

ORDINANCE NO. 0-85-23

AN ORDINANCE AUTHORIZING THE ISSUANCE OF AN INDUSTRIAL DEVELOPMENT REVENUE BOND FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING FOR INDUSTRIAL FACILITIES; AUTHORIZING A LOAN AGREEMENT BETWEEN THE CITY OF CONWAY, ARKANSAS AND KIRKWOOD INDUSTRIES, INC.; AUTHORIZING THE SALE OF THE BOND AND THE EXECUTION OF A BOND PURCHASE, AGENCY AND ASSIGNMENT AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City"), is authorized and empowered under the provisions of Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas, approved January 21, 1960, as amended (the "Act"), to issue revenue bonds and to expend the proceeds thereof to finance the acquisition, construction and equipment of land, buildings or facilities which can be used in securing or developing industry; and

WHEREAS, it is proposed that the City issue its revenue bond under the Act and loan the proceeds thereof to Kirkwood Industries, Inc., an Ohio corporation (the "Company"), for the purpose of financing the cost of acquiring, constructing and equipping certain industrial facilities (the "Project") as part of an expansion to the industrial plant operated by the Company within the boundaries of the City (the "Plant"); and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the City is now prepared to proceed with financing the Project and, at the request of the Company, to issue and sell \$400,000 in principal amount of its Industrial Development Revenue Bond - Kirkwood Industries, Inc. Project, Series 1985 (the "Bond"), to provide such financing; and

WHEREAS, the Company advises that upon completion of the Project it expects to employ approximately 20 additional persons at the Plant; and

WHEREAS, copies of the hereinafter described Bond Purchase, Agency and Assignment Agreement and Loan Agreement have been presented to and are before this meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Conway, Arkansas:

Section 1. The City Council hereby finds that the acquiring, constructing and equipping of the Project, and the issuance of the Bond to finance the same, will provide a substantial increase in employment and payrolls and will thereby secure and develop industry within the City.

Section 2. That the issuance of the Bond is hereby authorized. The Bond, which shall be a single bond in the denomination of \$400,000, shall be issued in the form, shall be dated, shall mature in annual installments commencing on June 1, 1986 and ending on June 1, 1997, shall bear interest at a variable rate per annum not to exceed the maximum permitted by applicable law, and shall be subject to redemption prior to maturity all upon the terms and conditions recommended by the Company and set forth in the Bond Purchase, Agency and Assignment Agreement (hereinafter authorized).

Section 3. That the Bond be sold to Central National Bank of Cleveland, Cleveland, Ohio (the "Bank"), for the purchase price of 100 cents on the dollar, plus accrued interest on the Bond from the date of the Bond to the date of delivery to the Bank, if any, which price has been recommended by the Company. The Bond shall be sold to the Bank upon the terms and conditions set forth in the Bond Purchase, Agency and Assignment Agreement (hereinafter authorized).

Section 4. That there be, and there is hereby authorized the execution and delivery of a Bond Purchase, Agency and Assignment Agreement by and between the City and the Bank, as purchaser of the Bond and as fiscal agent of the City (the "Bond Purchase Agreement"), and the Mayor and City Clerk be, and they are hereby, authorized to execute, acknowledge and deliver the Bond Purchase Agreement for and on behalf of the City. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Bank and others in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 5. That there be, and there is hereby authorized the execution and delivery of a Loan Agreement by and between the City and the Company (the "Loan Agreement"), and the Mayor and City Clerk be, and they are hereby, authorized to execute, acknowledge and deliver the Loan Agreement for and on behalf of the City. The Loan Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company and others in order to complete the Loan Agreement in substantially the form

submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 6. That the Mayor and City Clerk, for and on behalf of the City, be, and they are hereby, authorized and directed to do any and all things necessary to effect the execution and delivery of the Loan Agreement and the performance of all obligations of the City thereunder, the execution and delivery of the Bond Purchase Agreement and the performance of all obligations of the City thereunder, the issuance, execution, sale and delivery of the Bond, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. That the Mayor and City Clerk be, and they are hereby, further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 7. That the City is hereby involved with the acquiring, constructing and equipping of industrial facilities, and pursuant to applicable laws of the State of Arkansas, including particularly the Act, competitive bidding is waived.

Section 8. That the City Clerk is hereby authorized and directed to file in the office of the City Clerk, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person a copy of the Bond Purchase Agreement and Loan Agreement, and such documents shall be on file for inspection by any interested person.

Section 9. That the law firm of Friday, Eldredge & Clark, Little Rock, Arkansas, be appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bond.

Section 10. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 11. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 12. That there is hereby found and declared to be an immediate need for the securing and developing of industry in order to provide employment and payrolls, alleviate

unemployment and otherwise benefit the public health, safety and welfare of the City and the inhabitants thereof, and the issuance of the Bond authorized hereby and the taking of the other action authorized hereby are immediately necessary for the accomplishing of these public benefits and purposes. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in force and effect immediately upon and after its passage.

PASSED: June 11, 1985.

ATTEST:

Martha Hastings
City Clerk

APPROVED:

Bill Wright
Mayor

(SEAL)