

**ORDINANCE NO. 92-2067**  
**APPROVING AND RATIFYING AN EXECUTIVE ORDER**  
**OF THE MAYOR OF THE CITY OF SHELBYVILLE**  
**ADOPTING A CAPITAL IMPROVEMENT PLAN**  
**PURSUANT TO IC 6-3.5-7**

WHEREAS, the Indiana General Assembly has authorized counties to impose a county economic development income tax ("EDIT") on the adjusted gross income of county taxpayers, in accordance with IC 6-3.5-7 ("Act");

WHEREAS, the Shelby County ("County") Council imposed EDIT at a rate of twenty-five hundredths of one percent (.25%) annually on the adjusted gross income of County taxpayers;

WHEREAS, the Act provides that a county, city or town which fails to adopt a capital improvement plan may not receive (1) its fractional amount of the certified distribution of revenues from EDIT; or (2) any amount of EDIT revenues designated for its use by a city or town in the county;

WHEREAS, the City of Shelbyville ("City") has designated and pledged sixty percent (60%) of the annual City EDIT revenues each year to the County, for a term of years not less than the term of the County's EDIT obligations issued to finance the County jail as described in Executive Order No. 2-1992 (the "County Pledge");

WHEREAS, pursuant to the Act, the City will be a recipient of a distributive share of EDIT less the amount designated by the City to the County ("Net Distributive Share") upon adoption of its Capital Improvement Plan and will receive its Net Distributive Share semiannually in May and November from the County Auditor;

WHEREAS, the City now desires to use its Net Distributive Share to finance certain projects as authorized by the Act;

WHEREAS, the City has met the parity test for the County Pledge established in Executive Order No. 2-1992;

WHEREAS, the City believes it is in the best interests of its residents to pledge its Net Distributive Share, beginning with the distribution to be received in November, 1993, to the City of Shelbyville Redevelopment Commission, to finance the projects identified in the Capital Improvement Plan;

WHEREAS, the City intends to issue its BANs to provide interim financing for [a portion of] the costs of the Projects, which notes are payable from proceeds of bonds payable from the Net Distributive Share ("EDIT Bonds");

WHEREAS, if the City issues EDIT Bonds to finance the Projects, the pledge of the Net Distributive Share to the EDIT Bonds will be on a parity with the pledge of the Net Distributive Share to the Commission.

WHEREAS, the Mayor of the City has adopted Executive Order No. 3-1992, adopting a Capital Improvement Plan pursuant to the Act on May 18, 1992;

WHEREAS, the Common Council now desires to express its approval of the Executive Order and the Capital Improvement Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF SHELBYVILLE, INDIANA, that:

1. The Capital Improvement Plan of the City of Shelbyville as adopted by the Mayor of the City through the adoption of Executive Order No. 3-1992 is hereby approved, ratified and confirmed.

2. The City hereby irrevocably pledges its Net Distributive Share, beginning with the distribution to be received in November, 1993, to the Commission to finance the projects identified in the Capital Improvement Plan, for a term of years not less than the term of any obligations of the Commission, including leases, issued to finance the projects. This pledge is on a parity with the County Pledge and the pledge to the EDIT Bonds, when and if issued.

3. The City reserves the right to authorize and issue bonds or lease obligations on a parity with the County Pledge ("Parity Obligations") for funding future projects which can be financed from the City's Net Distributive Share. The authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

(1) All payments to the County pursuant to the County Pledge and interest and principal with respect to all Parity Obligations payable from the City's Distributive Share of EDIT shall be current to date in accordance with their terms, with no payment in arrears; and

(2) The County and the City shall have received a certificate prepared by a certified public accountant (the "Certifier") certifying the amount of the City's distributive share of EDIT received in any twelve consecutive calendar months out of the most recent eighteen calendar months, which amount shall be at least equal to one hundred percent (100%) of the annual amount paid to the County under debt service on the proposed Parity Obligations for each year during the term of the pledge made under Section 1. If, when the Parity Obligations are finally issued, the body with final authority over such matters shall have finally approved an increase in the rate at which EDIT is imposed, and the increased rate or rates shall be in effect, but shall not have been in effect for the entire twelve month period described above, the Certifier may adjust the amount of the City's distributive share of EDIT used to determine the percentage described in the preceding sentence to take into account the City's increased distributive share that would have been collected if the increased rate or rates had been in effect for the entire twelve month period. If such body shall have finally approved an increase in the EDIT, the Certifier may adjust the amount of the City's distributive share of EDIT used above to take into account the increased amount of the City's distributive share of EDIT pledged to the County and to debt service on any Parity Obligations.

4. This ordinance takes effect upon passage on compliance with IC 36-4-6-16.

Adopted on first reading this 18<sup>th</sup> day of May, 1992, by a vote of 5 ayes and 2 nays.

COMMON COUNCIL OF THE CITY OF  
SHELBYVILLE, INDIANA

Robert E. Williams  
Mayor

ATTEST:

Frank M. Zern  
Clerk-Treasurer

Adopted on second and final reading this 1<sup>st</sup> day of June, 1992,  
by a vote of 4 ayes and 3 nays.

Robert E. Williams  
Mayor

ATTEST:

Frank M. Zern  
Clerk-Treasurer

Presented by me to the Mayor of Shelbyville, Indiana, at 8:20 p.m. this 1<sup>st</sup> day  
of June, 1992, at 8:20 o'clock, p.m.

Frank M. Zern  
Clerk-Treasurer

Approved and signed by me this 1<sup>st</sup> day of June, 1992, at 8:20  
o'clock, p.m.

Robert E. Williams  
Robert Williams  
Mayor

ATTEST:

Frank M. Zern  
Clerk-Treasurer

EXECUTIVE ORDER NO. 3 - 1992  
OF THE MAYOR OF THE CITY  
OF SHELBYVILLE, INDIANA

An Order to Adopt a  
Capital Improvement Plan  
Pursuant to IC 6-3.5-7

WHEREAS, the Indiana General Assembly has authorized counties to impose a county economic development income tax ("EDIT") on the adjusted gross income of county taxpayers, in accordance with IC 6-3.5-7 ("Act");

WHEREAS, the Shelby County ("County") Council has imposed EDIT at a rate of twenty-five hundredths of one percent (0.25 %) annually on the adjusted gross income of County taxpayers;

WHEREAS, the Act provides that a county, city or town which fails to adopt a capital improvement plan may not receive (1) its fractional amount of the certified distribution of revenues from EDIT; or (2) any amount of EDIT revenues designated for its use by a city or town in the county;

WHEREAS, the City of Shelbyville ("City") has designated sixty percent (60%) of the annual City EDIT revenues each year to the County, for a term of years not less than the term of the County's EDIT obligation issued to finance the County jail as described in Executive Order No. 2-1992 (the "County Pledge");

WHEREAS, pursuant to the Act, the City will be a recipient of a distributive share of EDIT less the amount designated by the City to the County ("Net Distributive Share") upon adoption of this Capital Improvement Plan and will receive its Net Distributive Share semiannually in May and November from the County Auditor;

WHEREAS, the City now desires to use its Net Distributive Share to finance certain projects as authorized by the Act;

WHEREAS, the City may use its Net Distributive Share to finance capital projects for which general obligation bonds may be issued and economic development projects as defined in the Act, through the issuance of bonds or through lease financings;

WHEREAS, under the Act the projects will be economic development projects if the City determines that they will (a) promote significant opportunities for the gainful employment of its citizens; (b) attract a major new business enterprise to the City; or (c) retain or expand a significant business enterprise within the City; and involve expenditures for the acquisition of land, interests in land, site improvements, infrastructure improvements, buildings, structures,

rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings or facilities (or any combination of these);

WHEREAS, the City now desires to pledge its Net Distributive Share, beginning with the distribution to be received in November, 1993, to the City of Shelbyville Redevelopment Commission ("Commission") in order to finance projects identified in this Capital Improvement Plan ("Project");

WHEREAS, the City intends to issue its BANs to provide interim financing for [a portion of] the costs of the Projects, which notes are payable from proceeds of bonds payable from the Net Distributive Share ("EDIT Bonds");

WHEREAS, if the City issues EDIT Bonds to finance the Projects, the pledge of the Net Distributive Share to the EDIT Bonds will be on a parity with the pledging of the Net Distributive Share to the Commission.

WHEREAS, the parity test established in Executive Order No. 2-1992 for the County Pledge has been met;

NOW, THEREFORE BE IT ORDERED by the Mayor of the City of Shelbyville, Indiana, that:

1. The Capital Improvement Plan of the City of Shelbyville is hereby adopted, which plan is attached hereto as Exhibit A.

2. Based on the factual report attached as Exhibit B, the construction of the economic development project will:

- (a) promote significant opportunities for the gainful employment of citizens of the City;
- (b) attract a major new business enterprise to the City; and
- (c) retain or expand a significant business enterprise within the City.

3. The construction of the economic development project involves expenditures for:

- (a) land;
- (b) interests in land;
- (c) infrastructure improvements;
- (d) facilities; or

(any combination of these).

4. The City hereby irrevocably pledges to the Commission its Net Distributive Share, beginning with the distribution to be received in November, 1993, to finance the projects identified in the Capital Improvement Plan, for a term of years not less than the term of any obligations of the Commission, including leases, issued to finance the projects. This pledge is on a parity with the County Pledge and the pledge to the EDIT Bonds, when, as and if issued.

5. This order shall become effective from and after the date of its adoption.

Signed by me this 18<sup>th</sup> day of May, 1992.

Robert E. Williams  
Mayor, City of Shelbyville

Attest:

Frank M. Zerr  
Clerk-Treasurer, City of Shelbyville

(SEAL)

## EXHIBIT A

### ECONOMIC DEVELOPMENT INCOME TAX CAPITAL IMPROVEMENT PLAN OF THE CITY OF SHELBYVILLE

#### Introduction

This document is the Capital Improvement Plan ("Plan") for the City of Shelbyville, Indiana ("City"). It is intended for adoption by the Mayor of the City ("Mayor") in conformance with IC 6-3.5-7.

#### Term

The term of the Plan is estimated to be twenty-two (22) years, assuming two years of direct expenditures and debt service on EDIT bonds or payments on leases for approximately 20 years beyond the initial two years.

#### Plan Objectives

IC 6-3.5-7 requires the adoption of the Plan by the Mayor before the City may receive its certified distribution of revenues from the Economic Development Income Tax ("EDIT"). The Plan must specify the uses for which the City proposes to use EDIT revenues.

#### Use of EDIT Revenues

IC 6-3.5-7-13.1 provides that EDIT revenues may be used for the following:

- (A) Economic development projects (as defined in IC 6-3.5-7-5-13.1(c));
- (B) Construction of capital projects for which the City is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;
- (C) Payment of lease rentals under any statute for a capital project;
- (D) Retirement of bonds issued under any provision of Indiana law for a capital project;
- (E) Contract payments to a not-for-profit corporation whose primary corporate purpose is to assist government on planning and implementing economic development projects;
- (F) Operating expenses of a governmental entity that plans or implements economic development projects;

(G) Retirement of bonds under IC 6-3.5-7-14 for economic development projects;

(H) Payment of leases under IC 6-3.5-7-21;

(I) Payment of leases or bonds entered into or issued prior to the date the EDIT was imposed if the purpose of the lease or the bonds would have qualified as a purpose under IC 6-3.5-7 when the lease was entered into or the bonds were issued; and

(J) For paying, notwithstanding any other law, under a written agreement all or part of the interest owned by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used for an economic development project.

### Description of Capital and Economic Development Projects ("Projects")

#### **Capital Projects**

##### Project 1 - Civic Center

General Description - Acquisition, design, and renovation of a portion of an existing school building which will be used as a civic center. Improvements to the building will be architecturally and safety related. The renovated building will be used by the City's Parks and Recreation Department, the Girls' Club, and Shelby Senior Services.

Estimated Total Direct Project Cost - \$547,250

Sources of Funding - Bonds or leases payable from EDIT revenues, and, to the extent available, from Tax Increment collected in the Redevelopment Area to be established by the City of Shelbyville Redevelopment Commission.

Planning, Development and Construction Schedule - Planning, development and construction to begin in 1992. Completion in 1993.

##### Project 2 - Riley Village Storm Drainage Improvements

General Description - Design and construction of storm drainage facilities. New facilities will provide storm drainage to Huntington Greene, Riley Village, and other areas where residential development is ongoing.

Estimated Total Direct Project Cost - \$209,305

Sources of Funding - 1992 EDIT revenues



Planning, Development and Construction Schedule - Planning and development to begin in 1992. Construction and completion in 1993.

### **Economic Development Projects**

#### **Project 3 - Northside Sanitary Sewer Extension**

General Description - Design and construction of a sanitary sewer trunk line. The sewer extension will provide service to the area bounded by, and contiguous to, Michigan Road, Interstate 74, County Road 250 North, and State Road 9.

Estimated Total Direct Project Cost - \$1,442,340

Sources of Funding - Bonds or leases payable from EDIT revenues, and to the extent available, from Tax Increment collected in the Economic Development Area to be established by the City of Shelbyville Redevelopment Commission.

Planning, Development and Construction Schedule - Planning and development to begin in 1992. Construction and completion in 1993.

#### **Project 4 - County Road 100 North (Rampart Street) Improvements**

General Description - Design and construction of approximately .48 miles of street improvements. Construction will include widening of street and storm drainage improvements to accommodate increased traffic generated from Northridge Industrial Park.

Estimated Total Direct Project Cost - \$780,000 (\$550,000 Federal funds; \$230,000 EDIT)

Sources of Funding - 1992, 1993 and future EDIT revenues - \$230,000; Federal Highway funding - \$550,000.

Planning, Development and Construction Schedule - Planning and development to begin in 1992. Construction and completion in 1995.

### **EDIT Designation to the County**

The City has designated and pledged, pursuant to Executive Order No. 2-1992 and Ordinance No. 92-2064, sixty percent (60%) of the annual City EDIT revenues each year to the County, for a term of years not less than the term of the County's EDIT obligations issued to finance the County jail as described in Executive Order No. 2-1992.

### **Seventy-five Percent (75%) Test**

In accordance with IC 6-3.5-7-15, the Plan incorporates projects the cost of which is at least seventy-five percent (75%) of the certified distribution the City expects to receive during the term of the Plan, taking into account the EDIT designation to the County as follows:

The City plans to finance these Projects through a lease of approximately 20 years between the City of Shelbyville Redevelopment Commission and the City of Shelbyville Redevelopment Authority.

Minimum Direct EDIT Project Expenditures:	\$ 439,305
Total Lease Rental Payments:	3,960,000
EDIT Designation	<u>7,818,241</u>
Total	\$12,217,546
Total City Certified Distribution for the term of the Plan:	\$13,030,402
Percentage of Certified Distribution allocated to Projects for the term of the Plan:	93.8%

ALTERNATE 75% TEST

Minimum Direct EDIT Project Expenditures:	\$ 439,305
Total Lease Rental Payments:	<u>3,960,000</u>
Total	\$ 4,399,305
Total City Certified Distribution for the term of the Plan:	\$13,030,402
Less Designation to County	- <u>\$ 7,818,241</u>
Total City Net Certified Distribution	\$ 5,212,160
Percentage	84.45 %

## EXHIBIT B

### FACTUAL REPORT IN SUPPORT OF FINDINGS CONTAINED IN THE CAPITAL IMPROVEMENT PLAN OF THE CITY OF SHELBYVILLE

The Northside Sanitary Sewer Extension and the County Road 150 North Improvements ("Projects") identified in the Capital Improvement Plan ("Plan") adopted by the Mayor of the City of Shelbyville ("City") are economic development projects as defined in IC 6-3.5-7 because they will accomplish the following:

1. The Projects will promote significant opportunities for the gainful employment of citizens of the City as follows:

The Projects will open the Area to new industries by providing new sewers and road improvements, will attract the development of new subdivisions and new residential construction. These new industries and new construction will create new jobs.

2. The Projects will attract a major new business enterprise to, or will retain or expand an existing significant business enterprise in, the City as follows:

The City can open up a new area for industrial development. With sewers in place, the area will be more attractive to industries seeking to relocate. This will allow the City to compete for new jobs.

3. The Projects involve expenditure for:

- A. The acquisition of land;
- B. Interests in land;
- C. Site improvements;

- D. Infrastructure improvements; and
- E. Administrative expenses associated with the Projects.