall take effect.

WHEREAS, the Board of Commissioners of Martin County has purchased a certain motor vehicle on behalf of the Martin County Sheriff's Department and now requires funds in the amount of Twenty-two Thousand Three Hundred Thirty-nine ($22,339.00) Dollars to purchase said vehicle pending the receipt of commissary funds actually collected by the Martin County Sheriff's Department beginning December 15, 2008 and in years thereafter until paid in full, and now needs to authorize temporary borrowing to procure funds necessary for use by the Fund to pay the incidental expenses necessary to be incurred in connection with the issuance and sale of the Warrants;

WHEREAS, the Martin County Council now finds that the request should be granted and:

A. that there will be insufficient funds in the Martin County General Fund to meet the expense payable from the Martin County General Fund prior to the distributions of Commissary Funds collected by the Martin County Sheriff's Department levied for such Fund and the interest cost of making temporary loans for the Martin County General Fund; and

WHEREAS, a necessity exists for the making of a temporary loan for this Fund in anticipation of the collection of these commissary funds beginning December 15, 2008 11 and in years thereafter until paid in full; now therefore:

BE IT ORDAINED BY MARTIN COUNTY COUNCIL:

SECTION 1. The Board of Commissioners of Martin County Indiana is authorized to borrow in the name of Martin County Indiana on a temporary loan for the use and benefit of the Martin County General Fund in the maximum principal amount of Twenty-two Thousand Three Hundred Thirty-nine ($22,339.00) Dollars in anticipation of the collection of Commissary Funds to be collected by the Martin County Sheriff's Department beginning December 15, 2008 and for such future years as necessary to pay said temporary loan, which loan shall be evidenced by Warrants. The Warrants, including interest, shall be payable from the Martin County General Fund and there is hereby appropriated and pledged to the payment of these Warrants, including interest, a sufficient amount of the Commissary Funds to be collected by the Martin County Sheriff's Department beginning December 15, 2008 (and such years thereafter until said temporary loan is paid in full) distributions of Commissary Funds for the Martin County General Fund, for the payment of the principal of the Warrants evidencing such temporary loan and the amount of interest on such principal computed from the date or dates of the Warrants to their dates of maturity.

SECTION 2. (a) All Warrants issued pursuant to this ordinance shall bear interest at the rate or rates, not to exceed a maximum rate of 3.93% percent per annum, to be determined as provided in Section 4 and subsection (b). The Warrants for each Fund may be issued in such series as deemed advisable by the President of the Board of Commissioners and Martin County Auditor. Each Series of Warrants for the Fund may be issued in an amount not to exceed the respective amounts set forth herein with interest thereon. The Warrants shall be dated as of the date or dates of actual delivery of the respective Warrants.
(b) The interest rate on the Warrants will be determined as provided in Section 3. The Warrants are not subject to redemption prior to their respective maturity dates if sold at public.

SECTION 3. The Martin County Auditor shall issue the Warrants to Old National Bank in such acceptable form as to formalize the loan agreement with Old National Bank and to do such other actions and execute such documents as may be required by the Old National Bank as a condition to the issuance of such Warrants.

SECTION 4. (a) The Auditor may issue the Warrants in one or more series as set forth in Section 2 pursuant to either subsection (b) or (c) of this section. The Auditor is hereby authorized and directed to have the Warrants prepared, and the President of the Board of Commissioners and Martin County Auditor are hereby authorized and directed to execute and attest the Warrants in the manner substantially set out in the form provided below.

SECTION 5. The Warrants shall be issued in substantially the following form (all blanks, including the appropriate amounts, date, statutory citations, and other data, to be properly completed prior to the execution and delivery thereof):

No. ____________
Principal $22,339.00

MARTIN COUNTY INDIANA
TAX ANTICIPATION TIME WARRANT, SERIES 2008 ____
(GENERAL FUND)

On the 25th day of November, 2008, the Board of Commissioners of Martin County, Indiana ("County") acknowledges itself indebted to and promises to pay to Old National Bank the sum of Twenty-two Thousand Three Hundred Thirty-Nine Dollars ($22,339.00) principal plus interest at the rate of 3.93%. The Board will pay this indebtedness in three (3) annual payments of $8,063.53 each. County's first payment will be due on December 15, 2009 with all subsequent payments to be due on the same day of each year after that, with final payment being due on December 15, 2011. This Warrant shall be payable solely out of and from ad valorem property taxes levied in the year 2008 payable in the year 2009 ("Taxes"), and such years thereafter as necessary to pay the loan in full, which Taxes are now in course of collection for the Martin County General Fund, with which to pay general, current, operating expenses.

This Warrant is in the principal amount of Twenty-two Thousand Three Hundred Thirty-Nine Dollars ($22,339.00), evidencing a temporary loan in anticipation of the Taxes for the Martin County General Fund.

The temporary loan was authorized by a resolution duly adopted by the Board of Commissioners of Martin County at a meeting thereof duly and legally convened and held on the 25th day of November, 2008, for the purpose of providing funds for the Martin County General Fund, in compliance with IC 36-2-6.

The consideration for this Warrant is a loan made to the County in anticipation of Taxes levied for the Martin County General Fund for the year of 2008, payable in year 2009, and such years thereafter as necessary to pay the loan in full and the Taxes so levied are hereby specifically appropriated and pledged to the payment of this Tax Anticipation Time Warrant.

It is hereby certified and recited that all acts, conditions, and things required to be done precedent to the authorization, preparation, complete execution and delivery of the warrants have been done and performed as provided by law.

IN WITNESS WHEREOF, The Board of Commissioners of Martin County has caused the warrant to be signed in the corporate name of the Board of Commissioners of Martin County this 25th day of November, 2008.

MARTIN COUNTY BOARD OF COMMISSIONERS

Michael D. Dant, President

Kevin R Boyd

Kevin R. Boyd, Commissioner

Paul R. George, Commissioner

ATTEST:

By: Frances K. Taylor

Frances K. Taylor, Auditor

SECTION 6. The Warrants shall be executed in the name of the Board of Commissioners of Martin County Indiana by the signature of the President of the Board of Commissioners, and countersigned by the Martin County Auditor. The Warrants shall be payable at the office of the Martin County Courthouse. The Auditor may pay costs of issuance of the Warrants from the proceeds thereof.

SECTION 7. In order to preserve the exclusion of interest on the Warrants from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended and in existence on the date of issuance of the Warrants ("Code"), and as an inducement to purchasers of the Warrants, the Board of Commissioners of Martin County represents, covenants and agrees that:

(a) No person or entity other than the County or another state or local governmental unit will use proceeds of the Warrants other than as a member of the general public. Warrant proceeds shall be used exclusively for the purposes of the Martin County General Fund.

(b) No portion of the principal of or interest on the Warrant proceeds will (under the terms of the Warrant, this ordinance or any underlying arrangement), directly or indirectly, be (i) secured by an interest property used or to be used for a private business use or payments in respect of such property or (ii) derived from payments in respect of such property or borrowed money used or to be used for a private business use.

(c) No Warrant proceeds will be loaned to any other person or entity. 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.

(d) The Board of Commissioners of Martin County will neither take any action nor fail to take any action with respect to the Warrants that would result in the loss of the exclusion from gross income for federal tax purposes on the Warrants pursuant to Section 103 of the Code, nor will the Board of Commissioners of Martin County act in any other manner which would adversely affect such exclusion.

(e) The Board of Commissioners of Martin County represents that it intends to qualify for the exception to the rebate requirement of Section 148(f) of the Code set forth in Section 148(f)(4)(B) of the Code. However, if the Board of Commissioners of Martin County does not qualify for such exception with regard to any of the Warrants, the Board of Commissioners of Martin County will comply with the rebate requirement of Section 148(f) of the Code to the extent necessary to preserve the exclusion from gross income of interest on the for federal tax purposes.

(f) It shall not be an event of default under this ordinance, including without limitation subsections (a) through (e) of this Section, if the interest on any Warrants is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Warrants.

SECTION 8. This resolution shall be in full force and effect immediately upon adoption by the Martin County Council, the fiscal body of Martin County, Indiana.

The foregoing was passed by the Martin County Council this 1st day of December, 2008, at 7:00 p.m.

ATTEST:

Richard Summers
President, Martin County Council

Frances K. Taylor,
Auditor of Martin County