

ORDINANCE NO. 8485-39

AN ORDINANCE authorizing the issuance of \$2,500,000 aggregate principal amount Economic Development Revenue Bonds, Series A (Gould Inc. Project); the lending of the proceeds of said Bonds to Gould Inc., a Delaware corporation; the execution and delivery of a Loan Agreement and a Trust Indenture; approving the sale of the Series A Bonds; and prescribing other matters relating thereto.

WHEREAS, the City of Urbana, Champaign County, Illinois (the "Issuer") is a municipal corporation and a unit of local government of the State of Illinois and is authorized pursuant to the provisions of the home rule power and authority under and pursuant to Section 6(a) of Article VII of the Constitution of Illinois and Ordinance No. 7475-3, 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, passed May 20, 1974 and approved May 21, 1974, and Ordinance No. 8081-37, An Ordinance Amending and Supplementing Ordinance No. 7475-3, passed October 6, 1980 and approved October 14, 1980, as supplemented and amended (collectively the "Enabling Ordinance"), to issue its revenue bonds to finance the acquisition, construction, reconstruction, repair, alteration, improvement, equipping and extension of economic development projects; and

WHEREAS, the Issuer proposes to issue \$2,500,000 aggregate principal amount Economic Development Revenue Bonds, Series A (Gould Inc. Project) (the "Series A Bonds") pursuant to a Trust Indenture (the "Indenture") by and between the Issuer and the Trustee named therein as Trustee (the "Trustee"); and

WHEREAS, pursuant to the Loan Agreement (the "Loan Agreement") by and between the Issuer and Gould Inc., a Delaware corporation (the "Borrower"), the Issuer proposes to lend the proceeds from the sale of the Series A Bonds to the Borrower in order to provide funds: (1) to acquire and construct a facility for computer research, software research, and related development

to be located in Urbana, Illinois (the "Project") and (2) to pay necessary expenses incidental thereto; and

WHEREAS, pursuant to the Loan Agreement the Borrower will execute and deliver to the Issuer its Series A Note in the principal amount of \$2,500,000 (the "Series A Note"); and

WHEREAS, pursuant to the Indenture, as security for the Series A Bonds, the Issuer will assign to the Trustee all of the Issuer's right, title and interest in, under and to the Loan Agreement (except the Issuer's rights to issue Additional Bonds, to consent to supplements and amendments to the Loan Agreement and to be reimbursed, indemnified and held harmless, which rights are herein collectively referred to as the "Unassigned Rights"), and the Series A Note; and

WHEREAS, pursuant to an Underwriting Agreement (the "Underwriting Agreement") by and between the Issuer and the Underwriter named therein, including its successors and assigns, (the "Underwriter"), the Issuer agrees to issue and sell to the Underwriter, and the Underwriter agrees to purchase from the Issuer, the Series A Bonds; and

WHEREAS, the Series A Bonds are entitled to the benefit and security of an irrevocable standby Letter of Credit (the "Letter of Credit") of an issuer (the "Letter of Credit Bank") to be acceptable to the Underwriter; and

WHEREAS, to secure the Letter of Credit the Borrower will enter into a Reimbursement Agreement (the "Reimbursement Agreement") with the Letter of Credit Bank wherein the Borrower agrees, among other things, to reimburse the Letter of Credit Bank for any amounts which the Letter of Credit Bank would pay in connection with the Series A Bonds, the Loan Agreement and the Indenture.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. The construction of the Project and the payment of necessary expenses incidental thereto are hereby authorized and determined to be in the public interest and in further-

ance of the public purposes contemplated by the Enabling Ordinance.

Section 2. In order to provide funds to carry out the public purposes set forth in Section 1 hereof, there are hereby authorized to be issued the revenue bonds of the Issuer in the principal sum of \$2,500,000 each of which bonds shall be designated "Economic Development Revenue Bond, Series A (Gould Inc. Project)" (the "Series A Bonds").

The Series A Bonds, shall be dated, shall bear interest at the rate or rates per annum, shall be issuable as fully registered bonds in the denomination of \$5,000 or integral multiples thereof (provided, however, that one or more temporary bonds may be issued preliminary to the availability of or in lieu of bonds in definitive form), and shall mature and come due in such amounts and at such times, all as provided in the Indenture. Interest on the Series A Bonds shall be payable semiannually from the date or dates thereof until the maturity or call for redemption thereof as provided in the Indenture. The Series A Bonds shall be subject to redemption prior to or at maturity at the times, under the circumstances, in the manner, at the prices and with the effect set forth in the Indenture.

The Series A Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Mayor, shall be attested by the manual or facsimile signature of the City Clerk, shall have the corporate seal of the Issuer impressed or reproduced thereon and shall be authenticated by the endorsement of the Trustee. The facsimile signatures of both the Mayor and the Clerk are hereby both authorized to be placed on the Series A Bonds.

The Series A Bonds and the interest thereon shall be limited obligations of the Issuer, payable solely and only from the revenues and receipts derived by the Issuer from the Project pursuant to the Loan Agreement and the Series A Note and otherwise as provided in the Indenture and the Loan Agreement. No recourse under or upon any obligation, covenant or agreement contained in the Indenture, or in any Series A Bond thereby secured, or under

any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of the Indenture, shall be had against any employee, council member or officer, as such, past, present or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder or owner of any Series A Bond issued under the Indenture or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Series A Bonds. The Series A Bonds and the interest thereon shall never constitute an obligation or commitment by the Issuer to expend any of its funds other than (i) the proceeds of the sale of the Series A Bonds, (ii) the revenues and receipts derived by the Issuer from the Project pursuant to the Loan Agreement, the Series A Note and the Indenture, (iii) any insurance or condemnation award proceeds with respect to the Project, (iv) any money arising out of the investment or reinvestment of such proceeds, income, revenues or money, and (v) any other proceeds derived by the Issuer or the Trustee from the Project in accordance with the provisions of the Loan Agreement and the Indenture.

Section 3. The Series A Bonds shall be issued in compliance with and under the authority of the provisions of the Enabling Ordinance, this Bond Ordinance and the Indenture and the foregoing shall be stated on the face of the Series A Bonds. Additional bonds may be issued on a parity with the Series A Bonds in accordance with the provisions and limitations set forth in the Indenture.

Section 4. The forms, terms and provisions of the Loan Agreement, Indenture and Underwriting Agreement (collectively the "Instruments") are hereby in all respects approved, and the Mayor and the City Clerk are hereby authorized, empowered and directed to execute and deliver the Instruments in the name and on behalf of the Issuer. The Instruments, as executed and delivered, shall be in substantially the forms thereof now before this meeting and hereby or previously approved, or with such changes therein as

shall be approved by the officers of the Issuer executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the forms of the Instruments now before this meeting; and from and after the execution and delivery of the Instruments the officers, agents and employees of the Issuer are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out the intent and accomplish the purposes of this Bond Ordinance and to comply with and make effective the provisions of the Instruments as executed.

Section 5. The sale of the Series A Bonds to the Underwriter, at a price of not less than 95% of the par value thereof, as approved by the Borrower delivering the Loan Agreement, is hereby approved.

Section 6. The Issuer covenants that it shall, prior to the issuance of the Series A Bonds duly elect to have the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended (the "Code") apply to such issuance, and such election shall be made in accordance with the procedures set forth in Section 1.103-10(b)(2)(vi) of the Regulations under Section 103 of the Internal Revenue Code, as amended, or any successor provisions. The Issuer will make such filings as may be necessary to effect the aforesaid election. Under and pursuant to Section 103(n) of the Code the Issuer hereby allocates \$2,500,000 of the allocation available to it under Section 103(n) of the Code, to be in effect if, as and when the Series A Bonds are issued, sold and delivered, the Borrower assuming all risks in connection therewith. The Issuer neither represents nor guarantees that an allocation under and pursuant to Section 103(n) of the Code is or will be available at the time that the Series A bonds are otherwise available for issuance and delivery to the Underwriter and its successors and assigns, the Borrower assuming all risk in that connection. The Mayor and Clerk, as the case may be, are hereby authorized and directed to execute and file such certificates or other documents to effect such election and allocation. The Mayor

is hereby designated as the authorized or applicable elected representative of the Issuer in connection with the issuance of the Series A Bonds, and the official of the Issuer charged with the issuance of the Series A Bonds, public approval of the issuance thereof being hereby given as required by Section 103(k) of the Code. The required public hearing having been duly noticed, held and conducted, the approval hereof by the Mayor shall constitute approval of the authorized or applicable elected representative within the meaning of Section 103(k) of the Code.

Section 7. Under and pursuant to Section 103(n) of the Code the Mayor and each member of the City Council, whether voting for or against this Bond Ordinance, under penalty of perjury hereby certifies that the allocation described in Section 6 hereof was not made in consideration of any bribe, gift, gratuity or direct or indirect campaign contribution.

Section 8. The provisions of this Bond Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereof.

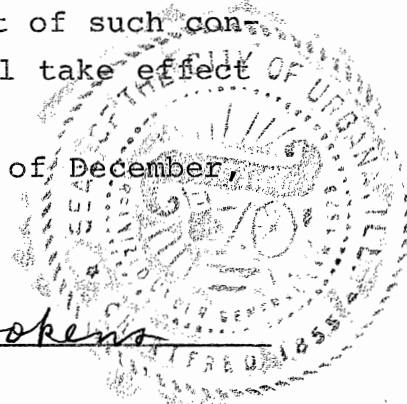
Section 9. All ordinances, orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this Bond Ordinance shall take effect and be in full force immediately upon its adoption.

PASSED by the City Council this 3rd day of December, 1984.

Ruth S. Brookens
City Clerk

APPROVED by the Mayor this 10th day of December, 1984.

Jeffrey T. McBlair
Mayor



It was thereupon moved by _____ and seconded by _____ that said Ordinance be adopted. Upon roll being called, the following voted:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mayor _____	—	—	—	—
Aldersperson _____	—	—	—	—
Aldersperson _____	—	—	—	—
Aldersperson _____	—	—	—	—
Aldersperson _____	—	—	—	—
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Aldersperson _____	—	—	—	—
Aldersperson _____	—	—	—	—

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(Other Business)

Upon motion duly seconded and voted, the City Council adjourned.

STATE OF ILLINOIS)
)
COUNTY OF CHAMPAIGN)

I, Ruth S. Brookens, hereby certify that I am the duly elected, qualified and acting City Clerk of the City of Urbana, Illinois, and as such official I further certify that attached hereto is a copy of an excerpt from the minutes of the meeting of the City Council of the City of Urbana held on December 3, 1984; that I have compared said copy with the original minute record of said meeting in my official custody; and that said copy is a true, correct and complete excerpt from said original minute record insofar as said original record relates to the adoption of Ordinance No. 8485-39, as follows: "AN ORDINANCE authorizing the issuance of \$2,500,000 aggregate principal amount Economic Development Revenue Bonds, Series A (Gould Inc. Project); the lending of the proceeds of said Bonds to Gould Inc., a Delaware corporation; the execution and delivery of a Loan Agreement and a Trust Indenture; approving the sale of said Bonds; and prescribing other matters relating thereto" and of such ordinance.

WITNESS my official signature and the seal of said City of Urbana this ____ day of _____, 198_.

(SEAL)

City Clerk