ORDINANCE 85-70

ORDINANCE AUTHORIZING
CITY OF BLOOMINGTON TO ISSUE ITS "ECONOMIC DEVELOPMENT
REVENUE BONDS, SERIES 1985 A AND B
(SUMMIT POINTE ASSOCIATES PROJECT)"
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Bloomington Economic Development Commission has rendered its Project Report for the Summit Pointe Associates Project regarding the financing of proposed economic development facilities for Summit Pointe Associates and the Bloomington Plan Commission has commented favorably thereon; and

WHEREAS, the Bloomington Economic Development Commission conducted a public hearing on December 11, 1985, and also adopted a resolution on December 11, 1985, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities for Summit Pointe Associates complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and that such financing will be of benefit to the health and welfare of Bloomington and its citizens; and

WHEREAS, the Bloomington Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Financing Agreement, Mortgage Purchase Agreement and Trust Indenture for the Series A Bonds and the Loan Agreement, Mortgage and Security Agreement, Note and Trust Indenture for the Series B Bonds (collectively, the "Financing Documents"); now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA THAT:

Section 1. It is hereby found that the financing of the economic development facilities referred to in the Financing Documents approved by the Bloomington Economic Development Commission and presented to this Common Council, the issuance and sale

of revenue bonds, the loan of the proceeds of the revenue bonds to Summit Pointe Associates for the acquisition and construction of such facilities and the equipping thereof, the payment of the revenue bonds by the note payments of Summit Pointe Associates under the Financing Documents complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and will be of benefit to the health and welfare of Bloomington and its citizens.

Section 2. The economic development facilities will consist of the construction of an approximate 250 unit apartment complex, located at 1900 South Henderson Street, in Bloomington, Indiana (the "Project").

Section 3. At the public hearing held by the Bloomington Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in Bloomington, and found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in Bloomington, and the facilities will be of benefit to the health and welfare of the citizens of Bloomington.

Section 4. The substantially final forms of the Financing Agreement, Mortgage Purchase Agreement and Trust Indenture for the Series A Bonds and the Loan Agreement, Mortgage and Security Agreement, Note and Trust Indenture for the Series B Bonds approved by the Bloomington Economic Development Commission are hereby approved (said Financing Documents being 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 5. The City of Bloomington shall issue its (a) Economic Development Revenue Bonds, Series 1985 A (Fannie Mae Pass-Through Certificate Program - Summit Point Apartments Project) and (b) Economic Development Revenue Bonds, Series 1985 B (Summit Pointe Associates Project), in the maximum principal amount of Nine Million Dollars ($9,000,000) ($8,500,000 for Series A and $500,000 for Series B) and maturing no later than thirty years from the date of the first principal payment. Said bonds are to be issued for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development facilities as more particularly set out in the Financing Agreement incorporated herein by reference, which bonds will be payable as to principal, premium, if any, and interest from the note payments made by Summit Pointe Associates under the Loan Agreement, Mortgage and Security Agreement, Financing Agreement and Notes or as otherwise provided in the above-described Trust Indentures. The bonds shall be issued in fully registered form in the denomination of $5,000 or integral multiples thereof 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 or its successor in trust or by check or draft mailed or delivered to the registered owner as provided in the Trust Indenture. The bonds shall never constitute a general obligation of, an indebtedness 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 6. The Series A and Series B Bonds shall bear a fixed rate of interest not to exceed 10.5% per annum and the Mayor and Clerk are authorized and directed to sell such bonds to the purchasers thereof at or below such rates of interest (which is the maximum rate of interest on the bonds, except

in the event interest on the bonds becomes taxable due to a Determination of Taxibility, as defined in the Loan Agreement, Mortgage and Security Agreement and Financing Agreement); and at a price of not less than 100% of the principal amount thereof.

Section 7. 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 to consummate the transaction, including the bonds authorized herein. 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 the City Attorney; 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, maximum interest rate on or maximum 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(s) named in the Trust Indentures, and payment for the bonds will be made to the Trustee(s) named in the Trust Indentures 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 120 days of the

adoption of this ordinance. The bonds shall be dated as of the first day of the month in which issued.

Section 8. The provisions of this Ordinance and the Trust Indentures securing the bonds shall constitute a contract binding between the City of Bloomington and the holders of the Series 1985 A and Series 1985 B 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 9. This Ordinance shall be in full force and effect from and after its passage and signing by the Presiding Officer.

Passed and adopted this 18 day of December, 1985.

BLOOMINGTON COMMON COUNCIL

Patricia A. Stoss
Presiding Officer

Attest:

Patricia Williams
Patricia Williams, Clerk

Presented by me to the Mayor of the City of Bloomington at 9:15 A.m., on December 19, 1985.

Patricia Williams
Patricia Williams, Clerk

Approved by me at 3:30 p.m., on December 19th, 1985.

Tomilea Allison
Tomelia Allison, Mayor of the
City of Bloomington

SYNOPSIS

This ordinance approves and authorizes the City of Bloomington to Issue its Economic Development Revenue Bonds, Series 1985, A and B, in the amount of $9,000,000 for the Summit Pointe Associates Project (Haskel Prock, Developer). The City has no liability for these bonds if approved.