



MEMORANDUM

TO: Mayor Prussing and Urbana City Council Members

FROM: Bruce Walden, Chief Administrative Officer

DATE: November 22, 2006

RE: Reallocation of 2006 Volume Bond Cap

Description:

The attached ordinance entitled “An Ordinance Approving the Transfer of Volume Cap in Connection with Private Activity Bond Issues, and Related Matters” reallocates the City of Urbana volume bond cap that was reserved for Prairie Winds LLC to an IHDA bond pool for the Assist Urbana program. The terms of the allocation agreement for Prairie Winds required the notification to the City of the non-use of the bond cap by December 1, 2006. We have received such notice.

Issues:

Attached is the February 2, 2006 memo and Resolution provided to the City Council regarding the financing of the Prairie Winds Development. The developer, for a variety of reasons, has chosen private financing and will not utilize the 2006 volume bond cap allocation. Per Section 2 (b) of the Resolution entitled “Terms and Limitations” the City may now reallocate the volume bond cap. *At this late date, the issue is how to use the bond cap allocation prior to losing it.* The tax exempt “value” of the volume bond cap allocation expires on December 31st according to Internal Revenue Service Code. The only program available for utilization in the timeframe presented to the City is the IHDA sponsored single family mortgage revenue bond pool through the City of Aurora, which provides Urbana residents homebuyer assistance. This can be approved by the City Council prior to the end of the year. We are familiar with this program and find it of value.

Background:

Each municipality in Illinois is allowed to issue private activity bonds in the amount of \$80 per capita population in accordance with the IRS Code. This yields an amount of \$3,134,240 of Private Activity Bond Volume Cap for the City of Urbana. There are several methods that the City can utilize for the tax exempt bond cap. We have until May 1 of each year to make a selection, otherwise it is ceded to the State of Illinois for IHDA projects throughout the State. After allocation, we have until December 31st to utilize the bond cap. In some cases, for specific projects, the IRS will allow an extension. In this case, that is not possible as there is no firm project.

In recent years, including 2005, Urbana has selected to use its private activity bond allocation for homebuyer assistance programs including “Assist Urbana.” The most recent information we have on the 2005 First Time Homebuyer down payment assistance program is that 23 Urbana families used the program to obtain \$1.9 million in home loans. The average loan amount is roughly \$87,000. (Income guidelines, application materials and further information as provided by IHDA can be found at <http://www.ihda.org>.) Since 1995 over 200 Urbana families have utilized Assist Urbana to purchase their first homes. The program utilizes FHA and VA lending programs and conventional financing. The bond component of this program allows for up to 4.25% of the mortgage and closing costs to be in the form of a non taxable or repayable grant.

Recommendation:

Approval is recommended by the Administration.

Future Considerations:

Staff will review the possibility for developer projects of establishing an “earnest fee,” a shortened election date in the developer allocation resolution and/or other mechanisms to assure that Urbana’s bond cap allocation is utilized in a timely manner. Use of the 2007 allocation must be determined by May 1, 2007.

ORDINANCE NO. 2006-11-142

AN ORDINANCE APPROVING THE TRANSFER OF VOLUME CAP IN CONNECTION WITH PRIVATE ACTIVITY BOND ISSUES, AND RELATED MATTERS.

WHEREAS, the City of Urbana, Champaign County, Illinois (the "*Municipality*") is a municipality and a home rule unit of government under Section 6 of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, Section 146 of the Internal Revenue Code of 1986, as amended (the "*Code*"), provides that the Municipality has volume cap equal to \$80 per resident of the Municipality in each calendar year, which volume cap may be allocated to certain tax-exempt private activity bonds; and

WHEREAS, the Illinois Private Activity Bond Allocation Act, 30 *Illinois Compiled Statutes 2004, 345/1 et seq.*, as supplemented and amended (the "*Act*"), provides that a home rule unit of government may transfer its allocation of volume cap to any other home rule unit of government, the State of Illinois or any agency thereof or any non-home rule unit of government; and

WHEREAS, it is now deemed necessary and desirable by the Municipality to transfer its volume cap allocation for calendar year 2006 in the amount of \$3,134,240.00 to the City of Aurora, Kane, DuPage, Will and Kendall Counties, Illinois (the "*Issuer*") to be applied toward the issuance of single family mortgage revenue bonds by the Issuer (the "*Bonds*") or for such other purpose permitted by this Ordinance;

NOW, THEREFORE, Be It Ordained by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

SECTION 1. That, pursuant to Section 146 of the Code and the Act, the entire volume cap of the Municipality for calendar year 2006 is hereby transferred to the Issuer, which shall issue the Bonds using such transfer of volume cap, without any further action required on the part of the Municipality, and the adoption of this Ordinance shall be deemed to be an allocation of such volume cap to the issuance of the Bonds or such other bonds.

SECTION 2. That the Municipality and the Issuer shall maintain a written record of this Ordinance in their respective records during the term that the Bonds or any other such bonds to which such volume cap is allocated remain outstanding.

SECTION 3. That the Mayor, the City Clerk and all other proper officers, 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 and certificates as may be necessary to further the purposes and intent of this Ordinance.

SECTION 4. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision of this Ordinance shall for any reason be declared to be invalid, such declaration shall not affect the remainder of the sections, phrases and provisions of this Ordinance.

SECTION 5. That all ordinances, resolutions or orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded; and that this Ordinance shall be in full force and effect upon its adoption and approval.

Presented, passed, approved and recorded this ____ day of _____, 2006.

Approved:

Mayor

[SEAL]

ATTEST:

City Clerk

Ayes: _____

Nays: _____

Absent or Not Voting: _____



MEMORANDUM

TO: Mayor Prussing
Urbana City Council Members

FROM: Bruce Walden, CAO

DATE: February 2, 2006

RE: Allocation of 2006 Private Activity Bond Volume Cap

Introduction

This is a request by Paul Tatman on behalf of Prairie Winds LLC for use of Urbana's 2006 private activity bond volume cap to finance in part the Prairie Winds supportive living facility.

Background

Attached is the October 6, 2005 memo I provided to Council with respect to this project and a complete description of the project. This resolution and allocation is in follow-up to the "Official Intent Resolution with Respect to Supportive Living Facility to be Developed by Prairie Winds of Urbana, LLC" approved by the Urbana City Council in October of 2005.

Conditions

The developer must irrevocably commit to utilizing the bond cap allocation by December 1, 2006 or the City can redirect the use of its bond cap allocation.

Recommendation

Staff recommends approval of "A Resolution Allocating and Reserving Private Activity Bond Volume Cap and Providing the Terms and Conditions of Such Allocation and Reservation and Related Matters."

BKW:ss

RESOLUTION NO. _____

**A RESOLUTION
ALLOCATING AND RESERVING PRIVATE ACTIVITY BOND
VOLUME CAP AND PROVIDING THE TERMS AND CONDITIONS
OF SUCH ALLOCATION AND RESERVATION, AND RELATED MATTERS**

WHEREAS, the City of Urbana, Champaign County, Illinois (the “**Municipality**”), is a “**home rule unit**” and “**constitutional home rule city**” under Section 6 of Article VII of the Constitution of Illinois and Section 146 of the Internal Revenue Code of 1986, as amended (the “**Code**”), with the authority to allocate and reserve the volume cap allocated to it in accordance with Section 146(e)(3) of the Code; and

WHEREAS, the Municipality proposes to issue up to \$10,000,000 principal amount Multifamily Housing Revenue Bonds, Series 2006 (Prairie Winds of Urbana, L.L.C. Project) (howsoever actually styled, the “**Bonds**”), to assist Prairie Winds of Urbana, L.L.C. (including another business form, as the case may be, the “**Company**”), in financing the acquisition of land and the construction, installation and equipping of a certain supportive living facility to be owned and operated by the Company at 1905 South Prairie Winds Drive within the Municipality (the “**Project**”); and

WHEREAS, pursuant to the Illinois Private Activity Bond Allocation Act (30 ILCS 345/1 *et seq.*), as supplemented and amended (the “**Allocation Act**”), it is now considered necessary and desirable and in the public interest of the residents of the Municipality for the Municipality to allocate and reserve all of its volume cap for calendar year 2006 to the issuance of the Bonds.

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

Section 1. Allocation and Reservation. Pursuant to Section 146 of the Code and the Allocation Act, the Municipality hereby allocates and reserves, subject to the terms and limitations of Section 2 of the Resolution below, the entire amount of the volume cap allocated to the Municipality for calendar year 2006 (i.e. \$3,134,240, based upon the amount of \$80.00 multiplied by the subcounty population estimate for the Municipality released by the Census Bureau on August 11, 2005 of 39,178), for application to the Bonds to finance the Project.

Section 2. Terms and Limitations. The allocation and reservation for the Bonds to finance the Project under Section 1 of this Resolution above shall be and is hereby subject to the terms and limitations, as follows:

(a) The allocation and reservation of the entire amount of volume cap allocated to the Municipality for application to the Bonds to finance the Project shall be given effect and completed, and the Bonds shall be issued, delivered and paid for, if at all, on or before December 1, 2006;

(b) Without any further action by the City Council of the Municipality, in the event that the Company abandons the Project or the provisions of part (a) of this Section 2 above are not met and completed on or before December 1, 2006, the allocation and reservation of the entire amount of the volume cap allocated to the Municipality under Section 1 above shall terminate and then and

there be discharged and released unless the Municipality, by the written approval of the Mayor, otherwise agrees to extend such date under Section 3 of this Resolution below. In the event of any such termination, the Municipality reserves the right to allocate and reserve all or a portion of such volume cap to another project or to reallocate all or a portion of such volume cap to the State of Illinois, any agency of the State of Illinois or any home rule or non-home rule unit of the State of Illinois.

Section 3. Agreement to Extend; Carryforward. The Mayor is hereby authorized to extend the date by which the Bonds shall be issued, delivered and paid for to a date after December 1, 2006, if it can reasonably be demonstrated that the Bonds to finance the Project are still required to finance the Project and that the Bonds shall be issued, delivered and paid for in a timely manner thereafter. If any such extension is to a date on or after January 1, 2007, or if any allocation or reservation is made to another project following a termination as provided in part (b) of Section 2 above, the Mayor is further authorized to file a Carryforward Election of Unused Private Activity Bond Cap (Form 8328) with the Internal Revenue Service in order to make the election on behalf of the Municipality pursuant to Section 146(f) of the Code to carryforward all or a portion of such unused volume cap.

Section 4. Supplemental Authority. The Mayor, the City Clerk and all other proper officers, 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 and certificates as may be necessary to further the purposes and intent of this Resolution, including without limitation, any allocation and reservation, reallocation or carryforward of the entire amount of the volume cap allocated to the Municipality for calendar year 2006 as provided in this Resolution.

Section 5. Conflict. Any ordinance, resolution or other action of the City Council of the Municipality inconsistent or in conflict with this Resolution shall be and is hereby superseded.

Section 6. Effective. This Resolution shall be effective immediately upon its passage and approval as required by law.

PASSED by the City Council this _____ day of _____, 2006.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2006.

Laurel Lunt Prussing, Mayor

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

CERTIFICATION OF RESOLUTION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Urbana, Champaign County, Illinois (the “Municipality”), and as such official I am the keeper of the records and files of the Municipality.

I do further certify that the attached constitutes a full, true and complete excerpt of the minutes of the meeting of the Municipality held on the ____ day of _____, 2006, insofar as same relates to the adoption of Resolution No. _____, entitled:

A RESOLUTION ALLOCATING AND RESERVING PRIVATE ACTIVITY BOND VOLUME CAP AND PROVIDING THE TERMS AND CONDITIONS OF SUCH ALLOCATION AND RESERVATION, AND RELATED MATTERS

a true, correct and complete copy of which such Resolution as adopted at such meeting appears in the excerpt of the minutes of such meeting and is hereto attached.

I do further certify that the deliberations of the Municipality on the adoption of such Resolution were conducted openly, that the vote on the adoption of such Resolution was taken openly, that such meeting was called and held at a specified time and place convenient to the public, that notice of such meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of The Municipal Code of the State of Illinois, as amended, that the Municipality has complied with all of the provisions of such Act and such Code and with all of the procedural rules of the Municipality, and that such Resolution has not been amended, revoked or repealed and is in full force according to its terms.

IN WITNESS WHEREOF, I hereunto affix my official signature, this ____ day of _____, 2006.

City Clerk