

COUNTY COMMISSIONERS OF CARROLL COUNTY

RESOLUTION NO. 25-80BY THE BOARD OF COUNTY COMMISSIONERS
OF CARROLL COUNTY

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WHEREAS, Sections 266A through 266-I, inclusive, of Article 41 of the Annotated Code of Maryland (1978 Replacement Volume and 1979 Cumulative Supplement), as amended (collectively, the "Act"), and particularly Sections 266-1 through 266A-3, inclusive, empower the County Commissioners of Carroll County (the "County"), a body politic and corporate of the State of Maryland, to signify its intent to create an industrial development authority, which the Act provides shall be a politic subdivision of the State of Maryland and a body politic and corporate; and

WHEREAS, the Act provides that any such industrial development authority shall be created and operated solely to accomplish the following enumerated public purposes of its incorporating municipality or county: to relieve conditions of unemployment in the State of Maryland, to encourage the increase of industry and a balanced economy in the State of Maryland, to assist in retention of existing industry through the control, reduction, or abatement of pollution of the environment, to promote economic development, to protect natural resources and to promote, by means of the foregoing, the health, welfare and safety of the residents of the counties and municipalities of the State of Maryland; and

WHEREAS, pursuant to the Maryland Industrial Development Financing Authority Act, Sections 13-101 through 13-155, inclusive, of the Financial Institutions Article of the Annotated Code of Maryland (1980) (the "MIDFA Act"), an industrial development authority created under the Act is also empowered, subject to the provisions of the MIDFA Act, to participate in the provisions of the MIDFA Act; and

WHEREAS, the Board of County Commissioners of Carroll County (the "Board") determined to promote the development of the Air Business Center located on U.S. Route 97 north of Westminster, Carroll County, Maryland, through a public sale of such property to a developer pursuant to a published notice to bidders which stated, among other things, that, in the absence of the receipt of a bid in excess of \$3,500,000.00, the Board, at its option, could create an industrial development authority pursuant to the Act to which the Air Business Center could be transferred

in consideration of the payment of \$3,500,000.00 pursuant to a contract of sale, which could provide for the deferred payment of the purchase price; and

WHEREAS, no bids for the Air Business Center having been received, the Board has determined to create an industrial development authority pursuant to the Act which is to be empowered, among other things, to develop the Air Business Center to accomplish the public purposes of the County enumerated in the Act; and

WHEREAS, the industrial development authority is to be created pursuant to the Act under the name "Industrial Development Authority of Carroll County" (the "Authority") which shall be empowered to authorize, issue, sell and deliver notes, industrial development revenue bonds, revenue refunding bonds, revenue bonds, and other similar obligations (the "Bonds") at such time or times and from time to time as the Authority may prescribe by a corporate resolution or resolutions of the Board of Directors of the Authority, which corporate resolution or resolutions shall be equivalent to the adoption of ordinances or resolutions enacted or passed, as the case may be, by the County to accomplish the purposes of the Act; and

WHEREAS, the Act provides that neither the principal of, premium, if any, nor interest on the Bonds shall ever constitute an indebtedness of the Authority or the County, a charge against the taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation (the Authority is to have no taxing power), and the Bonds shall never constitute or give rise to any pecuniary liability of the Authority or the County; and

WHEREAS, this Resolution authorizes, empowers and directs the President of the Board (the "President") to cause to be filed with the State Department of Assessments and Taxation of Maryland (the "Department") Articles of Incorporation of the Authority in substantially the form attached to this Resolution as Exhibit A and authorizes certain additional matters in connection therewith.

NOW, THEREFORE, BE IT RESOLVED:

1. That, acting pursuant to the Act, it is hereby found and determined as follows:

a. The County signifies its intent to create the Authority, which, as provided in the Act, shall be a political subdivision of the State of Maryland and a body politic and corporate.

b. The Authority authorized to be created by this Resolution shall

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operated, and its powers exercised, solely to promote the declared legislative purposes of the Act by (1) creating and sustaining jobs and employment, thus relieving conditions of unemployment in the State of Maryland and in Carroll County, Maryland, (2) encouraging the increase of industry and a balanced economy in the State of Maryland and in Carroll County, Maryland, (3) assisting in the retention of existing industry in the State of Maryland and in Carroll County, Maryland, through the control, reduction or abatement of pollution of the environment, (4) promoting economic development, and in the foregoing manner, promoting the health, welfare and safety of the residents of the State of Maryland and Carroll County, Maryland.

c. Neither the principal of, premium, if any, nor interest on the Bonds shall ever constitute an indebtedness of the Authority or the County, a charge against the general credit of the Authority or the County, or a charge against the taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation (the Authority shall have no taxing powers). The Bonds never constitute or give rise to any pecuniary liability of the Authority or the County.

2. That, pursuant to the Act, the President is hereby authorized and directed to file Articles of Incorporation of the Authority with the Department in substantially the form attached to this Resolution as Exhibit A. The Articles of Incorporation attached to this Resolution as Exhibit A state (1) the name of the Authority; (2) that the Authority is formed under the Act; (3) the names, addresses, and terms of office of the first directors of the Authority; (4) the location of the principal office of the Authority; (5) the purposes for which the Authority is formed; and (6) the restrictions or limitations on the powers of the Authority set forth in Section 266A-3 of the Act and in the Articles of Incorporation. When the Department issues a Certificate of Approval to be attached to the Articles of Incorporation as filed with the Department, the Authority shall become a body politic and corporate, and, pursuant to the Act, shall conclusively be considered to have been lawfully and properly created and authorized to execute its powers.

3. That, pursuant to the Act and except as restricted or limited in the Articles of Incorporation and in this Resolution, the Authority shall have all the powers of the County enumerated in Sections 266A through 266H-1, inclusive, and Sections 266-I(a) through (c) of Article 41 of the Annotated Code of Maryland (1978 Replacement Volume and 1979 Cumulative Supplement), as amended, and the power

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to purchase, lease and otherwise acquire from the County the Air Business Center located on U. S. Route 97 north of Westminster, Carroll County, Maryland, at a minimum purchase price to be determined by the Board, and to hold, mortgage and otherwise dispose of that property. The terms of the acquisition of the Air Business Center shall be set forth in Contract of Sale substantially in the form attached hereto as Exhibit B, which shall provide for deferred payment of the purchase price of the property transferred. The Authority shall also have the power, subject to the provisions of the MIDFA Act, to participate fully in the provisions of the MIDFA Act, but the Authority shall exercise such power solely to carry out the public purposes of the County under the Act and this Resolution and of the Maryland Industrial Development Financing Authority under the MIDFA Act. The County shall not be precluded from exercising its own powers under the Act or the MIDFA Act because of the creation and existence of the Authority. As provided in the Articles of Incorporation attached hereto as Exhibit A, the issuance of obligations of the Authority pursuant to the Act and the MIDFA Act shall be subject to the limitations that the Board shall first have adopted a resolution recommending the issuance of such obligations.

4. That, pursuant to the Act, the following restrictions, requirements, and procedures shall apply to governance of the Authority:

a. A Board of Directors shall govern the Authority and exercise its powers by resolution. A resolution adopted by the Board of Directors is equivalent to the adoption of an ordinance or resolution by the Board for the purpose of Sections 266-A through 266H-1, inclusive, and Sections 266-I(a) through (c) of Article 41 of the Annotated Code of Maryland (1978 Replacement Volume and 1979 Cumulative Supplement), as amended, and shall constitute a "resolution" as defined in Section 13-141(a) of the MIDFA Act.

b. Three voting directors constitute a quorum. However, the Board of Directors may not act upon a resolution except by the affirmative vote of at least three voting directors.

c. The directors of the Authority shall be appointed by the Board from nominations submitted to the Board by the President. If no nomination is satisfactory to the Board, the members of the Board may submit nominations to the full Board, and upon the acceptance of a nomination by a majority of the Board, the nominee accepted shall be appointed. The foregoing procedure shall be

followed when there is a vacancy on the Board of Directors of the Authority for any reason. An officer or employee of the County may be an ex officio, nonvoting director, and as such director may serve as an officer of the Authority other than chairman.

d. A director of the Authority may be removed from office for misfeasance, malfeasance, or nonfeasance, or for any other good cause. A complaint that there is cause for the removal of one or more of the directors of the Authority shall be made to the Board, and the Board shall forthwith notify the director of the Authority about whom the complaint has been made of the nature of the complaint or charges against him and advise such director of a date, time and place when a hearing will be held to inquire into the sufficiency of the charge. If the Board finds that there is sufficient cause to remove such director, such director shall be notified immediately of the finding and of his removal from office. The decision of the Board to remove or not to remove a director of the Authority shall be final and no appeal shall lie therefrom. A director of the Authority may be suspended pending a hearing on the charges against him without prejudice. Any hearing held pursuant to this Section of this Resolution shall be recorded. The hearing shall be held within 30 days of the notification to the director of the Authority of the charges against him, unless such director requests an extension of the time or unless the Board determines that there is good cause for such an extension. The decision of the Board shall be made within 15 days after the conclusion of the hearing or the closing of the record made of the hearing, whichever is the later.

e. The Authority shall submit, within 120 days after the end of the Authority's fiscal year, an annual report in form satisfactory to the Board which contains a full, true and clear report of the business of the Authority for the period reported on and its condition as of the date of the report.

f. Any net earnings of the Authority, beyond that necessary for retirement of indebtedness or implementing the public purpose or purposes or program of Carroll County, may not inure to the benefit of any person other than Carroll County.

Carroll County may, by legislative act at any time, in its sole discretion, subject to the provisions of Article 41, Section 266A1, et seq. and to any limitations imposed by law upon the impairment of contracts, change the structure, organization, programs, or activities of the Authority, or terminate the

Authority. Upon termination of the Authority, title to all its property shall vest in Carroll County and all obligations and assets of the Authority shall be transferred to Carroll County.

g. The Board may appoint from the Board's officers or employees from time to time, as it deems necessary, such persons to serve as non-voting members of the Board of Directors as it deems fit, which members may serve as uncompensated officers, except Chairman, of the Authority. The Authority may employ persons in positions approved by the Board, and may hire consultants with the approval of the Board.

h. Directors as such shall not receive any stated salaries for their services, but shall be allowed compensation for actual expenses incurred in performance of duties. Nothing herein contained shall be construed to preclude any Director from serving the Authority in any other capacity and receiving compensation therefor.

i. In connection with each issue of its bonds or other obligations, the Authority shall retain such controls over the investment of the proceeds thereof or moneys which may be deemed to be proceeds thereof (collectively "Bond Proceeds") as may be necessary or desirable to prevent such bonds or other obligations from being "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, and the Income Tax Regulations promulgated thereunder (collectively, the "Arbitrage Regulations"). Within 30 days following issuance of its bonds or other obligations, the Authority shall file with the Administrative Assistant to the Board or his designee a certificate setting forth the Authority's reasonable expectations with respect to the use of Bond Proceeds delivered in accordance with the Arbitrage Regulations. The Authority shall have full responsibility for assuring that the use of the Bond Proceeds complies with the Arbitrage Regulations; nevertheless, the Authority shall follow any direction from the Administrative Assistant to the Board regarding the investment of Bond proceeds in order to comply with the Arbitrage Regulations and such direction by the Administrative Assistant to the Board shall be conclusive.

j. Except as specifically provided in this Resolution, the procedures relating to the internal administration of the Authority may be established by the Board of Directors of the Authority.

5. That, the President is authorized to take the following actions on behalf of the County:

a. To cause to be filed with the Department the Articles of Incorporation of the Authority attached hereto as Exhibit A and to take such other actions as are necessary or appropriate in connection therewith; and

b. To submit to the Board nominations for the position of director of the Authority.

c. To execute and deliver a contract for the sale of the land and improvements thereto in substantially the form attached to this Resolution as Exhibit B, with such modifications as are within the terms of this Resolution and as are approved by him.

6. That, the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof shall be held to be illegal, invalid, unconstitutional or inapplicable to any person, entity or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other persons, entities or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person, entity or circumstance to which the Resolution or any part hereof is inapplicable had been specifically excluded therefrom.

7. That, this Resolution shall take effect immediately upon its adoption.

Approved and adopted this 16th day of October, 1980.

COUNTY COMMISSIONERS OF
CARROLL COUNTY

ATTEST:

Ruth M. Dutterer
Ruth M. Dutterer, Clerk

Roger L. Mann
Roger L. Mann, President

J. Norman Graham
J. Norman Graham, Vice-President

Louis B. Scharon
Louis B. Scharon, Secretary

Approved for legal sufficiency:

Charles W. Thompson, Jr.
Charles W. Thompson, Jr.
County Attorney

