

ORDINANCE NO. 8889-61

AN ORDINANCE ESTABLISHING A QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM PURSUANT TO THE AUTHORITY OF SECTION 25 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; APPROVING THE ISSUANCE OF QUALIFIED MORTGAGE CREDIT CERTIFICATES; APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF AN ADMINISTRATION AGREEMENT FOR THE ISSUANCE OF QUALIFIED MORTGAGE CREDIT CERTIFICATES; APPROVING THE ELECTION NOT TO ISSUE QUALIFIED MORTGAGE BONDS; APPROVING THE FORM AND AUTHORIZING THE PUBLICATION OF A NOTICE OF THE ISSUANCE OF QUALIFIED MORTGAGE CREDIT CERTIFICATES; AND AUTHORIZING THE PROPER OFFICERS, STAFF AND ELECTED OFFICIALS TO DO ALL OTHER THINGS NECESSARY AND INCIDENTAL THERETO IN ORDER TO EFFECTIVELY IMPLEMENT AND ESTABLISH A QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.

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 the City of Urbana, Champaign County, Illinois (the "Municipality"), has a population of more than 25,000 and is therefore a Home Rule Unit and may, under the power granted by said Section 6(a) of Article VII of said Constitution of 1970 exercise any power and perform any function pertaining to its government and affairs, and

WHEREAS; there exists within the borders of the Municipality a recognized need for decent, safe, sanitary and well-constructed and maintained housing which persons of moderate income can afford; and

WHEREAS, the United States government has authorized the several states and their political subdivisions to issue

mortgage credit certificates (the "Certificates") pursuant to Section 25 of the Internal Revenue Code of 1986, as amended (the "Code") in lieu of qualified mortgage bonds as defined in Section 143(a) of the Code ("Qualified Mortgage Bonds") which entitle qualifying individuals to a credit against their individual federal income tax; and

WHEREAS, the Municipality hereby finds and determines that it is necessary and desirable and will provide for and promote the public health, safety and welfare of the citizens of the Municipality to establish and implement a mortgage credit certificate program and to issue Certificates.

WHEREAS, in order to provide for the issuance of the Certificates it is necessary for the Municipality to authorize the execution of the following described documents in substantially the forms before this meeting:

(1) an Administration Agreement (the "Administration Agreement"), among the Municipality, George K. Baum & Company, as Program Administrator, and a Local Administrator (as defined therein); and

(2) a form of Mortgage Credit Certificate Election (the "Election") of the Municipality.

NOW, THEREFORE, Be It Ordained by the City Council of the City of Urbana, Champaign County, Illinois, in the exercise of its home rule powers, as follows:

Section 1. Home Rule Authority. The Municipality is a home rule unit under the provisions of the 1970 Constitution of Illinois, and as a home rule unit may, under the powers granted by Section 6(a) of Article VII thereof, "exercise any power and perform any function pertaining to its government and affairs," and this Ordinance is adopted pursuant to the Municipality's home rule powers, any provisions contained in any other Municipality ordinance or resolution or in Illinois law to the contrary notwithstanding.

Section 2. Declaration of Public Purpose. It is hereby found, determined and declared that the purpose of this Ordinance is to take steps designed to reduce the cost of financing for both the acquisition of principal residence housing located in the Municipality and the rehabilitation and improvement of principal residence housing located in the Municipality in order to provide decent, safe and sanitary housing for qualifying persons of low and moderate income. It is further hereby found, determined and declared that such principal residence ownership, rehabilitation and improvement will provide for and promote the public health, safety, morals and welfare, maintain and foster the increase of industrial and commercial activity and economic development, and preserve and increase the ad valorem tax base of the Municipality and its environs. The foregoing are hereby declared and determined to be public purposes and functions pertaining to the government and affairs of the Municipality.

Section 3. Definitions. All words and phrases not otherwise defined herein shall have the respective meanings set forth in the Administration Agreement (as executed, and as amended from time to time) and approved unless a different meaning clearly appears in context.

Section 4. Establishment of Qualified Mortgage Certificate Program.

(a) There is hereby established and implemented a qualified mortgage credit certificate program under Section 25 of the Code (the "Program") for the purpose of issuing Certificates. The Certificates shall be issued to Borrowers in connection with the acquisition, rehabilitation or improvement of the Borrower's Principal Residence within the incorporated area of the Municipality (the "Program Area").

(b) The Certificates shall carry (1) a Credit Rate as shall be provided in the Administration Agreement (as executed), as amended from time to time, which Credit Rate shall be not less than 10% nor more than 50% and (2) an Indebtedness Amount specified in each Certificate.

(c) The Municipality hereby elects not to issue the principal amount of Qualified Mortgage Bonds specified in the Election referred to in Section 9 hereof that are otherwise authorized to be issued by the Municipality during calendar year 1988 pursuant to

Sections 103, 143(a) and 146 of the Code and the regulations promulgated thereunder (which authority was carried forward to 1989 as described in Section 11 hereof), in no event, however, to exceed \$1,710,250.

(d) The Program Administrator is hereby authorized and directed, on behalf of the Municipality, to timely file all reports, annual and otherwise, as are or may be required by Section 25 of the Code and the regulations thereunder.

(e) The Certificates authorized herein shall be provided in the manner and in the amounts and in the time frames as are required by IRS Regulations Section 1.25-4T(g) in connection with owner-financed Target Area residences, if any, within the Program Area.

(f) There is hereby authorized and directed the imposition of fees to fund the costs of the Program as provided in the Administration Agreement. Such fees shall be charged to each Borrower and shall not exceed 2% of the Borrower's Indebtedness Amount. The amount and type of such fees shall not be unreasonable and shall include only those which are permissible under IRS Regulations Section 1.25-4T(h)(2).

Section 5. Aggregate Limit of Certificates The Total Proceeds of the Certificates shall not exceed 25 percent of the nonissued Qualified Mortgage Bonds as specified in Section 4(c) herein and such Total Proceeds shall be determined as provided in IRS Regulations Section 1.25-5T(b).

Section 6. Administration Agreement. For the purpose of administering the details of the Program and to provide for the issuance of the Certificates, the form, terms and provisions of the proposed Administration Agreement be, and they hereby are, in all respects approved, and the Mayor and City Clerk of the Municipality be, and they hereby are, authorized, empowered and directed to execute and deliver the Administration Agreement in the name and on behalf of the Municipality and thereupon to deliver the Administration Agreement to the other parties thereto. The Administration Agreement is to be in substantially the form before this meeting and hereby approved, or with such changes therein as shall be approved by the officials of the Municipality 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 Administration Agreement before this meeting. From and after the execution and delivery of the Administration Agreement, the officials, agents and employees of the Municipality 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 the Administration Agreement as executed.

Section 7. Appointment of Program Administrator; Local Administrator. George K. Baum & Company, a Missouri corporation, is hereby designated to serve in the capacity of the Program

Administrator under and pursuant to the terms of the Administration Agreement. The Program Administrator shall evidence its acceptance of the rights, duties, responsibilities and obligations as Program Administrator by its execution of the Administration Agreement. Prior to the time that the Administration Agreement has been executed by the parties thereto, the Program Administrator designated hereby is hereby authorized and directed to take such actions as it deems necessary not inconsistent with this Ordinance to establish the Program.

The Local Administrator shall be such entity which enters into the Administration Agreement with the Municipality and the Program Administrator, as shall be approved by the officers of the Municipality entering into the Administration Agreement. The execution of the Administration Agreement by the officers of the Municipality shall constitute conclusive evidence of their approval of the Local Administrator.

Section 8. Certificates. For the purpose of lowering borrowing costs for Borrowers pursuant to the Program, there is hereby authorized to be issued and delivered pursuant to this Ordinance and the Administration Agreement, Certificates, the Total Proceeds of which do not exceed 25% of the principal amount of Qualified Mortgage Bonds elected not to be issued pursuant to the Election described in Section 9 hereof. The Certificates shall be designated "City of Urbana, Champaign County, Illinois Single Family Mortgage Credit Certificates, Series 1989." The

Certificates shall be issued and delivered by the Local Administrator under the supervision of the Program Administrator as set forth in the Administration Agreement. The Certificates shall be executed by the manual or facsimile signatures of the Mayor and the City Clerk of the Municipality, and the seal of the Municipality or a facsimile thereof shall be affixed thereto or printed thereon. At the time each Certificate is issued, it shall be countersigned by the manual signature of the Local Administrator or as otherwise provided in the Administration Agreement.

The form of the Certificates shall be that prescribed by the Internal Revenue Service. If no form is prescribed or if such form is not readily available, the Certificates shall be issued in the form prepared by the Program Administrator in accordance with the provisions of the Administration Agreement. The Certificates shall contain the information required by IRS Regulations Section 1.25-6T(b) and such other information as the Program Administrator in its discretion may deem necessary.

Section 9. Mortgage Credit Certificate Election. The Mortgage Credit Certificate Election (the "Election") whereby the Municipality elects not to issue Qualified Mortgage Bonds in the amount set forth therein in order to establish the Mortgage Credit Certificate Program, the Total Proceeds of which shall not exceed 25% of the nonissued amount set forth in the Election, is hereby approved in all respects. The amount of Qualified



Mortgage Bonds elected not to be issued shall be \$1,710,250 or such lesser amount as is set forth in the Election as executed by the Mayor of the Municipality, his execution thereof to constitute conclusive evidence of his and the City Council's approval of such lesser amount. The Mayor of the Municipality is hereby authorized to execute, deliver and file the Election on behalf of and as the act and deed of the Municipality, such Election to be in substantially the form before this meeting and hereby approved, or with such changes therein as shall be approved by the official of the Municipality executing the same, his execution thereof to constitute conclusive evidence of his approval of any and all changes therein from the form of the Election before this meeting. The Municipality hereby reserves its right to revoke the Election, in whole or in part, during 1989, but such revocation shall be limited to that amount of its volume cap allocation to issue Qualified Mortgage Bonds not theretofore used to issue Certificates.

Section 10. Public Notice. Public notice of the eligibility requirements for the Certificates and the method of Certificate issuance shall be published once in a newspaper of general circulation in the Municipality.

Section 11. Volume Cap. There is hereby allocated to the Qualified Mortgage Bonds which the Municipality is electing not to issue pursuant to Section 9 hereof, the entire amount of the Municipality's "volume cap" as defined in Section 146 of the

Code for calendar year 1988 which was duly carried forward pursuant to Section 146(f) of the Code by the filing of a Carryforward Election in 1988 (which carryforward is hereby ratified and confirmed in all respects), such amount being \$1,710,250 or such lesser amount, if any, determined by the Mayor of the Municipality and specified in the Election, or the certificate of the Mayor attached thereto.

Section 12. Ratification. The actions of the officials of the Municipality heretofore taken in connection with the Certificates and the Program are hereby ratified and confirmed.

Section 13. Approval of Further Actions. From and after the execution and delivery of the documents hereby approved, the proper officials, agents and employees of the Municipality 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 preambles hereto. All acts and doings of the officials of the Municipality which are in conformity with the purposes and intent of this Ordinance and in furtherance of the issuance of the Certificates and the establishment of the Program be, and the same are hereby in all respects, approved and confirmed. The Municipality reserves the right to make a further election in 1989 not to issue Qualified Mortgage Bonds in order to issue additional Certificates.

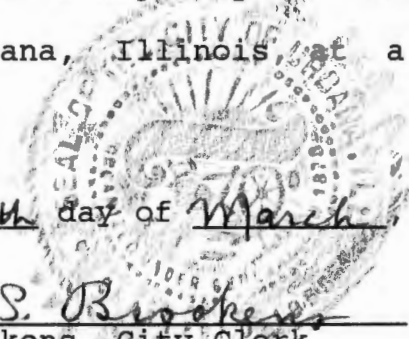
Section 14. Severability. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declarations shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 15. Repeal of Conflicting Ordinances, Resolution, Etc. 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. Effective Date. This Ordinance shall be in full force and effect upon its passage and approval.

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.

PASSED by the City Council this 6th day of March,  
1989.

  
Ruth S. Brookens  
Ruth S. Brookens, City Clerk

APPROVED by the Mayor this 8<sup>th</sup> day of March,  
1989.

Jeffrey T. Markland  
Jeffrey T. Markland, Mayor