

BOARD OF COMMISSIONERS OF THE
COUNTY OF FLOYD, INDIANA

WHEREAS, the Floyd County Council ("Council") has imposed the Floyd County Economic Development Income Tax ("EDIT") pursuant to IC 6-3.5-7 (the "EDIT Act") at a rate of five-tenths of one percent (0.5%) annually on the adjusted gross income of Floyd County, Indiana ("County") taxpayers;

WHEREAS, pursuant to the Act, the County is a recipient of a distributive share of the EDIT and receives its distributive share of the EDIT semiannually in May and November from the County Auditor;

WHEREAS, the Act authorizes The Board of Commissioners of the County of Floyd (the "Board of Commissioners" and also as "County Commissioners" in their respective offices) to adopt a Capital Improvement Plan ("Plan") identifying capital projects and economic development projects as purposes for which the County proposes to use its distributive share of the EDIT;

WHEREAS, the County Commissioners have adopted the Plan and desire to confirm and amend such plan to include the hereinafter-named Projects ("Plan");

WHEREAS, the County acting through the Council and the County Commissioners have identified certain improvements and additions to the County facilities as described in the attached Exhibit A (the "Projects") to be eligible projects under the Plan;

WHEREAS, the New Albany-Floyd County, Indiana Building Authority (the "Authority"), a separate municipal corporation organized and existing under IC 36-9-13 (the "Authority Act") will construct, equip, renovate, improve, finance and lease for the benefit of the County or its successor including the Projects pursuant to the Authority Act, the EDIT Act and other law supplemental thereto (collectively, the "Act");

WHEREAS, a form of lease in the attached Exhibit B ("Lease") and this Resolution, a detailed description of the Projects and the related drawings, plans, specifications and estimates, have been on file at the office of the County Auditor from the date as of which notice of a hearing was first published and given in the manner required by IC 5-3-1 regarding such Lease and matters until a hearing was held on such matters and Lease in accordance with the Act and such notice;

WHEREAS, the Board of Commissioners has determined to pledge a portion of its distributive share of the EDIT towards the payment of lease rentals under the Lease;

WHEREAS, no portion of the distributive share of EDIT has been pledged to any currently outstanding indebtedness whether by lease or bonded;

WHEREAS, the Board of Commissioners has determined that it will be necessary for the Authority to enter into a Lease to permit the Authority to issue bonds in an aggregate amount sufficient to provide for the payment of costs the Projects, including land acquisition, site

preparation and all other costs incurred in connection with the City-County Building and Youth Shelter & New Juvenile Probation Offices improvements and the sale of bonds;

WHEREAS, the Board of Commissioners has determined that by and through its sale and lease of the sites used the Youth Shelter & New Juvenile Probation Offices improvements and the use of the Lease, the County may provide funding for the costs related to the Lucille Reisz Building project including reimbursement of costs previously incurred the County;

WHEREAS, the Board of Commissioners has determined that the real estate presently owned by the County to be known as the Youth Shelter & New Juvenile Probation Offices should be sold or leased to the Authority in connection with the construction of the Projects; now, therefore;

BE IT RESOLVED by the Board of Commissioners of the County of Floyd:

SECTION 1. That providing for the acquisition, financing, constructing, renovating, improving and equipping of the Projects by the Authority, together with the leasing of the City-County Building and Youth Shelter & New Juvenile Probation Offices improvements to the County or its successor, is in the public interest of the citizens of the County and is a proper public purpose for which the Board of Commissioners agrees to cooperate with the Authority and to assist it in fulfilling the requirements of all agencies of the Federal, State and County governments. The County has and hereby determines that the Projects foster, support and further the promotion of significant opportunities for the gainful employment of its citizens, attraction of major new business enterprise to the County, and the retention and expansion of a significant business enterprise within the County.

SECTION 2. That the Authority being duly organized to conduct business, may issue, sell and deliver its bonds pursuant to the Act, and may encumber any real property or equipment acquired by it for the purpose of financing the acquisition, construction, renovating, improving and equipping of the Projects and may enter into contracts for the sale of the bonds and the acquisition, construction and equipping of the Projects.

SECTION 3. That the issuance, sale and delivery of bonds by the Authority designated "Economic Development Lease Rental Bonds of 2008," in an aggregate principal amount not to exceed \$14,000,000 (the "Bonds") to finance all or a portion of the Projects (including providing for necessary debt service reserve funds, capitalized interest payments and other costs related to the Bonds) is hereby approved.

SECTION 4. That upon the redemption or retirement of the Bonds the County will accept from the Authority title to the leased Projects, free and clear of any and all liens and encumbrances thereon.

SECTION 5. That the Board of Commissioners has reviewed and approved the plans and estimates for the Projects to be subject to the Lease and related appurtenances and site improvements and hereby approves and assigns to the Authority the design work documents and related rights and, when received, construction bids from the lowest responsive and responsible bidder.

SECTION 6. That the proposed Lease with the Authority, as lessor, provides for fair and reasonable rentals of the Projects to be subject to the Lease, related appurtenances and site improvements, that the execution of the Lease is necessary and wise and that the services to be provided by the Projects leased to the County will serve the public purpose of the County and will be in the best interests of its residents.

SECTION 7. That the rentals due under the Lease are payable solely from, and secured by a pledge of, the County's distributive share of the EDIT. The County hereby pledges its distributive share of EDIT to the payment of the rentals due under the Lease and covenants that it will take no action (including action as a member of any Floyd County Income Tax Council) to rescind the EDIT or to reduce the EDIT rate below a rate that would produce EDIT revenues of at least one and twenty-five hundredths (1.25) times the highest annual lease rental payments due under the Lease to the final payments, based upon a study by a qualified public accountant or financial advisor.

SECTION 8. That the County Auditor is authorized and directed to initial and date a copy of the proposed Lease and to place the same in the minute book immediately following the minutes of this meeting, and the Lease is made a part of this resolution as fully as if it were set forth herein.

SECTION 9. That the County Commissioners and County Auditor be, and they are hereby, authorized and directed to execute the aforesaid Lease on behalf of the County.

SECTION 10. That the County Commissioners and County Auditor are hereby authorized and directed to publish notice of execution of the Lease.

SECTION 11. Sinking Fund. All EDIT revenues shall be deposited in a Sinking Fund (and further credited to the Lease Rental Account and the Reserve Account) hereby named, designated and created. All moneys in the Sinking Fund shall be used solely for the purpose of paying the lease rental payments due under the Lease.

(a) Lease Rental Account. There is hereby created, within the Sinking Fund, the Lease Rental Account. There shall be credited, upon receipt from the County Auditor, to the Lease Rental Account an amount of the EDIT revenues equal to the semiannual rental payment payable on the then next succeeding lease rental payment date. There shall similarly be credited to the Account any amount necessary to pay the trustee ("Trustee") charges under the Lease (and the indenture referred to therein). The County shall, from the sums deposited in the Sinking Fund and credited to the Lease Rental Account, remit promptly to the Trustee sufficient moneys to pay the lease rentals on the due dates thereof together with the amount of Trustee charges.

(b) Reserve Account. There is hereby created, within the Sinking Fund, the Reserve Account. Beginning with the first distribution after the date of delivery of the Bonds and after payment of the amounts due under subsection (a), EDIT revenues shall be deposited into the Reserve Account upon receipt from the County Auditor until the balance in the Reserve Account equals the least of (i) maximum annual debt service on the Bonds, (ii) 125% of average annual debt service on the Bonds, or (iii) 10% of the proceeds of the Bonds plus a minor portion thereof, as defined in the Internal Revenue Code of 1986 ("Reserve Requirement"). The Reserve Account shall constitute the margin for safety and protection against default in the payment of lease rental payments under the Lease, and the moneys in the Reserve Account shall be used to pay current lease rental payments to the

extent that moneys in the Lease Rental Account are insufficient for that purpose or to pay any rebate obligation necessary to preserve the tax-exempt status of the interest on the Bonds. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available EDIT revenues remaining after credits into the Lease Rental Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall either be transferred to the Excess Fund or be used for the redemption or purchase of outstanding Bonds. Notwithstanding the creation of such Reserve Account and the provisions herein, it shall not be necessary or required that such account be funded and held in the event there shall be a fully fund reserve account under the Indenture as defined in the Lease (whether such account is funded with cash, investments, surety policy or the like).

SECTION 12. Excess Fund. There is hereby created a special fund designated the "Excess Fund". After meeting the requirements of the Sinking Fund, any excess EDIT revenues may be transferred to the Excess Fund, and moneys in said Fund may be used for any lawful purpose permitted under the Act. Moneys in the Excess Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of lease rentals due under the Lease or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account of the Sinking Fund.

SECTION 13. Maintenance of Funds and Accounts. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the County. The Excess Fund shall likewise be maintained separate and apart from all other accounts of the County and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code 5-13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this Resolution.

SECTION 14. That certain land, as described in the Lease, presently owned by the County should be sold to the Authority in connection with the construction of the Projects in an amount which shall not exceed the value as determined pursuant to appraisals obtained in accordance with the Act (or in lieu thereof it may be leased to the Authority by the County in consideration of one dollar per year and in which case the Lease shall be constitute a sublease by the Authority, as a sublessor, to the County, as sublessee, with the Authority having a lease estate therein in lieu a fee interest as basis of such Lease).

SECTION 15. That providing for the acquisition, constructing, renovating, improving and equipping of the Lucille Reisz Building project is in the public interest of the citizens of the County and is a proper public purpose for, and the County is hereby authorized to use EDIT to reimburse of the County for costs so incurred.

SECTION 16. This Resolution shall be in full force and effect immediately upon its passage and signing by the County Commissioners.

Adopted this 4th day of March, 2008 by a vote of 3 ayes and 0 nays.

BOARD OF COMMISSIONERS OF THE
COUNTY OF FLOYD

Mark A. Bunt
President

Charles A. Freiburger
Member

D. Mark Loh
Member

ATTEST:

Teresa A. Plaiss
County Auditor