

ORDINANCE NO. 8586-48

AN ORDINANCE authorizing the issuance of a \$5,000,000 Industrial Development Revenue Bond, Series 1985 (Solo Cup Company Facility) by the City of Urbana, Illinois, and approving the execution and delivery of a Loan Agreement dated as of December 16, 1985, and Trust Agreement dated as of December 16, 1985, and related matters.

WHEREAS, pursuant to the Section 6(c) of Article VII of the 1970 Constitution of the State of Illinois and Ordinances of the City of Urbana respectively numbered 7475-3 and 8081-37 and dated October 6, 1980 and October 14, 1980 authorizing the issuance of Industrial Development Bonds (collectively the "Act"), duly adopted by the City of Urbana, Illinois (hereinafter referred to as the "Issuer"), the Issuer is authorized to issue revenue bonds for the purpose of financing "economic development projects" as defined in the Act; and

WHEREAS, as a result of negotiations between the Issuer and Solo Cup Company, a Delaware corporation (the "Borrower"), which are evidenced by a Memorandum of Intent and an Amendment to the Memorandum of Intent, respectively dated October 24, 1985 and November 20, 1985, execution of which were both duly authorized by resolution of the City Council and approved by the Mayor on said date, the Borrower has entered into contracts to acquire and construct machinery for the production of Borrower's plastic cups all to be located at 1505 East Main Street, within the corporate limits of the Issuer (the "Project"), such acquisition and construction constituting an economic development project within the meaning of the Act and of the character and accomplishing the purposes provided for in the Act, and the Issuer is willing to issue its Economic Development Revenue Bonds to finance the Project Costs (as defined in the Act) and to enter into a Loan Agreement with the Borrower upon terms which will produce revenues and receipts sufficient to provide for the prompt payment of the principal, interest and redemption premiums, if any, on such revenue bonds, all as set forth in the details and provisions of the Loan Agreement hereinafter identified; and

WHEREAS, it is necessary and proper for the interests of the Issuer and its inhabitants to authorize the issuance of \$5,000,000 Industrial Development Revenue Bond, Series 1985 (Solo Cup Company Facility) (the "Bond"), for the purpose of financing the Project Costs, and the same is a matter pertaining to the government and affairs of the Issuer; and

WHEREAS, The Chase Manhattan Bank, N.A., a national banking corporation located in New York, New York (the "Purchaser") has offered to purchase the Bond at a price acceptable to the Issuer and to the Borrower, and in order to provide for the issuance of the Bond it is necessary for the Issuer to authorize the execution and delivery of the following described documents in substantially such forms heretofore placed on file with the City Clerk:

(1) A Loan Agreement (the "Loan Agreement") dated as of December 16, 1985, between the Issuer and the Borrower;

(2) A Trust Agreement (the "Trust") dated as of December 16, 1985, between the Issuer and Busey First National Bank in Urbana, Illinois, as Trustee (the "Trustee"), setting forth the terms, conditions and security requirements for the Bonds; and

(3) A Bond Purchase Commitment (the "Bond Purchase Commitment") dated December 5, 1985, between the Purchaser and the Borrower.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1. That it is herewith found, determined and declared that the existence of the Project will create and retain employment opportunities which will benefit the City.

Section 2. That the form, terms and provisions of the proposed Loan Agreement be, and they hereby are, in all respects approved, and that the Mayor and the City Clerk of the Issuer be, and they hereby are, authorized, empowered and directed to execute, acknowledge and deliver the Loan Agreement in the name and on behalf of the Issuer, and thereupon to cause the Loan Agreement to be delivered to the Borrower; that the Loan Agreement is to be in substantially the form presented to this meeting and hereby approved, or with such changes therein as shall be approved by the officials 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 form of Loan Agreement presented to this meeting; and that from and after the execution and delivery of the Loan Agreement, the officials, 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 and agreements referred to in the Loan Agreement and as may be necessary to carry out and comply with the provisions of the Loan Agreement as executed.

Section 3. That the form, terms and provisions of the proposed Trust be, and they hereby are, in all respects approved, and that the Mayor and the City Clerk of the Issuer be, and they are hereby, authorized, empowered and directed to execute,

acknowledge and deliver the Trust in the name and on behalf of the Issuer, and thereupon to cause the Trust to be executed, acknowledged and delivered to the Trustee; that the Trust is to be in substantially the form presented to this meeting and hereby approved, with such changes therein as shall be approved by the officials 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 form of Trust presented to this meeting; and that from and after the execution and delivery of the Trust, the officials, 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 and agreements referred to in the Trust and as may be necessary to carry out and comply with the provisions of the Trust as executed.

Section 4. That the form, terms and provisions of the proposed Bond Purchase Commitment be, and they hereby are, in all respects approved.

Section 5. That the Mayor of the Issuer be and is hereby authorized, empowered and directed to cause to be prepared an issue of \$5,000,000 aggregate principal amount of the Bond of the Issuer, bearing interest at the rate or rates per annum, maturing in the year or years and in the principal amounts, in such form and having the other terms and provisions specified in the Trust (as executed and delivered); that said Bond shall be executed in the name of the Issuer with the manual or facsimile signatures of the Mayor and the City Clerk of the Issuer, and the seal of the Issuer shall be affixed thereto or imprinted thereon; that the Mayor or City Clerk of the Issuer shall cause the Bond, as so executed and attested, to be delivered to the Trustee for authentication.

The Bond shall not be a general obligation of the City, but shall be a limited obligation thereof and shall be payable solely from the income and revenues derived by the City from the Project as specified in and secured by the Trust. No holder of the Bond shall have the right to compel the exercise of the taxing power of the City to pay the principal of, premium, if any, and interest on the Bond. The Bond and the interest thereon do not and shall not constitute an indebtedness or a moral obligation of the City or a loan of credit thereof within the meaning of any constitutional or statutory provision, and the foregoing shall be plainly stated on the face of the Bond. Neither the faith and credit nor the taxing power of the City, the State of Illinois or any political subdivision of the State of Illinois shall be pledged to the payment of the principal of, premium, if any, and interest on the Bond or other costs incident thereto. The nature of the obligation represented by the Bonds is as more fully set forth in the Trust.

Section 6. That the form of the Bond submitted to this meeting as the same appears in the Trust, subject to appropriate insertion and revision in order to comply with the provisions of said Indenture be, and the same hereby are, approved, and when the same shall be executed on behalf of the Issuer in the manner contemplated by the Trust and this Ordinance in the aggregate principal amount of \$5,000,000, they shall represent the approved form of the Bond of the Issuer.

Section 7. That the Mayor or City Clerk of the Issuer be and is hereby authorized, empowered and directed to issue and sell to the Purchasers \$5,000,000 principal amount of the Bond, at a price of 100% of the principal amount as provided in the Bond Purchase Commitment.

Section 8. That the Mayor or the City Clerk, or both, are hereby authorized and directed to execute, attest, seal and deliver any and all certificates and documents and do any and all things deemed necessary to effect the acquisition, construction and installation of the Project and the issuance and sale of the Bonds and the execution and delivery of the Loan Agreement and the Trust and to carry out the intent and purposes of this Ordinance, including the preamble hereto.

Section 9. That the Issuer hereby elects to have the provisions of Section 103(b)(6)(D) of the Internal Revenue Code of 1954, as amended, apply to the Bond authorized by this Ordinance and that the Mayor or City Clerk is hereby authorized and directed to file or cause to be filed an appropriate statement relating to such election with the Internal Revenue Service.

Section 10. That from and after the execution and delivery of said documents, the proper officials, 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 and comply with the provisions of said documents as executed and to further the purposes and intent of this Ordinance, including the preamble hereto.

Section 11. The provisions of the Loan Agreement require the Borrower to bear the risks of any loss that may result from investments of money as held as part of the Bond Fund (as defined in the Loan Agreement).

Section 12. No covenant, stipulation, obligation or agreement herein contained, or contained in any instrument or document executed in connection with the Project shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the City Council or any officer, agent or employee of the City in their individual capacity, and neither the members of the City Council nor any officer of the City executing the Bonds shall be liable personally on the Bonds or subject to any personal liability or accountability by reason of the issuance thereof.

Section 13. That all acts and doings of the official of the Issuer which are in conformity with the purposes and intent of this Ordinance and in furtherance of the issuance and sale of the Bond in the aggregate principal amount of \$5,000,000 and the financing of the Project to that amount be, and the same hereby are, in all respects, approved and confirmed.

Section 14. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provisions shall, for any reason, be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 15. That all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 16. That this Ordinance shall be in full force and effect upon its approval by the Mayor.

Passed by the City Council of the City of Urbana, Illinois, this 16th day of December, 1985.

  
Ruth S. Brookens  
Ruth S. Brookens, City Clerk

Approved by the Mayor this 17th day of December, 1985

  
Jeffrey T. Markland, Mayor

STATE OF ILLINOIS

COUNTY OF CHAMPAIGN

CITY OF URBANA

C E R T I F I C A T E

I, Ruth Brookens, DO HEREBY CERTIFY, THAT I am the City Clerk of the City of Urbana, Champaign County, Illinois, and as such officer I have the lawful power and duty to keep an index and record of all proceedings of the City Council of said City, and of all ordinances and resolutions presented to or passed by said City Council.

I DO HEREBY FURTHER CERTIFY, THAT the foregoing document is a true, correct and complete copy of a certain ordinance now on file in my office, designated as Ordinance Number 8586-48 and that said ordinance as duly passed and approved by the City Council of said City at a meeting duly called and held in accordance with applicable law, at which a quorum was present and acting throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Urbana, in the State and County aforesaid, this \_\_\_\_ day of December, 1985.

Ruth S. Brookens  
City Clerk

SEAL