ORDINANCE 81-67

To Authorize the Issuance of $270,000 in Economic Development Revenue Bonds (RMG Development Project) and to Approve Other Actions in Respect Thereto

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 IC 18-6-4.5, inclusive, as amended (hereinafter called the "Act") is authorized and empowered to make direct loans to a developer for the acquisition and construction of economic development facilities to overcome insufficient employment opportunities and insufficient diversification of industry in and near the City and to promote the general economic 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 fees, legal fees, all other expenses related thereto during construction, and the costs of issuing the bonds, and to secure said bonds by receiving a mortgage and a collateral assignment of rents on such facilities and notes of the developer of the facilities; and

WHEREAS, RMG Development (the "Developer") is a general partnership duly organized and existing under the laws of the State of Indiana, with its principal office in Bloomington, Indiana, and duly qualified to conduct business in the State of Indiana; and

WHEREAS, Rogers, McDonald & Jones, (the "User") is a partnership duly organized and existing under the laws of the State of Indiana, with its principal place of business in Bloomington, Indiana, and duly qualified to conduct business in the State of Indiana; and

WHEREAS, the Developer has agreed to acquire and construct economic development facilities within the limits of the City and lease a part of the facilities to the User and subsequently to lease the remaining part of the facilities to others and

thereby create new employment opportunities and provide diversification of economic development in and near the area of the City, and make payments on the notes evidencing its loan obligations in an amount or amounts sufficient to pay the principal of, premium, if any, and interest on the economic development revenue bond hereinafter authorized; and

WHEREAS, the Common Council of the City (the "Council") has heretofore, by Ordinance and pursuant to the Act, 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 dated September 24, 1980, that because of existing insufficient employment opportunities and insufficient diversification of industry, the economic welfare of the City would be benefited by financing the acquisition of economic development facilities for and on behalf of the Developer; and

WHEREAS, the Council has heretofore, by Resolution No. 80-20, dated October 2, 1980, induced the Developer to make acquisitions and to undertake construction of economic development facilities within the limits of the County of Monroe, in the City; and

WHEREAS, the Commission has, by resolution, approved a report estimating the public services which would be made necessary or desirable, and the expense thereof, the number of jobs, the estimated payroll 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 City of Bloomington Plan Commission, the planning agency with jurisdiction over the economic development facilities; and

WHEREAS, after giving notice in accordance with the Act, the Commission held on June 24, 1981, a public hearing on the proposed financing and thereafter adopted a resolution finding the proposed financing complies with the purposes and provisions of the Act and will be of benefit to the health and welfare of the City and its citizens, and approving the

financing and the final form and terms of the proposed financing and authorizing the issuance by the City of $270,000.00 principal amount of Economic Development Revenue Bond (the "Bond") (RMG Development Project) payable solely from the sources, having such terms and provisions as provided in the form of Bond approved hereby and secured as provided by a Loan Agreement, Mortgage and Security Agreement between the City, the Developer and First Federal Savings and Loan Association of Indianapolis, the proposed bond purchaser (the "Bondholder") (the "Agreement"); a First Mortgage Note of the Developer (the "Note"); a Collateral Assignment of Rents of the Developer (the "Assignment of Rents"); a Lease between Developer, as lessor, and the User, as lessee (the "Lease"); a Lessee's Statement and Consent to Assignment from the User (the "Lessee's Statement"); a Guaranty from W. George Pinnell and and James E. Owens (the "Guaranty"); and the Mortgator's Affidavit of Developer (the "Mortgagor's Affidavit"), which resolution and other instruments and information pertaining to the proposed financing have been transmitted to the Council by the Secretary of the Commission;

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

Section 1. Public Benefits. The Council hereby finds and determines that the real estate, interests in the real estate, other improvements thereon and other personal property equipment (the "Project") to be acquired and constructed with the proceeds of the Bond herein authorized as "economic development facilities" as that phrase is used in the Act and acquisition and construction of the Project will increase employment opportunities and increase diversification of economic development in and near the City, will improve and promote the economic stability, development and 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 and will be of benefit to the health and welfare of the City and its citizens and complies with the purposes and provisions of the Act.

Section 2. Authorization of $270,000.00 Economic Development Revenue Bond. In order to pay the cost of acquiring and constructing the Project, there is hereby authorized to be issued, sold and delivered the Bond in the principal amount of $270,000.00. It is hereby recognized that pursuant to the terms of the Agreement, any balance of the cost of the Project will be paid for by the Developer.

Section 3. Terms for the Bond. The total principal amount of the Bond is hereby expressly limited to $270,000.00. The City shall issue and sell the Bond to the Bondholder. The terms of the Bond shall be in substantially the form as is set forth in the form of the Bond which has heretofore been submitted to Council and approved by the Council pursuant to this Ordinance.

The Bond is a limited obligation of the City, payable solely from payments of principal, premium, if any, and interest made by the Developer on the Note, except to the extent that the principal of, premium, if any, and interest on the Bond may be paid out of money attributable to Bond proceeds or from temporary investments, or from other moneys, if any, accruing for the benefit of the Bondholder. The Note and Agreement shall secure the Bond as provided in the Agreement. Payments by the Developer on the Note shall be used by the Bondholder to make a like payment of principal, premium, or interest on, the Bond.

The City will assign to the Bondholder the City's rights under the Agreement and the Note and Assignment of Rents, including the right of the City to receive the Note and to receive payments thereunder, all as security for the payment of the Bond. The Bond will be secured as provided in the Agreement and the Assignment of Rents and the terms of said instruments including the Bond, are adopted herein by reference.

The Note and the foregoing documents will constitute the sole security for the Bond. The Bond and the interest thereon shall be a valid claim of the holder only against the Bond Fund and the Construction Fund created under the Agreement and other

moneys and security actually or constructively held by the Bondholder pursuant to the Agreement. The City will have no ownership interest in the Project, and the Bond will not be secured by any other mortgage or other security interest in the Project or in any other property of the Developer.

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

Section 4. Sale of the Bond. The Mayor of the City and the Clerk of the City are hereby authorized and directed to sell the Bond to Bondholder, at a price of par, plus accrued interest from the first day of the month during which the Bond is delivered, to the date of delivery of the Bond and upon such other terms as are provided in the Agreement. The Bond shall be executed on behalf of the City with the manual or facsimile signature of the Mayor, and shall have affixed, impressed, imprinted or otherwise reproduced thereon the corporate seal of the City or a facsimile thereof and attested by the manual or facsimile signature of its Clerk. All authorized facsimile signatures shall have the same force and effect as if manually signed. In case any official of the City whose signature or facsimile of whose signature shall appear on the Bond shall cease to be such official before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. In the event the Bond is mutilated, lost, stolen or destroyed, the City may execute and deliver a new bond of like date, maturity and denomination; provided that, in the case the Bond is mutilated, the Bond shall first be surrendered to the City, and in the case the Bond is lost, stolen or destroyed, there shall be first furnished to the City evidence of such loss, theft or destruction satisfactory to the City, together with any indemnity satisfactory to it. In the event the Bond shall have matured, instead of issuing a duplicate Bond, the City may pay the same without surrender thereof. The City may charge the holder or owner of the Bond with its reasonable fees and expenses in this connection.

Section 5. Approval of Form of Financing Agreement. The forms of the Bond, Agreement, Note, Assignment of Rents, Lease, Lessee's Statement, Guaranty and Mortgagor's Affidavit, heretofore approved by the Commission, and all other documents referred to herein, 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 Council and kept on file by the Clerk. The City hereby covenants to comply with all obligations to be performed by the City pursuant to the Financing Agreement. The final forms of the Financing Agreement shall be in substantially the forms as herein approved, with only minor changes for clarification or correction as are approved by the City attorney.

Section 6. Execution of Financing Agreement. The Mayor and Clerk are hereby 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 Bond herein authorized. The signatures of the Mayor and Clerk may be facsimile signatures. The Clerk is authorized to arrange for delivery of the Bond to the Bondholder.

Section 7. Binding Contract. The provisions of this Ordinance and the Financing Agreement shall collectively constitute a contract binding between the City, Bondholder and Developer and after the issuance of the Bond this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bond so long as the Bond remains unpaid.

Section 8. Binding Effect. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed by the Common Council of the City this 15th day of July, 1981.

Alfred I. Towell

Alfred I. Towell, President

ATTEST:

Nora Connors, Clerk

Presented by me to the Mayor of the City of Bloomington, Indiana, on the 16th day of July, 1981.

Nora Connors, Clerk

This Ordinance approved and signed by me on this 16th day of July, 1981.

Francis C. McCloskey, Mayor

SYNOPSIS

This ordinance would authorize the City of Bloomington to issue Economic Development Commission bonds in the amount of $270,000 to RMG Development for acquisition and construction of the former Older American Center on East Sixth Street. The building will be leased to the Rogers, McDonald and Jones law-firm and other tenants as office space.