Passed: 7-1 (JH)

ORDINANCE 94-44

ORDINANCE AUTHORIZING THE CITY OF BLOOMINGTON TO ISSUE ITS "CITY OF BLOOMINGTON, INDIANA ECONOMIC DEVELOPMENT REVENUE REFUNDING BONDS, SERIES 1994" FOR THE BLOOMINGTON SQUARE ASSOCIATES PROJECT AND APPROVING OTHER RELATED ACTIONS (Portions of Whitehall Plaza)

WHEREAS, the Bloomington Economic Development Commission adopted a resolution on November 15, 1993, which is attached to this ordinance, finding that the refunding of bonds previously issued to finance economic development facilities of Bloomington Square Associates complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and I.C. 5-1-5 and that such financing will be of benefit to the health and welfare of the City of Bloomington and its citizens; and

WHEREAS, the resolution of the Bloomington Economic Development Commission approved and recommended the adoption of this ordinance;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA THAT:

SECTION 1. It is hereby found that the refunding of the City of Bloomington Economic Development Revenue Bonds, Series 1983 (Bloomington Square Associates Project) dated December 1, 1983 (the "Refunded Bonds"), which were issued to refinance economic development facilities, all as referred to in the Loan Agreement presented to this Common Council, the issuance and sale of the Economic Development Revenue Refunding Bonds, Series 1994 (Bloomington Square Associates Project) (the "Bonds"), the loan of the proceeds thereof to Bloomington Square Associates (the "Borrower") for the refunding of the Refunded Bonds, the payment of the Bonds by the note payments of the Borrower under the Loan Agreement and Note, the issuance of a letter of credit to secure the payment of interest on and principal of the Bonds and the securing of said Bonds under the Trust Indenture, complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and I.C. 5-1-5 and will be of benefit to the health and welfare of the City of Bloomington and its citizens.

SECTION 2. The financing consists of the refunding of the Refunded Bonds, which were issued to refund the City of Bloomington's Economic Development Revenue Bond, Series A (Bloomington Square Associates Project) dated July 16, 1981, which was issued to finance the acquisition and construction of a retail shopping center known as Whitehall Plaza Shopping Center, located on the corner of State Road 37 and West 3rd Street, in the City of Bloomington.

SECTION 3. The substantially final forms of the Loan Agreement, Note, Trust Indenture (including the form of Bond), the Escrow Deposit Agreement, Bond Placement Agreement, Remarketing Agreement and Preliminary Private Placement Memorandum presented to this meeting are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk for public inspection.

SECTION 4. The City of Bloomington shall issue its Bonds in an amount not to exceed Three Million Seven Hundred Thousand Dollars ($3,700,000) and maturing no later than January 1, 2009. Said Bonds are issued for the purpose of procuring funds to pay the costs of refunding the Refunded Bonds, as more particularly set out in the Trust Indenture and Loan Agreement incorporated herein by reference, which Bonds will be payable as to principal, premium, if any, and interest from the loan payments made by the Borrower under the Loan Agreement and Note or as otherwise provided in the above described Trust Indenture. The Bonds shall be issued in fully registered form in denominations of $5,000 or integral multiples in excess thereof with a minimum initial purchase of $100,000, and shall be redeemable as provided in the Trust Indenture. Payments of principal and interest are payable

in lawful money of the United States of America at the principal office of the Trustee (as defined in the Trust Indenture) or its successor in trust or by check mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, or a charge against the general credit of the City of Bloomington nor are the Bonds payable in any manner from revenues raised by taxation.

SECTION 5. The Mayor and Clerk are authorized and directed to sell the Bonds to the original purchasers thereof at the price of 100% of the principal amount thereof. The Bonds shall bear interest at a variable rate pursuant to the Trust Indenture which rate shall not exceed the Maximum Rate as therein defined.

SECTION 6. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to deem the Preliminary Private Placement Memorandum relating to issuance of the Bonds as nearly final and the distribution of the nearly final Preliminary Private Placement Memorandum is hereby approved. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of counsel to the City; it being the express understanding of this Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, method of setting the interest rate on or term of the Bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the Bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee named in the Trust Indenture, and payment for the Bonds will be made to the Trustee named in the Trust Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the Bonds to the Trustee within ninety days of the adoption of this ordinance. The Bonds shall be originally dated the date of delivery.

SECTION 7. The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the City of Bloomington, Indiana, and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said Bonds or the interest thereon remains unpaid.

SECTION 8. It is hereby elected to issue the Bonds for the purpose of refunding the Refunded Bonds issued under the $10,000,000 exemption of Section 144(a)(4) of the Internal Revenue Code of 1986 and Section 103(b)(6)(D) of the Internal Revenue Code of 1954.

SECTION 9. This Ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Indiana, this 7th day of December, 1994.

JIM SHERMAN, President
Bloomington Common Council

ATTEST::

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, on the 9th day of December, 1994.

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by the Mayor of the City of Bloomington, on the 9th day of December, 1994.

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

SYNOPSIS

This ordinance authorizes the issuance and sale of economic development refunding bonds in an amount not to exceed $3,700,000 for the refunding and retirement of previously issued bonds used to finance the acquisition, construction and installation of certain commercial facilities owned by Bloomington Square Associates at the corner of SR 37 and West Third Street, Bloomington, Indiana, and leased to various tenants for operation of the retail stores, including Osco Drugs, Colortyme Rental Systems, Shoe Carnival, and the IU Employees Credit Union.

Signed copies
Legal (2)