



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Grants Management Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members

FROM: Lorrie L. Pearson, AICP, Community Development Services Director
Sheila E. Dodd, Manager, Grants Management Division

DATE: September 10, 2020

SUBJECT: A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF NORMAL TO ADMINISTER THE ASSIST 2020 PROGRAM

Description

Included on the agenda of the September 14, 2020 meeting of the Urbana City Council is a proposed Resolution to enter into an Intergovernmental Agreement with the Town of Normal to administer the City's Private Activity Bond Cap allocation to the Illinois Assist MCC (Mortgage Credit Certificate) program.

Background & Discussion

The Urbana City Council approved Resolution 2020-040-20 on April 27, 2020, to allocate the City's private activity bond cap to the Illinois Assist MCC program. The Town of Normal will be administering the program for the Illinois Assist MCC Program.

The *AssistUrbana* Homeownership Program was first started under the name of *AccessUrbana* in 1995. Historically, the Assist Homeownership Program has been a program that offers individuals and families 30-year fixed rate FHA/VA/RD mortgage loans or conventional loans at competitive interest rates through participating local lenders. The cash assistance may be used to offset some or all of the home loan's down payment and closing costs. The City and local lenders have marketed the Assist Program on their websites, through direct mailers, seminars, and through media advertising.

Mortgage Credit Certificates (MCC's) are a federally authorized program created as an alternative to tax-exempt housing bonds to reduce effective interest costs for qualifying homebuyers. MCC's allow the homebuyer to qualify for a federal income tax credit equal to a percentage of the interest paid on their home loan each year. MCC holders still qualify for a regular deduction of the remaining interest paid on their home loan. In order to qualify for the Assist 2020 Program, participating households are required to meet income and purchase price limits. Homes that meet the program guidelines are new or existing, owner-occupied, single family homes, town homes, and condominiums.

David Rasch, Managing Director of the Assist MCC Program for Stern Brothers & Co. notified the City that the Town of Normal is requiring an Intergovernmental Agreement be approved prior to administering the MCC program for the City of Urbana.

The City must enter into the Intergovernmental Agreement to allow Urbana residents to have access to the MCC program. If the agreement is not approved, the transferred volume cap allocation will not be available to Urbana residents for use in the Illinois Assist MCC Program.

Fiscal & Programmatic Impacts

For the Assist 2020 Program, the City would have no liability for bond repayment since the City would not be the bond issuer and all mortgage repayments would be government-insured. Under the Assist 2020 program, the City could potentially realize an increase in property taxes collected from new Urbana homebuyers.

1. Approve the Resolution
2. Approve the Resolution with changes
3. Do not approve the Resolution

Recommendation

Staff recommends that Council approves the resolution.

Attachments

Assist 2020 Brochure

RESOLUTION NO. 2020-09-041R

A RESOLUTION OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE CITY AND THE TOWN OF NORMAL, McLEAN COUNTY, ILLINOIS ("NORMAL"), AND AUTHORIZING NORMAL TO EXERCISE THE POWERS OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS IN CONNECTION WITH AN MCC PROGRAM AND A LOAN FINANCE PROGRAM.

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois authorizes units of local government and school districts to contract or otherwise associate among themselves in any manner not prohibited by law or by ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5 *Illinois Compiled Statutes*, 220/1 *et seq.*, as supplemented and amended), authorizes public agencies to exercise any power or powers, privileges or authority which may be exercised by any such public agency individually to be exercised and enjoyed jointly with any other public agency in the State of Illinois; and

WHEREAS, Normal and the City of Urbana (the "*Cooperating Unit*") are each a unit of local government and a public agency of the State of Illinois; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly Section 6(a) of Article VII of the Constitution of the State of Illinois, the Cooperating Unit and Normal each has the power to issue its revenue bonds for public purposes, including the financing and purchase of mortgage loans to finance single family residences for low and moderate income persons ("*Mortgage Loans*") within its corporate boundaries, and to pledge to the payment of the principal of, premium, if any, and interest on such revenue bonds the payments made with respect to the Mortgage Loans purchased with and financed by the proceeds of such revenue bonds; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly 30 *Illinois Compiled Statutes*, 345/9, as supplemented and amended, and pursuant to Section 25 of the Internal Revenue Code of 1986, as amended (the "*Code*"), an issuer authorized to issue qualified mortgage bonds under Section 143 of the Code is authorized to issue mortgage credit certificates under Section 25 of the Code in lieu of issuing such qualified mortgage bonds under Section 143 of the Code, and, consequently, Normal and the Cooperating Unit each have the power to issue mortgage credit certificates in lieu of issuing revenue bonds that constitute qualified mortgage bonds under Section 143 of the Code;

WHEREAS, the Cooperating Unit has determined that it is necessary and desirable to permit Normal, either by itself or jointly with other qualified issuers, to issue mortgage credit certificates on behalf of the Cooperating Unit for the purpose of providing an adequate supply of residential housing in the Cooperating Unit through the enhancement of Mortgage Loans within the corporate boundaries of the Cooperating Unit (the "*MCC Program*"); and

WHEREAS, to provide for the MCC Program, Normal proposes to issue mortgage credit certificates from time to time (the “MCCs”) on behalf of the Cooperating Unit and to implement the MCC Program from time to time by allocating the MCCs to enhance qualified Mortgage Loans under the MCC Program on behalf of the Cooperating Unit, all under and in accordance with the Constitution and the laws of the State of Illinois; and

WHEREAS, the Cooperating Unit has determined that it is necessary and desirable to permit Normal, either by itself or jointly with other qualified issuers, to provide for the financing and purchasing of Mortgage Loans within the corporate boundaries of the Cooperating Unit through the sale of Mortgage Loans or mortgage-backed securities in the secondary market or the issuance of revenue bonds on behalf of the Cooperating Unit (collectively, the “*Loan Finance Program*,” and together with the MCC Program, the “*Program*”); and

WHEREAS, to provide for the Loan Finance Program, Normal may (i) sell Mortgage Loans or mortgage-backed securities in the secondary market and (ii) issue, sell and deliver Collateralized Single Family Mortgage Revenue Bonds in one or more series and to issue, sell and deliver any bonds issued to refund such bonds (collectively, the “*Bonds*”), each on behalf of the Cooperating Unit in order to obtain funds to purchase Mortgage Loans under the Loan Finance Program, all under and in accordance with the Constitution and the laws of the State of Illinois, provided that the Loan Finance Program shall not obligate the Cooperating Unit to levy any tax or pay any amount from any funds of the Cooperating Unit in connection with the Loan Finance Program, the Bonds or the sale of mortgage-backed securities in the secondary market; and

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

Section 1. Approval of Cooperation Agreement. The City Council of the Cooperating Unit hereby approves the Cooperation Agreement, in substantially the form set forth as **Exhibit A** hereto, between the Cooperating Unit and Normal, relating to the Programs, with such changes therein as shall be approved by the officers of the Cooperating Unit executing the Cooperation Agreement, such officers’ signatures thereon being conclusive evidence of their approval and the Cooperating Unit’s approval thereof.

Section 2. Execution of Cooperation Agreement. The Mayor is hereby authorized and directed to execute and deliver the Cooperation Agreement, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution for and on behalf of and as the act and deed of the Cooperating Unit. The City Clerk of the Cooperating Unit is hereby authorized and directed to attest to the Cooperation Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. Severability. It is hereby declared to be the intention of the Cooperating Unit that each and every part, section and subsection of this Resolution shall be separate and severable from each and every other part, section and subsection hereof and that the Cooperating Unit intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. If any part, section or subsection of this Resolution shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid

portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 4. Governing Law. This Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.

Section 5. Recitals. The facts and statements contained in the preamble to this Resolution are found to be true and correct and are hereby adopted as part of this Resolution.

Section 6. Adoption. This Resolution shall be in full force and effect from and after its passage, approval and publication, if required, as provided by law.

Passed by the City Council of the City of Urbana on this _____ day of _____, 20____
on the following vote:

YEAS: _____

NAYS: _____

ABSENT: _____

Mayor

[SEAL]

ATTEST:

City Clerk

INTERGOVERNMENTAL COOPERATION AGREEMENT

BY AND BETWEEN

TOWN OF NORMAL, McLEAN COUNTY, ILLINOIS

AND

CITY OF URBAN, CHAMPAIGN COUNTY, ILLINOIS

DATED AS OF [*DATED DATE*]

INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (the “*Cooperation Agreement*”) dated as of [*Dated Date*], by and between the TOWN OF NORMAL, McLEAN COUNTY, ILLINOIS, a municipality and a home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (“*Normal*”), and the CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, a municipality and a home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the “*Cooperating Unit*”);

WITNESSETH:

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois authorizes units of local government and school districts to contract or otherwise associate among themselves in any manner not prohibited by law or by ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5 *Illinois Compiled Statutes*, 220/1 *et seq.*, as supplemented and amended), authorizes public agencies to exercise any power or powers, privileges or authority which may be exercised by any such public agency individually to be exercised and enjoyed jointly with any other public agency in the State of Illinois; and

WHEREAS, Normal and the Cooperating Unit are each a unit of local government and a public agency of the State of Illinois; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly Section 6(a) of Article VII of the Constitution of the State of Illinois, Normal has the power to issue its revenue bonds for public purposes, including the financing and purchase of mortgage loans to finance single family residences for low and moderate income persons (“*Mortgage Loans*”) within its corporate boundaries, and to pledge to the payment of the principal of, premium, if any, and interest on such revenue bonds the payments made with respect to the Mortgage Loans purchased with and financed by the proceeds of such revenue bonds; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly Section 6(a) of Article VII of the Constitution of the State of Illinois, the Cooperating Unit has the power to issue its revenue bonds for public purposes, including the financing and purchase of Mortgage Loans within its corporate boundaries, and to pledge to the payment of the principal of, premium, if any, and interest on such revenue bonds the payments made with respect to the Mortgage Loans purchased with and financed by the proceeds of such revenue bonds; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly 30 *Illinois Compiled Statutes*, 345/9, as supplemented and amended, and pursuant to Section 25 of the Internal Revenue Code of 1986, as amended (the “*Code*”), an issuer authorized to issue qualified mortgage bonds under Section 143 of the Code is authorized to issue mortgage credit certificates under Section 25 of the Code in lieu of issuing such qualified mortgage bonds under Section 143 of the Code, and, consequently, Normal and the Cooperating Unit each have the power to issue mortgage credit certificates in lieu of issuing revenue bonds that constitute qualified mortgage bonds under Section 143 of the Code;

WHEREAS, the Cooperating Unit has determined that it is necessary and desirable to permit Normal, either by itself or jointly with other qualified issuers, to issue mortgage credit certificates on behalf of the Cooperating Unit for the purpose of providing an adequate supply of residential housing in the Cooperating Unit through the enhancement of Mortgage Loans within the corporate boundaries of the Cooperating Unit (the "*MCC Program*"); and

WHEREAS, to provide for the MCC Program, Normal proposes to issue mortgage credit certificates from time to time (the "*MCCs*") on behalf of the Cooperating Unit and to implement the MCC Program from time to time by allocating the MCCs to enhance qualified Mortgage Loans under the MCC Program on behalf of the Cooperating Unit, all under and in accordance with the Constitution and the laws of the State of Illinois; and

WHEREAS, the Cooperating Unit has determined that it is necessary and desirable to permit Normal, either by itself or jointly with other qualified issuers, to provide for the financing and purchasing of Mortgage Loans within the corporate boundaries of the Cooperating Unit through the sale of Mortgage Loans or mortgage-backed securities in the secondary market or the issuance of revenue bonds on behalf of the Cooperating Unit (collectively, the "*Loan Finance Program*," and together with the MCC Program, the "*Program*"); and

WHEREAS, to provide for the Loan Finance Program, Normal may (i) sell Mortgage Loans or mortgage-backed securities in the secondary market and (ii) issue, sell and deliver Collateralized Single Family Mortgage Revenue Bonds in one or more series and issue, sell and deliver any bonds issued to refund such bonds (collectively, the "*Bonds*"), each on behalf of the Cooperating Unit in order to obtain funds to purchase Mortgage Loans under the Loan Finance Program, all under and in accordance with the Constitution and the laws of the State of Illinois, provided that the Loan Finance Program shall not obligate the Cooperating Unit to levy any tax or pay any amount from any funds of the Cooperating Unit in connection with the Loan Finance Program, the Bonds or the sale of mortgage-backed securities in the secondary market; and

WHEREAS, Monarch Mortgage Management, LLC (the "Program Administrator") will serve as the administrator of the Program and the agent of Normal with respect to the Program pursuant to a Program Administration Agreement between Normal and the Program Administrator (the "Program Administration Agreement"); and

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt of which is hereby acknowledged, Normal and the Cooperating Unit hereby agree, as follows:

Section 1. Approval of MCC Program. Normal, either by itself or jointly with other qualified issuers, hereby expresses its desire and intention to issue the MCCs from time to time and to implement the MCC Program from time to time on behalf of the Cooperating Unit, as provided in the documents pursuant to which the MCCs will be issued from time to time and the MCC Program will be implemented from time to time, for the purpose of providing an adequate supply of residential housing in the Cooperating Unit through the enhancement of Mortgage Loans for single family residences for low and moderate income persons within the corporate boundaries of the Cooperating Unit. The MCCs shall be issued in such aggregate principal amounts from time to time and shall have such other terms, all as shall be agreed upon by Normal and approved Normal, IL Cooperation Agreement

by the governing body of Normal. The MCCs shall be allocated, and the MCC Program shall be implemented, as shall be determined by Normal and approved by the governing body of Normal. The Cooperating Unit hereby ratifies and approves the publication of notices to the public and all interested mortgage lenders of the intent to implement the MCC Program through the issuance of the MCCs, and hereby approves the issuance of the MCCs as described in such notices. The Cooperating Unit hereby consents to the allocation of tax credits made by Normal, resulting from the MCCs, to any Mortgage Loan made within the jurisdiction of the Cooperating Unit. Issuance of the MCCs imposes no financial obligation or liabilities against the Cooperating Unit.

Section 2. Approval of Loan Finance Program. Normal, either by itself or jointly with other qualified municipalities or political subdivisions, expresses its desire and intention to finance Mortgage Loans for single family residences for low and moderate income persons within the corporate boundaries of the Cooperating Unit through the purchase of Mortgage Loans or mortgage-backed securities and to subsequently sell such Mortgage Loans or mortgage-backed securities in the secondary market.

Normal, either by itself or jointly with other qualified issuers, expresses its desire and intention to finance Mortgage Loans within the corporate boundaries of the Cooperating Unit through issuance of Bonds in one or more series on behalf of the Cooperating Unit, as provided in the trust indenture or indentures pursuant to which the Bonds will be issued, for the purpose of purchasing Mortgage Loans within the corporate boundaries of the Cooperating Unit, purchasing mortgage-backed securities to finance Mortgage Loans within the corporate boundaries of the Cooperating Unit, paying interest on the Bonds and paying the costs of issuance of the Bonds. The Bonds shall be issued in such aggregate principal amounts, shall be issued in such series and classes, shall have such stated maturity or maturities, shall bear interest at such rate or rates, payable on such date or dates, shall be subject to redemption prior to maturity, shall be payable at such date or dates and at such place or places, and shall have such other terms, all as shall be determined by Normal and approved by the governing body of Normal. The proceeds of the Bonds shall be applied to such public purposes and to the payment of the costs of issuance as shall be approved by the governing body of Normal. The Cooperating Unit hereby ratifies and approves the conduct of any public hearings held in connection with the issuance of the Bonds. Issuance of the Bonds imposes no financial obligation or liabilities against the Cooperating Unit.

Section 3. Documents and Instruments. Normal hereby expresses its intention to enter into all such documents and instruments as shall be necessary or appropriate in connection with the implementation of the Program, including without limitation the Program Administration Agreement, origination agreements, servicing agreements, trust indentures, bond purchase contracts or agreements, official statements, continuing disclosure undertakings, program agreements, program manuals, lender participation agreements and closing certificates.

Section 4. Additional Cooperating Units. Normal and the Cooperating Unit hereby collectively declare that all cooperation agreements by and between Normal and other cooperating municipalities and counties of the State of Illinois and all cooperation agreements by and between the Cooperating Unit and other cooperating municipalities and counties of the State of Illinois in connection with the Program are hereby ratified and confirmed in all respects, and that such other cooperating municipalities and counties which enter into such cooperation agreements with Normal (or with other qualified issuers which are cooperating with Normal) shall be part of the Program.

Section 5. Absolute and Irrevocable Conditions; Amendment. All terms and conditions contained herein are intended to be absolute and irrevocable conditions hereof and are agreed to by Normal and the Cooperating Unit. Except as otherwise provided herein, this Cooperation Agreement may not be effectively amended, changed, modified or altered without the written consent of Normal and the Cooperating Unit, authorized by resolution or ordinance adopted by their respective governing bodies, certified copies of which shall be filed with the other party.

Section 6. Binding Effect. This Cooperation Agreement shall inure to the benefit of and shall be binding upon Normal and the Cooperating Unit and their respective successors and assigns.

Section 7. Severability. In the event any provision of this Cooperation Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Cooperation Agreement.

Section 8. Further Assurances and Corrective Instruments. Normal and the Cooperating Unit agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Cooperation Agreement.

Section 9. Execution in Counterparts. This Cooperation Agreement may be executed simultaneously in any number of counterparts, each counterpart shall be an original and all counterparts shall constitute but one and the same instrument.

Section 10. Applicable Law. This Cooperation Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

Section 11. Effective Date; Term. This Cooperation Agreement shall be in full force and effect on [*Dated Date*]. Time is of the essence. This Cooperation Agreement shall remain in effect until terminated in writing by either party hereto, but shall in any event terminate on December 31, 2099.

Section 12. Electronic Transactions. The transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suite in the appropriate court of law.

IN WITNESS WHEREOF, Normal and the Cooperating Unit have caused this Cooperation Agreement to be executed in their respective names by their respective duly authorized officials shown below:

**TOWN OF NORMAL, McLEAN COUNTY,
ILLINOIS**

By: _____

Name:

Title: Mayor

(SEAL)

ATTEST:

By: _____

Name: _____

Title: Town Clerk

ILLINOIS

CITY OF URBANA, CHAMPAIGN COUNTY,

By: _____

Name: _____

Title: Mayor

(SEAL)

ATTEST:

By: _____

Name: _____

Title: City Clerk