ORDINANCE - 84-43

To Authorize the Issuance of
Economic Development Revenue Bonds for
Alford-Bloomington, Ltd. Project

WHEREAS, the Bloomington Economic Development Commission has rendered its Project Report for the Alford-Bloomington, Ltd. Project regarding the financing of proposed economic development facilities for Alford-Bloomington, Ltd., who will lease said facilities to Marsh Supermarkets, Inc., and the Bloomington Planning Commission has commented favorably thereon; and

WHEREAS, the Bloomington Economic Development Commission conducted a public hearing on July 25, 1984 and also adopted a resolution on _____, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Alford-Bloomington, Ltd. complies with the purposes and provisions of I.C. 36-7-12 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 Lease Agreement, Bond Purchase Agreement, Loan Agreement, Mortgage and Security Agreement and First Mortgage Note;

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 to Alford-Bloomington, Ltd. for the acquisition and construction of such facilities and the equipping thereof, the payment of the revenue bonds by the note payments of Alford-Bloomington, Ltd. under the Loan Agreement and First Mortgage Note, the securing of said bonds by the mortgaging of such facilities to the City of Bloomington under the Mortgage and Security Agreement, and the leasing of the economic development facilities to Marsh Supermarkets, Inc. under the Lease Agreement, complies with the purposes and provisions of I.C. 36-7-12 and will be of benefit to the health and welfare of the City of Bloomington and its citizens.

SECTION II. The substantially final forms of the Lease Agreement, Guaranty Agreement, Collateral Assignment of Lease, Bond Purchase Agreement, Loan Agreement, Mortgage and Security Agreement and First Mortgage Note 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 I.C. 36-7-12), 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 Revenue Bond, Series 1984 (Alford-Bloomington, Ltd. Project), in the total principal amount of

Two Million Four Hundred Thousand Dollars ($2,400,000.00) 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 Loan Agreement and Mortgage and Security Agreement, incorporated herein by reference, which bonds will be payable as to principal, premium, if any, and interest from the note payments made by Alford-Bloomington, Ltd. under the Loan Agreement and Note or as otherwise provided in the above-described Mortgage and Security Agreement. 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 Eighty percent (80%) of the "base rate", established by First Tennessee Bank National Association, Memphis, Tennessee, at its principal office, except in the case of a determination of taxability in which case the rate should increase to one percent over the "base rate" and at a price not less than one hundred percent (100%) of the principal amount thereof, plus additional interest at the amount of Twenty-four Thousand Dollars ($24,000.00) at the date of closing.

SECTION V. The Mayor and the 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 Bondholder named in the Bond Purchase Agreement, payment for which will be made in accordance with the terms outlined in the First Mortgage Note, Bond Purchase Agreement and Loan Agreement.

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 advise of the City Attorney; it being the express understanding of this Common Council that said Financing Agreement is in a 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, interest rate on or term of the Bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council.

SECTION VI. The provisions of this Ordinance and the Loan Agreement and Mortgage and Security Agreement securing the bonds shall constitute a contract binding between the City of Bloomington and the holder of the Economic Development Revenue Bond, Series 1984 (Alford-Bloomington, Ltd. 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 15 day of August, 1984.

Patricia A. Gross
Bloomington Common Council
Presiding Officer

ATTEST

Patricia Williams
Patricia Williams, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 15th day of August, 1984.

Patricia Williams
Patricia Williams, City Clerk

SIGNED AND APPROVED by me upon this 15 day of August, 1984.

Tomilea Allison
Tomilea Allison, Mayor
City of Bloomington

SYNOPSIS

This Ordinance would authorize the City of Bloomington to issue its economic development revenue bonds for Alford-Bloomington, Ltd. the bonds will be for Two Million Four Hundred Thousand Dollars ($2,400,000.00) and will be used to acquire real estate and to construct a new store for Marsh Supermarkets, Inc. The store will be located on South Walnut Street. The City has no liability for these bonds if approved.