ORDINANCE 80-37

To Authorize the Issuance and Sale of Economic Development Bonds for the Woodbridge Apartment Project (Glick)

WHEREAS, the City of Bloomington, Indiana (hereinafter called the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. Sections 18-6-4.5-1 through 18-6-4.5-30, inclusive, as amended (hereinafter called the "Act") is authorized and empowered to acquire economic development facilities as those words are defined in the Act and to make direct loans to users for the acquisition and construction of economic development facilities to promote the general welfare of the area in and near the City and to issue its economic development revenue bonds to pay all costs of acquisition or construction of such economic development facilities, including engineering, legal fees, and all other expenses relating thereto during construction, including the costs of issuing the bonds, and to secure said bonds pursuant to a Loan Agreement dated as of May 1, 1980 by and between the City and the User (as hereinafter defined) (the "Loan Agreement") and an Indenture of Trust dated as of May 1, 1980 by and between the City and a trustee to be named later (the "Indenture"); and

WHEREAS, Woodbridge Apartments of Bloomington (the "User") is a limited partnership organized and existing under the laws of the State of Indiana, with its principal office located in Indianapolis, Indiana, and duly qualified to conduct business in the State of Indiana; and

WHEREAS, the User has agreed to acquire and construct economic development facilities for residential use within the limits of the City in the State of Indiana and thereby promote the general economic welfare of the area in and near the City and provide diversification of housing in and near the area of the City, and make payments pursuant to the Loan Agreement evidencing its loan obligations in an amount or amounts sufficient to pay the principal of and interest on the economic development revenue bonds hereinafter authorized; and

WHEREAS, the Common Council of the City (the "Common Council") has heretofore, by Ordinance and pursuant to I.C. 1971, 18-6-4-1 through 18-6-4-28, inclusive, created the Bloomington Economic Development Commission (the "Commission") and the members of the Commission have been duly appointed and qualified pursuant to law and the Commission has organized and undertaken the duties imposed upon it by the Act and has found by written resolution that, because of existing insufficient sites developed for residential use, the economic welfare of the City would be benefited by financing the acquisition of economic development facilities for residential use for and on behalf of the User; and

WHEREAS, the Commission has, by such resolution, approved a report estimating the public services which would be made necessary or desirable, the expense thereof, the number of units developed for residential use on account of the acquisition of the economic development facilities and the cost of the economic development facilities and has submitted such report to the appropriate Plan Commission, and, if required by the Act, to the Superintendent of the school corporation where the facilities will be located; and

WHEREAS, after giving notice in accordance with the Act, the Commission held a public hearing on the proposed financing and adopted a resolution finding the proposed financing complies with the purposes and provisions of the Act, approving the financing and approving the form and terms of the Bonds proposed to be issued by the City for the purpose of funding a loan from the City to finance the cost of acquisition of such facilities, the Loan Agreement and Indenture, which resolution and other instruments and information pertaining to the proposed financing have been transmitted to the Common Council of the City by the Secretary of the Commission; and

WHEREAS, pursuant to the Act, this Common Council has adopted a resolution finding that the proposed financing of the acquisition of such economic development facilities for residential use by the User will be of benefit to the general welfare of the City, approving the proposed financing and authorizing the issuance by the City of Construction Loan Revenue Bonds (FHA-Insured Advances) (the "Bonds") in a principal amount not to exceed $7,000,000, payable solely from the sources, having such terms and provisions and secured as provided by the Indenture and the Loan Agreement.

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

Section 1. Public Benefits: The Common Council of the City hereby finds and determines that the real estate, interests in real estate, other improvements thereon and other machinery and equipment, to be acquired and constructed with the proceeds of the Bonds herein authorized are "economic development facilities" as that phrase is used in the Act and that acquisition and construction of the Project will increase the number of sites developed for residential use in and near the City, will improve and promote the economic stability, development and the general welfare of the area in and near the City and will encourage and promote the expansion of industry, trade and commerce in the area in and near the City and the location of other new economic development facilities in such area.

Section 2. Findings: The Common Council hereby finds that this Ordinance (the "Bond Ordinance") is of public benefit to the general welfare of the City by tending to overcome the deficiencies previously found to exist, to-wit: insufficient housing facilities, and that such benefit is greater than the cost of public facilities (as that phrase is defined in the Act) which will be required by the Project and further that the proposed financing will be of benefit to the welfare of the City and complies with the purposes and provisions of the Act.

Section 3. Authorization of Economic Development Revenue Bonds: In order to pay the cost of acquiring and constructing the Project, the Bonds are hereby authorized to be issued, sold and delivered provided that the Bonds shall mature in Nov., 1982 and bear interest at a rate not to exceed 11% per annum. It is hereby recognized that, pursuant to the terms of the Loan Agreement, any balance of the cost of the Project will be paid for by the User.

Section 4. Definitions: In addition to the words and terms defined in this Bond Ordinance, the words and terms used in this Bond Ordinance shall have the meanings set forth in the Indenture and Loan Agreement unless the context or use indicates another or different meaning or intent and the form of the Bonds and the forms of the Loan Agreement and Indenture, which forms are before the meeting, are hereby incorporated by reference in this Bond Ordinance and the Clerk is hereby directed to insert them into the minutes of the Common Council and to keep them on file.

Section 5. Terms of the Bonds: The total principal amount of the Bonds that may be issued is hereby expressly limited to $5,900,000. The terms of the Bonds will be such as are set forth in the Indenture and particularly as set forth in Articles II and III of the Indenture, and such terms are adopted herein by reference and by approval of the Indenture.

The Bonds are limited obligations of the City, payable solely from payments of principal and interest made by the User pursuant to the Loan Agreement, or proceeds from the Government National Mortgage Association ("GNMA") Commitment Contract with respect to the Project by and between GNMA and Mount Vernon Sales and Mortgage Corporation, except to the extent that the principal of and interest on the Bonds may be paid out of money attributable to Bond proceeds or, from temporary investments, or from other moneys, if any, accruing

to the Trustee for the benefit of the bondholders. The Loan Agreement shall equally and ratably secure all outstanding Bonds, and payments by the User shall be used by the Trustee to make like payment of principal of or interest on the Bonds.

By the Indenture, the City will assign to the Trustee the City's rights under the Loan Agreement, including the right of the City to receive payments thereunder, all as security for the payment of the Bonds. The Bonds will be secured as provided in the Indenture and the terms of said instrument are adopted herein by reference and by approval of the instrument.

The Loan Agreement, Note and Mortgage of the User, and documents executed thereunder, will constitute the sole security for the Bonds. The Bonds and the interest thereon shall be a valid claim of the respective holders only against the Bond Fund created under the Indenture and other moneys held by the Trustee. The City will have no ownership interest in the Project.

The Bonds do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City.

Section 6. Authorization of Bonds: That there is hereby authorized and directed the following:

(a) The execution, issuance, sale and delivery of up to $5,900,000 Construction Loan Revenue Bonds (Woodbridge Apartments Project--FHA-Insured Advances) Series 1980, of the City of Bloomington, Indiana, dated May 1, 1980, for the purposes expressed herein, having substantially the form, details and specifications set out in the Indenture, which Bonds and appurtenant coupons, if any, shall not constitute nor give rise to a pecuniary liability of the City or a charge against the general credit or taxing powers of the City.

(b) The execution of the Bond Purchase Agreement providing for the purchase and sale of the Bonds.

Section 7. Indenture: That for the purpose of further securing the Bonds and to provide the details thereof and to prescribe the terms and conditions upon which the Bonds are to be secured, executed, authenticated, accepted and held, the Indenture in substantially the form attached hereto as Exhibit A and containing substantially the terms and provisions set forth therein is hereby authorized to be executed, attested, sealed and delivered on behalf of the City by its Mayor (the "Mayor") and the City Clerk (the "Clerk"), with such changes, modifications, additions and deletions therein as shall seem necessary, desirable or appropriate, including specifically but without limitation authorization of the issuance of the Bonds in an amount less than $5,900,000 and at a rate less than 11% per annum, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions or deletions therein from the form of the Indenture now before this meeting, and said officials are hereby authorized and directed to cause said Indenture to be accepted, executed and acknowledged by the Trustee thereunder. Said Indenture shall constitute and is hereby made a part of this authorizing bond ordinance.

Section 8. Loan Agreement: That the Mayor and the Clerk are hereby authorized and directed to execute, attest, seal and deliver the Loan Agreement in substantially the form attached hereto as Exhibit B, and containing substantially the terms and provisions set forth therein, with such changes, modifications, additions and deletions therein as shall seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes and modifications, additions or deletions therein from the form of the Loan Agreement now before this meeting.

Section 9. Bond Purchase Agreement: That the sale of the Bonds to Kirchner, Moore and Company pursuant to the Bond Purchase Agreement, in substantially the form attached hereto as Exhibit C and containing substantially the terms and provisions set forth therein, is hereby authorized, approved and confirmed, and the Mayor and the Clerk are hereby authorized and directed to execute, attest, seal and deliver said Bond Purchase Agreement, with such changes, modifications, additions and deletions therein as shall seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes and modifications, additions or deletions from the form of the Bond Purchase Agreement now before this meeting.

Section 10. Inducement Letter: That the Mayor is hereby authorized and directed to accept the Inducement Letter in substantially the form attached hereto as Exhibit D and containing substantially the terms and provisions set forth therein for and on behalf of the City by execution thereof with such changes, modifications, additions or deletions therein as shall seem necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from the form and content of the Inducement Letter now before this meeting.

Section 11. Security Agreement of Mount Vernon Sales and Mortgage Corporation: That the Mayor is hereby authorized and directed to accept the Security Agreement of Mount Vernon Sales and Mortgage Corporation in substantially the form attached hereto as Exhibit E and containing substantially the terms and provisions set forth therein for and on behalf of the City by execution thereof with such changes, modifications, additions or deletions therein as shall seem necessary, desirable or appropriate, his execution thereof to constitute conclusive evidence of his approval of any and all changes, modifications, additions or deletions therein from

the form and content of the Security Agreement of Mount Vernon Sales and Mortgage Corporation now before this meeting.

Section 12. Official Statement: That the use of a Preliminary Official Statement relating in part to the Bonds, be and the same is hereby authorized a final Official Statement with such changes, modifications, additions or deletions therein as shall seem necessary, desirable or appropriate, the Mayor's execution thereof to constitute conclusive evidence of his approval of the form and content of the Preliminary Official Statement, and the Mayor is authorized to execute said final Official Statement.

Section 13. Additional Documents: That the Mayor and the Clerk are hereby authorized and directed to execute, attest, seal and deliver any and all documents and do any and all things deemed necessary in order to effect the issuance and sale of said Bonds, and the execution and delivery of said Loan Agreement, Indenture and Bond Purchase Agreement and to carry out the intent and purposes of this ordinance.

Section 14. Severability: That the provisions of this ordinance are hereby declared to be separable and if any section, phrase or provision (including the Exhibits hereto, which are made a part hereof and incorporated herein by reference) shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions. The Exhibits herein referenced and made a part hereof are on file in the office of the Clerk in Bloomington, Indiana, and are available for inspection by any interested party.

Section 15. Conflicting Ordinances: That all Ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 16. Recordation: That immediately after its adoption this Ordinance shall be signed by the Mayor and the Clerk, shall be recorded in a book kept for that purpose and shall take immediate effect.

SECTION 17. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1st day of May, 1980.

Tomilea Allison
Tomilea Allison, President
Bloomington Common Council

ATTEST:

Nora M. Connors
Nora M. Connors, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of May, 1980.

Nora M. Connors
Nora M. Connors, City Clerk

SIGNED and APPROVED by me upon this 2nd day of May, 1980.

Francis X. McCloskey
Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

This ordinance would authorize the City of Bloomington to issue its economic development revenue bonds for the Woodbridge Apartment Project (Glick, Incorporated). The bonds will be for $5,900,000 and will be used to construct 150 apartment units on E. Tenth Street east of Pete Ellis Drive. The City has no liability for these bonds if approved.

I HEREBY MOVE THAT XX ORDINANCE ____ APPROPRIATION ORDINANCE # 80-37, ENTITLED To Authorize EDC Bonds for Woodbridge Apartment Project on E. Tenth Street (Glick)

BE INTRODUCED AND READ FOR FIRST READING BY TITLE ONLY AT THE COUNCIL MEETING HELD ON APRIL 17, 1980.

Floyd W. Olcott

(Signature)