Passed 8-0
(Sturbaum absent)

ORDINANCE 07-04

AUTHORIZING THE CITY OF BLOOMINGTON, INDIANA TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2007 (JILL'S HOUSE, INC. PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of Bloomington, Indiana Economic Development Commission has rendered its Project Report for the Jill's House, Inc. Project regarding the financing of proposed economic development facilities for Jill's House, Inc. (the "Borrower"), and the Commission has commented favorably thereon; and

WHEREAS, the City of Bloomington, Indiana Economic Development Commission conducted a public hearing on June 8, 2007 before the Commission, and adopted a Resolution on June 8, 2007, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of the Borrower, as owners, complies with the purposes and provisions of I.C. 36-7-11.9 and -12 and that such financing will be of benefit to the health and welfare of the City of Bloomington, Indiana and its citizens; and

WHEREAS, the City of Bloomington, Indiana Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Loan Agreement; the Note; the Bond Purchase Agreement; the Trust Indenture; and the Preliminary Offering Circular.

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

Section 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the City of Bloomington, Indiana Economic Development Commission and presented to this Common Council, the issuance and sale of the City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2007 (Jill's House, Inc. Project) (the "Bonds"), the loan of the proceeds of the Bonds to the Borrower for the acquisition, construction and equipping of such facilities, the payment of the Bonds by the note payments for the payment of interest on or principal of the Bonds, and the securing of said Bonds, under the Trust Indenture complies with the purposes and provisions of I.C. 36-7-11.9 and -12 and will be of benefit to the health and welfare of the City of Bloomington, Indiana and its citizens.

Section 2. The economic development facilities will consist of the construction and equipping of an economic development facility consisting of the construction and equipping of a new 31,058 square foot, three story, 25 bedroom residential facility located at 751 East Tamarack Trail, Bloomington, Indiana, to be used by the Borrower to provide lodging for families of patients of the Midwest Proton Radiotherapy Institute (the "Project").

Section 3. At the public hearing held before the City of Bloomington, Indiana Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in or near the City of Bloomington, Indiana and subsequently found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the facilities in or near the City of Bloomington, Indiana will be of benefit to the health and welfare of the citizens of the City of Bloomington, Indiana.

Section 4. The substantially final forms of the Loan Agreement; the Note; the Bond Purchase Agreement; the Trust Indenture; and the Preliminary Offering Circular approved by the City of Bloomington, Indiana Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and -12) and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. Use by Fifth Third Securities, Inc., as Underwriter, of the Preliminary Offering Circular in the pre-marketing of the Bonds is hereby ratified and approved. In accordance with the provisions of I.C. 36-1-5-4 two (2) copies of the Financing Agreement are on file in the office of the Clerk for public inspection.

Section 5. The City of Bloomington, Indiana shall issue its Bonds in the total principal amount not to exceed $3,000,000 and maturing no later than forty (40) years from the date of the first principal payment thereon. Said Bonds are to be issued 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 Trust Indenture 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 the Borrower under the Loan Agreement and Note or as otherwise provided in the above described Trust Indenture. The Bonds shall be issued in a fully registered form in denominations of $100,000 or in integral multiples of $5,000 in excess thereof as set forth in the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America by check or draft mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Bloomington, Indiana nor are the Bonds payable in any manner from revenues raised by taxation.

Section 6. The Mayor and Clerk are authorized and directed to sell the Bonds to Fifth Third Securities, Inc., as Underwriter, at a price of not less than 98% of the principal amount thereof which shall include an underwriter's discount not to exceed 2%. The Bonds shall bear interest at the rates per annum established in the Trust Indenture, provided that the interest rate on the bonds shall not exceed the Maximum Rate, as such term is defined in the Trust Indenture.

Section 7. The Mayor and the Clerk are authorized and directed to execute, attest, affix or imprint by any means the seal of the City of Bloomington, Indiana to the documents constituting the Financing Agreement approved herein on behalf of the City of Bloomington, Indiana and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to deem the Preliminary Offering Circular relating to the issuance of the Bonds as a nearly final Offering Circular. 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 advice of the counsel to the City of Bloomington, Indiana; it being the express understanding of this Common Council that said Financing Agreement is in 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 with this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the Bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee named in the Trust Indenture, and payment for the Bonds will be made to the Trustee named in the Trust Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.

Section 8. The provisions of this Ordinance and Trust Indenture securing the Bonds shall constitute a contract binding between the City of Bloomington, Indiana and the holders of the Bonds, 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 said Bonds or the interest thereon remains unpaid.

Section 9. The City of Bloomington, Indiana hereby designates the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended and supplemented from time to time, together with the regulations related thereto.

Section 10. This Ordinance shall be in full force and effect from and after its passage.

ADOPTED AND APPROVED BY the Common Council of the City of Bloomington, Indiana, this 20th day of June, 2007.

DAVE ROLLO, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 21st day of June, 2007.

REGINA MOORE, Clerk
City of Bloomington

SIGNED AND APPROVED by me this 21st day of June, 2007.

MARK KRUZAN, Mayor
City of Bloomington

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

I, Regina Moore, Clerk, Bloomington, Monroe County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Ordinance 07-04, passed by the Common Council on the 20th day of June, 2007, by a vote of 8 AYES and 0 NAYS, which was signed by the Mayor on the 21st day of June, 2007, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Bloomington, Indiana, this 21st day of June, 2007.

REGINA MOORE, Clerk
City of Bloomington

(SEAL)

Synopsis

This authorizes the issuance of Economic Development Revenue Bonds in an amount not to exceed $3 million to construct and equip Jill's House which is a 25-bedroom residential facility located 751 East Tamarack Trail and to be used for patients and families of patients being treated at the Midwest Proton Radiotherapy Institute.

Signed copies to:
legal (10)
controller
EA/EA(3)
clerk
file