

ORDINANCE NO. 11-34

AN ORDINANCE authorizing the execution and delivery of an Intergovernmental Cooperation Agreement and certain documents in connection therewith; and related matters.

WHEREAS, The County of Kendall, Illinois, is a political subdivision duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "*County*"); and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly 50 *Illinois Compiled Statutes 2010, 465/1 et seq.*, as supplemented and amended (the "*Act*"), the County is authorized to issue its revenue bonds in order to aid in providing an adequate supply of safe, decent and sanitary residential housing for low and moderate income persons and families within the County, which such persons and families can afford, which constitutes a valid public purpose for the issuance of revenue bonds by the County; and

WHEREAS, pursuant to the Constitution and the laws of the State of Illinois, and particularly 30 *Illinois Compiled Statutes 2010, 345/7*, as supplemented and amended (the "*MCC Act*"), 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

WHEREAS, the County is authorized to issue its revenue bonds under the Act, which constitute qualified mortgage bonds under Section 143 of the Code, and is thereby authorized to issue mortgage credit certificates under the MCC Act in lieu of such revenue bonds; and

WHEREAS, the County has now determined that it is necessary, desirable and in the public interest to issue mortgage credit certificates to provide an adequate supply of safe, decent and sanitary residential housing for low and moderate income persons and families within the County, which such persons and families can afford; and

WHEREAS, pursuant to Section 10 of Article VII of the 1970 Constitution of the State of Illinois and the Intergovernmental Cooperation Act (*5 Illinois Compiled Statutes 2010, 220/1 et seq.*, as supplemented and amended), public agencies may exercise and enjoy with any other public agency in the State of Illinois any power, privilege or authority which may be exercised by such public agency individually, and pursuant to the Act, one or more public agencies (whether or not any of them are home rule units) may join together or cooperate with one another in the exercise, either jointly or otherwise, of any one or more of the powers conferred by the Act, the MCC Act or other enabling acts or powers pursuant to a written agreement, and, accordingly, it is now determined that it is necessary, desirable and in the public interest for the County to enter into an Intergovernmental Cooperation Agreement (the "*Cooperation Agreement*") dated as of October 1, 2011, by and among the County and certain other units of local government named therein (the "*Units*"), to provide for the joint issuance of such mortgage credit certificates to aid in providing an adequate supply of residential housing in such Units (the "*Program*"); and

WHEREAS, to provide for the Program, the City of Aurora, Kane, DuPage, Will and Kendall Counties, Illinois (the "*City*"), proposes to issue mortgage credit certificates in an aggregate principal amount not to exceed \$600,000,000 (the "*MCCs*") and to implement the Program from time to time by allocating the MCCs to certain qualified mortgage loans under the Program from time to time (the "*Mortgage Loans*"), on behalf of the County and the other Units all under and in accordance with the Constitution and the laws of the State of Illinois; and

WHEREAS, a notice to the public and all interested mortgage lenders of the intent to implement the Program through the issuance of the MCCs will be published in a newspaper of general circulation in the County, pursuant to Section 25 of the Code; and

WHEREAS, a form of the Cooperation Agreement has been presented to and is before this meeting;

NOW, THEREFORE, Be It Ordained by the County Board of The County of Kendall, Illinois, as follows:

Section 1. That it is the finding and declaration of the County Board of the County that the issuance of the MCCs by the City and the implementation of the Program are advantageous to the County, as set forth in the preamble to this authorizing ordinance, and therefore serves a valid public purpose; that this authorizing ordinance is adopted pursuant to the Constitution and the laws of the State of Illinois, and more particularly the Act, the MCC Act, Section 10 of Article VII of the 1970 Constitution of the State of Illinois and the Intergovernmental Cooperation Act; that the determination and definition of “maximum home value,” “minimum home value,” “persons of low and moderate income” and the other standards required by the Act are set forth in the program agreement or agreements referred to in the Cooperation Agreement; and that, by the adoption of this authorizing ordinance, the County Board of the County hereby approves the issuance of the MCCs by the City and the implementation of the Program are for the purposes as provided in the preamble hereto, the text hereof and the notice of intent to implement the Program referred to in the preamble hereto, which notice is hereby incorporated herein by reference.

Section 2. That the form, terms and provisions of the proposed Cooperation Agreement be, and they are hereby, in all respects approved; that the County Board Chairperson of the County be, and is hereby, authorized, empowered and directed to execute, and the County Clerk of the County be, and is hereby, authorized, empowered and directed to attest and to affix the official seal of the County to, the Cooperation Agreement in the name and on behalf of the County, and thereupon to cause the Cooperation Agreement to be delivered to the other Units; that the Cooperation Agreement is to be in substantially the form presented to and before this meeting with such changes therein as shall be required or approved by counsel to the County and

by the officer of the County executing the Cooperation Agreement, his or her execution thereof to constitute conclusive evidence of his or her approval of any and all changes or revisions therein from the form of Cooperation Agreement before this meeting; that from and after the execution and delivery of the Cooperation Agreement, the officers, officials, agents and employees of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Cooperation Agreement as executed, including without limitation any allocations of unified volume cap to the issuance of the MCCs and the implementation of the Program; that the County hereby consents to the allocation of the tax credits by the City to mortgagors within the County; and that the Cooperation Agreement shall constitute and is hereby made a part of this authorizing ordinance, and a copy of the Cooperation Agreement shall be placed in the official records of the County, and shall be available for public inspection at the principal office of the County.

Section 3. That the County Board Chairperson, the County Clerk and the proper officers, officials, agents and employees of the County 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 carry out and comply with the provisions of the Cooperation Agreement and to further the purposes and intent of this authorizing ordinance, including the preamble to this authorizing ordinance.

Section 4. That all acts of the officers, officials, agents and employees of the County heretofore or hereafter taken, which are in conformity with the purposes and intent of this authorizing ordinance and in furtherance of the issuance of the MCCs and the implementation of the Program, be, and the same hereby are, in all respects, ratified, confirmed and approved, including without limitation the publication of the notice of intent to implement the Program.

Section 5. That the County Board Chairperson of the County is hereby authorized to request unified volume cap from the Office of the Governor of the State of Illinois for the Program in each of the years of 2011, 2012, 2013 and 2014; that the County hereby allocates all unified volume cap received or to be received by the County from the Office of the Governor of the State of Illinois for the Program, if any, to the issuance of qualified mortgage bonds and/or the MCCs; and that the County, by the adoption of this authorizing ordinance, hereby represents and certifies that such volume cap has not been and will not be allocated to any other bond issue or transferred back to the Office of the Governor or otherwise.

Section 6. That after the Cooperation Agreement is executed by the County, this authorizing ordinance shall be and remain irrevocable until the MCCs shall have been fully allocated.

Section 7. That no pledge, agreement, covenant, representation, obligation or undertaking by the County contained in this authorizing ordinance and no other pledge, agreement, covenant, representation, obligation or undertaking by the County contained in any other document executed by the County in connection with the Program or the MCCs shall give rise to any pecuniary liability of the County or a charge against its general credit, or shall obligate the County financially in any way; that no failure of the County to comply with any term, condition, covenant, obligation or agreement herein or therein shall subject the County to liability for any claim for damages, costs or other financial or pecuniary charge and no execution of any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or other property of the County.

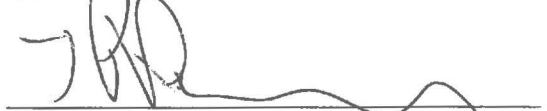
Section 8. That the provisions of this authorizing ordinance are hereby declared to be separable, and if any section, phrase or provision of this authorizing ordinance shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of

the sections, phrases and provisions of this authorizing ordinance; *provided, however*, that no holding of invalidity shall impose any personal liability on any director, member, elected or appointed officer, official, employee, attorney or agent of the County.

Section 9. That all ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this authorizing ordinance are, to the extent of such conflict, hereby superseded; and that this authorizing ordinance shall be in full force and effect upon its adoption and approval as provided by law.

Presented, passed, approved and recorded by the County Board of The County of Kendall,
Illinois, this 20th day of December, 2011.

Approved:



County Board Chairperson

[SEAL]

Attest:



County Clerk and Ex Officio Clerk of the
County Board

Ayes: Russell, Davidson, Flowers, Hafenrichter, Koukol, Martin,
Petrella, Shaw, Vickers, Wehrli.

Nays: _____

Absent or Not Voting: _____