

ORDINANCE 85-33

ORDINANCE AUTHORIZING THE CITY OF
BLOOMINGTON TO ISSUE ITS "ECONOMIC DEVELOPMENT
REVENUE BOND (WICKS PARTNERS PROJECT)"
AND APPROVING AND AUTHORIZING OTHER ACTION IN RESPECT THERETO

WHEREAS, the Bloomington Economic Development Commission has rendered its Project Report for the Wicks Partners Project regarding the financing of proposed economic development facilities for Wicks Partners, and the Bloomington Planning Commission has commented favorably thereon; and

WHEREAS, the Bloomington Economic Development Commission conducted a public hearing on July 10, 1985, and also adopted a resolution on July 10, 1985, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Wicks Partners 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, 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, Mortgage and Security Agreement, Note and Trust Indenture; 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, Mortgage and Security Agreement approved by the Bloomington Economic Development Commission and presented to this Common Council, the issuance and sale of a revenue bond in the amount of \$900,000, the loan of the proceeds of the revenue bond to Wicks Partners for the acquisition and renovation of such facilities, the payment of the revenue bond by the note payments of Wicks Partners

under the Loan Agreement, Mortgage and Security Agreement and Note, the securing of said bond by the mortgaging of such facilities to the Trustee under the Trust Indenture 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 2. The facilities will consist of the acquisition and renovation of a building with approximately 13,000 square feet of professional office space and approximately 4,000 square feet of retail space, located at 116 West Sixth Street in Bloomington, in Monroe County (the "Project").

Section 3. At the public hearing held by the Bloomington Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in the City of Bloomington, and 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 economic development facilities will not have an adverse competitive effect on any other similar facilities in the City of Bloomington, and the facilities will be of benefit to the health and welfare of the citizens of the City of Bloomington.

Section 4. The substantially final forms of the Loan Agreement, Mortgage and Security Agreement, Note and Trust Indenture approved by the Bloomington Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-12), and all such documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of all such documents are on file in the office of the Clerk for public inspection.

Section 5. The City of Bloomington, Indiana shall issue its Economic Development Revenue Bond (Wicks Partners Project), in the total principal amount of Nine Hundred

Thousand Dollars (\$900,000) and maturing not later than ten years from the date of the first principal payment, which in no event may exceed thirty (30) years, for the purpose of procuring funds to pay the costs of acquisition and renovation of the economic development facilities as more particularly set out in the Trust Indenture and Loan Agreement, Mortgage and Security Agreement incorporated herein by reference, which bond will be payable as to principal, premium, if any, and interest from the note payments made by Wicks Partners under the Loan Agreement, Mortgage and Security Agreement and Note or as otherwise provided in the above described Trust Indenture. The bond shall be issued in fully registered form in the denomination of \$900,000 and shall be redeemable as provided in Article V of 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 owner as provided in the Trust Indenture. The bond shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Bloomington, nor is the bond payable in any manner from revenues raised by taxation.

Section 6. The Mayor and Clerk are authorized and directed to sell such bond to the purchaser thereof at a price not less than 100% of the principal amount thereof. The bond shall bear interest at the rate per annum equal to 75% of the prime rate quoted and announced by The Indiana National Bank from time to time (except in the event of a Determination of Taxability (as defined in the Loan Agreement, Mortgage and Security Agreement) or in the event of a change in the Maximum Corporate Tax Rate (as defined in the Loan Agreement, Mortgage and Security Agreement) the bond shall bear interest at the Adjusted Tax Exempt Rate (as defined in the Loan Agreement, Mortgage and Security Agreement)).

Section 7. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to 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 authorized herein. 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 City Attorney; 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 bond as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bond may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such bond to the Trustee named in the Trust Indenture, and after such payment the bond will be delivered to the purchaser thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the bond to the Trustee within ninety days of the adoption of this ordinance. The bond shall be dated as of June 1, 1985, but shall bear interest from the date of delivery thereof.

Section 8. The provisions of this Ordinance shall constitute a contract binding between the City of Bloomington, Indiana and the holder of the Economic Development Revenue Bond (Wicks Partners Project), and after the issuance of said bond, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said bond or the interest thereon remains unpaid.

Section 9. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted this 31 day of July, 1985.

BLOOMINGTON COMMON COUNCIL

Patricia A. Cross
Presiding Officer

Attest:

Patricia Williams
Clerk

Presented by me to the Mayor of the City of Bloomington, Indiana, on this 1 day of August 1985, at the hour of 10:00 a.m.

Susan Fernandez (Deputy Clerk)
Clerk

Approved and signed by me on this 1 day of August 1985.

Jermilee Allison
Mayor, City of Bloomington

SYNOPSIS

This Ordinance authorizes issuance and sale of \$900,000.00 of the City of Bloomington's Economic Development Bonds for the Wicks Partners Project. The Bonds are not a general obligation of the City of Bloomington, nor can they be repaid by taxation.

Signed copies 8/5/85
1. Petitioner
2. Legal
3. Redev.
4. Co. Auid.