Passed: 5-2 (JB, DS)

ORDINANCE 98-17

AN ORDINANCE REGARDING APPROVAL OF A LEASE BETWEEN THE BLOOMINGTON REDEVELOPMENT COMMISSION AND THE BLOOMINGTON MUNICIPAL FACILITIES CORPORATION (Transportation 2000 Infrastructure Initiative)

WHEREAS, the Bloomington Redevelopment Commission ("Commission") did establish the Adams Crossing Economic Development Area, the Thomson Economic Development Area and Expanded Thomson Economic Development Area, and the Downtown Redevelopment Area and the Expanded Downtown Redevelopment Area (collectively, the "Areas") in the City of Bloomington ("City") in accordance with IC 36-7-14;

WHEREAS, the Commission, after a public hearing, did by resolution adopted on April 6, 1998, approve the execution of a lease ("Lease") with the Bloomington Municipal Facilities Corporation ("BMFC") for expansion of road improvements to (1) West Third Street providing a continuous four-lane east-west arterial linkage through the Third/Fifth/Adams intersection to State Road 37, and (2) the connection of the northeast end of Patterson Drive with West Third Street, and the connection of the southeast end of Patterson Drive with College Avenue, including a connection on Grimes Lane (collectively, the "Projects");

WHEREAS, the BMFC has been created under and in pursuance of the provisions of IC 6-3.5-6, IC 23-17 (formerly 23-7-1.1), IC 36-7-14 and IC 36-7-25 for the purpose of, among other things, financing, constructing, acquiring and leasing local public improvements and economic development and redevelopment projects, including the Projects to the Commission;

WHEREAS, the estimated total cost of financing the Projects, including capitalized interest, a debt service reserve and issuance expenses, is now estimated not to exceed $11,750,000; and

WHEREAS, rentals due under the Lease shall be payable from a portion of the City's distributive share of the Monroe County Option Income Tax in an annual amount up to $650,000 ("Pledged COIT") on a parity with the Lease Agreement dated October 2, 1990, the Lease Agreement dated May 1, 1994 and the Redevelopment District County Option Income Tax Bonds of 1995, dated October 1, 1995 (collectively, the "Outstanding Obligations"), tax increment revenues collected in the Areas, and to the extent the Pledged COIT and tax increment is not sufficient, a special benefits tax levied on all taxable property in the District; tax increment revenues collected in the Areas and, if tax increment is not sufficient, from a redevelopment district property tax levy on taxable property in the City;

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

SECTION 1. (a) The Bloomington Common Council hereby finds that the execution of the Lease is necessary and wise and is for Projects that will promote economic development and redevelopment of the Areas, will provide services that will serve the public purpose of the City and is in the best interests of the City's residents, and further finds that the lease rentals provided for in the Lease are fair and reasonable.

(b) The execution of the Lease between the Commission and the BMFC is hereby approved.

(c) Providing for the financing, acquisition and construction of the Projects by the BMFC and the leasing of the Projects to the Commission is in the public interest of the citizens of this City and it is a proper public purpose for which the Common Council agrees to cooperate with the BMFC to assist in fulfilling the requirements of all agencies of the Federal, State and City Government.

SECTION 2. (a) The Common Council finds that it is in the best interest of the City and its residents to irrevocably pledge the Pledged COIT to the Commission, on a parity with the Outstanding Obligations, for a term of years not less than the original term of the Lease. The Common Council hereby irrevocably pledges the Pledged COIT on a parity with the Outstanding Obligations to the Commission pursuant to IC 5-1-14-4 for payment of the lease rentals under the Lease for the term of years not less than the original term of the Lease. Except for the Outstanding Obligations, there are no prior liens, encumbrances or other restrictions on the City's ability to pledge the Pledged COIT.

(b) The City reserves the right to enter into leases or other obligations payable from COIT Revenues (as defined in the Lease), in whole or in part, and to pledge the COIT Revenues on a parity with the Lease and the Outstanding Obligations in accordance with the requirements set forth in Section 14 of the Lease.

SECTION 3. (a) The Common Council hereby finds that it is proper and in the public interest of the citizens of the City to ratify and approve the incorporation of the corporation known and designated as the Bloomington Municipal Facilities Corporation for the purpose of, among other things, financing and constructing the Projects and leasing the Projects to the Commission.

(b) The Articles of Incorporation and By-Laws of the BMFC presented to and now before this Common Council, are hereby ratified and approved.

(c) The issuance, sale and delivery by Bloomington Municipal Facilities Corporation of bonds designated Bloomington Municipal Facilities Corporation Lease Rental Bonds of 1998, Series A ("Bonds") in the aggregate principal amount estimated not to exceed $11,750,000 is hereby approved.

(d) Upon the redemption or retirement of the Bonds the City, acting through the Commission, will accept from BMFC title to the Projects, free and clear of any and all liens and encumbrances thereon.

(e) The Common Council hereby ratifies and approves the following to continue to act as Directors of the BMFC: Robert W. Sullivan, President; James William Tabor, Vice President; Lee Ann Merry, Secretary/Treasurer; Lloyd T. Wilson, Member; and Jim Silberstein, Member.

(f) The BMFC may issue, sell and deliver the Bonds, pursuant to the applicable laws of the State of Indiana, may encumber any real property or equipment acquired by it for the purpose of financing the acquiring and constructing the Projects and may enter into contracts for the sale of the Bonds and the construction and acquisition of the Projects.

SECTION 4. This ordinance shall be in full force and effect immediately upon its passage and signing by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 20th day of May, 1998.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

PATRICIA WILLIAMS, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 21st day of May, 1998.

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 25 day of May, 1998.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This ordinance approves the execution of a Lease between the Bloomington Redevelopment Commission and the Bloomington Municipal Facilities Corporation (BMFC) to finance road improvements to the West Third/Fifth/Adams intersection, West Third Street, and Patterson Drive. It also pledges COIT in an annual amount of up to $650,000 for payment of the lease rentals and approves issuance of bonds by the BMFC in an aggregate principal amount estimated not to exceed $11,750,000 to finance the road improvements.

Signed copies to:
Controller 3
Legal
Redevelopment