

ORDINANCE AUTHORIZING ACQUISITION, CONSTRUCTION
AND FINANCING POLLUTION CONTROL FACILITIES AND
ECONOMIC DEVELOPMENT PROJECTS AND THE LEASE,
SALE AND FINANCING THEREOF TO OR FOR ANY PERSON,
AND PROVIDING FOR THE ISSUANCE OF REVENUE BONDS,
AND ESTABLISHING PROCEDURES IN RESPECT THERETO

WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of Illinois provides that "any municipality which has a population of more than 25,000 is a Home Rule Unit", and

WHEREAS, the City of Urbana, Illinois, (hereinafter called the "municipality"), has a population in excess of 25,000 and is therefore a Home Rule Unit, and

WHEREAS, it is necessary and for the best interest of the municipality to relieve conditions of unemployment and under employment, and to encourage the economic development of the municipality, thereby reducing the evils attendant upon unemployment and under employment and to provide for the increased welfare and prosperity of the residents of the municipality, and

WHEREAS, the issuance of industrial revenue bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, equipping, betterment or extension of any economic development project in order to encourage development of the municipality is for a public purpose and is a function pertaining to the government and affairs of the municipality, and

WHEREAS, environmental damage seriously endangers the public health and welfare and such environmental damage often results from industrial, commercial, manufacturing or other activities conducted by private persons in the municipality, and that to reduce, control and prevent such damage, quality standards have been established necessitating the employment of pollution control devices, equipment and facilities and stringent time schedules have been and will be imposed for compliance with such standards, and

WHEREAS, it is necessary and desirable to provide for the issuance of pollution control revenue bonds to finance in whole or part the costs of the acquisition, purchase, construction, reconstruction, improvement and installation of the devices, equipment and facilities required to comply with such quality standards, and/or to decrease environmental damage, and the method of financing through the issuance of such bonds is in the public interest and serves a public purpose in protecting and promoting the health and welfare

of the citizens of this State and the municipality by reducing, controlling and preventing environmental damage and is a function pertaining to the government and affairs of the municipality, and

WHEREAS, the establishment of basic procedures for the issuance of industrial revenue bonds and pollution control revenue bonds is necessary and desirable to provide clarity in law and direction for subsequent actions:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that:

Section 1. Definitions. Whenever used in this Ordinance unless a different meaning clearly appears from the context:

(1) "Economic Development Project" means any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery or equipment or any combination thereof, and all real and personal property deemed necessary in connection therewith, for use by any person, provided that the existence of such economic development project will create or retain or improve employment opportunities in the municipality.

(2) "Municipality" means the City of Urbana, Illinois.

(3) "Person" means any individual, partnership, copartnership, firm, company, corporation (including public utilities), association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent or assigns.

(4) "Pollution" means any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination, or noise pollution as determined by the various standards prescribed by this state, the federal government or other governmental entities and including but not limited to, anything which is considered as pollution or environmental damage in the Environmental Protection Act, compiled as Sections 1001 through 1051 of Chapter 111-1/2 Ill. Rev. Stats. 1973, and any amendment thereto and substitution therefor, or regulations duly adopted and promulgated pursuant to such Act.

(5) "Pollution Control Facility" means any land, interest in land, building structure, facility, system, fixture, improvement, appurtenance, addition, machinery or equipment, or any combination thereof, and all real and personal property deemed necessary therewith, having to do with or the end purpose of which is, reducing, controlling or preventing pollution.

(6) "Project" means any economic development project or pollution control facility or any combination thereof.

(7) "Project Costs" means and includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of a project including without limitation the cost of studies and surveys; plans, specifications, architectural and engineering services; legal, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings, rehabilitation, reconstruction, repair or remodeling of existing buildings and all other necessary and incidental expenses including an initial bond and interest reserve together with interest on bonds issued to finance a project to a date six (6) months subsequent to the estimated date of completion.

Section 2. Legislative Declaration of Purpose. It is hereby determined and declared that the purpose of this Ordinance is to provide a financing device which will aid in financing the cost of projects in order to relieve conditions of unemployment and under employment and to encourage the increase of industry and commerce within the municipality, thereby reducing the evils attendant upon unemployment and under employment and to provide for the increased welfare and prosperity of the residents of the municipality; it is hereby further determined and declared to be the purpose of this Ordinance to provide a financing device which will aid in financing the cost of pollution control facilities in order to eliminate, abate or reduce the serious dangers to the public health and welfare caused by environmental pollution; and the same are hereby declared and determined to be public purposes and functions pertaining to the government and affairs of the municipality.

Section 3. Additional Powers. In addition to powers which it may now have, the municipality shall have the power under this Ordinance:

(1) To construct, acquire by gift, purchase or lease, to reconstruct, improve,

better or extend and to finance one or more projects, whether or not now or hereafter in existence, within the municipality, or within ten (10) miles of the municipality, and, if desirable, to acquire by gift, purchase or lease lands or rights in land in connection with any project.

(2) To issue its revenue bonds to defray in whole or in part the project costs of any project and to designate an appropriate name for such bonds.

(3) To rent, lease or sell any project to any person in such manner that payments to be received with respect to the project shall produce revenues and receipts sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance the cost of such project.

(4) To pledge to the punctual payment of bonds authorized under this Ordinance, the interest thereon, and the redemption premiums, if any, the revenues and receipts to be received from such project.

(5) To sell and convey such project, including without limitation the sale and conveyance thereof subject to a mortgage, if any, as provided in this Ordinance, for such price and at such time as the governing body of the municipality may determine. However, no sale or conveyance of such project shall ever be made in such manner as to impair the rights or interests of the holder or holders of any bonds issued to finance the project costs of such project.

(7) To issue its bonds to refund in whole or in part, bonds theretofore issued by such municipality under authority of this Ordinance.

Property acquired by the municipality pursuant to the provisions of this Ordinance shall be exempt from the imposition and collection of taxes thereon while owned by the municipality, but the use of such property is subject to taxation to be paid by the lessee or occupant as provided in Section 26 of the "Revenue Act of 1939" filed May 17, 1939, or as may hereafter be amended.

Section 4. Equal Employment Opportunity.

Any Resolution authorizing the execution and delivery of a Memorandum of Intent between the City of Urbana and any person to provide for the issuance of Bonds under this Ordinance shall contain substantially the following language:

"Provided, however, that the person named in this Memorandum of Intent shall agree in writing to an affirmative action program to maintain specific employment practices and policies sufficient to achieve equal opportunity for all citizens regardless of race, color, creed, national origin, sex or age."

Section 5. Exercise of Powers - Bonds. The exercise of all powers granted by this Ordinance may be authorized, and bonds may be authorized to be issued under this Ordinance for the purposes set forth in this Ordinance, by ordinance of the governing body of the municipality which may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption.

The bonds shall bear interest at such rate or rates, payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such ordinance may provide or as may be subsequently determined by the governing body before the bonds are issued. The bonds may be sold at public or private sale in such manner and upon such terms as may be deemed advisable by the governing body of the municipality. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body of the municipality may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this Ordinance. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the "Uniform Commercial Code."

Section 6. Covenants in Bonds. Any ordinance authorizing the issuance of bonds under this Ordinance may contain covenants as to (a) the use and disposition of the revenues and receipts from the project for which the bonds are to be issued, including the creation and maintenance of reserves; (b) the issuance of other or additional bonds relating to the project or any rehabilitation, improvements, renovations, enlargements or additions thereto; (c) the maintenance and repair of such project; (d) the insurance to be

carried thereon and the use and disposition of insurance moneys; (e) the appointment of any bank or trust company within or outside the State of Illinois, having the necessary trust powers as trustee for the benefit of the bondholders, paying agent, the bond registrar; (f) the investment of any funds held by such trustee; and (g) the terms and conditions upon which the holders of the bonds or any portion thereof or any trustees therefor, are entitled to the appointment of a receiver. Any ordinance authorizing the issuance of bonds under this Ordinance may provide that the principal of and interest on any bonds issued under this Ordinance shall be secured by a mortgage or indenture of trust covering such project for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the ordinance authorizing such bonds and shall be executed in the manner as may be provided for in the ordinance. The provisions of this Ordinance and any such ordinance or ordinances and any such mortgage or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid, and the duties of the municipality and its corporate authorities and officers under this Ordinance and any such ordinance or ordinances and any such mortgage or indenture of trust shall be enforceable by any bondholder by mandamus, foreclosure of any such mortgage or indenture of trust or other appropriate suit, action or proceedings in any court of competent jurisdiction; provided the ordinance or any mortgage or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee for the benefit of all the bondholders which trustee shall be subject to the control of a majority of the holders or owners or any outstanding bonds.

Section 7. Signatures of Officers of Bonds - Validity of Bonds.

The bonds shall bear the signatures of such officers of the municipality as may be designated in the ordinance authorizing such bonds and such signatures shall be the valid and binding signatures of the officers of the municipality, notwithstanding that before the delivery thereof and payments therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the municipality issuing such bonds. The validity of the bonds is not

dependent on, nor affected by, the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, equipping, betterment or extension of the project for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Ordinance, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 8. Lien of Bonds. All bonds issued under this Ordinance have a lien upon the revenues and receipts derived from the project for which the bonds have been issued, and the governing body may provide in the ordinance or ordinances authorizing such bonds for the issuance of additional bonds to be equally and ratable secured by a lien upon such revenues and receipts or may provide that the lien upon such revenues and receipts is subordinate.

Section 9. Liability for Bonds. All bonds issued under and pursuant to this Ordinance shall be limited obligations of the municipality payable solely out of the revenues and receipts derived from the project with respect to which such bonds are issued. No holder of any bonds issued under the Ordinance has the right to compel any exercise of taxing power of the municipality to pay the bonds, the interest or premium, if any, thereon, and the bonds do not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provision. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Ordinance and that it does not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provisions.

Section 10. Investment of Funds. The municipality, or any trustee on behalf of the municipality, may invest any funds held by it pursuant to this Ordinance in bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of the United States of America; in certificates of deposit or time deposits constituting direct obligations of any bank as defined by the Illinois Banking Act, as heretofore and hereafter amended, provided, however, that investments may be made only in those certificates of deposit or time deposits in banks which are insured by the Federal Deposit Insurance Corporation, if then in existence; or in short term discount obligations of the Federal National Mortgage Association. Any such securities may be

purchased at the offering or market price thereof at the time of such purchase.

Section 11. Exemption from Construction and Bidding Requirements for Public Buildings. The acquisition and construction of a project shall not be subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the Illinois Revised Statutes or any other similar requirements which may be lawfully waived by this section and any requirements of competitive bidding or restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition or property of the municipality is not applicable to any action taken under authority of this Ordinance.

Section 12. Powers Conferred as Additional and Supplemental - Limitations Imposed - Effect. The powers conferred by this Ordinance are in addition and supplemental to, and the limitations imposed by this Ordinance shall not affect, the powers conferred by any law or any other ordinance. Projects may be acquired, purchased, constructed, reconstructed, improved, bettered, equipped, extended and financed, and bonds may be issued under this Ordinance for such purposes, notwithstanding that any law or any other ordinance may provide for the acquisition, purchase, construction, reconstruction, improvement, equipping, betterment, extension and financing of a like project, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any law or any other ordinance.

Section 13. Severability Clause. The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 14. Effective Date. This Ordinance shall become and be effective upon its passage and approval by the Mayor.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the Members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 20 day of May, A.D. 1974.

PASSED by the City Council this 20 day of May, 1974.

Duane Eckerty
Duane Eckerty, City Clerk

APPROVED by the Mayor this 21 day of May, 1974.

Hiram Paley
Hiram Paley, Mayor