ORDINANCE 80-102

To Authorize the Issuance of Economic Development Revenue Bonds for Kittle's Bloomington Properties Company

WHEREAS, the Bloomington Economic Development Commission has rendered its Project Report for the Kittle's Bloomington Properties Company Project regarding the financing of proposed economic development facilities for Kittle's Bloomington Properties Co., who will lease said facilities to Kittle's Home Furnishings Center, Inc. and Kittle's Whitehall, Inc., and the Bloomington Planning Commission has commented favorably thereon; and

WHEREAS, the Bloomington Economic Development Commission conducted a public hearing on December 4, 1980, and also adopted a resolution on December 4, 1980, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Kittle's Bloomington Properties Company complies with the purposes and provisions of IC 18-6-4.5 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 heretofore approved and recommended 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 Loan Agreement, Note, Mortgage and Indenture of Trust, Lease Agreements, Conditional Assignment of Lease, Guaranty Agreement and Second Mortgage, and Guaranty Agreement;

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

SECTION I. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Bloomington Economic Development Commission and presented to the Common Council, the issuance and sale of revenue bonds, the loan of the proceeds of the revenue bonds to Kittle's Bloomington Properties Company for the acquisition and construction of such facilities and the equipping thereof, the payment of the revenue bonds by the note payments of Kittle's Bloomington Properties Company under the Loan Agreement and Note, the securing of said bonds by the mortgaging of such facilities to the Trustee under the Mortgage and Indenture of Trust, the leasing of the economic development facilities to Kittle's Home Furnishings Center, Inc. and Kittle's Whitehall, Inc. under the Lease Agreements, and the guaranty of payment of principal and interest on the revenue bonds by Kittle's Home Furnishings Center, Inc., Kittle's Commercial Interiors, Inc., Kittle's Advertising, Inc., Kittle's Franchised Furniture Stores, Inc., Kittle's Whitehall, Inc., Kittle's Realty Company and Kittle's Building Company under the Guaranty Agreement and Second Mortgage, and by John L. Kittle, James L. Kittle, Jr. and John F. Durkott under the Guaranty Agreement, complies with the purposes and provisions of IC 18-6-4.5 and will be of benefit to the health and welfare of the City of Bloomington and its citizens.

SECTION II. The final forms of the Loan Agreement, Note, Mortgage and Indenture of Trust, Lease Agreements, Conditional Assignment of Lease, Guaranty Agreement and Second Mortgage, and Guaranty Agreement approved by the Bloomington Economic Development Commission are hereby approved and all such documents (herein collectively referred to as the "Financing Agreement" referred to in IC 18-6-4.5), shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the City Clerk.

SECTION III. The City of Bloomington shall issue its Economic Development First Mortgage Revenue Bonds, Series 1980 (Kittle's Bloomington Properties Company Project), in the total principal amount of One Million Dollars ($1,000,000) 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 Mortgage and Indenture of Trust and Loan Agreement incorporated herein by reference, which bonds will be payable as to principal, premium, if any, and interest from the note payments made by Kittle's Bloomington Properties Company under the Loan

Agreement and Note or as otherwise provided in the above described Mortgage and Indenture of Trust. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Bloomington.

SECTION IV. The Mayor and the City Clerk are authorized and directed to sell such bonds to the purchasers thereof at a rate of interest per annum on the bonds not to exceed 67% of the prime commercial lending rate established by American Fletcher National Bank and Trust Company at its principal office, and at a price not less than 100% of the principal amount thereof.

SECTION V. The Mayor and City Clerk are authorized and directed to execute 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 signatures of the Mayor and City Clerk on the bonds may be facsimile signatures. The City Clerk is authorized to arrange for delivery of such Bonds to the Trustee named in the Mortgage and Indenture of Trust, payment for which will be made to the Trustees named in the Mortgage and Indenture of Trust and delivered by the Trustee to the purchasers thereof.

SECTION VI. The provisions of this Ordinance and the Mortgage and Indenture of Trust securing the bonds shall constitute a contract binding between the City of Bloomington and the holder of the Economic Development First Mortgage Revenue Bonds, Series 1980 (Kittle's Bloomington Properties Company Project), 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 VII. 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 7th day of January, 1981.

Patrick J. Murphy

Patrick Murphy, President Pro-Tem
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 8th day of January, 1981.

Nora M. Connors

Nora M. Connors, City Clerk

SIGNED and APPROVED by me upon this 12th day of January, 1981.

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 Kittle's Bloomington Properties Co. The bonds will be for $1,000,000 and will be used to acquire Buchanan Furniture Store and to construct a new store for Ethan Allen Furniture. Both stores will be located on Buick-Cadillac Boulevard. The city has no liability for these bonds if approved.

I HEREBY MOVE THAT XXX ORDINANCE ____ APPROPRIATION ORDINANCE #80-102, ENTITLED TO AUTHORIZE ECONOMIC DEVELOPMENT REVENUE BONDS FOR KITTLE'S BLOOMINGTON PROPERTIES COMPANY (KITTLE'S & ETHAN ALLEN FURNITURE) BE INTRODUCED AND READ FOR FIRST READ BY TITLE ONLY AT THE COUNCIL MEETING HELD ON DECEMBER 4, 1980.

Lloyd W. Pecott