

**STATE OF INDIANA  
CITY OF CHARLESTOWN  
CHARLESTOWN CITY COUNCIL**

ORDINANCE NO. 2007 - OR - 03

ORDINANCE OF THE CHARLESTOWN CITY COUNCIL  
AMENDING THE CITY'S CAPITAL IMPROVEMENT PLAN

WHEREAS, pursuant to IC 6-3.5-7 ("Act") the economic development income tax ("EDIT") has been imposed in Clark County, Indiana ("County") through action of the Clark County Council;

WHEREAS, the imposition of EDIT made available to the City of Charlestown ("City") a share of the distribution of EDIT revenues collected in Clark County ("Distributive Share"), which share is payable to the City in semiannual installments in May and November of each year if the City has adopted a capital improvement plan that specifies the uses for which the City proposes to spend at least seventy five percent (75%) of the Distributive Share for the entire term of the capital improvement plan;

WHEREAS, the Charlestown Redevelopment Commission ("Commission") has previously determined to issue bonds to provide for the financing of the cost of improvements to the waterworks, together with necessary appurtenances, related improvements and equipment ("Project"), in, serving or benefiting the Central Charlestown Economic Development Area ("Area"), and the incidental expenses in connection therewith and on account of the issuance of its Tax Increment Revenue Bonds of 2005 ("Bonds"); and

WHEREAS, the Commission will use incremental real property taxes levied and collected in the Central Charlestown Allocation Area ("Tax Increment") in accordance with IC 36-7-14 and IC 36-7-25 to pay debt service on the Bonds; and

WHEREAS, the Commission will pay a portion of the interest on the Bonds from an appropriation by the City of its distributive share of economic development income tax in an amount not to exceed thirty five thousand dollars (\$35,000.00) ("EDIT Deposit") until Tax Increment is sufficient to pay debt service on the Bonds;

WHEREAS, the Mayor of the City, has previously approved a capital improvement plan ("Capital Improvement Plan"), as also approved by the Charlestown City Council, which specified certain uses for the Distributive Share; and

WHEREAS, the Capital Improvement Plan was previously amended to include the Project and the deposit of EDIT Deposit to the payment of a portion of the interest on the Bonds until Tax Increment is sufficient to pay debt service;

NOW, THEREFORE, BE IT FURTHER ORDAINED by the City Council of Charlestown that:

Section 1. Reaffirmation

The previous amendment of the Capital Improvement Plan to include the Project and the deposit of EDIT Deposit for the payment of a portion of the interest on the Bonds until Tax Increment is sufficient to pay debt service is hereby reaffirmed.

Section 2. Continued Funding

The Project will continue to be funded from proceeds of Bonds of the Commission and investment earnings thereon, and the City will deposit the EDIT Deposit in a trust account for the payment of a portion of the interest on the Bonds until Tax Increment is sufficient to pay debt service on the Bonds.

Section 3. Saddleback Lift Stations Upgrade Project

By previous Resolutions of the City Board of Public Works and City Council the Charlestown Wastewater Utility was loaned four hundred thousand dollars (\$400,000.00) from the Charlestown Capital Trust Fund at zero percent (0%) interest for ten (10) years to be repaid by ten (10) forty thousand dollar (\$40,000.00) yearly payments derived from the City's Distributive Share of EDIT revenues over that ten (10) year repayment period. Those previous Resolutions shall become a part of this amendment to the City's Capital Improvement Plan by reference herein.

Section 4. Wireless Broadband Funding Repealed

In all other respects the Capital Improvement Plan of the City relating to the use of the Distributive Share is hereby ratified and confirmed except the section regarding wireless broadband funding which is hereby specifically repealed.

Section 5. Amendment To Be Filed

The Clerk-Treasurer is hereby authorized and directed to file this amendment to the Capital Improvement Plan with the Clark County Recorder pursuant to state statute.

EXHIBIT "A"  
ECONOMIC DEVELOPMENT INCOME TAX  
CAPITAL IMPROVEMENT PLAN OF  
THE CITY OF CHARLESTOWN, INDIANA

**Introduction:**

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

**Term:**

The term of the Plan is 10 years from date of its adoption.

**Plan Objectives:**

IC 6-3.5-7 requires the adoption of the Plan by the Charlestown Common Council 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 the EDIT revenues.

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

**Project #1:**

General Description: Central Charlestown Economic Development Area  
Waterworks Improvement Project

Estimated Total Cost: Maximum \$35,000.00 per year

Sources of Funding: Waterworks Utility Revenues / TIF Funds / EDIT  
Revenues

Planning Development and Construction Schedule:  
Completed / Service Debt on Bonds

**Project #2:**

General Description: Upgrade of City Water and Sewer System

Estimated Total Cost: \$3,000,000.00

Sources of Funding: City of Charlestown Water Department \$1,000,000.00  
State of Indiana \$2,000,000.00

Planning Development and Construction Schedule: Complete Design, by  
December 2007, Construction, through December 2008

**Proposes of Projects:**

We hereby find that the Projects outlined above are economic development projects because these improvements will provide important upgrades in the City's infrastructure to support economic growth.

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

In accordance with IC 6-3.5-7-15, the Plan incorporates 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, as follows:

**Expenditures for the term of the plan:**

**Project #1: Maximum \$35,000.00 per year**

**Project #2: \$3,000,000.00**

**Project #3: \$400,000**

**Total: \$3,435,000 (During Term of Plan)**

**City Estimated Certified Distribution for the term of the Plan:**

**2007: \$214,245.00**

**2008: \$214,245.00**

City ordinances will be provided upon request.

## ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND

The fiscal officer of each city or town in a county in which the county economic development tax is imposed shall establish an economic development income tax fund. The revenue received by a city or town shall be deposited in the unit's economic development income tax fund.

Except as provided in IC 6-3.5-7-15, revenues from the county economic development income tax may be used as follows:

By a city or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed 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 to be used to finance an economic development project, for the retirement of bonds under IC 6-3.5-7-14 for economic development projects, for leases under IC 6-3.5-7-21 or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose at the time the lease was entered into or the bonds were issued.

A city or town may also use EDIT revenues for the following:

- (1) The construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;
- (2) The retirement of bonds issued under any provision of Indiana law for a capital project;
- (3) The payment of lease rentals under statute for a capital project;
- (4) Contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;
- (5) Operating expenses of a governmental entity that plans or implements economic development projects;
- (6) To the extent not otherwise allowed under IC 6-3.5-6-7, funding substance removal or remedial action in a designated unit; or
- (7) Funding of a revolving fund established under IC 5-1-14-14.

An economic development project is any project that:

The city or town determines will:  
**ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND**  
(Continued)

- (1) Promote significant opportunities for a gainful employment of its citizens;
- (2) Attract a major new business enterprise to the unit; or
- (3) Retain or expand a significant business enterprise within the unit; and

Involves an expenditure for:

- (1) The acquisition of land;
- (2) Interests in land;
- (3) Site improvements;
- (4) Infrastructure improvements;
- (5) Buildings;
- (6) Structures;
- (7) Rehabilitation, renovation, and enlargement of buildings and structures;
- (8) Machinery;
- (9) Equipment;
- (10) Furnishings;
- (11) Facilities;
- (12) Administrative expenses associated with such a project, including contract payments authorized under IC 6-3.5-7-13.1(2)(d);
- (13) Operating expenses authorized under IC 6-3.5-7, substance removal or remedial action in a designated unit; or any combination of these. (IC 6-3.5-7-13.1)

The fiscal body of a city or town may issue bonds payable from the county economic development income tax. The bonds must be for economic development projects as defined in IC 6-3.5-7-13.1. IC 6-3.5-7-14 lists certain restrictions on setting tax rates sufficient to pay off any bonds.

The executive of a city or town may:

- (1) Adopt a capital improvement plan specifying the uses of the revenues to be received;
- (2) Designate the county or a city or town in the county as the recipient of all or a part of its share of the distribution.

If a designation is made under (2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

**ECONOMIC DEVELOPMENT INCOME TAX (EDIT) FUND**

(Continued)

A county, city or town that fails to adopt a capital improvement plan may not receive:

- (1) Its fractional amount of the certified distribution; or
- (2) Any amount designated for the year or years in which the unit does not have a plan. The county treasurer shall retain the certified distribution and any designated distribution for such a unit in a separate account until the unit adopts a plan.

Interest on the separate account becomes part of the account. If the unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to the other units in the county based on property taxes first due and payable to units during the calendar year in which the three (3) year period expires.

A capital improvement plan must include the following components:

- (1) Identification and general description of each project that would be funded by the county economic development income tax.
- (2) The estimated total cost of the project.
- (3) Identification of all sources of funds expected to be used for each project.
- (4) The planning, development, and construction schedule of each project.

A capital improvement plan:

- (1) Must encompass a period of no less than two (2) years; and
- (2) Must incorporate projects the cost of which is at least seventy-five percent (75%) of the fractional amount certified distribution expected to be received by the county, city or town in that period of time. (IC 6-3.5-7-15)

Section 6. Savings Clause

If any section of this Ordinance shall be deemed unenforceable and/or not in compliance with any applicable statute or case law by a court of competent jurisdiction, then to the extent permissible all other sections of this Ordinance shall remain in full force and effect.

Section 7. Repealing Clause

All sections of any previous Ordinances and/or Resolutions that are inconsistent and/or contradictory to the above provisions of this Ordinance are hereby modified and/or repealed.

Section 8. Effective Date

This Ordinance shall be in full force and effect upon and after its passage by the Charlestown City Council or as otherwise mandated by statute and/or rule.

ADOPTED by the City Council of Charlestown, this 2nd day of July, 2007.

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<u>Jeff Aaron</u> Jeff Aaron	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Bruce Bottorff</u> Bruce Bottorff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Ted Little</u> Ted Little	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Terry Pierce</u> Terry Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Brian Walker</u> Brian Walker, President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED: Michael D. Hall DATE: \_\_\_\_\_  
Michael D. Hall, Mayor

ATTEST: \_\_\_\_\_ DATE: \_\_\_\_\_  
Donna Coomer, Clerk- Treasurer