W/ AMENDMENT #1
Amendment: 7 – 0
Ord. as amended:

ORDINANCE 95-42

Authorizing the City of Bloomington to Issue Its "City of Bloomington, Indiana Economic Development Revenue Refunding Bonds, Series 1995 A (Jackson Creek Associates Project)" and Its "City of Bloomington, Indiana Taxable Subordinate Economic Development Revenue Refunding Bonds, Series 1995 B (Jackson Creek Associates Project)", and Approving and Authorizing Other Action in Respect Thereto

WHEREAS, the Bloomington Economic Development Commission adopted a resolution on October 11, 1995, which Resolution has been transmitted hereto, finding that the refunding of bonds previously issued to finance economic development facilities of Jackson Creek Associates, L.P. 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 Bloomington Economic Development Commission has held a public hearing and adopted a resolution on October 11, 1995, which resolution has been transmitted hereto, approving and recommending the adoption of this form of Ordinance by this Common Council and has approved the forms of and has transmitted for approval by the Common Council the Series 1995 A Loan Agreement, First Mortgage, Security Agreement, Financing Statement and Assignment of Leases and Rents; Series 1995 B Loan Agreement, Second Mortgage, Security Agreement, Financing Statement and Assignment of Leases and Rents; Notes; Trust Indenture; Escrow Agreement; Bond Placement Agreement; and Preliminary Private Placement Memorandum;

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

1. It is hereby found that the refunding of the City of Bloomington Economic Development First Mortgage Revenue Bonds, Series 1981 A (Bloomington Plaza Company - SCOA Industries, Inc. Project) dated June 1, 1981 and the City of Bloomington Economic Development First Mortgage Revenue Bonds, Series 1981 B (Bloomington Plaza Company - Kroger Project) dated June 1, 1981 (collectively, the "Refunded Bonds"), which were issued to finance economic development facilities, all as referred to in the Series 1995 A Loan Agreement, First Mortgage, Security Agreement, Financing Statement and Assignment of Leases and Rents and Series 1995 B Loan Agreement, Second Mortgage, Security Agreement, Financing Statement and Assignment of Leases and Rents (collectively, the "Loan Agreements") approved by the Bloomington Economic Development Commission and presented to this Common Council, the issuance and sale of the Economic Development Revenue Refunding Bonds, Series 1995 A (Jackson Creek Associates Project) (the "Series A Bonds") and the Taxable Subordinate Economic Development Revenue Refunding Bonds, Series 1995 B (Jackson Creek Associates Project) (the "Series B Bonds" and collectively with the Series A Bonds, the "Bonds"), the loan of the proceeds thereof to Jackson Creek Associates, L.P. (the "Borrower") for the refunding of the Refunded Bonds, the payment of the Bonds by the note payments of the Borrower under the Loan Agreements and Notes, 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.

2. Financing consists of the refunding of the Refunded Bonds, which were issued to finance the acquisition and construction of a retail shopping center known as the Jackson Creek Shopping Center, located at 1105-1321 S. College Mall Road, in the City of Bloomington.

3. The substantially final forms of the Loan Agreements, Notes, Trust Indenture, Escrow Agreement, Bond Placement Agreement and Preliminary Private Placement Memorandum approved by the Bloomington Economic Development Commission 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.

4. The City of Bloomington shall issue its Series 1995 A Bonds in an amount not to exceed Three Million Six Hundred Eighty Thousand Dollars ($3,680,000) and maturing no later than June 1, 2011, and its Series 1995 B Bonds in an amount not to exceed Seven Hundred and Fifty Thousand Dollars ($750,000) and maturing no later than June 1, 2005. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of refunding the Refunded Bonds and certain costs of issuance of the Bonds, as more particularly set out in the Trust Indenture and Loan Agreements 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 Agreements and Notes or as otherwise provided in the above described Trust Indenture. The Bonds shall be issued in fully registered form in denominations authorized in the Trust Indenture and shall be redeemable as provided in Article V of 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.

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 placement agent for the Bonds shall receive a commission in an amount not to exceed two percent (2%) of the principal amount of the Bonds. The Series 1995 A Bonds shall bear interest at a rate not to exceed 8.5% per annum, and the Series 1995 B Bonds shall bear interest at a rate not to exceed 12% per annum.

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, 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 Bonds shall be originally dated October 1, 1995.

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