



City of Bloomington Common Council

Legislative Packet

Committee of the Whole

13 June 2007

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402

812.349.3409

council@bloomington.in.gov
<http://www.bloomington.in.gov>



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

State of the City Address – Tuesday, 12 June 2007 at 5:30 p.m. in the Council Chambers

Legislation for Discussion:

- **Ord 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
 - Forthcoming: Economic Development Commission Res 07-02
Contact: Danise Alano at 349-3406 or alanod@bloomington.in.gov
 - Please see the [Legislative Packet](#) issued for the 6 June 2007 meeting to find the legislation and other packet material.
 - Please note that the "Substantially Final Form" of the Financing Agreement consisting of the Loan Agreement, Promissory Note, Bond Purchase Agreement and Preliminary Offering Circular is available in the Office of the City Clerk.

- **Res 07-06** To Amend the Education and Training Trust Fund with the Community Foundation of Bloomington and Monroe County, Inc.
 - Memo from Danise Alano, Director of Economic Development; Amendment to Agreement; Res 95-59; 1995 Agreement
Contact: Danise Alano at 349-3406 or alanod@bloomington.in.gov

Memo

**Reminder: *State of the City Address*
on Tuesday at 5:30 p.m. in the Council Chambers**

One Ordinance and One Resolution on Committee of the Whole Agenda for Wednesday June 13th

There are two items on your agenda for next Wednesday's Committee of the Whole. The first is **Ord 07-04** which approves the issuance of economic development bonds for Jill's House and can be found in the 6 June 2007 [*Legislative Packet*](#). The second is **Res 07-06** which amends the terms of the *Education and Training Trust Agreement* between the City and the Community Foundation of Bloomington and Monroe County, Inc. (Community Foundation) and can be found in this packet.

Item Two – Res 07-06 – Amending the Education and Training Trust Agreement Between the City and the Community Foundation

Res 07-06 amends the Agreement between the City and the Community Foundation regarding the Education and Training Trust Fund (“the Fund”). The Fund was established in 1996 with \$125,000 from the City. This contribution was part of an approximate \$1.25 million windfall the City received when the State allowed localities to reduce the County Option Income Tax account balance from six to three months.

The following summary is derived from the *Memo* from Danise Alano, Director of Economic Development, along with the proposed resolution, amendment and records associated with the existing agreement.

Status of the Fund

The Fund has a current balance of \$160,000 and distributed \$7,516 in 2007.

History

The 1996 Agreement provided for the Community Foundation to award education and training grants from the earnings of the Fund based upon recommendations made by the Community Alliance for Lifelong Learning (CALL), which was primarily driven by the Greater Bloomington Chamber of Commerce (“the Chamber”). As it turned out, CALL created guidelines for the awarding of grants

(as required by the Agreement), but did not last long enough to make recommendations to the Community Foundation. However, the Chamber took the step of creating a non-profit corporation (known as the Chamber Foundation) to accept funding to further the purpose of CALL and launched the Franklin Initiative to implement the education and training programs envisioned by CALL. For several years now, the Franklin Initiative, which meets the guidelines established by CALL, has received Fund grants from the Community Foundation and has shown itself to be an effective instrument for establishing education and training programs.

The Community Foundation recently approached the City to amend the Agreement to reflect this new relationship by designating the Franklin Initiative as the recipient of these funds and to replace the language about CALL with its “standard distribution language for a designated fund.”

The following paragraphs briefly summarize and discuss these changes which affect Sections 1, 2, and 4 of the Agreement and leave the other provisions in place.

Provisions of the Agreement That are Altered by the Amendment

Change in Name of Fund. The amendment to Section 1 changes the name of the Fund from the “Education and Training Trust Fund” to the “Designated Endowment Fund” which will be known as the “Franklin Initiative Fund.” The creation of this Designated Endowment Fund reflects current practice and will allow the Community Foundation to continue to provide regular, annual grants to the Franklin Initiative and, thereby, put them in a better and more predictable financial footing.

Change in Purpose. The amendment to Section 2 changes the purpose of the Fund *from* providing funds for education and training programs and organizations working in support of such programs serving the citizens of the City *to* providing support to the Greater Bloomington Chamber of Commerce specifically for the Franklin Initiative in accordance with its governing documents. Danise Alano is comfortable with the removal of language regarding “programs serving citizens of the City” because local employers draw from a regional workforce and the enhancement of that workforce will improve the City’s economic development potential.

The amendment to that section also specifies that the Franklin Initiative acts as a successor to CALL and must meet the obligations imposed upon CALL by the enabling resolution and Agreement. Those obligations include complying with the Open Door and Public Records Law (per Res 95-59) as well as providing an annual report to the Council and Mayor regarding transactions related to expenditures from the Fund.

Change in Distribution Policy. The amendment to Section 4 drops reference to CALL and inserts changes that bring this Fund in line with the Community Foundation’s standard distribution policies. While these changes, in part, give additional discretion to the Community Foundation, they are acceptable to Danise Alano and Susan Failey and include:

- Allowing the Community Foundation to distribute the earnings, appreciation, and principal in accordance with its spending policy and consistent with its charitable purpose;
- Removing text prohibiting the use of the principal amount in the Fund for grants and allowing the Community Foundation to dip into principal (what it calls the “historic dollar value”) at certain times when done reasonably and “with the long-term goal of maintaining the real spending power of the Fund over time”; and
- Honoring restrictions on future donations unless the board finds that those restrictions are unnecessary, incapable of fulfillment, or inconsistent with the purpose of the Foundation or the community it serves. Please note that this language should be read in context with that found in Section 6, which makes donations subject to the Bylaws and Articles of Incorporation of the Foundation, this agreement and State law.

Provisions of the Agreement That Remain Unchanged

The rest of the Agreement remains unchanged and is summarized below:

Endowment / Irrevocability. The City contributed an initial \$125,000 which will be held by the Community Foundation as a permanent endowment. All donations to the Fund are subject to acceptance by the Community Foundation and are irrevocable. (See Section 3)

General Conditions for Acceptance of Funds. The Fund and donations are subject to terms and conditions of the Community Foundation’s Articles of Incorporation and Bylaws (which may be amended), this Agreement, and State law. (See Section 6)

Administration / Investment / Costs. In addition to the above provision, the operation of the endowment is subject to the Community Foundation's Articles and Bylaws and to I.C. 36-1-14, which controls gifts of public monies to charitable organizations. The Community Foundation will have the powers necessary to carry out the Agreement, which includes the power to invest and commingle these funds with other Community Foundation funds, and the Community Foundation shall receive one percent of the principal as an annual fee for administering these funds. (See Sections 5, 9 & 10)

Jurisdiction. Until future donations of a significant amount are provided for the benefit of areas outside of Monroe County, the Fund shall solely be used for projects within Monroe County. (See Section 11)

Separate Accounting/ Public Records and Meetings. The Community Foundation must keep a separate accounting of Fund receipts and disbursements, and will provide the City and any donor of more than \$10,000 with a copy of the annual examination of its finances. The meetings and records of the Community Foundation pertaining to this fund shall be open to the public. (See Sections 5 and 8)

Termination. In the event the fund should terminate, then the Community Foundation must use the remaining funds for charitable purposes consistent with their Articles and this Agreement. And, in the unlikely event the Community Foundation loses its status as a charitable organization, is liquidated, or violates any condition of the endowment, then it will return the donation to the City General Fund. (See Section 7)

Amendment. The Common Council and the Community Foundation Board may amend the Agreement subject to I.C. 36-1-14. (See Section 12)

Happy Birthday Dave Rollo and Michael Falls (Council Intern) !!

NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL COMMITTEE OF THE WHOLE
7:30 P.M., WEDNESDAY, JUNE 13, 2007
COUNCIL CHAMBERS
SHOWERS CENTER, 401 N. MORTON ST.

Chair: Andy Ruff

1. 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

Asked to Attend: Danise Alano, Director of Economic Development

2. Resolution 07-06 To Amend the Education and Training Trust Fund with the Community Foundation of Bloomington and Monroe County, Inc.

Asked to Attend: Danise Alano, Director of Economic Development

City of
Bloomington
Indiana

City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402



Office of the Common Council
(p:) 812.349.3409
(f:) 812. 349.3570
council@bloomington.in.gov
www.bloomington.in.gov/council

To: Council Members
From: Council Office
Re: Calendar for the Week of June 11-16, 2007

June is Adopt a Shelter Cat Month!

Monday, June 11, 2007

1:30 pm Family Emergency Shelter Meeting, McCloskey
5:00 pm Utilities Service Board, IU Research-North Showers, 501 N. Morton Street 100B

Happy Birthday Dave Rollo, Councilmember, District IV!

Tuesday, June 12, 2007

5:30 pm Bloomington Public Transportation Corporation, Public Transportation Center, 130 W. Grimes Lane
5:30 pm Board of Public Works, McCloskey
5:30 pm *State of the City* Address from Bloomington Mayor Mark Krusan, Council Chambers
6:30 pm Bloomington-Posoltega Sister Cities Committee, Kelly
7:00 pm Bloomington Commission on Sustainability, Hooker Room
7:30 pm Bloomington Sister Cities Inc. Committee, Kelly

Wednesday, June 13, 2007

4:00 pm Bloomington Housing Quality Appeals, McCloskey
4:15 pm Commission on the Status of Black Males, Council Chambers
4:30 pm Environmental Resources Advisory Council, Lower Cascades, N. Old St. Rd. 37/Clubhouse Dr – Sycamore Shelter
7:30 pm Common Council Committee of the Whole, Council Chambers

Thursday, June 14, 2007

9:30 am Emergency Management Meeting, Council Chambers
12:00 pm Housing Network, McCloskey
3:30 pm Bloomington Historic Preservation Commission, McCloskey
6:00 pm Homebuyer's Club, Hooker Room
7:00 pm Inclusive Recreation Advisory Council, Parks and Recreation, Showers Building Room 250
7:00 pm Environmental Commission, McCloskey

Friday, June 15, 2007

12:00 pm Domestic Violence Taskforce, Hooker Room

Saturday, June 16, 2007

8:00 am Bloomington Community Farmers' Market, Showers Common

Happy Birthday Michael Falls, Common Council Intern!



City of Bloomington
Office of the Common Council

MEETING NOTICE

Members of the Bloomington Common Council have been invited to attend the *State of the City* address by the Mayor of the City of Bloomington. This address is scheduled for Tuesday, June 12, 2007 at 5:30 pm in the Council Chambers of City Hall, Showers Building, 401 North Morton.

Because a quorum of the Council may be present, this meeting may constitute a meeting of the Common Council under the Indiana Open Door Law. For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe and record what transpires.

Dated & Posted: Thursday, June 5

LEGISLATION

RESOLUTION 07-06

**TO AMEND THE EDUCATION AND TRAINING TRUST FUND
WITH THE COMMUNITY FOUNDATION OF BLOOMINGTON AND
MONROE COUNTY, INC.**

- WHEREAS, in Resolution 95-59 the Common Council approved the City's use of a one-time distribution of \$125,000 in COIT funds to establish a permanent endowment fund to enhance education and training opportunities (the "Fund") in the Bloomington Community Foundation, which is now known as the Community Foundation of Bloomington and Monroe County, Inc. ("Foundation"); and
- WHEREAS, a funding agreement ("Agreement") was entered into between the City and the Foundation on January 10, 1996 which required the Community Alliance on Lifelong Learning ("CALL") to develop guidelines for grants and make recommendations for expenditures from the Fund; and
- WHEREAS, CALL was subsequently absorbed into the Greater Bloomington Chamber of Commerce Foundation, Inc. ("Chamber Foundation"), a 501(c)(3) non-profit corporation created to accept funding from various sources to further the purposes of CALL, and the Franklin Initiative was launched under the Chamber Foundation to implement education and training programs consistent with the vision developed under CALL; and
- WHEREAS, the Franklin Initiative meets the guidelines developed by CALL, has been receiving distributions from the Fund for several years on an interim basis, and has established effective programs meeting the intent of the Agreement and CALL guidelines; and
- WHEREAS, the Agreement provides in Section 12 that it may be amended by resolution of the Bloomington Common Council and the Foundation's Board of Directors; and
- WHEREAS, the parties to the Agreement wish to amend it as proposed in the attached "Amendment to Designated Trust Endowment Fund Agreement between the City of Bloomington and the Community Foundation of Bloomington and Monroe County, Inc." to reflect the change from CALL to the Franklin Initiative;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. The Common Council finds and determines that the attached Amendment to Designated Trust Endowment Fund Agreement between the City of Bloomington and the Community Foundation of Bloomington and Monroe County, Inc. should be, and it hereby is, approved.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 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 _____ day of _____, 2007.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2007.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution approves the Amendment to the Designated Trust Endowment Fund Agreement between the City of Bloomington and the Community Foundation of Bloomington and Monroe County, Inc. to reflect the change in funding and implementation of education and training programs from the Community Alliance for Lifelong Learning to the Franklin Initiative.

Memorandum

To: City of Bloomington Common Council
From: Danise Alano, Director of Economic Development
CC: Dan Sherman, Susan Failey
Date: June 7, 2007
Re: Resolution 07-06

Resolution 07-06 approves an amendment to an agreement originally entered into in 1996 between the City and the Community Foundation of Bloomington and Monroe County, Inc. The original agreement, approved in Resolution 95-59, established and endowed an Education and Training Fund within the Foundation to provide grants through the Community Alliance for Lifelong Learning (CALL). The amount of the endowment was \$125,000 that came from a one-time COIT distribution to the City. According to Shari Woodbury, President and CEO of the Community Foundation, the current balance of the fund is about \$160,000, of which \$125,000 is principal, and the payout in FY 07 was \$7,516.

In the original agreement CALL was directed to develop guidelines for education and training grants, which it did, and the Greater Bloomington Chamber of Commerce established a foundation to accept monies in support of CALL's work. Later the focus turned from planning to implementation, CALL was dissolved, and the Franklin Initiative was formed to address some of the things in the CALL master plan. Both CALL and the Franklin Initiative are staffed by the Chamber of Commerce with broad community involvement. The Franklin Initiative meets the CALL guidelines for the grants; has been receiving the endowment proceeds on an interim basis; and has established a track record of effectiveness with a variety of programs.

The currently proposed amendment acknowledges the change in implementation from CALL to the Franklin Initiative; makes the endowment a designated fund for the Franklin Initiative; and replaces the provisions related to CALL with the Community Foundation's standard distribution language for a designated fund.

The Office of the Mayor recommends adoption of this resolution. This agreement change continues to maintain the original intent of the fund as well supports the current and future scope of the Franklin Initiative as it seeks to address workforce development challenges through a broad-based, collaborative approach. Naming the Franklin Initiative in this agreement will provide the organization a consistent source of funding, potentially enabling it to become less reliant on annual fundraising and to direct more fully and strategically its resources into the mission of increasing academic achievement for all students and better preparing those students to enter and succeed in the workforce.

**AMENDMENT TO
DESIGNATED TRUST ENDOWMENT FUND AGREEMENT
BETWEEN THE CITY OF BLOOMINGTON AND THE
COMMUNITY FOUNDATION OF BLOOMINGTON AND MONROE COUNTY, INC.**

THIS AGREEMENT, made and entered into on _____, 2007, by and between the City of Bloomington (hereinafter referred to as the "Founding Contributor") and the Community Foundation of Bloomington and Monroe County, Inc. ("the Foundation"), WITNESSETH:

WHEREAS, the Founding Contributor established an Education and Training Trust Fund (hereinafter referred to as the "Fund") in the Foundation on January 10, 1996, when it entered into its Designated Trust Endowment Fund Agreement ("Agreement") with the Foundation; and

WHEREAS, the Fund was established for the purpose of providing funds for education and training programs or organizations working in support of such programs; and

WHEREAS, the Community Alliance for Lifelong Learning ("CALL"), an alliance with broad-based community representation hosted by the Greater Bloomington Chamber of Commerce ("the Chamber"), was named in the Agreement to establish guidelines for the distribution of sums from the Fund, to accept and review applications for funding, and to submit grant award recommendations to the Foundation; and

WHEREAS, CALL established guidelines for grants from the Fund, and was subsequently absorbed into the Greater Bloomington Chamber of Commerce Foundation, Inc., a non-profit 501(c)(3) organization created to accept monies from various sources in furtherance of the purposes established in the CALL Master Plan; and

WHEREAS, the Franklin Initiative ("FI") was launched under the umbrella of the Greater Bloomington Chamber of Commerce Foundation, Inc. to implement education and training programs consistent with the vision developed through CALL, and FI itself meets the guidelines the CALL board had approved for grants from the Fund; and

WHEREAS, FI has been receiving distributions from the Fund for several years on an interim basis, has established a strong set of programs with proven results, maintains a broad-based advisory council, is supported by the City, and is positioned to effectively use distributions from the Fund on an ongoing basis;

WHEREAS, the Agreement may be amended by resolution of the City's Common Council and the Foundation's Board of Directors;

NOW, THEREFORE, the parties agree as follows:

A. Sections 1, 2, and 4 of the Agreement shall be amended to state as follows:

1. NAME OF THE FUND. There is hereby established in the Foundation, and as a part thereof, a Designated Endowment Fund to be known as the Franklin Initiative Fund (hereinafter referred to as the "Fund") to receive gifts, in whatever form of money or property, and to administer the same.

2. PURPOSE. The primary purpose of the Fund shall be to provide support to the Greater Bloomington Chamber of Commerce Foundation, Inc., specifically for its Franklin Initiative, in accordance with its governing documents. Franklin Initiative shall act as successor to CALL regarding the Fund and is subject to CALL's obligations under the Agreement and under Common Council Resolution 95-59, including the requirement to keep a record of its transactions pertaining to the use of distributions from the Fund and to provide an annual report of those transactions to the Mayor and City Council.

4. DISTRIBUTION. Distributions of earnings, appreciation, or principal from the Fund, net of the fees and expenses set forth in paragraph 10, may be committed, granted, or expended pursuant to the Foundation's distribution (spending) policy as amended from time to time, only for purposes described in Code section 170(c)(1) or (2)(B); provided, however, that such purposes are consistent with the exempt status and purposes of the Foundation. Although the Foundation's distribution (spending) policy may allow for some expenditure of historic dollar value of the Fund at certain times, the policy shall be reasonable and consistently applied with the long-term goal of maintaining the real spending power of the Fund over time. If any gifts to the Foundation for the purposes of the Fund are received and accepted subject to the Donor's conditions or restrictions as to the use of the gift or income therefrom, said conditions or restrictions will be honored, subject, however, to the authority of the Foundation's Board to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Foundation's Board unnecessary, incapable of fulfillment, or inconsistent with the charitable or other exempt purposes of the Foundation or the needs of the community served by the Foundation. No distribution shall be made from the Fund to any individual or entity if such distribution will in the judgment of the Foundation endanger the Foundation's Code section 501(c)(3) status.

B. All other provisions of the Agreement shall remain in full force and effect, except as provided herein.

IN WITNESS WHEREOF, the Founding Contributor has executed this Amendment and the Foundation has caused this Amendment to be approved by its Board and to be executed by a duly authorized officer, all as of the day and year first above written.

CITY OF BLOOMINGTON, INDIANA

By: _____
 Dave Rollo, President, Bloomington Common Council

By: _____
 Mark Kruzan, Mayor

COMMUNITY FOUNDATION OF BLOOMINGTON AND MONROE COUNTY, INC.

Approved by the Board of Directors of Community Foundation of Bloomington and Monroe County, Inc.
 on _____, 20__.

By: _____
 Shari Woodbury, President and CEO

RESOLUTION 95-59

TO ESTABLISH AN EDUCATION AND TRAINING TRUST FUND

- WHEREAS, the City of Bloomington believes that education and training can be key elements for citizens to prepare for full participation in the cultural, economic, political, and social life of the community; and
- WHEREAS, the City of Bloomington has supported the Community Alliance for Lifelong Learning in its efforts to make substantial and sustainable improvements in the quality of life for all the citizens of our community through lifelong learning; and
- WHEREAS, the City of Bloomington would like to contribute financial support that would act in perpetuity to enhance education and training opportunities throughout the community; and
- WHEREAS, pursuant to IC 6-3.5-6-17.5, the Monroe County Income Tax Council (CITC) elected to reduce Monroe County's COIT special account balance from a six-month to three-month reserve and receive a one-time distribution of County Option Income Tax (COIT) from the special account to Monroe County governmental entities; and
- WHEREAS, cities are authorized to establish permanent endowments with nonprofit community foundations to serve the purposes of the city pursuant to IC 36-1-14, and the City wishes to use \$125,000 to establish a designated endowment for an education and training fund in the Bloomington Community Foundation; and
- WHEREAS, the Bloomington Community Foundation is a nonprofit Indiana corporation exempt from taxation under Internal Revenue Code Section 501(c) (3), a public charity described in Internal Revenue Code Section 170 (b) (1) (A) (vi), and a charitable nonprofit community foundation pursuant to IC 36-1-14, and is accordingly an appropriate institution within which to establish such an endowment;
- WHEREAS, the Redevelopment Department of the City of Bloomington has prepared a Funding Agreement with the Bloomington Community Foundation outlining the terms of the Fund;

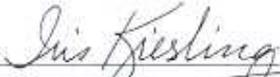
NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

- Section 1. The Funding Agreement between the Redevelopment Department of the City of Bloomington and the Bloomington Community Foundation, as attached as Exhibit A, be approved and incorporated herein by reference.
- Section 2. The Community Alliance for Lifelong Learning Board shall comply with the following conditions before their recommendations will be accepted by the Bloomington Community Foundation:
- A. The Board's records regarding the Fund and their recommendations to the Fund shall be public records pursuant to IC 5-14-3-1 et seq. and all portions of their meetings at which matters pertaining to those topics are discussed or voted upon shall be public meetings pursuant to IC 5-14-1.5-1 et seq.
 - B. Recommendations regarding proposals for education and training programs should not duplicate existing federal, state, and local programs.

Section 3. Severability. If any section, sentence, or provision of this resolution, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this

ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

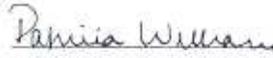
PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 6th day of December, 1995.


IRIS KIESLING, President
Bloomington Common Council

SIGNED and APPROVED by me upon this 3rd day of December, 1995.


TOMILEA ALLISON, Mayor
City of Bloomington

ATTEST:


PATRICIA WILLIAMS, Clerk
City of Bloomington

SYNOPSIS

This resolution approves a Funding Agreement between the City of Bloomington and the Bloomington Community Foundation. According to the Agreement, the City will provide the Foundation with a \$125,000 endowment for grants to education and training programs. Upon complying with certain conditions, the Community Alliance for Lifelong Learning Board will be authorized to make recommendations to the Foundation on grant applications. One of those conditions, which barred applicants who are in default with the City from receiving fund monies, was removed by amendment. Those in favor of the amendment thought that the Board would be in a better position to develop these type of criteria.

Signat copies to
Redevelopment
Counsellor 3

Bl. Comm. Fed.
CALL

Chamber of Commerce

ACCOMPANIES RESOLUTION 95-59

DESIGNATED TRUST ENDOWMENT FUND AGREEMENT

BETWEEN

THE REDEVELOPMENT DEPARTMENT OF THE CITY OF BLOOMINGTON

AND

THE BLOOMINGTON COMMUNITY FOUNDATION

This Agreement made and entered into on Jan 10, 1996 at Bloomington, Indiana, between the Redevelopment Commission of the City of Bloomington, hereinafter referred to as the City, and the Bloomington Community Foundation, hereinafter referred to as the Foundation. The Foundation agrees to engage in activities as set forth below and to comply with all provisions of this Agreement and the City agrees to provide funding, as set forth below.

WHEREAS, pursuant to IC 6-3.5-6-1 et.seq., county option income tax ("COIT") has been imposed in Monroe County, Indiana, since 1984, and the City receives a distributive share of the COIT; and

WHEREAS, pursuant to IC 6-3.5-6-17.5, the Monroe County Income Tax Council (CITC) elected to reduce Monroe County's COIT special account balance from a six-month to three-month reserve and receive a one-time distribution of COIT from the special account to Monroe County governmental entities; and

WHEREAS, the City believes that education and training can be key elements for citizens to prepare for full participation in the cultural, economic, political, and social life of the community; and

WHEREAS, the City has supported the Community Alliance for Lifelong Learning in its efforts to make substantial and sustainable improvements in the quality of life for all the citizens of our community through education; and

WHEREAS, the City would like to contribute financial support to enhance education and training opportunities throughout the community for perpetuity; and

WHEREAS, cities are authorized to establish permanent endowments with nonprofit community foundations to serve the purposes of the city pursuant to Indiana Code 36-1-14, and the City wishes to use \$125,000 of its COIT revenues to establish a designated endowment for an education and training fund in the Foundation; and

WHEREAS, the Foundation is a nonprofit Indiana corporation exempt from taxation under Internal Revenue Code ("Code") section 501(c)(3), a public charity described in section 170

(b) (1) (A) (vi) of the Code, and a charitable nonprofit community foundation pursuant to Indiana Code 36-1-14, and accordingly an appropriate institution within which to establish such an endowment; and

WHEREAS, the Foundation is willing and able to create such an endowment as an Education and Training Trust Fund, subject to the terms and conditions hereof;

NOW THEREFORE, the parties agree as follows:

1. Name of the Fund. There is hereby established in the Foundation, and as a part thereof, a fund designated as the Education and Training Trust Fund (hereinafter referred to as "the Fund") to receive gifts, in whatever form of money and property, and to administer same.
2. Purpose. The purpose of the Fund shall be to provide funds for education and training programs or organizations working in support of such programs be they for-profit or not-for-profit, serving the citizens of the City.
3. Endowment. The City, through the Redevelopment Department's 1995 General Fund Budget, hereby agrees to transfer to the Foundation the sum of \$125,000 to be held by the Foundation as a permanent endowment for the Fund. Such transfer will be made by the City during 1996 after receipt by the City of its one-time COIT distribution from the State of Indiana. Subject to the right of the Foundation to reject any particular gift, any person, whether an individual, corporation, trust, estate or organization (hereinafter referred to as "Donor") may make additional gifts to the Foundation for the purposes of the Fund. Subject to the requirements of IC 36-1-14, all gifts, bequests and devises to the Fund shall be irrevocable once accepted by the Foundation.
4. Distribution.
 - (a) General Provisions. Distribution from the Fund shall be made according to the following procedures:

The Community Alliance for Lifelong Learning ("CALL") shall establish guidelines for distribution of sums from the Fund ("the Guidelines"). Applications for funding through the Fund shall be made through CALL. CALL shall consider the applicant's proposed project's compliance with the Guidelines and shall make a written recommendation to the Foundation. The Foundation shall make the distribution as recommended unless it determines that the distribution will endanger its tax-exempt status pursuant to 26 USCA Sec. 501(c)(3) or will endanger the fiscal integrity of the Fund. If the Foundation does not accept a recommendation on the application, it shall notify the City in writing of the reasons for the decision not to accept the recommendation, and representatives of the applicant, Foundation, and CALL shall meet to try to reach agreement upon the terms upon which a distribution could be made.

CALL shall promulgate and subscribe to its own Rules of Procedure. A record of its transactions shall be kept and a report thereof shall be made annually to the Mayor and City Council. All CALL meetings shall be open to the public in order to ensure public participation.

No distribution shall be made from the Fund to any individual or entity if such

distribution will, in the judgment of the Foundation, endanger the Foundation's Code section 501(c)(3) status.

(b) Annual Earnings. The annual earnings allocable to the Fund, which initially will be based on the \$125,000 donated by the City, net of the fees and expenses set forth in paragraph 10, shall be committed, granted or expended for purposes described in this agreement. Annual earnings may be used to make grants pursuant to this agreement.

Principal. The principal shall not be used to make grants.

5. Administrative Provisions. Notwithstanding anything herein to the contrary, the Foundation shall hold the Fund, and all contributions to the Fund, subject to the provisions of the applicable laws and the Foundation's Articles of Incorporation and Bylaws. The Foundation agrees to provide the City and any Donor that has contributed to the Foundation at least \$10,000 a copy of the annual examination of the finances of the Foundation.

The Foundation's records regarding the Fund shall be public records pursuant to IC 5-14-3-1 et. seq. The Foundation shall inform the City Clerk's office of the time and place of its meetings sufficiently in advance of each meeting to permit inclusion of the information on the City's weekly list of meetings. The Foundation shall permit members of the public to attend its meetings.

6. Conditions for Acceptance of Funds. The Foundation, City and Donors agree and acknowledge that the establishment of the Fund herein created is made in recognition of, and subject to, the terms and conditions of the Articles of Incorporation and Bylaws of the Foundation as from time to time amended, the terms and conditions of this agreement, and Indiana law, including, but not limited to, Indiana Code 36-1-14 et. seq., and that the Fund shall at all times be subject to such terms and conditions.

7. Continuity. The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation. Subject to the requirements of IC 36-1-14, if the Fund is terminated, the Foundation shall devote any remaining assets in the Fund exclusively for purposes that:

(a) are within the scope of the charitable purposes of the Foundation's Articles of Incorporation; and

(b) most nearly approximate, in the good faith opinion of the Foundation's Board, the original purpose of the Fund and the provisions for distribution contained in this agreement.

If the Foundation loses its status as a public charitable organization, is liquidated, or violates any condition of the endowment set by the City, the Foundation agrees to return the donation to the general fund of the City.

8. Accounting. The receipts and disbursements of the Fund shall be accounted for separately and apart from those of other gifts to the Foundation.

9. Investment of Funds. The Foundation, or its agent, shall have all powers necessary to carry out the purposes of the Fund according to the terms of this agreement, including, but not limited to, the power to retain, invest and reinvest the portions of the Fund not

committed for purposes of this agreement, and the power to commingle the assets of the Fund with those of other funds for investment purposes.

10. Costs of the Fund. The Foundation shall receive an annual fee for administering the fund in the amount of one percent (1%) of the principal of the Fund.

11. Jurisdiction. Initially only projects located within Monroe County shall be eligible for funding pursuant to this Agreement. If other Donors decide to contribute a significant source of revenue for the purposes of this Agreement and for the benefit of areas outside of Monroe County, the City and Foundation agree to amend the Agreement to allow for participation outside the area of Monroe County for funding under this Agreement.

12. Amendment Procedure. Subject to IC 36-1-14, this Agreement may be amended by resolution of the City's Common Council and the Foundation's Board of Directors.

IN WITNESS WHEREOF, the City has approved this Agreement through its Mayor and Common Council, and the Foundation has caused this Agreement to be approved by its Board of Directors and to be executed by a duly authorized officer, all as of the day and year first above written.

CITY OF BLOOMINGTON, INDIANA

BLOOMINGTON COMMUNITY
FOUNDATION, INC.

By: Tomilea Allison

By: Jack Mulholland 1/10/1996

Tomilea Allison
Mayor

Jack Mulholland
Executive Director

Iris Kiesling

Iris Kiesling
President, Common Council

Ilknur Ralston

Ilknur Ralston
Board President

Attest: Patricia Williams
Patricia Williams
City Clerk

Date

Date

01-05-1996