ORDINANCE NO. 83-64

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF $4,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS, REFUNDING SERIES OF THE CITY OF BLOOMINGTON, INDIANA FOR THE PURPOSE OF REFUNDING PRIOR BONDS ISSUED TO MAKE A LOAN TO BLOOMINGTON SQUARE ASSOCIATES IN ORDER TO FINANCE THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES LOCATED IN THE COUNTY OF MONROE, INDIANA; AUTHORIZING EXECUTION OF A LOAN AGREEMENT; PROVIDING FOR THE DELIVERY OF A NOTE AND ASSIGNMENT THEREOF AS SECURITY FOR SAID BONDS; AUTHORIZING AN INDENTURE OF TRUST APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF THE REVENUES FROM SUCH NOTE; AND AUTHORIZING THE TERMS AND SALE OF SAID BONDS AND THE EXECUTION OF THE BOND PURCHASE AGREEMENT; AND APPROVING THE TERMS OF THE MORTGAGE, AND THE ASSIGNMENT OF RENTS AND LEASES AND RELATED MATTERS.

WHEREAS, the City of Bloomington, Indiana (hereinafter called the "Issuer") is a municipal corporation and political subdivision of the State of Indiana and by virtue of Indiana Code 36-7-12 and Indiana Code 5-1-5 as amended (hereinafter call the "Act") is authorized and empowered to adopt this ordinance (the "Bond Ordinance") and to carry out its provisions; and

WHEREAS, Bloomington Square Associates (the "Borrower") is a limited partnership duly organized and existing under and by virtue of the laws of Indiana with its principal office in Indianapolis, Indiana, and duly qualified to conduct business in the State of Indiana; and

WHEREAS, the Borrower has acquired, constructed and installed certain economic development facilities within two miles of the corporate limits of the City of Bloomington, Indiana, in the County of Monroe and the Issuer passed its Ordinance No. 81-64 on July 15, 1981 and on July 16, 1981, pursuant to and in compliance with all applicable federal and state law, issued its $4,000,000 Economic Development Revenue Bond, Series A (Bloomington Square Associates Project) (the "Series A Bond") to finance a portion of the cost of such acquisition, construction and installation; and

WHEREAS, it is now necessary and desirable to refund the Series A Bond, and said refunding would comply with the purposes of the Act; and

WHEREAS, the Bloomington Economic Development Commission has performed all action required of it by the Act preliminary to the adoption by the Common Council of Bond Ordinance No. 81-64; and

WHEREAS, before the Common Council are the forms of (1) Bond Purchase Agreement (the "Bond Purchase Agreement") dated as of December 1, 1983 among the Issuer, the Borrower and Capital Holding Corporation (the "Purchaser") providing for the sale of the Bonds by the Issuer to the Purchaser, (2) Indenture of Trust (the "Indenture") dated as of December 1, 1983, between the Issuer and American Fletcher National Bank and Trust Company, with principal offices in Indianapolis, Indiana (the "Trustee"), containing the form of economic development revenue bond, (3) Loan Agreement (the "Loan Agreement") dated as of December 1, 1983, between the Issuer and the Borrower, containing a form of Note from the Borrower to the Issuer, which shall be endorsed to the Trustee, (4) Mortgage and Security Agreement (the "Mortgage") dated as of December 1, 1983, from the Borrower to the Trustee, (5) Assignment of Rents and Leases (the "Assignment of Rents and Leases") dated as of December 1, 1983, from the Borrower to the Trustee, and (6) this Bond Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, AS FOLLOWS:

Section 1. Findings; Public Benefits. The Common Council of the Issuer hereby re-confirms and hereby incorporates by reference all of the findings with respect to the Project and the Bonds that it made in Section 1 of Bond Ordinance No. 81-64; and the Common Council of the Issuer hereby finds and determines that the issuance of the Refunding Series Bonds identified in Section 2 hereof, comply with the purpose and provisions of Indiana Code 36-7-12 and with Indiana Code 5-1-5.

Section 2. Authorization of Economic Development Revenue Bonds. In order to pay a portion of the cost of refunding the Series A Bond at 100% of the principal amount thereof, without premium, which Series A Bond was originally issued to pay the cost of acquiring, constructing and installing the Project, there are hereby authorized to be issued, sold and delivered $4,000,000 aggregate principal amount of Economic Development Revenue Bonds, Refunding Series (Bloomington Square Associates Project) of the Issuer (the "Bonds").

Section 3. Terms for the Bonds. The total principal amount of Bonds that may be issued is hereby expressly limited to $4,000,000. The Bonds (a) shall be issued in fully registered form (without coupons) in any denomination, (b) shall be lettered and numbered R-1 and upward, (c) shall be executed by the official manual signatures of the Mayor and the Clerk of the Issuer, and the corporate seal shall be impressed or printed thereon, (d) shall

be dated as of the date of issue and delivery, and (e) shall have a final maturity of January 1, 2009 (a term of approximately 25 years).

The Bonds shall be due and payable as follows:

the principal balance of the Bonds, together with interest (computed on the basis of a 360-day year of twelve 30-day months) thereon at the rate of eleven and one-eighth percent (11.125%) per annum on such principal amount from time to time remaining unpaid, shall be payable in installments as follows:

(i) one installment of interest only payable on January 1, 1984;

(ii) equal installments, each in the amount of $_____ and each including principal and interest, payable on February 1, 1984 and on the first day of each month thereafter to and including December 1, 2008; and

(iii) a final installment, payable on January 1, 2009, in the amount of the entire unpaid principal balance of and interest on the Bonds.

The monthly installment payable under clause (ii) above on each Bond shall be in proportion to $38,472 as the original principal amount of such Bond bears to $4,000,000.

The interest rate on the Bonds shall be adjusted to the Formula Rate (as defined in the Indenture and below), such adjustment to be effective on (i) a date ten (10) years following, (ii) on a date fifteen (15) years following, and (iii) on a date twenty (20) years following January 1, 1984; provided, however, the interest rate on the Bonds shall in no event be less than 11.125% per annum if no Determination of Taxability shall have occurred. The amount of each monthly payment due thereafter shall be recomputed pursuant to the terms of the Indenture. The term "Formula Rate" as used herein shall mean that rate of interest, determined on each effective date described above, equal to the immediately preceding twelve (12) week's average yield for twenty (20)-year constant maturity U.S. Government Bonds as published by the Federal Reserve System in the Federal Reserve Statistical Release Weekly Summary of Banking and Credit Measures-H.9(511) (or, if such index is not then published, then the most similar report indicating the market rate of such U.S. Government Bonds which is then in use and is mutually agreeable to the Bondholder and the Borrower).

Under certain circumstances set forth in the Indenture relating to taxability for federal income tax purposes of interest on the Bonds, the interest rate on the Bonds shall be increased according to a formula set forth in the Indenture and in the Bond, and the holders of the Bond may be entitled to additional interest and other payments.

Books for the registration and transfer of the Bonds shall be kept by the Trustee. Principal and interest and premium, if any, shall be payable in any coin or currency in the United States of America which, at the respective payment date is legal tender for the payment of public and private debts, at the principal office of the Trustee in Indianapolis, Indiana.

The Bonds shall be in such form, and shall have such optional and mandatory redemption provisions, and shall be subject to such other terms and conditions as set froth in the Indenture. The Bonds and the interest thereon do not and shall never constitute an indebtedness of or a charge against the general credit or taxing power of the Issuer, the County of Monroe, the State of Indiana or any political subdivision thereof, but are limited obligations of the Issuer payable solely from revenues and other amounts derived from the Note, the Loan Agreement and the Assignment of Rents and Leases and shall be secured as provided in the Indenture. Forms of the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage, and the Assignment of Rents and leases are before this meeting and are by this reference incorporated in this Bond Ordinance, and the City Clerk is hereby directed to insert them into the minutes of the Common Council and to keep them on file.

Section 4. Sale of the Bonds. The Mayor and the City Clerk of the Issuer are hereby authorized and directed to sell the Bonds to or upon the order of the Purchaser or its designated affiliates and registered assigns, pursuant to the Bond Purchase Agreement at a price of $4,000,000, 100% of par value. Simultaneously with the purchase of the Bonds, the Series A Bond shall be refunded and cancelled by the Trustee.

Section 5. Bond Purchase Agreement. In order to provide for the commitments of the Issuer to sell the Bonds and of the Purchaser to purchase to Bonds, the Mayor and the City Clerk shall execute and deliver in the name of and on behalf of the Issuer, a Bond Purchase Agreement in substantially the form submitted to this Common Council, which is hereby approved in all respects.

Section 6. Indenture. In order to secure the payment of the principal of and interest on the Bonds, the Mayor and City Clerk shall execute, acknowledge and deliver, in the name and on behalf of the Issuer, an Indenture of Trust in substantially the form submitted to this Common Council, which is hereby approved in all respects.

Section 7. Loan Agreement. In order to provide for the loan of the proceeds of the Bonds to refund the Series A Bond originally issued to acquire, construct and develop the Project and the payment by the Borrower of an amount sufficient to pay the principal of and premium, if any, and interest on the Bonds, the Mayor and City Clerk shall execute, acknowledge and deliver in the name and on behalf of the Issuer a Loan Agreement in substantially the form submitted to this Common Council, which is hereby approved in all respects.

Section 8. Acceptance of Note. In connection with the Bonds, the Issuer accepts as security for such Bonds the Note of the Borrower. The Note shall be in substantially the form attached as Exhibit B to the Loan Agreement. The Mayor and City Clerk shall endorse the Note to the Trustee.

Section 9. Additional Approval. The forms of the Mortgage and the Assignment of Rents and Leases before this meeting, to be signed by parties other than the Issuer in connection with the issuance and the Bonds and the security therefor, are hereby approved in form and content, with such changes and revisions as may be necessary and agreed upon by the parties thereto.

Section 10. Execution. The Common Council understands that there will be revisions in the forms of documents before Common Council prior to the actual issuance of the Bonds, including but not limited to revisions concerning the rate of interest in the event of a Determination of Taxability, and prepayment provisions for the Bonds. Execution and sealing by Mayor and the City Clerk of the Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, and endorsement by the Mayor and the City Clerk of the Note shall constitute conclusive evidence of their approval of any and all changes of revisions therein from the forms of such documents before this meeting.

Section 11. The Issuer hereby approves and confirms and consents to the location and time of the public hearing (and the published notice with respect thereto) by the County Council of Monroe County, Indiana, such hearing being held to comply with Section 103(k) of the Internal Revenue Code of 1954.

Section 12. General. The Mayor and the City Clerk and other officials and employees be and they are each hereby authroized and directed, in the name and on behalf of the Issuer, to execute any an all agreements, documents, and instruments, perform any and all acts, approve any and all matters, and do any and all things deemed by them, or any of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the refinancing of the acquisition, construction and installation of the Project by the Borrower, the issuance and sale of the Bonds, and the securing of the Bonds under the Indenture.

Section 13. Sectin 103(b)(6)(D) Election. The Issuer elects to have the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended, apply to the issue of the Bonds and the Mayor and City Clerk are hereby authorized, empowered, and directed to file such election with the Internal Revenue Service for and on behalf of the Issuer.

Section 14. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon its adoption by the Common Council and approval by the Mayor.

Presented by Council Member Olcott.

Passed and approved in open Council this 20 day of December, 1983.

Katherine Delcher
Presiding Officer of the Common Council

(SEAL)
ATTEST:

Patricia Williams
City Clerk

Presented by me to the Mayor this 21 day of December, 1983, at the hour of 9 o'clock A.M.

Patricia Williams
City Clerk
Patricia Williams

Approved this 22 day of December, 1983, at the hour of 3 o'clock P.M.

Tomilea Allison
Mayor
Tomilea Allison

12/21/83
Copies to: Co. Auditor
Controller
Reder.

MINUTES of a public meeting of the Common Council of the City of Bloomington, Indiana, held at _____, City Hall, 220 East Third Street, Bloomington, Indiana 47402 7:30 P.M., on the 20th day of December, 1983.

* * *

The Mayor called the meeting to order and directed the City Clerk to call the roll. Upon the roll being called Tomilea Allison, Mayor, and the following Council Members answered present:

_____

_____

The following Council Members were absent:

Jack Morrison

* * *

Council Member Olcott presented, and the City Clerk read, an ordinance as follows:

ORDINANCE NO. 83-64

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF $4,000,000 ECONOMIC DEVELOPMENT REVENUE BONDS, REFUNDING SERIES OF THE CITY OF BLOOMINGTON, INDIANA FOR THE PURPOSE OF REFUNDING PRIOR BONDS ISSUED TO MAKE A LOAN TO BLOOMINGTON SQUARE ASSOCIATES IN ORDER TO FINANCE THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES LOCATED IN THE COUNTY OF MONROE, INDIANA; AUTHORIZING EXECUTION OF A LOAN AGREEMENT; PROVIDING FOR THE DELIVERY OF A NOTE AND ASSIGNMENT THEREOF AS SECURITY FOR SAID BONDS; AUTHORIZING AN INDENTURE OF TRUST APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF THE REVENUES FROM SUCH NOTE; AND AUTHORIZING THE TERMS AND SALE OF SAID BONDS AND THE EXECUTION OF THE BOND PURCHASE AGREEMENT; AND APPROVING THE TERMS OF THE MORTGAGE, AND THE ASSIGNMENT OF RENTS AND LEASES AND RELATED MATTERS.

EXHIBIT E

As this Ordinance had its first reading at the December 7, 1983 regular meeting of the Common Council, Council Member Olcott moved and Council Member Murphy seconded the motion that said Ordinance as presented and read by the City Clerk be adopted.

After a full discussion thereof, the chairman directed that the roll be called for a vote upon the motion to adopt said Ordinance as read.

Upon the roll being called, the following Council Members voted AYE: Towell, Porter, Service, Dilcher, Murphy, Gross, Olcott, Hogan

The following Council Member(s) voted NAY: 0

Whereupon the chairman declared the motion carried and approved the Ordinance as adopted and did direct the City Clerk to record the same in the records of the Common Council of the City of Bloomington, Indiana.

Other business not pertinent to the adoption of said Ordinance was duly transacted at said meeting.

Upon motion duly made and seconded, the meeting was adjourned.

Patricia Williams
City Clerk
Patricia Williams

[SEAL]