**ORDINANCE NO. 8990-87**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF $3,890,000 CORPORATE PURPOSE GENERAL OBLIGATION BONDS, SERIES 1990, OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, PROVIDING THE DETAILS OF SUCH BONDS AND THE LEVY OF DIRECT ANNUAL TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON SUCH BONDS, AND RELATED MATTERS**

## PREAMBLES

**WHEREAS,** the City of Urbana, Champaign County, Illinois (the "Issuer"), has a population of more than 25,000, and pursuant to the provisions of Section 6(a) of Article VII of the Constitution of Illinois is a home rule unit, and as a home rule unit may exercise any power or perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

**WHEREAS,** Section 6(d) of Article VII of the Constitution of Illinois grants constitutional authority for the Issuer to incur debt payable from ad valorem property tax receipts maturing within forty (40) years from the time it is incurred and without prior referendum approval; and

**WHEREAS,** the City Council of the Issuer (the "Corporate Authorities") has determined that it is advisable, necessary and in the best interests of the Issuer's public health, safety and welfare to undertake a project providing for the acquisition, construction and installation, as applicable, of land, parking facilities, streets, sidewalks, storm and sanitary sewers and public safety and public works equipment, and other related facilities, together with all required structures, equipment, appurtenances and fixtures, all electrical, mechanical or other work and the acquisition of land or rights in land necessary, useful or advisable in connection with such work, construction period interest, and as such work may progress in one or more phases, the "Project", substantially in accordance with the related plans, specifications and cost estimate therefor; and

**WHEREAS,** the estimated cost of acquiring, constructing, and installing the Project, including necessary interest during acquisition, construction and installation, engineering, legal, financial, bond discount, printing and publication costs and other expenses preliminary to and in connection with the Project is anticipated not to exceed the sum of $3,890,000, to be paid from the hereinafter described Bonds; and

**WHEREAS,** the Issuer has insufficient funds to pay the costs of the Project, and, therefore, must borrow money and issue Corporate Purpose General Obligation Bonds, Series 1990 (the "Bonds"), in evidence thereof up to the aggregate principal amount herein provided for such purposes; and

**WHEREAS,** for convenience of reference only this ordinance is divided into numbered sections with headings, which shall not define or limit the provisions hereof, as follows:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, as follows:**

**Section 1. Authority and Purpose.** This ordinance is adopted pursuant to the provisions of the Illinois Municipal Code, as supplemented and amended, including by the power and authority of the Issuer as a home rule unit under the Constitution of Illinois, for the purpose of providing sufficient funds to pay the costs of the Project described above in the preambles to this ordinance and to pay the costs of the issuance of the bonds authorized by this ordinance. The Project and the issuance and the sale of the bonds is hereby authorized to be done and undertaken by the City of Urbana, Illinois, under and pursuant to applicable law, the Constitution of the State of Illinois, and this ordinance.

**Section 2. Authorization and Terms of Bonds.** To provide for the payment of the costs of the Project and the issuance of the bonds there is hereby appropriated the sum of

$3,890,000. For the purpose of financing such appropriation, corporate purpose general obligation bonds of the Issuer shall be issued and sold in an aggregate principal amount of $3,890,000, each shall be designated "Corporate Purpose General Obligation Bond, Series 1990", and shall be issuable in the denominations of $5,000 or an integral multiple thereof. The bonds shall be numbered consecutively from 1 upwards in order of their issuance and may bear such identifying numbers or letters as shall be useful to facilitate the registration, transfer and exchange of bonds. Unless otherwise determined in an order to authenticate the bonds, each bond shall be dated as of March 1, 1990, or after such date and as of and before the date of issuance and delivery thereof as the Underwriter agrees or accepts, but if interest due on any bond shall not have been paid in full, then notwithstanding any of the foregoing provisions, such bond shall continue to bear interest from the most recent interest payment date to which interest has been paid on such bond. The bonds shall mature on March 1 of the years and in the respective principal amount in each year, as follows:

| Year | Principal Amount($) |
|---|---|
| 1992 | 180,000 |
| 1993 | 190,000 |
| 1994 | 200,000 |
| 1995 | 215,000 |
| 1996 | 230,000 |
| 1997 | 240,000 |
| 1998 | 260,000 |
| 1999 | 275,000 |
| 2000 | 295,000 |
| 2001 | 315,000 |
| 2002 | 335,000 |
| 2003 | 360,000 |
| 2004 | 385,000 |
| 2005 | 410,000 |

The bonds shall bear interest at the rate or rates per annum, not in excess of 7.5% per annum for any maturity, as shall be set forth in the direction and order of the Mayor to the bond registrar to authenticate and deliver the bonds, with no further authorization by the Corporate Authorities than provided by this ordinance.

Each bond shall bear interest from its date, computed on the basis of a 360-day year consisting of twelve 30-day months and payable in lawful money of the United States of America on September 1, 1990, and semiannually thereafter on each March 1 and September 1 at the applicable rate or rates per annum as herein provided. The principal of and premium, if any, on the bonds shall be payable in lawful money of the United States of America upon presentation and surrender thereof at the principal corporate trust office of Marine Bank of Champaign-Urbana, in the City of Champaign, Illinois, which is hereby designated and appointed as bond registrar and paying agent for the bonds. Interest on the bonds shall be payable on each interest payment date to the registered owners of record thereof appearing on the registration books maintained by the bond registrar for the Issuer for such purpose at the principal corporate trust office of the bond registrar as of the close of business on the fifteenth (15th) day of the calendar month next preceding the applicable interest payment date. Interest on the bonds shall be paid by check or draft mailed to such registered owners at their addresses appearing on the registration books.

Bonds maturing on or after March 1, 1999, shall be subject to redemption prior to maturity at the option of the

Issuer and upon notice as herein provided in inverse order of maturity, selected by lot within a single maturity if less than all outstanding bonds of a maturity are to be redeemed, on March 1, 1998, and thereafter during the redemption periods and at the redemption prices (expressed as a percentage of the principal amount to be so redeemed), plus accrued interest to the redemption date, as follows:

| Redemption Periods | Redemption Prices |
|---|---|
| March 1, 1998 to and including the last day of February, 2000 | 102 % |
| March 1, 2000 to and including the last day of February, 2002 | 101 % |
| March 1, 2002 and thereafter | 100 % |

In the event of the redemption of less than all the bonds of like maturity, the aggregate principal amount thereof to be redeemed shall be $5,000 or an integral multiple thereof and the bond registrar shall assign to each bond of such maturity a distinctive number for each $5,000 principal amount of such bond and shall select by lot from the numbers so assigned as many numbers as, at $5,000 for each number, shall equal the principal amount of such bonds to be redeemed. The bonds to be redeemed shall be the bonds to which were assigned numbers so selected; provided that only so much of the principal amount of each bond shall be redeemed as shall equal $5,000 for each number assigned to it and so selected.

Notice of the redemption of bonds shall be mailed not less than 30 days nor more than 60 days prior to the date fixed for such redemption to the registered owners of bonds to be redeemed at their last addresses appearing on such registration books. The bonds or portions thereof specified in such notice shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for payment of the redemption price of all the bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on such date, and if notice of redemption shall have been mailed as aforesaid (and notwithstanding any defect therein or the lack of actual receipt thereof by any registered owner) then from and after the redemption date interest on such bonds or portions thereof shall cease to accrue and become payable. If there shall be drawn for redemption less than all of a bond, the Issuer shall execute and the bond registrar shall authenticate and deliver, upon the surrender of such bond, without charge to the registered owner thereof, for the unredeemed balance of the bond so surrendered, bonds of like maturity and of the denomination of $5,000 or any integral multiple thereof.

All notices of redemption shall include at least the information as follows:

(1) the redemption date;

(2) the redemption price;

(3) If less than all of the bonds of a given maturity are to be redeemed, the identification and, in the case of partial redemption of the bonds, the respective principal amounts to the bonds to be redeemed;

(4) a statement that on the redemption date the redemption price will become due and payable upon each such bond or portion thereof called for redemption and that interest thereon shall cease to accrue from such date; and

(5) the place where such bonds are to be surrendered for payment of the redemption price, which place of payment shall be the

principal corporate trust office of the bond registrar.

The bond registrar shall not be required to transfer or exchange any bond after notice of the redemption of all or a portion thereof has been mailed. The bond registrar shall not be required to transfer or exchange any bond during a period of fifteen (15) days next preceding the mailing of a notice of redemption which would designate for redemption all or a portion of such bond.

**Section 3. Official Statement, Bond Purchase Agreement, Sale and Delivery.** The preparation by the Underwriter preliminary to and in connection with the Official Statement shall be and is hereby in all respects ratified, confirmed and approved. In connection therewith, the Issuer does hereby approve and accept the offer of the Underwriter to purchase the bonds in accordance with and pursuant to the Bond Purchase Agreement and hereby authorizes the Mayor to execute and deliver such Bond Purchase Agreement and such Official Statement for and on behalf of the Issuer in substantially the forms thereof presented before this meeting of the Corporate Authorities, with such changes therein as such Mayor shall approve, such changes being conclusive as to approval by the Corporate Authorities. In connection with the bonds, the Issuer covenants and agrees to comply with, and to assist the Underwriter in complying with, Rule 15c2-12 of the Securities and Exchange Commission and applicable Rules of the Municipal Securities Rulemaking Board.

The Mayor, Clerk, Comptroller and other appropriate officials of the Issuer are hereby authorized and directed to do and perform, or cause to be done or performed, for or on behalf of the Issuer each and every thing necessary for the issuance of the bonds, including the due and proper execution, delivery and performance of appropriate agreements with the bond registrar and paying agent, of the Bond Purchase Agreement, this ordinance and the Official Statement, upon payment of the full purchase price of the bonds.

**Section 4. Execution and Authentication.** Each bond shall be executed in the name of the Issuer by the manual or authorized facsimile signature of its Mayor and the corporate seal of the Issuer, or a facsimile thereof, shall be thereunto affixed or otherwise reproduced thereon and attested by the manual or authorized facsimile signature of its Clerk.

In case any officer whose signature, or a facsimile of whose signature, shall appear on any bond shall cease to hold such office before the issuance of the bond, such bond shall nevertheless be valid and sufficient for all purposes, the same as if the person whose signature, or a facsimile thereof, appears on such bond had not ceased to hold such office. Any bond may be signed, sealed or attested on behalf of the Issuer by any person who, on the date of such act, shall hold the proper office, notwithstanding that at the date of such bond such person may not have held such office. No recourse shall be had for the payment of any bonds against any officer or employee (past, present or future) who executes the bonds, or on any other basis.

Each bond shall bear thereon a certificate of authentication executed manually by the bond registrar. No bond shall be entitled to any right or benefit under this ordinance or shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the bond registrar.

<u>Section 5</u>. <u>Transfer, Exchange and Registration</u>. The bonds shall be negotiable, subject to the provisions for registration of transfer contained herein. Each bond shall be transferable only upon the registration books maintained by the Issuer for that purpose at the principal corporate trust office of the bond registrar, by the registered owner thereof in person or by such registered owner's attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the bond registrar and duly executed by the registered owner or such registered owner's duly authorized attorney. Upon the surrender for transfer of any such bond, the Issuer shall execute and the bond registrar shall authenticate and deliver a new bond or bonds registered in the name of the transferee of the same aggregate principal amount, maturity and interest rate as the surrendered bond. Bonds, upon surrender thereof at the principal corporate trust office of the bond registrar, with a written instrument satisfactory to the bond registrar, duly executed by the registered owner or such registered owner's attorney duly authorized in writing, may be exchanged for an equal aggregate principal amount of bonds of the same maturity and interest rate and of the denominations of $5,000 or any authorized integral multiple thereof.

For every such exchange or registration of transfer of bonds, the Issuer or the bond registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. No other charge shall be made for the privilege of making such transfer or exchange. The provisions of the Illinois Bond Replacement Act shall govern the replacement of lost, destroyed or defaced bonds.

The Issuer and the bond registrar may deem and treat the person in whose name any bond shall be registered upon the registration books as the absolute owner of such bond, whether such bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, or interest thereon and for all other purposes whatsoever, and all such payments so made to any such registered owner or upon such registered owner's order shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid, and neither the Issuer nor the bond registrar shall be affected by any notice to the contrary.

<u>Section 6</u>. <u>Bond Registrar and Paying Agent</u>. The Issuer covenants that it shall at all times retain a bond registrar with respect to the bonds, that it will maintain at the designated office of such bond registrar a place where bonds may be presented for payment and registration of transfer or exchange

and that it shall require that the bond registrar maintain proper registration books and perform the other duties and obligations imposed upon it by this ordinance in a manner consistent with the standards, customs and practices of the municipal securities business. The Mayor and Clerk, under the Issuer's seal, as appropriate, are authorized to enter into the bond registrar's standard agreement in connection with the foregoing, and as paying agent.

The bond registrar shall signify its acceptance of the duties and obligations imposed upon it by this ordinance, including as paying agent, by executing the certificate of authentication on any bond, and by such execution the bond registrar shall be deemed to have certified to the Issuer that it has all requisite power to accept, and has accepted, such duties and obligations not only with respect to the bond so authenticated but with respect to all the bonds. The bond registrar, including as paying agent, as the agent of the Issuer, shall not be liable in connection with the performance of its duties except for its own negligence or default. The bond registrar shall, however, be responsible for any representation in its certificate of authentication on the bonds.

The Issuer may remove the bond registrar, including as paying agent, at any time. In case at any time the bond registrar, including as paying agent, shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the bond registrar, or of its property, shall be appointed, or if any public officer shall take charge or control of the bond registrar or of its property or affairs, the Issuer covenants and agrees that it will thereupon appoint a successor bond registrar or paying agent, as the case may be. The Issuer shall mail notice of any such appointment made by it to each registered owner of bonds within twenty days after such appointment. Any bond registrar or paying agent appointed under the provisions of this Section shall be a bank, trust company or national banking association maintaining its principal corporate trust office in the State of Illinois.

Section 7. General Obligations. The full faith and credit of the Issuer are hereby irrevocably pledged to the punctual payment of the principal of and interest on the bonds. The bonds shall be direct and general obligations of the Issuer, and the Issuer shall be obligated to levy ad valorem taxes upon all the taxable property in the Issuer for the payment of the bonds and the interest thereon, without limitation as to rate or amount. Notwithstanding the foregoing and with respect to the application of up to approximately $2,000,000 of Bond proceeds for land acquisition and construction of parking facilities in the Issuer's Redevelopment Project Area No. 2 (the "TIF Area") under the Tax Increment Allocation Redevelopment Act (the "TIF Act"), which such proceeds are hereby determined to be and are hereby pledged to pay for redevelopment project costs pursuant to Section 11-74.4-7 of the TIF Act, the Issuer reserves the right, but is not obligated, to apply incremental property and sales taxes from the TIF Area under Sections 11-74.4-8 and 11-74.4-8a of the TIF Act to the payment of the principal and interest on such principal amount of the Bonds or to the reimbursement to the Issuer with respect to other funds, including with respect to the levy of taxes in Section 9 below, applied to pay the principal of and interest on such bonds.

**Section 8. Form of Bonds**. The bonds shall be issued as fully registered bonds, the blanks to be appropriately completed when the bonds are printed, and to be printed consistent with the customs and practices of printing bonds in stock certificate form, in substantially the form as follows:

**UNITED STATES OF AMERICA**
**STATE OF ILLINOIS**
**COUNTY OF CHAMPAIGN**

**CITY OF URBANA**
**CORPORATE PURPOSE GENERAL OBLIGATION BOND**
**SERIES 1990**

**Registered No.______** **$_________**

**INTEREST RATE** **DATED DATE** **MATURITY DATE** **CUSIP**

**Registered Owner:**

**Principal Amount:**

**The CITY OF URBANA,** a municipal corporation and a home rule unit of the State of Illinois situated in The County of Champaign (the "Issuer"), acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount set forth above on the Maturity Date set forth above, and to pay interest on such Principal Amount from the Dated Date set forth above, or from the most recent interest payment date to which interest has been paid, as the case may be, at the Interest Rate per annum set forth above, computed on the basis of a 360-day year consisting of twelve 30-day months and payable in lawful money of the United States of America on September 1, 1990, and semiannually thereafter on the first days of March and September in each year until the Principal Amount set forth above shall have been paid, by check or draft mailed to the Registered Owner of record hereof as of the fifteenth (15th) day of the calendar month next preceding each such interest payment date, at the address of such Registered Owner appearing on the registration books maintained by the Issuer for such purpose at the principal corporate trust office of Marine Bank of Champaign-Urbana, in the City of Champaign, Illinois, as bond registrar (including as paying agent and together with its successors, the "Bond Registrar"). This bond, as to principal and premium, if any, when due, will be payable in lawful money of the United States of America upon presentation and surrender of this bond at the principal corporate trust office of the Bond Registrar. The full faith and credit of the Issuer are irrevocably pledged for the punctual payment of the principal of and interest on this bond according to its terms.

This bond is one of a series of bonds issued in the aggregate principal amount of $3,890,000, which are all of like tenor except as to date, maturity and rate of interest and which are authorized and issued under and pursuant to the Illinois Municipal Code, as supplemented and amended, including by the power and authority of the Issuer as a home rule unit under the Constitution of Illinois, and under and in accordance with Ordinance No. ________ adopted by the City Council of the Issuer on _____________, 1990, and entitled: "An Ordinance Authorizing the Issuance of $3,890,000 Corporate Purpose General Obligation Bonds, Series 1990, of the City of Urbana, Champaign County, Illinois, Providing the Details of Such Bonds and the Levy of

Direct Annual Taxes to Pay the Principal of and Interest on Such Bonds, and Related Matters."

Bonds maturing on or after March 1, 1999, shall be subject to redemption prior to maturity at the option of the Issuer and upon notice as herein provided in inverse order of maturity, selected by lot within a single maturity if less than all outstanding bonds of a maturity are to be redeemed, on March 1, 1998, and thereafter during the redemption periods and at the redemption prices (expressed as a percentage of the principal amount to be so redeemed), plus accrued interest to the redemption date, as follows:

| Redemption Periods | Redemption Prices |
|---|---|
| March 1, 1998 to and including the last day of February, 2000 | 102 % |
| March 1, 2000 to and including the last day of February, 2002 | 101 % |
| March 1, 2002 and thereafter | 100 % |

Notice of the redemption of bonds will be mailed not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for such redemption to the registered owners of bonds to be redeemed at their last addresses appearing on the registration books. The bonds or portions thereof specified in such notice shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for payment of the redemption price of all the bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on such date, and if notice of redemption shall have been mailed as aforesaid (and notwithstanding any defect therein or the lack of actual receipt thereof by any registered owner), then from and after the redemption date interest on such bonds or portions thereof shall cease to accrue and become payable.

This bond is transferable only upon such registration books by the registered owner hereof in person, or by such registered owner's attorney duly authorized in writing, upon surrender hereof at the principal corporate trust office of the Bond Registrar together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or by such Registered Owner's duly authorized attorney, and thereupon a new registered bond or bonds, in the authorized denominations of $5,000 or any integral multiple thereof and of the same aggregate principal amount, maturity and interest rate as this bond shall be issued to the transferee in exchange therefor. In like manner, this bond may be exchanged for an equal aggregate principal amount of bonds of the same maturity and interest rate and of any of such authorized denominations. The Issuer or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange of this bond. No other charge shall be made for the privilege of making such transfer or exchange. The Issuer and the Bond Registrar may treat and consider the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal, premium, if any, and interest due hereon and for all other purposes whatsoever, and all such payments so made to such registered owner or upon such registered owner's order shall be valid and effectual to satisfy and discharge the liability upon this bond to the extent of the sum or sums so paid, and neither the Issuer nor the Bond Registrar shall be affected by any notice to the contrary.

No recourse shall be had for the payment of any bonds against any officer or employee (past, present or future) who executes any bonds or on any other basis. The Issuer may remove the Bond Registrar at any time and for any reason and appoint a successor.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been duly executed by the Bond Registrar.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist and be performed precedent to and in the issuance of this bond in order to make it a legal, valid and binding obligation of the Issuer have been done, exist and have been performed in regular and due time, form and manner as required by law, and that the series of bonds of which this bond is one, together with all other indebtedness of the Issuer, is within every debt or other applicable limit prescribed by law or provision.

**IN WITNESS WHEREOF,** the City of Urbana, Illinois, has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Mayor, and its corporate seal, or a facsimile thereof, to be hereunto affixed or otherwise reproduced hereon and attested by the manual or facsimile signature of its Clerk.

CITY OF URBANA

______________________________
Mayor

(SEAL)

Attest:

______________________________
Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the Corporate Purpose General Obligation Bonds, Series 1990 described in the within mentioned ordinance.

MARINE BANK OF CHAMPAIGN-URBANA, Champaign, Illinois, as Bond Registrar

By ______________________________
Authorized Officer

Registrar and Paying Agent: Marine Bank of Champaign-Urbana, Champaign, Illinois

[Abbreviations concerning ownership may be placed here.]

ASSIGNMENT

For value received the undersigned sells, assigns and transfers unto ______________________________
[Name, Address and Social Security or Tax Identification Number] the within bond and hereby irrevocably constitutes and appoints ______________________________ attorney to transfer the said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated ____________________

______________________________
Signature

Signature Guarantee:

______________________________

Notice: The signature to this assignment must correspond with the name as it appears on the face of this bond in every particular, without alteration or any change whatsoever.

**Section 9.** **Levy and Extension of Taxes.** For the purpose of providing the money required to pay the interest on the bonds when and as the same falls due and to pay and discharge the principal thereof as the same shall mature, there is hereby levied upon all the taxable property in the City of Urbana, Illinois, in each year while any of the bonds shall be outstanding, a direct annual tax sufficient for that purpose in addition to all other taxes, as follows:

| Tax Levy Year | A Tax Sufficient to Produce: |
|---|---|
| 1990 | $ 440,732.50 |
| 1991 | 439,932.50 |
| 1992 | 438,342.50 |
| 1993 | 440,942.50 |
| 1994 | 442,397.50 |
| 1995 | 437,677.50 |
| 1996 | 442,077.50 |
| 1997 | 439,917.50 |
| 1998 | 441,492.50 |
| 1999 | 441,432.50 |
| 2000 | 439,697.50 |
| 2001 | 441,247.50 |
| 2002 | 441,047.50 |
| 2003 | 438,905.00 |

Interest or principal coming due at any time when there shall be insufficient funds on hand to pay the same shall be paid promptly when due from current funds on hand in advance of the collection of the taxes herein levied; and when such taxes shall have been collected, reimbursement shall be made to such funds in the amounts thus advanced.

As soon as this ordinance becomes effective, a copy thereof certified by the Issuer's Clerk, which certificate shall recite that this ordinance has been duly adopted, shall be filed with the County Clerk of Champaign County, Illinois, who is hereby directed to ascertain the rate per cent required to produce the aggregate tax hereinbefore provided to be levied in each of the years 1990 to 2003, inclusive, and to extend the same for collection on the tax books in connection with other taxes levied in such years in and by the Issuer for general corporate purposes of the Issuer, and in each of such years such annual tax shall be levied and collected in like manner as taxes for general corporate purposes for such years are levied and collected and, when collected, such taxes shall be used solely for the purpose of paying the principal of and interest on the bonds herein authorized as the same become due and payable.

**Section 10. Debt Service Fund.** Moneys derived from taxes herein levied are appropriated and set aside for the sole purpose of paying principal of and interest on the bonds when and as the same come due. All of such moneys, and all other moneys to be used for the payment of the principal of and interest on the bonds, shall be deposited in the "Debt Service Fund of 1990" which is hereby established as a special fund of the Issuer and shall be administered as a bona fide debt service fund under the Internal Revenue Code of 1986, as amended. All accrued interest received upon the issuance of the bonds and an amount of bond proceeds to pay the interest thereon to and including the March 1, 1991 interest payment date shall be deposited in the Debt Service Fund of 1990.

**Section 11. Bond Proceeds Fund.** All of the proceeds of sale of the bonds (exclusive of accrued interest) shall be deposited in the "Bond Proceeds Fund of 1990" which is hereby established as a special fund of the Issuer. Moneys in the Bond Proceeds Fund of 1990 shall be used for the purposes specified in Section 1 and Section 15 of this ordinance and for the payment of costs of issuance of the bonds, but may hereafter be reappropriated and used for other purposes. Before any such reappropriation shall be made, there shall be filed with the Issuer's Clerk an opinion of Evans & Froehlich, Champaign, Illinois or other nationally recognized bond counsel ("Bond Counsel") to the effect that such reappropriation will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the bonds.

**Section 12. Rebate Fund.** The Issuer hereby establishes a special fund, designated as the "Rebate Fund of 1990." In the event that the Issuer shall invest moneys in the Bond Proceeds Fund of 1990 or the Debt Service Fund of 1990 in any investments which generate income that must be rebated or paid to the United States of America pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended, such income shall be deposited annually, within 10 days after the fifth anniversary date of the date of issuance and delivery of the bonds (or such other frequency in compliance with such Section 148(f)), in the Rebate Fund of 1990. Moneys in the Rebate Fund of 1990 shall be applied to pay such sums as are required to be paid to the United States of America pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended, and are hereby appropriated and set aside for such purpose. Subject to the approving opinion of Bond Counsel, moneys in the Rebate Fund of 1990 may be reappropriated and used for other purposes. No such reappropriation and use shall relieve the Issuer of its obligation to make payments to the United States of America as required by Section 148(f) of the Internal Revenue Code of 1986, as amended.

(a) The Issuer hereby irrevocably elects to apply the provisions of Section 148(f)(4)(B)(iv) of the Internal Revenue Code of 1986, as amended.

(b) The Issuer reasonably expects that not less than 10 percent of the net proceeds of the bonds allocated as bifurcated into a separate issue for "construction expenditures" as set forth in subsection (d) below, will be spent for the governmental purposes of the issue (i.e. Project costs) within the 6-month period beginning on the date the bonds are issued, not less than 45 percent of such proceeds will be spent for such purposes with the 1-year period beginning on such date, not less than 75 percent of such proceeds will be spent for such purposes within the 18-month period beginning on such date, and not less than 100 percent of such proceeds will be spent for such purposes within the 2-year period beginning on such date. For purposes of the preceding sentence, the term "net proceeds" includes investment proceeds earned before the close of the period involved on the investment of the sale proceeds of such separate issue of the bonds. For the foregoing purposes, 100 percent of the net proceeds of such separate issue of the bonds shall be treated as spent for the governmental purposes (i.e. Project costs) of such separate issue of the bonds within the 2-year period beginning on the date the Bonds are issued if such requirement is met within the 3-year period beginning on such date and such requirement would have been met within such 2-year period but for a reasonable retainage (not exceeding 5 percent of the net proceeds of such separate issue of the bonds).

(c) At least 75 percent of the net proceeds of the separate issue of bonds allocated to "construction expenditures" in subsection (d) below are to be used for construction expenditures with respect to property which is owned by a governmental unit, including the Issuer, or a 501(c)(3) organization. For purposes of the preceding sentence, the term "construction" includes reconstruction and rehabilitation, and section 142(b)(1) of the Code shall apply. The Issuer recognizes that an issue is not described in this subsection (c) if any Bond which is a part of the issue of bonds is a bond other than a qualified 501(c)(3) bond, a bond which is not a private activity bond, or a private activity bond to finance property to be owned by a governmental unit, including the Issuer, or a 501(c)(3) organization.

(d) For purposes of subsections (b) and (e) above, the issue of bonds shall be treated as two separate issues under Section 148(f)(4)(B)(iv)(VIII) of the Internal Revenue Code of 1986, as amended, as follows:

(i) For purposes of applying the 6-month exception in Section 148(f)(4)(B)(i), $1,818,100 of bond proceeds, to be applied to land acquisition and to acquire public safety and public works equipment, and is hereby allocated from the first $1,818,100 of bonds maturing as a separate issue.

(ii) For purposes of applying the 2-year exception of Section 148(f)(4)(B)(iv), $2,071,900 of bond proceeds, to be applied to the construction of parking facilities, streets, sidewalks and storm and sanitary sewers, is hereby allocated from the remaining $2,071,900 of bonds maturing as a separate issue.

(iii) Costs of issuance of the bonds and capitalized interest, if any, shall be prorata allocated to paragraphs (i) and (ii) above.

(e) In case the Bonds fail to meet the requirements of subsections (b) and (c) above, the requirements of paragraph (2) of Section 148(f) of the Code shall be treated as met if the Issuer pays the penalty under paragraph (7) of Section 148(f) of the Code or pays a penalty with respect to the close of each 6 month period after the date the Bonds are issued equal to 1.5 percent of the amount of the net proceeds of the Bonds which, as of the close of such period, are not spent as required by paragraph 3 above. The penalty under this subsection (e) shall cease to apply only after the Bonds (including any refunding bonds with respect thereto) are no longer outstanding.

<u>Section 13</u>. <u>Investment Regulations</u>. No investment shall be made of any moneys in the Debt Service Fund of 1990, the Bond Proceeds Fund of 1990 or the Rebate Fund of 1990 except in accordance with the tax covenants set forth in Section 14 of this ordinance. Except as required by Section 12 of this ordinance, all income derived from such investments in respect of moneys or securities in any Fund shall be credited in each case to the Fund

in which such moneys or securities are held.

Any moneys in any Fund that are subject to investment yield restrictions may be invested in United States Treasury Securities, State and Local Government Series, pursuant to the regulations of the United States Treasury Department, Bureau of the Public Debt. The Issuer's Comptroller and agents designated by such Comptroller are hereby authorized to submit, on behalf of the Issuer, subscriptions for such United States Treasury Securities and to request redemption of such United States Treasury Securities.

**Section 14. Tax Covenants.** The Issuer shall not take, or omit to take, any action lawful and within its power to take, which action or omission would cause interest on any bond to become subject to federal income taxes in addition to federal income taxes to which interest on such bond is subject on the date of original issuance thereof.

The Issuer shall not permit any of the proceeds of the bonds to be used in any manner that would cause any bond to constitute a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

The Issuer shall not permit any of the proceeds of the bonds or other moneys to be invested in any manner that would cause any bond to constitute an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

The Issuer shall comply with the provisions of Section 148(f) of the Internal Revenue Code of 1986, as amended, relating to the rebate of certain investment earnings at periodic intervals to the United States of America; provided, however, that compliance with such provisions shall not be required to the extent that there shall have been filed with the Issuer's Clerk an opinion of Bond Counsel to the effect that such compliance is not necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the bonds.

The Corporate Authorities and the Issuer hereby more specifically agree, certify, covenant and represent as follows:

(a) The bonds are being issued to pay the costs of the Project, and all of the amounts received upon the sale of the bonds, plus all investment earnings thereon (the "Proceeds") are needed for the purpose for which the bonds are being issued.

(b) The Issuer has entered into, or will within six months from the date of issue of the bonds enter into, binding contracts or commitments obligating it to spend at least 2.5% of the proceeds of the bonds for constructing, acquiring and installing of the Project. It is expected that the work of acquiring, constructing and installing the Project will continue to proceed with due diligence to completion reasonably expected to be on or before March 1, 1992, at which time all of the Proceeds will have been spent.

(c) The Issuer has on hand no funds which could legally and practically be used for the Project which are not pledged, budgeted, earmarked or otherwise necessary to be used for other purposes. Accordingly, no portion of the Proceeds will be used (i) directly or indirectly to replace funds of the Issuer or any agency, department or division thereof that could be used for the Project, or (ii) to replace any proceeds of any prior issuance of obligations by the Issuer. No portion of the bonds is being issued solely for the purpose of investing the Proceeds at a Yield higher than the Yield on the bonds. For purposes of this Section, "Yield" means that yield (that is, the discount rate) which when used in computing the present worth of all payments of principal and interest to be paid on an obligation (using semiannual compounding on the basis of a 360-day year) produces an amount equal to the issue price of the bonds, including accrued interest, and the issue price of the bonds is equal to the first offering price at which more than 10% of the principal amount of each maturity of the bonds is sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers).

(d) All principal proceeds of the bonds will be deposited in the Bond Proceeds Fund of 1990 and used to pay costs of the Project and costs of issuance of the bonds, and any accrued interest and premium received on the delivery of the bonds will be deposited in the Debt Service Fund of 1990 and used to pay the first interest due on the bonds. Subject to Section 12 above, earnings on investment of moneys in any fund or account will be credited to that fund or account. Project costs, including issuance costs of the bonds, will be paid from the Bond Proceeds Fund of 1990, and no other moneys are expected to be deposited therein. Interest on and principal of the bonds will be paid from the Debt Service Fund of 1990. No Proceeds will be used more than 30 days after the date of issue of the bonds for the purpose of paying any principal or interest on any issue of bonds, notes, certificates or warrants or on any installment contract or other obligation of the Issuer or for the purpose of replacing any funds of the Issuer used for such purpose.

(e) After the application of accrued and capitalized interest, the Debt Service Fund of 1990 is established to achieve a proper matching of revenues and earnings with debt service in each bond year; and other than any amounts held to pay principal of matured bonds that have not been presented for payment, it is expected that any moneys deposited in the Debt Service Fund of 1990 will be spent within the 12-month period beginning on the date of deposit therein. Any earnings from the investment of amounts in the Debt Service Fund of 1990 will be spent within a one-year period beginning on the date of receipt of such investment earnings. Other than any amounts held to pay principal of matured bonds that have not been presented for payment, and otherwise in this subsection (e) provided, it is expected that the Debt Service Fund of 1990 will be depleted at least once a year, except for a reasonable carryover amount not to exceed the greater of (i) one-year's earnings on the investment of moneys in the Debt Service Fund of 1990, or (ii) in the aggregate one-twelfth (1/12th) of the annual debt service on the bonds.

(f) Other than the Debt Service Fund of 1990, no funds, accounts or subaccounts have been or are expected to be established, and no moneys or property have been or are expected to be pledged (no matter where held or the source thereof) which will be available to pay, directly or indirectly, the bonds or restricted so as to give reasonable assurance of their availability for such purposes. No property of any kind is pledged to secure, or is available to pay, obligations of the Issuer to any credit enhancer or liquidity provider.

(g) (i) All amounts on deposit in the Bond Proceeds Fund of 1990, the Rebate Fund or the Debt Service Fund of 1990, and all Proceeds, no matter in whatever funds or accounts deposited ("Gross Proceeds"), to the extent not exempted in (ii) below, and all amounts in any fund or account pledged directly or indirectly to the payment of the bonds which will be available to pay, directly or indirectly, the bonds or restricted so as to give reasonable assurance of their availability for such purpose contrary to the expectations set forth in (f) above, shall be invested at market prices and at a Yield not in excess of the Yield on the bonds plus, for amounts in the Bond Proceeds Fund of 1990 only, 1/8 of 1%.

(ii) The following may be invested without Yield restriction:

(A) amounts invested in obligations described in Section 103(a) of the Internal Revenue Code of 1986, as amended (but not specified private activity bonds as defined in Section 57(a)(5)(C) of such Code), the interest on which is not includable in the gross income of any registered owner thereof for federal income tax purposes ("Tax-Exempt Obligations");

(B) amounts deposited in the Debt Service Fund of 1990 that are reasonably expected to be expended within 13 months from the deposit date and have not been on deposit therein for more than 13 months;

(C) amounts in the Bond Proceeds Fund of 1990 prior to the earlier of completion (or abandonment) of the Project or three years from the date of issue of the Bonds;

(D) an amount not to exceed the lesser of $100,000 or 5% of bond proceeds;

(E) all amounts for the first 30 days after they become Gross Proceeds (e.g., date of deposit in any fund or account securing the Bonds); and

(F) all amounts derived from the investment of the Proceeds for a period of one year from the date received.

(h) Subject to (q) below, once moneys are subject to the Yield limits of (g)(i) above, such moneys remain Yield restricted until they cease to be Gross Proceeds.

(i) As described in Section 148(f)(4)(C) of the Internal Revenue Code of 1986, as amended, and unless the Issuer is otherwise provided with an opinion of Bond Counsel to the contrary, filed with the Issuer's Clerk, the Issuer is excepted from the required rebate of arbitrage profits on the bonds; although the Issuer is a governmental unit with general taxing powers, none of the bonds is a "private activity bond" as defined in Section 141(a) of the Internal Revenue Code of 1986, as amended and all the net proceeds of the bonds are to be used for the local government activities of the Issuer; the aggregate face amount of all tax-exempt obligations (other than "private activity bonds" as defined in Internal Revenue Code of 1986, as amended) issued by the Issuer and all subordinate entities thereof during the calendar year 1990, including the bonds, is reasonably expected to exceed $5,000,000.

(j) None of the Proceeds will be used, directly or indirectly, to replace funds which were used in any business carried on by any person other than a state or local governmental unit.

(k) The payment of the principal of or the interest on the bonds will not be, directly or indirectly (A) secured by any interest in (i) property used or to be used for a private business use by any person other than a state or local governmental unit, or (ii) payments in respect of such property, or (B) derived from payments (whether or not by or to the Issuer), in respect of property, or borrowed money, used or to be used for a private business use by any person other than a state or local governmental unit in contravention of Section 141 of the Internal Revenue Code of 1986, as amended.

(l) None of the Proceeds will be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit in contravention of Section

141 of the Internal Revenue Code of 1986, as amended.

(m) No user of the Project other than a state or local government unit will use the Project on any basis other than the same basis as the general public, and no person other than a state or local governmental unit will be a user of the Project as a result of (i) ownership, or (ii) actual or beneficial use pursuant to a lease or a management or incentive payment contract, or (iii) any other similar arrangement in contravention of Section 141 of the Internal Revenue Code of 1986, as amended.

(n) Beginning on the 31st day prior to the bond sale date, the Issuer has not sold or delivered, and will not sell or deliver, (nor will it deliver within 31 days after the date of issuance of the bonds) any other obligations pursuant to a common plan of financing, which will be paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as the bonds or will be paid directly or indirectly from Proceeds.

(o) No portion of the Project is expected to be sold or otherwise disposed of prior to the last maturity of the bonds.

(p) The Issuer has not been notified of any disqualification or proposed disqualification of it by the Internal Revenue Service as a bond issuer which may certify bond issues under Section 1.103-13(a)(2)(ii) of the Regulations.

(q) The Yield restrictions contained in (g) above or any other restriction or covenant contained herein need not be observed and may be changed if the Issuer receives an opinion of Bond Counsel approving the bonds to the effect that such non-observance or change will not adversely affect the tax-exempt status of interest on the bonds to which the Bonds otherwise are entitled.

(r) The Issuer acknowledges that any changes in facts or expectations from those set forth herein may result in different Yield restrictions or rebate requirements from those set forth herein and that counsel approving the bonds should be contacted if such changes do occur.

(s) The Corporate Authorities have no reason to believe the facts, estimates, circumstances and expectations set forth herein are untrue or incomplete in any material respect. On the basis of such facts, estimates, circumstances and expectations, it is not expected that the Proceeds or any other moneys or property will be used in a manner that will cause the bonds to be arbitrage bonds or private activity bonds within the meaning of Sections 148 or 141 of the Internal Revenue Code of 1986, as amended, and of applicable regulations. To the best of the knowledge and belief of the Corporate Authorities, such expectations are reasonable, and there are no other facts, estimates and circumstances that would materially change such expectations.

The Issuer also agrees and covenants with the registered owners of the Bonds from time to time outstanding that, to the extent possible under Illinois law, it will comply with all present federal tax law and related regulations and with whatever federal tax law is adopted and regulations promulgated in the future which apply to the Bonds and affect the tax-exempt status of the Bonds.

**Section 15. Bank Qualified Bonds.** Pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, the Issuer hereby designates the bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The Issuer represents that the reasonably anticipated amount of tax-exempt obligations that will be issued by the Issuer and all subordinate entities of the Issuer during the calendar 1990 year, in which the bonds are to be issued, will not exceed $10,000,000 within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The Issuer covenants that it will not designate and issue more than $10,000,000 aggregate principal amount of tax-exempt obligations in such calendar year. For purposes of this Section 15, the term "tax-exempt obligations" includes "qualified 501(c)(3) bonds" (as defined in the Section 145 of the Internal Revenue Code of 1986, as amended) but does not include other "private activity bonds" (as defined in Section 141 of the Internal Revenue Code of 1986, as amended).

**Section 16. Ordinance to Constitute a Contract.** The provisions of this ordinance shall constitute a contract between the Issuer and the registered owners of the bonds. Any pledge made in this ordinance and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of the bonds. All of the bonds, regardless of the time or times of their issuance, shall be of equal rank without preference, priority or distinction of any of the bonds over any other thereof except as expressly provided in or pursuant to this ordinance. This ordinance shall constitute full authority for the issuance of the bonds and to the extent that the provisions of this ordinance conflict with the provisions of any other ordinance or resolution of the Issuer, the provisions of this ordinance shall control. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

**Section 17**. **Filing.** Upon enactment and prior to issuance of any bonds, this ordinance is to be filed in the office of the County Clerk of Champaign County, Illinois.

**Section 18**. **Effective Date**. Notwithstanding Section 1-2-4 of the Illinois Municipal Code, this ordinance shall become effective immediately upon its passage and approval.

Adopted this 5th day of March, 1990, by roll call vote, as follows:

Ayes (Names): Joan Barr, Michael Pollock, Clifford E. Singer, Charles A. Smyth, Bonnie C. Tarr, Joseph A. Whelan, Jr.

Nays (Names): --

~~Abstain~~ Absent, ~~etc~~ (Names): Lonnie Clark

Attest: Approved: March 8th, 1990

Ruth S. Brookens
City Clerk

Jeffrey T. Mulland
Mayor

**CERTIFICATE**

I, Ruth S. Brookens, City Clerk of the City of Urbana, Illinois, hereby certify that the foregoing Ordinance No. 8990-87 entitled: "An Ordinance Authorizing the Issuance of $3,890,000 Corporate Purpose General Obligation Bonds, Series 1990, of the City of Urbana, Champaign County, Illinois, Providing the Details of Such Bonds and the Levy of Direct Annual Taxes to Pay the Principal of and Interest on Such Bonds, and Related Matters," is a true copy of an original ordinance which was duly adopted by the recorded affirmative votes of not less than 6 of the members of the City Council of the City at a meeting thereof which was duly called and held at 7:30 p.m. on March 5, 1990, at the City Building, and at which a quorum was present and acting throughout, and that such copy has been compared by me with the original ordinance signed by the Mayor on March 8, 1990, and recorded in the ordinance book of the City and.that it is a correct and complete copy of the whole of such ordinance, and that such ordinance has not been altered, amended, repealed or revoked, but is in full force and effect.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the City of Urbana, Illinois this 8th day of March, 1990.

Ruth S. Brookens
City Clerk

(SEAL)

SEAL OF THE CITY OF URBANA ILL. CHARTERED 1833