(passed 9-0)

ORDINANCE 03-33

AN ORDINANCE AMENDING ORDINANCE 00-35 WHICH AUTHORIZED THE ISSUANCE OF SEWAGE WORKS REVENUE BONDS FOR WASTEWATER AND STORM WATER PROJECTS

WHEREAS, the Common Council of the City of Bloomington, Indiana ("City") adopted Ordinance 00-35 ("Ordinance") on September 13, 2000, which Ordinance authorizes the construction of the Project (as defined in the Ordinance) and the issuance of sewage works bond anticipation notes ("BANs") and sewage works revenue bonds ("Bonds") to provide funds for the financing thereof; and

WHEREAS, the Ordinance was one of the first bond ordinances to authorize financing of storm water infrastructure improvements after the creation of the storm water utility within the existing wastewater utility pursuant to Ordinance 98-29, and the process of determining which storm water projects were most needed and should be completed with the funds authorized by the Ordinance was still in the early stages; and,

WHEREAS, the list of storm water projects referenced in the description of the Project in the Ordinance, while reflecting the expected upcoming projects at the time the Ordinance was drafted, did not include certain important storm water infrastructure improvements which were components of the City of Bloomington Parks and Recreation Department project at Miller Showers Park and the City of Bloomington Public Works Department project at College Mall Road; and,

WHEREAS, it was necessary for the Wastewater Utility to go forward with completing the storm water improvements made in conjunction with the Miller Showers Park and College Mall Road projects while those projects were ongoing even though the Bonds necessary to pay for those improvements had not yet been sold; and,

WHEREAS, other related wastewater improvements which were not included in the description the Project have also become a high priority as the wastewater utility seeks to eliminate sanitary sewer overflows to come in to compliance with State and Federal regulations; and,

WHEREAS, the Common Council finds that these and other additional improvements to the sewage works system and storm water system of the City which were not included in the description of the Project at the time of the adoption of the Ordinance are necessary and that the description of the Project should be expanded to give the wastewater utility more flexibility to pursue those projects which have become higher priority since adoption of the Ordinance; and,

WHEREAS, since the storm water improvements described above are now at or near completion and the Bonds to finance them have not be issued, it is necessary to modify the terms of the Ordinance to permit alternative options for financing these improvements; and,

WHEREAS, the Common Council has been advised by the financial advisor and legal counsel of the City that the financing of the additional projects may be accomplished pursuant to the terms of the Ordinance or pursuant to additional financing terms that may be added to the Ordinance; and

WHEREAS, the Common Council finds that the amendment of the Ordinance will not adversely affect the rights of the owners of any Bonds previously issued pursuant to the Ordinance;

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

SECTION 1. The description of the Project as set forth in Exhibit A of the Ordinance is hereby amended to include storm water infrastructure improvements required in conjunction with the College Mall Road project, storm water infrastructure improvements required in conjunction with the Miller Showers Park project, and other related wastewater improvements which have become a priority as the Wastewater Utility seeks to eliminate sanitary sewer overflows to come in to compliance with State and Federal regulations. In addition, the description of the Project is hereby amended to include any such other additions and improvements to the sewage works system and storm water system as may be consistent with those improvements set forth in the description of the Project.

SECTION 2. Section II(1) of the Ordinance is hereby amended to include the following options for the issuance of the BANs: (a) the City is hereby authorized to pledge Net Revenues (as defined in the

Ordinance) of the sewage works to the payment of the principal of the BANs, the interest on the BANs, or both; and (b) the interest rate on the BANs may be a variable rate set in accordance with market standards accepted by municipal issuers of debt, provided, however, the rate may never exceed six (6)%.

SECTION 3. The City and its Utility Service Board are hereby authorized to deliver certificates to evidence its intent on compliance with the tax covenants set forth in Section XXV of the Ordinance, including the omission of all or a portion of such tax covenants for any of the BANs or Bonds authorized under the Ordinance.

SECTION 4. The Common Council finds that the amendment of the Ordinance as herein authorized will not adversely affect the rights of the owners of any Bonds previously issued pursuant to the Ordinance.

SECTION 5. The Utility Service Board is authorized to publish any notice of adoption of this ordinance as may be required by law.

SECTION 6. All other provisions of the Ordinance shall remain in full force and effect.

SECTION 7. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington on the 3rd day of DECEMBER, 2003.

CHRIS GAAL, President
Bloomington Common Council

Attest:

REGINA MOORE, Clerk
City of Bloomington

Presented by me to the Mayor of the City of Bloomington, Indiana, this 4th day of DECEMBER, 2003, at 9:00 A.m.

REGINA MOORE, Clerk
City of Bloomington

Signed and approved by me, the Mayor of the City of Bloomington, Indiana, this 4 day of December, 2003, at 5:00 p.m.

JOHN FERNANDEZ, Mayor
City of Bloomington

SYNOPSIS

This Ordinance amends Ordinance 00-35 which authorized the issuance of sewage works revenue bonds for wastewater and storm water projects in two ways. It broadens the description of projects to be financed from the bond proceeds to include the storm water work in both the College Mall Road and Miller Showers Park projects, as well as any other additions and improvements to the sewage works system and storm water system, thereby allowing more flexibility in setting priorities regarding projects to be completed. It also amends the language of Ordinance 00-35 to allow more options in arranging the financing of such projects to include, within limits, variable rate and taxable debt which can be a less expensive financing option, especially for short term debt.

Signed copies to:

legal (5)	Public Works	file
Controller	CA/CA (2)	USB
Utilities	Clerk	