

ORDINANCE NO. A-547

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER 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, FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING OF THE COST OF SECURING AND DEVELOPING INDUSTRY (THE PARTICULAR INDUSTRIAL PROJECT IS DESCRIBED IN THE ORDINANCE); AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING TO THE INDUSTRIAL PROJECT, THE CONSTRUCTING THEREOF AND THE FINANCING THEREOF; AND DECLARING AN EMERGENCY

WHEREAS, the City of Conway, Arkansas (the "City") is authorized by 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 (Act No. 9"), to acquire lands, construct and equip manufacturing buildings, improvements and facilities and to incur other costs and expenses and make other expenditures incidental to and for the implementing and accomplishing of the conduct of manufacturing operations; and

WHEREAS, the City is authorized by Act No. 9 to issue Industrial Development Revenue Bonds payable from revenues derived from the Industrial Project so acquired and constructed and secured by a lien thereon and security interest therein; and

WHEREAS, the necessary arrangements have been made with UMC INDUSTRIES, INC., a Delaware corporation ("UMC"), for a substantial industrial project consisting of lands, buildings, improvements, machinery, equipment and facilities for an industrial plant which will be utilized for the manufacturing of such projects as UMC shall elect to manufacture (the "Project"), and to lease the Project to UMC pursuant to the terms of a Lease Agreement subsequently identified herein and referred to as the "Lease Agreement"; and

WHEREAS, permanent financing of the Project costs, necessary costs and expenditures incidental thereto and the cost of the issuance of bonds is being furnished by the City issuing Industrial Development Revenue Bonds under the provisions of Act No. 9 in the principal amount of not to exceed Two Million Dollars (\$2,000,000) (the "bonds"); and

WHEREAS, there has been submitted to the electors of the City the question of issuing the bonds at a special election, and at the special election the electors approved the issuance of the bonds; and

WHEREAS, the bonds are to be sold and delivered in series, with there being initially issued Series A in the principal amount of \$1,350,000, and which are dated, bear interest, mature and are subject to redemption as hereinafter set forth in the form of Indenture authorized by this Ordinance; and

WHEREAS, the City Council has entered into a contract with Stephens, Inc., of Little Rock, Arkansas, for the sale to it of said Series A Bonds at the price of par plus accrued interest to date of delivery;

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

Section 1. That there be, and there is hereby authorized and directed the following:

- (a) The sale of the Series A Bonds;
- (b) The acquisition and construction of the Project, and in connection therewith, the execution of any necessary architectural, engineering or construction contracts or the acceptance of an assignment of any such contracts previously executed by UMC, for the constructing and equipping of the Project;

- (c) The performance of all obligations of the City under the Lease Agreement pertaining to the constructing and equipping of the Project and the performance of all obligations of the City under the contracts referred to in (b) above.

Section 2. That to provide for the authorization of and to secure Industrial Development Revenue Bonds of the City under Act No. 9 in ~~the~~ total principal amount of not to exceed \$2,000,000, to provide for the immediate execution and delivery of the Series A Bonds in the principal amount of \$1,350,000, and to prescribe the terms and conditions upon which the bonds are to be secured, executed, authenticated, accepted and held, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture, and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee, with the Trust Indenture, which constitutes and is hereby made a part of this Ordinance, to be in substantially the following form, to-wit:

TRUST INDENTURE

CITY OF CONWAY, ARKANSAS

and

WORTHEN BANK & TRUST COMPANY  
LITTLE ROCK, ARKANSAS  
Trustee

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TRUST INDENTURE

This INDENTURE executed as of the first Day of June, 1972, by and between the CITY OF CONWAY, ARKNASAS, a city of the first class, duly existing under the laws of the State of Arkansas (the "City"), as party of the first part, and WORTHEN BANK & TRUST COMPANY of Little Rock, a banking institution organized under and existing by virtue of the laws of the State of Arkansas, with its principal office, domicile and post office address in Little Rock, Arkansas (the "Trustee"), as party of the second part:

WITNESSETH:

WHEREAS the City is authorized by 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 ("Act No. 9"), to acquire lands, construct and equip manufacturing buildings, improvements and facilities and to incur other costs and expenses and make other expenditures incidental to and for the implementing and accomplishing of the conduct of manufacturing operations; and

WHEREAS the City is authorized by Act No. 9 to issue Industrial Development Revenue Bonds payable from revenues derived from the Industrial Project so acquired and constructed and secured by a lien thereon and security interest therein; and

WHEREAS the necessary arrangements have been made with UMC INDUSTRIES, INC., a Delaware corporation ("UMC"), for a substantial industrial project consisting of lands, buildings, improvements, machinery, equipment and facilities for an industrial plant which will be utilized for the manufacturing of

such products as UMC shall elect to manufacture (the "Project"), and to lease the Project to UMC pursuant to the terms of a Lease Agreement subsequently identified herein and referred to as the "Lease Agreement"; and

WHEREAS permanent financing of the Project costs, necessary costs and expenditures incidental thereto and the cost of the issuance of bonds, is being furnished by the City issuing Industrial Development Revenue Bonds under the provisions of Act No. 9 in the principal amount of not to exceed Two Million Dollars (\$2,000,000) (the "bonds") ; and

WHEREAS there has been submitted to the electors of the City the question of issuing the bonds at a special election, and at the special election the electors approved the issuance of the bonds; and

WHEREAS the bonds are to be sold and delivered in series, with there being initially issued Series A in the principal amount of \$1,350,000, and which are dated, bear interest, mature and are subject to redemption as hereafter in this Indenture set forth in detail; and

WHEREAS the execution and delivery of this Trust Indenture (the "Trust Indenture" or the "Indenture") and the issuance of the bonds have been in all respects duly and validly authorized by ordinance of the City Council of the City, adopted and approved on the        day of May, 1972; and

WHEREAS the bonds, interest coupons to be attached thereto and the Trustee's Certificate to be endorsed thereon are all to be in substantially the following form, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture, to wit (the form is prescribed for Series A and there shall be necessary conforming changes in the case of subsequent series):

(Form of Bond)

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF FAULKNER  
CITY OF CONWAY  
6 3/4% INDUSTRIAL DEVELOPMENT REVENUE BOND -  
SERIES A

No. \_\_\_\_\_ -A

\$5,000

KNOW ALL MEN BY THESE PRESENTS:

That the City of Conway, Faulkner County, Arkansas a municipality under the laws of the State of Arkansas (the "City") for value received, promises to pay to bearer, or if this bond be registered to the registered owner hereof, on June 1, 19\_\_\_\_ (unless this bond shall have been called for prior redemption, in which case the redemption date), the principal sum of

FIVE THOUSAND DOLLARS

in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay in like coin or currency interest on said principal amount from the date hereof until paid at the rate of six and three-fourths (6 3/4%) percent per annum, such interest to be payable semiannually on June 1 and December 1 of each year, commencing December 1, 1972. Payment of principal and interest coupons shall be made at the principal office of Worthen Bank & Trust Company, Little Rock, Arkansas (the "Trustee" and the "Paying Agent"). Payment of interest, when registered as to interest, shall be by check or draft to the registered owner as shown on the bond registration book of the City maintained by the Trustee.

This bond, designated "City of Conway, Arkansas, Industrial Development Revenue Bond, Series A" is one of a series of bonds aggregating One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) (the "Series A Bonds"). The Series A Bonds are part of an authorized issue of \$2,000,000 in principal amount, to be issued in series, with the bonds of all series to rank on a parity of security and with the bonds of all series to be collectively referred to as the "bonds". The bonds are being issued for the purpose of financing Project costs and paying expenses of issuing the bonds. The bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture (the "Indenture"), dated as of June 1, 1972, duly executed and delivered by the City to the Trustee, which Indenture is recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Faulkner County, Arkansas, and reference is hereby made to the Indenture and to all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the City, the Trustee and the holders and registered owners of the bonds, and the terms upon which the bonds are issued and secured.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, particularly 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 ("Act No. 9"), and pursuant to Ordinance No. \_\_\_\_\_ of the City passed and approved on the \_\_\_\_\_ day of May, 1972, which ordinance authorized the execution and delivery of the Indenture. The bonds are not general obligations of the City, but are special obligations payable solely from lease rentals

and revenues derived from the Project. A Lease Agreement has been executed between the City as Lessor and UMC INDUSTRIES, INC., a Delaware corporation ("UMC"), as Lessee, which provides for basic rent sufficient to pay the principal of and interest on the bonds as the same become due. Provision has been made in the Lease Agreement for the basic rent to be paid directly to the Trustee and deposited in a special account of the City designated "Conway, Arkansas, 1972 Industrial Development Revenue Bond Fund - UMC Project", (the "Bond Fund"). Project revenues (including particularly rentals under the Lease Agreement) have been duly pledged by the Indenture to the payment of the principal of and interest on the bonds, and the bonds are secured by a lien on and security interest in the Project land, improvements thereon and the machinery and equipment specified in the Indenture. The bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

The holder of this bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the bonds issued under the Indenture and then outstanding may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Series A Bonds shall be subject to redemption prior to maturity as follows:

(1) The Series A Bonds may be redeemed from the proceeds of condemnation of all or substantially all of the Project or from the proceeds of insurance in the event of damage or destruction pursuant to the provisions of Section 7.1 of the Lease Agreement, and shall be redeemed from proceeds of the Lessee exercising an option to purchase pursuant to the provisions of Section 11.2 of the Lease Agreement, in whole or in part, in inverse order of maturity (redemption within a maturity to be by lot in such manner as the Trustee shall determine) at any time, at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date and plus a premium of 3% of the principal amount redeemed, if redeemed prior to June 1, 1982, and thereafter at the optional redemption price to be in effect as of the next succeeding interest payment date set forth below in (3) hereof.

(2) The Series A Bonds shall be redeemed in whole from the proceeds of the Lessee purchasing the Project or prepaying rent pursuant to the provisions of Section 8.9 of the Lease Agreement, at any time, at a redemption price equal to the principal amount of the bonds being redeemed plus accrued interest to the redemption date and plus a premium of 6 1/4% of the principal amount of bonds outstanding on the date on which interest on the bonds becomes taxable by reason of the occurrence of the circumstances set forth in Section 103(c)(6)(D) and (E) of the Internal Revenue Code of 1954, as amended.

(3) The Series A Bonds may be redeemed on and after June 1, 1982, at the option of the City, from funds from any other sources, in whole or in part, on any interest payment date, in inverse order of maturity (redemption within a maturity to be by lot in

such manner as the Trustee shall determine) with there to be no partial redemption of any bond, at a redemption price equal to the principal amount of the bonds being redeemed plus accrued interest to the date of redemption and plus a premium of the principal amount of the bonds being redeemed as follows:

3.125% if redeemed June 1, 1982 or December 1, 1982;  
2.8125% if redeemed June 1, 1983 or December 1, 1983;  
2.50% if redeemed June 1, 1984 or December 1, 1984;  
2.1875% if redeemed June 1, 1985 or December 1, 1985;  
1.875% if redeemed June 1, 1986 or December 1, 1986;  
1.5625% if redeemed June 1, 1987 or December 1, 1987;  
1.125% if redeemed June 1, 1988 or December 1, 1988;  
0.9375% if redeemed June 1, 1989 or December 1, 1989;  
0.625% if redeemed June 1, 1990 or December 1, 1990;  
0.3125% if redeemed June 1, 1991 or December 1, 1991.

Notice of the call for redemption shall be published one time in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, and one time in a newspaper or financial journal of general circulation among dealers in municipal securities published in the City of New York, New York which publications shall be not less than thirty (30) days before the date of redemption. In addition, notice of redemption shall be mailed by registered or certified mail to the registered owner of any bond registered as to principal addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) days prior to the date fixed for redemption. In the event that all of the bonds are registered as to principal, notice in writing by registered or certified mail to the owner or owners thereof not less than thirty (30) days prior to the date fixed for redemption shall be sufficient, and published notice of the call for redemption need not be given. Each notice shall specify the numbers and the maturities of the bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the bond or bonds so called will cease to bear interest

provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and **shall** not be deemed to be outstanding under the provisions of the Indenture.

This bond may be registered as to principal alone or **as** to principal and interest and may be discharged from such registration, in the manner, with the effect and subject to the terms and conditions endorsed hereon and set forth in the Indenture. Subject to the provisions for registration endorsed hereon and contained in the Indenture, nothing contained in this bond or in the Indenture shall affect or impair the negotiability of this bond and as declared in Act No. 9, this bond shall be deemed to be a negotiable instrument under the laws of the State of Arkansas. This bond is issued with the intent that the **laws** of the State of Arkansas will govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the bonds, together with **all** obligations of the City, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal and interest on the bonds, as the same become due and payable, will be sufficient in amount for that purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.



IN WITNESS WHEREOF, the City of Conway, Arkansas, has caused this bond to be executed in its name by its Mayor and Clerk, thereunto duly authorized, with the facsimile signature of the Mayor and the manual signature of the Clerk, and its corporate seal to be affixed, and has caused the interest coupons hereto attached to be executed by the facsimile signature of its Mayor all as of the first day of June, 1972.

CITY OF CONWAY, ARKANSAS

By \_\_\_\_\_ (facsimile Signature)  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(S E A L)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Series A Bonds described in and issued under the provisions of the within mentioned Indenture

WORTHEN BANK & TRUST COMPANY, Trustee

By \_\_\_\_\_  
(Authorized Signature)

Little Rock, Arkansas

\_\_\_\_\_

(Form of Coupon)

\$ \_\_\_\_\_ NO. \_\_\_\_\_

On the first day of December, 19\_\_\_\_, the City of Conway, Arkansas (unless the bond to which this coupon is attached shall have been previously called for redemption or shall have become payable as provided in the Indenture referred to in the bond) will pay, solely from the revenues pledged in the Indenture, to bearer at the principal office of Worthen Bank & Trust Company, Little Rock, Arkansas upon presentation and surrender hereof, the sum of

\_\_\_\_\_ DOLLARS

in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, being six (6) months' interest then due on its Industrial Development Revenue Bond, Series A, dated June 1, 1972, and numbered \_\_\_\_\_.

CITY OF CONWAY, ARKANSAS

By \_\_\_\_\_  
(facsimile signature)  
Mayor

PROVISIONS FOR REGISTRATION AND RECONVERSION

This bond may be registered as to principal alone on books of the City, kept by the Trustee under the within mentioned Indenture as bond registrar, upon presentation hereof to the bond registrar, which shall make mention of such registration in the registration blank below, and this bond may thereafter be transferred only upon an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the bond registrar, such transfer to be made on such books and endorsed hereon by the bond registrar. Such transfer may be to bearer, and thereafter transferability by delivery shall be restored, but this bond shall again be subject to successive registrations and transfers as before. The principal of this bond, if registered, unless registered to bearer, shall be payable only to or upon the order of the registered owner or his legal representative. Interest accruing on this bond will be paid only on presentation and surrender of the attached interest coupons as they respectively become due, and notwithstanding the registration of this bond as to principal, the appurtenant interest coupons shall remain payable to bearer and shall continue to be transferable by delivery; provided, that if upon registration of this bond, or at any time thereafter while this bond is registered in the name of the owner, the unmatured coupons attached evidencing interest to be thereafter paid hereon shall be surrendered to said bond registrar, a statement to that effect will be endorsed hereon by the bond registrar and thereafter interest evidenced by such surrendered coupons will be paid by check or draft of the bond registrar at the times provided

herein to the registered owner of this bond by mail to the address shown on the registration books. This bond when so converted into a bond registered as to both principal and interest may be reconverted into a coupon bond at the written request of the registered owner and upon presentation at the office of said bond registrar. Upon such reconversion the coupons representing the interest to become due thereafter to the date of maturity will again be attached to this bond and a statement will be endorsed hereon by the bond registrar in the registration blank below whether it is then registered **as** to principal or payable to bearer.

Date of Registration:	Name of Registered Owner	: Manner of : Registration	:Signature of :Bond Registrar
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:

and;

WHEREAS all things necessary to make the bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the City according to the import thereof, and to constitute this Indenture a valid lien on the properties mortgaged and a valid pledge of the revenues herein made to the payment of the principal of and interest on said bonds, have been done and performed, and the creation, execution and delivery of this Indenture and the creation, execution and issuance of said bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS INDENTURE WITNESSETH;

That the City in consideration of the premises and the acceptance by the Trustee of the Trusts hereby created and of the purchase and acceptance of the bonds by the holders and owners thereof, and the sum of One Dollar (\$1.00), lawful money of the United States of America, to it duly paid by the Trustee, at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on the bonds according to their tenor and effect and the performance and observance by the City of all the covenants expressed or implied herein and in the bonds, subject to the Lease Agreement, does hereby grant, bargain, sell, convey, mortgage, assign and pledge unto the Trustee, and unto it; successor or successors in trust, and to them and their assigns forever, for the securing of the performance of the obligations of the City hereinafter set forth:

The following described real estate and premises situated in Faulkner County, State of Arkansas, with all buildings, additions and improvements now or hereafter located thereon, together with the tenements, hereditaments, appurtenances, rights, privileges, and immunities thereunto belonging or appertaining, and warrants the title to the same, to-wit:

(1) A certain parcel of land situate in the County of Faulkner and State of Arkansas, being a part of the Northwest Quarter of Section 18, Township 5 North, Range 13 West, described as follows:

Commencing at a point 15.75 chains North of the Southwest corner of said Northwest Quarter of said Section and running thence North  $81^{\circ}$  East 18.25 chains to the West boundary line of the Missouri Pacific Railroad right-of-way, thence running Northwestwardly along the West boundary line of said Missouri Pacific Railroad right-of-way to the South line of Robins Street, thence West along the South line of Robins Street to the West line of said Northwest Quarter of said Section, thence South to point of beginning, containing 31 acre::, more or less;

2.

All machinery, equipment and other personal property of every kind and nature whatever acquired by the City and paid for out of the Construction Fund (identified below) and placed on and in the land and improvements described in "1" above, or elsewhere, including, without limitation, all replacements and substitutions which become the property of the City pursuant to the provisions of the Lease Agreement. All such machinery, equipment and other personal property shall be identified in a ledger, one copy of which shall be filed with the Trustee and one copy maintained by UMC on the mortgaged property and all such machinery, equipment and other personal property shall be marked by an appropriate tag or other device as being the property of the City. Included herein is the Leased Equipment as defined in the Lease Agreement but, as provided in the Lease Agreement, there is not included any machinery, equipment and personal property owned by UMC.

3.

The Lease Agreement and all rights, but not obligations of the City thereunder and all revenues and income derived by the City from the mortgaged property, including, without limitation, all rentals received by the City from the leasing of the mortgaged property and in particular the rentals and profits received under and pursuant to the Lease Agreement.

4.

The Bond Fund (identified below) and the Construction Fund, and all moneys and investments therein but subject to the provisions of this Indenture pertaining thereto, including the making of disbursements therefrom.

5.

Any and all other property of every kind and nature from time to time which was heretofore or hereafter is by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the City or by any other person, firm or corporation, or with the consent of the City, to the Trustee, which is hereby authorized to receive any and all such property at any time and at all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD** all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trusts and to them and their assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all holders and owners of the said bonds and interest coupons thereto attached issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of said bonds or coupons thereto attached over any of the others of said bonds; provided, however, that if the City, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of the bonds and the interest due thereon, at the times and in the manner provided in the bonds and the interest coupons appertaining to the bonds, respectively, according to the true intent and meaning thereof, and shall make the payments into the Bond Fund as required under Article V or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee the entire amount due or to become due thereon, and shall pay to the Trustee all sums of



money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture to be and remain in full force and effect.

THIS INDENTURE **FURTHER** WITNESSETH that, and **it is** expressly declared, **all** bonds issued and secured hereunder are to be issued, authenticated and delivered and all said revenue and income hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective holders and owners, from time to time of the said bonds or coupons or any part thereof, **as** follows, that is to say:

ARTICLE I

DEFINITIONS

Section 101. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings:

"Conway, Arkansas 1972 Industrial Development Revenue Bond Fund-UMC Project" or "Bond Fund" - The fund of the City created by Section 501 of the Indenture into which the funds specified in Article V are to be deposited and out of which disbursements are to be made as expressly authorized and directed by the Indenture.

"Bonds" or "bonds" - The City of Conway,, Arkansas Industrial Development Revenue Bonds, issued under and secured by the Indenture, authorized in the total principal amount of \$2,000,000, to be delivered in series from time to time.

"Series A Bonds" - The initial series of bonds being delivered hereunder and secured hereby in the principal amount of \$1,350,000, described in Section 202 hereof.

"City" - The City of Conway, Arkansas, a municipality under the laws of the State of Arkansas and situated in Faulkner County, Arkansas.

"Indenture" - This Trust Indenture with all indentures supplemental hereto.

"Outstanding hereunder" - "bonds outstanding hereunder" - All bonds which have been authenticated and delivered under the Indenture except:

(a) Bonds cancelled because of payment or redemption prior to maturity;

(b) Bonds for the payment or redemption of which cash shall have been theretofore deposited with the Trustee (whether upon *or* prior to the maturity or redemption date of any such bonds) provided that if such bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or satisfactory provision shall have been made therefor; and

(c) Bonds in lieu of which others have been authenticated under Section 208.

"Paying Agent" - The bank or trust company named by the City as the place at which the principal of and interest on the bonds is payable. The original Paying Agent is the Trustee. References to Paying Agent include any alternate Paying Agent.

"Person"- Includes natural persons, firms, associations, corporations and public bodies.

"Project" - The lands, buildings, improvements and facilities embodied in and pertaining to the industrial project leased to UMC and being financed out of the proceeds of the bonds, including the properties in the trust estate. The Project will be utilized by UMC for the conduct of its business including; without limitation, the manufacture of such products as UMC shall determine to manufacture.

"Trust Estate" - "property herein conveyed" - The mortgaged property.

"Trustee" - The Trustee for the time being, whether original or successor, with the original Trustee being Worthen Bank & Trust Company, Little Rock, Arkansas. The Trustee is also a Paying Agent.

"Mortgaged property" - The properties comprising the Project, being all of the properties leased to UMC under the Lease Agreement

as well as all other properties which, under the terms of the Indenture, subsequently become subject to the lien of the Indenture, including the properties, interests and rights covered by the granting clauses of the Indenture.

"Holder" or "Bondholder" - "owner of the bonds" - The bearer of any bond not registered as to principal and the registered owner of any bond registered as to principal or registered as to principal and interest.

"Lessee" or "UMC" - UMC Industries, Inc., a Delaware corporation. UMC is Lessee under the Lease Agreement.

"Lease Agreement" - The Lease Agreement dated as of June 1, 1972, wherein the City is Lessor and UMC is Lessee, recorded in the office of the Circuit Clerk and Ex Officio Recorder of Faulkner County, Arkansas described in Section 409A. hereof.

"Industrial Development Bond Construction Fund - UMC Project" or "Construction Fund" - The fund created by Section 601 into which the portion of the proceeds of the sale of the bonds specified in Section 601 is to be deposited and out of which disbursements are to be made in the manner and for the purposes specified in Article VI of the Indenture.

"City Clerk" - "Clerk" or "Recorder" - The person holding the office and performing the duties of Clerk of the City.

"Revenues" - The income, charges, and moneys realized from the lease, sale or other disposition of the Project, including all rentals and other sums to be received under the Lease Agreement.

Section 102. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "bond", "coupon", "owner", "holder", and "person" shall include the plural, as well as the singular, number.

ARTICLE II

THE BONDS

Section 201. No bonds may be issued under the provisions of this Indenture except in accordance with this Article, and the total principal amount of bonds that may be issued is hereby expressly limited to Two Million Dollars (\$2,000,000), except with respect to substituted bonds issued under Section 208.

Section 202. A. The initial series shall be designated "City of Conway, Arkansas, Industrial Development Revenue Bonds, Series A" (the "Series A Bonds") and shall be in the principal amount of \$1,350,000. The Series A Bonds shall be dated June 1, 1972, and interest thereon shall be payable semiannually on June 1 and December 1 of each year, commencing December 1, 1972. The Series A Bonds shall be numbered consecutively from 1-A to 270-A, inclusive, shall be in the denomination of \$5,000 each and the principal thereof shall mature, unless sooner redeemed in the manner in this Indenture set forth, on June 1 in each of the years set forth in and in the amount set opposite each year in the following schedule, which schedule also sets forth the bond numbers and the interest rates applicable to the Series A Bonds:

<u>Bond No.</u> <u>(All Inclusive)</u>	<u>Rate of Interest</u> <u>( _____ % )</u>	<u>Amount</u>	<u>Maturity</u> <u>(June 1)</u>
1-A - 7-A	<u>6 3/4</u>	\$ 35,000	1973
8-A - 14-A	"	35,000	'1974
15-A - 22-A	"	40,000	1975
23-A - 30-A	"	40,000	1976
31-A - 39-A	"	45,000	1977
40-A - 49-A	"	50,000	1978
50-A - 59-A	"	50,000	1979
60-A - 70-A	"	55,000	1980
71-A - 82-A	"	60,000	1981
83-A - 94-A	"	60,000	1982

<u>Bond No.</u> <u>(All Inclusive)</u>	<u>Rate of Interest</u> <u>( _____ %)</u>	<u>Amount</u>	<u>Maturity</u> <u>(June 1)</u>
95-A - 107-A	<u>6.45</u>	65,000	1983
108-A - 121-A	"	70,000	1984
122-A - 136-A	"	75,000	1985
132-A - 152-A	<u>6 1/4</u>	80,000	1986
153-A - 169-A	"	85,000	1987
170-A - 187-A	"	90,000	1988
188-A - 206-A	<u>6</u>	95,000	1989
207-A - 226-A	"	100,000	1990
227-A - 247-A	"	105,000	1991
248-A - 270-A	"	115,000	1992

B. Additional bonds up to the maximum principal amount of \$650,000 may be subsequently issued at any time for the purpose of paying Project costs, expenses and expenditures in connection with the Project and the operation of the Project and the expenses of issuing the bonds, provided there shall never be issued bonds in a principal amount that would result in a violation of the limitation specified in Section 103(c)(6)(D) of the Internal Revenue Code of 1954 which renders interest on the bonds subject to federal income tax. Such additional bonds shall be issued in series, with the next series to be designated "Series B" and with each series thereafter to be designated in alphabetical order. Such additional bonds shall be dated, interest thereon shall be payable semiannually, may have serial maturities or all may have the same maturity, may contain provisions for redemption prior to maturity and may contain such other provisions not inconsistent with the provisions of this Indenture, all as shall be set forth in the ordinance of the City Council authorizing their issuance.

Such additional bonds shall be secured by this Indenture and shall rank on a parity of security in all respects with the bonds of previously issued series. They shall be authorized by ordinance of the City Council, which shall set forth the details concerning the bonds, which details shall be embodied in a Supplemental Trust Indenture by and between the City and the Trustee, and an executed copy of each Supplemental Trust Indenture, together with a certified copy of each authorizing ordinance, shall be filed with the Trustee prior to the delivery of any such additional bonds. In addition there must be filed with the Trustee an executed copy of a Supplemental Lease Agreement increasing the basic rent in the amount necessary to provide for the prompt payment of the principal of and interest on the additional bonds of that particular series then being issued. The execution and delivery of such Supplemental Lease Agreements are expressly provided for in the Lease Agreement. When there shall have been filed with the Trustee a certified copy of the ordinance, an executed copy of the Supplemental Trust Indenture and an executed copy of the Supplemental Lease Agreement, all as aforesaid, and an opinion of counsel satisfactory to the Trustee approving the additional bonds of the series then proposed to be issued, the Trustee shall authenticate said additional bonds when executed and delivered to it with the seal of the City affixed and deliver such additional bonds as provided in the Supplemental Trust Indenture.

Section 203. The bonds shall be executed on behalf of the City by the Mayor and City Clerk thereof and shall have impressed thereon the seal of the City. The coupons attached to the bonds shall be executed by the facsimile signature of the Mayor and if the Mayor shall file the certificate required by Act No. 69 of the Acts of Arkansas of 1959 and otherwise comply with the provisions of said Act No. 69 of 1959, then the bonds may also be

executed by the facsimile signature of the Mayor, which facsimile signature shall have the same force and effect as if the Mayor had personally signed each of said bonds and each of said coupons. The bonds, together with interest thereon, shall be payable from the "Bond Fund" as hereinafter set forth, and shall be a valid claim of the holders thereof only against such fund and the revenues pledged to such fund (but in addition shall be secured by a lien on and security interest in the Project), which revenues are hereby pledged and mortgaged for the equal and ratable payment of the bonds and shall be used for no other purpose than to pay the principal of and interest on the bonds, and the Paying Agent's fees, except as may be otherwise expressly authorized in this Indenture. The bonds and interest thereon shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision. In case any officer whose signature or facsimile of whose signature shall appear on the bonds shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 204. Only such bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form hereinabove set forth duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No bond and no coupon appertaining to any bond shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee, and such Certificate of the Trustee upon any such bond shall be conclusive evidence that such bond has been authenticated and delivered under this Indenture. The Trustee's Certificate of Authentication on any bond shall be deemed to have been executed if signed by an



authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate of Authentication on all of the bonds issued hereunder. Before authenticating or delivering any bonds, the Trustee shall detach and cancel all matured coupons, if any, appertaining thereto, and such cancelled coupons shall be cremated by the Trustee.

Section 205. The bonds issued under this Indenture and the coupons attached thereto shall be substantially in the form hereinabove set forth with such appropriate variations, omissions and insertions as are permitted or required by this Indenture.

Section 206. Upon the execution and delivery of this Indenture, the City shall execute and deliver to the Trustee and the Trustee shall authenticate the bonds and deliver them to the purchaser upon payment of the purchase price plus accrued interest from the date of the bonds to the date of delivery, and the Trustee shall be entitled to rely upon any certificate, ordinance or resolution as to the purchase price and the purchasers.

Section 207. This Indenture is given in order to secure funds to pay for new construction and by reason thereof, it is intended that this Indenture shall be superior to any laborers', mechanics' or materialmen's liens which may be placed upon the Project.

Section 208. In case any bond issued hereunder shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond and its interest coupons, or in lieu of and in substitution for such bond and its coupons destroyed or lost,

upon the holder's or owner's paying the reasonable expenses and charges of the City and the Trustee in connection therewith, and, in case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it that such bond and coupons were destroyed or lost, and of his ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new bond. In the event any such bonds or coupons shall have matured, instead of issuing a new bond or coupon, the City may pay the same without the surrender thereof.

Section 209. Title to any bond, unless such bond is registered in the manner herein provided, and to any interest coupon shall pass by delivery in the same manner as a negotiable instrument payable to bearer. The City shall cause books for the registration and for the transfer of the bonds as provided in this Indenture to be kept by the Trustee as bond registrar. At the option of the bearer, any bond may be registered as to principal alone on such books, upon presentation thereof to the bond registrar, which shall make notation of such registration thereon. Any bond registered as to principal may thereafter be transferred only upon an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the bond registrar, such transfer to be made on such books and endorsed on the coupon bond by the bond registrar. Such transfer may be to bearer and thereafter transferability by delivery shall be restored, subject, however, to successive registrations and transfers as before. The principal of any bond registered as to principal alone, unless registered to bearer, shall be payable only to or upon the order of the registered owner or his legal representative, but the coupons appertaining to any bond registered as to principal shall remain payable to bearer notwithstanding such registration, provided, that if upon registration of any such

bond, or at any time thereafter while registered in the name of the owner, the unmatured coupons attached evidencing interest to be thereafter paid thereon shall be surrendered to said bond registrar a statement to the effect will be endorsed thereon and thereafter interest evidenced by such surrender coupons will be paid by check or draft by said bond registrar at the time provided therein to the registered owner by mail to the address shown on the registration books. Each of the bonds when converted as aforesaid into a bond registered as to both principal and interest may be reconverted into a coupon bond at the written request of the registered owner and upon presentation at the office of said bond registrar. Upon such reconversion the coupons representing the interest to become due thereafter to the date of inaturity will be attached to the bond and a statement will be endorsed thereon by said bond registrar in the registration blank on the back of the bond whether it is then registered as to principal or payable to bearer. No charge shall be made to any bondholder for the privilege of registration and transfer hereinabove granted but any bondholder requesting any such registration or transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any bond registered as to principal, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of any such bond shall be made only to or upon the order of the registered owner thereof, or his legal representative, and neither the City, the Trustee, nor the bond registrar shall be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such coupon bond to the extent of the sum or sums so paid. The City, the Trustee, the bond registrar and the Paying Agent may deem and treat the bearer of

any bond which shall not at the time be registered as to principal, and the bearer of any coupon appertaining to any bond, whether such bond be registered as to principal or not, as the absolute owner of such bond or coupon, as the case may be, whether such bond or coupon shall be overdue or not, for the purpose of receiving payment thereof and for all other purposes whatsoever, and neither the City, the Trustee, the bond registrar nor the Paying Agent shall be affected by any notice to the contrary.

### ARTICLE III

#### REDEMPTION OF BONDS BEFORE MATURITY

Section 301. The Series A Bonds shall be callable for redemption prior to maturity in accordance with the provisions pertaining thereto appearing in the form of bond heretofore set forth in this Indenture.

Section 302. The bonds of any series issued under the provisions of Section 202 B may be made subject to redemption, in whole or in part, in such manner, at such times and at such prices as may be provided in the ordinance authorizing their issuance.

Section 303. Notice of the call for redemption shall be published one time in a newspaper published in the City of Little Rock, Arkansas, and having a general circulation throughout the State of Arkansas, and one time in a newspaper or financial journal of general circulation among dealers in municipal securities published in the City of New York, New York, which publications shall be not less than thirty (30) days before the date of redemption. In addition, notice of redemption shall be mailed by registered or certified mail to the owner or owners thereof not

less than thirty (30) days prior to the date fixed for redemption shall be sufficient, and published notice of the call for redemption need not be given. Each notice shall specify the numbers and maturities of the bonds being called and the date on which they shall be presented for payment. After the date specified in said call, the bonds or bonds so called will cease to bear interest provided funds for their payment have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

Section 304. All bonds which have been redeemed shall be cancelled by the Trustee together with the unmatured coupons appertaining thereto and shall be returned to the City.

Section 305. All unpaid coupons which appertain to bonds so called for redemption and which shall have become payable on or prior to the date of redemption shall continue to be payable to the bearers severally and respectively upon the presentation and surrender of such coupons.

#### ARTICLE IV

##### GENERAL COVENANTS

Section 401. The City covenants that it will promptly pay the principal of, redemption premiums, if any, and interest on every bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said bonds, and in the coupons appertaining thereto according to the true intent and meaning thereof. The principal, redemption premiums and interest (except interest, if any, paid from accrued interest) are payable solely from revenues derived from the Project, which revenues are hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the bonds or

coupons or in this Indenture should be considered as pledging any other funds or assets of the City (except the securing of the indebtedness evidenced by the bonds and coupons by a lien on and security interest in the Project). Anything in this Indenture to the contrary notwithstanding, it is understood that whenever the City makes any covenants involving financial commitments, including, without limitation, those in the various sections of this Article IV, it pledges no funds or revenues other than those provided for in the Lease Agreement and the revenues derived from the avails of the mortgaged property, but nothing herein shall be construed as prohibiting the City from using any other funds and revenues.

Section 402. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every bond executed, authenticated and delivered hereunder and in all ordinances pertaining thereto. The City covenants that it is duly authorized under the Constitution and laws of the State of Arkansas, including particularly and without limitation Act No. 9, to issue bonds authorized hereby and to execute this Indenture and to make the pledge and covenants in the manner and to the extent herein set forth; that all action on its part for the issuance of the bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 403. The City covenants that it lawfully owns and is lawfully possessed of the mortgaged property and that it has good and merchantable title and estate therein, subject to

the Lease Agreement and encumbrances permitted by the Lease Agreement and this Indenture, and that it warrants and will defend said title to the Trustee, its successors and assigns, for the benefit of the holders and owners of the bonds against the claims and demands of all persons whomsoever. The City covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such Indenture or Indentures supplemental hereto and such further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, pledging, assigning and confirming unto the Trustee the trust estate.

Section 404. The City covenants that it will promptly cause to be paid all lawful taxes, charges, assessments, imposts and governmental charges at any time levied or assessed upon or against the trust estate, or any part thereof, which might impair or prejudice the lien and priority of this Indenture; provided, however, that nothing contained in this Section shall require the City to cause to be paid any such taxes, assessments, imposts or charges so long as the validity thereof is being contested in good faith and by appropriate legal proceedings.

Section 405. The City covenants that it will at all times cause the mortgaged property to be maintained, preserved and kept in good condition, repair and working order, and that it will from time to time cause to be made all needed repairs so that the operation and business pertaining to the mortgaged property shall at all times be conducted properly and so that the mortgaged property shall be fully maintained. It is understood that the City has made provisions in the Lease Agreement for such maintenance, pursuant to the terms of which the Lessee is obligated to maintain

the mortgaged property as set forth in the Lease Agreement, and so long as the Lease Agreement is in force and effect the City shall be deemed to be in compliance with its obligations under this Section 405.

Section 406. The City and the Trustee covenant that each of them will cause this Indenture, the Lease Agreement, and all instruments supplemental thereto, to be kept recorded and filed in such manner and in such places (if any) as may be required by law in order fully to preserve and protect the security of the bondholders and the rights of the Trustee hereunder.

Section 407. The City covenants that so long as any bonds issued hereunder and secured by this Indenture shall be outstanding and unpaid, the City will keep or cause to be kept, proper books of record and account, in which full, true and correct entries will be made of all dealings or transactions of and in relation to the Project and the revenues derived from the Project. When requested by the Trustee, the City agrees to have the said books of record and account audited by an independent Certified Public Accountant. The audit report shall contain at least the following information:

- (a) All revenues derived from the Project and all expenses incurred by the City in connection with the Project;
- (b) All payments, deposits and credits to any payments, transfers and withdrawals from the funds created under the provisions of this Indenture;
- (c) The details pertaining to bonds issued, paid, and redeemed; and
- (d) The amounts on hand in each fund showing the respective amounts to the credit of each fund and any security held therefor and showing the details of any investments thereof.

The City further covenants that all books and documents relating to the Project and the revenues derived from the Project shall at all times be open to the inspection of such accountants or other agencies as the Trustee may from time to time designate.



In this regard, so long as the Lease Agreement is in force and effect, records furnished by the Lessor and Lessee to, or kept by, the Trustee in connection with its duties as such shall be deemed to be in compliance with the City's obligations under this Section 407.

Section 408. To the extent that such information shall be inade known to the City under the terms of this Section, it will keep on file at the office of the Trustee a list of names and addresses of the last known holders of all bonds payable to bearer and believed to be held by each of such last known holders. Any bondholder may request that his name and address be placed on said list by filing a written request with the City or with the Trustee which request shall include a statement of the principal amount of bonds held by such holder and the numbers of such bonds. Neither the City nor the Trustee shall be under any responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by holders and/or owners (or a designated representative thereof) of ten per cent (10%) or more in principal amount of bonds outstanding hereunder, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee. Notice or report required herein to be given to the bondholders on such list shall also be given to the registered owners of all bonds registered as to principal or as to principal and interest reflected on the book maintained by the bond registrar.

Section 409. It is understood and agreed that the Project has been leased to UMC under the Lease Agreement. The Lease Agreement is recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Faulkner County, Arkansas and an executed copy

is on file in the office of the Clerk of the City and in the office of the Trustee. Reference is hereby made to the Lease Agreement for a detailed statement of the terms and conditions thereof and for a statement of the rights and obligations of the parties thereunder. The lien of this Indenture is subject and subordinate to the Lease Agreement. The City agrees, upon the request of the Trustee, to enforce all covenants and obligations of the Lessee under the Lease Agreement and agrees that the Trustee, in its own name or in the name of the City, may and is hereby granted the right to enforce all rights of the Lessor and all obligations of the Lessee under and pursuant to the Lease Agreement, whether or not the Lessor is in default in its covenant to enforce such rights and obligations.

Section 410. The City covenants that so long as any bonds authorized by and issued under this Indenture are outstanding, it will not sell or otherwise dispose of its interest in the mortgaged property, except in accordance with the provisions of the Lease Agreement, and that it will not encumber the same, or any part thereof, or its interest therein, or create or permit to be created any charge or lien on the revenues derived therefrom, except as provided in this Indenture.

Section 411. The City covenants that at all times while any bonds are outstanding, it will keep or cause to be kept the mortgaged property insured against the perils and to the extent set forth in the Lease Agreement and that the Trustee shall be named as a party insured pursuant to a standard mortgagee clause as its interest may appear. It is understood that the City has made provisions in the Lease Agreement for such insurance, pursuant to the terms of which the Lessee is obligated to keep the property insured as set forth in the Lease Agreement, and so long

as the Lease Agreement is in force and effect, the City shall be deemed to be in compliance with its obligations under this Section 411.

Section 412. The City covenants that it has made all necessary filings to effect an election with respect to the bonds under Section 103(c)(6)(D) of the Internal Revenue Code of 1954, as amended.

Section 413. The City and the Trustee covenant that neither of them shall take action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the bonds to be subject to federal income taxation. Without limiting the generality of the foregoing, the City and the Trustee covenant that the proceeds of sale of the bonds will not be used directly or indirectly in such manner as to cause the bonds to be treated as "arbitrage bonds" within the meaning of Section 103(d) of the Internal Revenue Code.

## ARTICLE V

### REVENUES AND FUNDS

Section 501. There is hereby created and ordered to be established with the Trustee a trust fund of and in the name of the City to be designated "Conway, Arkansas 1972 Industrial Development Revenue Bond Fund - UMC Project" (herein sometimes referred to as the "Bond Fund").

Section 502. There shall be despsisted into the Bond Fund as and when received:

- (a) The amount remaining in the Construction Fund (hereafter created) after all costs and expenses of and in connection with the Project have been paid;

- (b) All rent payments specified in Section 5.3 of the Lease Agreement;
- (c) All other moneys received by the Trustee under and pursuant to any of the provisions of the Lease Agreement directing such moneys to be paid into the Bond Fund; and
- (d) Any income realized from investments of moneys held in the Construction Fund or any other account created by the Trustee under the Indenture.

Furthermore, the City covenants and agrees that so long as any of the bonds secured by this Indenture are outstanding, it will at all times deposit, or cause to be deposited, in the Bond Fund sufficient moneys from revenues and income derived from the Project (whether or not under and pursuant to the Lease Agreement) to promptly meet and pay the principal of and interest on the bonds as the same become due and payable, and to this end the City covenants and agrees that, so long as any bonds secured by this Indenture are outstanding, it will cause the Project to be continuously and efficiently operated as a revenue and income producing undertaking, and that should there be a default under the Lease Agreement with the result that the right of possession of the leased premises is returned to the City, the City will fully cooperate with the Trustee and with the holders and registered owners of the bonds, to the end of fully protecting the rights and security of the holders and registered owners of the bonds, and, if and when requested by the Trustee, the City shall diligently proceed in good faith and use its best efforts to secure another tenant for the leased premises to the end of at all times deriving sufficient revenues and income from the Project to promptly meet and pay the principal of and interest on the bonds as the same become due and payable. Nothing herein shall be construed as requiring the City to use any funds or revenues from any source other than funds and revenues derived from the

Project for the payment of the principal of and interest on the bonds and discharging other obligations of the City under this Trust Indenture, but nothing herein shall be construed as prohibiting the City from doing so.

Section 503. Moneys in the Bond Fund shall be used solely for the payment of the principal of (including applicable redemption premium, if any) and interest on the bonds either at maturity or at redemption prior to maturity; provided, however, that such provision shall not be construed as prohibiting a refund to the Lessee under the Lease Agreement of excess basic rents, if any, in accordance with the provisions of the Lease Agreement.

Section 504. The Bond Fund shall be in the name of the City, designated as set forth in Section 501, and the City hereby irrevocably authorizes and directs the Trustee to withdraw from the Bond Fund sufficient funds to pay the principal of and interest on the bonds at maturity and redemption or prepayment prior to maturity and to use said funds for the purpose of paying said principal and interest in accordance with the provisions hereof pertaining to payment, which authorization and direction the Trustee hereby accepts.

Section 505. In the event any bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, or in the event any coupon shall not be presented for payment at the due date thereof, if there shall have been deposited with the Paying Agent for the purpose, or left in trust if previously so deposited, funds sufficient to pay the principal thereof, together with all interest unpaid and due thereon, to the date of maturity thereof, or to pay such coupon, as the case may be for the benefit

of the holder thereof or the holder of such coupons, all liability of the City to the holder thereof for the payment of the principal thereof and interest thereon, or the holder of said overdue coupon for the payment thereof, as the case may be, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such fund or funds, without liability for interest thereon, for the benefit of the holder of such bond, or the holder of such coupon, as the case may be, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, said bond or coupon.

Section 506. It is understood and agreed that pursuant to the provisions of the Lease Agreement, the Lessee agrees to pay as additional rent the fees, expenses and charges of the Trustee and Paying Agent as authorized and provided by this Indenture. The Lessee is to make payments on statements rendered by the Trustee. All such additional rent payments under the Lease Agreement which are received by the Trustee shall not be paid into the Bond Fund, but shall be set up in separate accounts appropriately designated to identify the particular account and shall be expended solely for the purpose for which such payments are received, and the Trustee hereby agrees to so establish said accounts and to make payment therefrom for said purposes.

Section 507. All moneys required to be deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust, and except for moneys deposited with or paid to the Trustee for the redemption of bonds, notice of which redemption has been duly given, shall, while held by the Trustee, constitute part of the trust estate and be subject to the lien hereof. Any moneys received by or paid to the Trustee pursuant to any provisions of the Lease Agreement calling for the

Trustee to hold, administer and disburse the same in accordance with the specific provisions of the Lease Agreement shall be held, administered and disbursed pursuant to said provisions, and where required by the provisions of the Lease Agreement the Trustee shall set the same aside in a separate account. The City agrees that if it shall receive any moneys pursuant to applicable provisions of the Lease Agreement, it will forthwith upon receipt thereof pay the same over to the Trustee to be held, administered and disbursed by the Trustee in accordance with the provisions of the Lease Agreement pursuant to which the City may have received the same. Furthermore, if for any reason the Lease Agreement ceases to be in force and effect while any bonds are outstanding, the City agrees that if it shall receive any moneys derived from the mortgaged property, it will forthwith upon receipt thereof pay the same over to the Trustee to be held, administered and disbursed by the Trustee in accordance with provisions of the Lease Agreement that would be applicable if the Lease Agreement were then in force and effect, and if there be no such provisions which would be so applicable, then the Trustee shall hold, administer and disburse such moneys solely for the discharge of the City's obligations under this Indenture.

Section 508. Anything herein to the contrary notwithstanding, the Trustee is authorized and directed to refund to the Lessee under the Lease Agreement all excess amounts as specified in the Lease Agreement, whether such excess amounts be in the Bond Fund or in special accounts.

ARTICLE VI

CUSTODY AND APPLICATION OF PROCEEDS OF BONDS

Section 601. The proceeds of the sale of each series of the bonds shall be deposited in a special account of the City in the Trustee, which account shall be designated "Industrial Development Revenue Bond Construction Fund - UMC Project" (the "Construction Fund").

Section 602. Moneys in the Construction Fund shall be expended for Project costs as set forth in Section 4.1(b) of the Lease Agreement. Such expenditures shall be in accordance with and pursuant to requisitions which shall be signed by one or more duly designated representatives of UMC (which designation shall be in writing and filed with the Trustee) and one or more duly designated representatives of the City (which designation shall be in writing and filed with the Trustee). Each requisition shall specify :

- (1) The name of the person, firm or corporation to whom payment is to be made;
- (2) The amount of the payment;
- (3) That the disbursement is for a proper expense of or pertaining to the Project; and
- (4) The general classification of the expenditure.

The Trustee shall keep records concerning and reflecting all disbursements from the Construction Fund and shall file an accounting of disbursements if and when requested by the City or by UMC. The Trustee shall make payment from the Construction Fund pursuant to and in accordance with said requisitions.

Section 603. Whenever the City and UMC jointly notify the Trustee in writing (which may be by the same writing or in different writings) that any balance remaining in the Construction Fund will not be needed for completion of the Project, the remaining balance shall be deposited in the Bond Fund.



ARTICLE VII

INVESTMENTS

Section 701. (a) Moneys held for the credit of the Construction Fund shall, upon direction by the duly designated representative of UMC, be invested and reinvested by the Trustee in (i) direct obligations of, or obligations the principal of and interest on which are guaranteed by, The United States, (ii) general obligations of the State of Arkansas, (iii) obligations of States or (iv) certificates of deposit of banks or trust companies, including the Trustee, organized under the laws of the United States or any State thereof, having maturity dates, or subject to redemption by the holder at the option of the holder, on or prior to the dates the funds will be needed as reflected by a statement of the duly authorized representative of UMC which statement must be on file with the Trustee prior to any investment.

(b) Moneys held for the credit of the Bond Fund or any other fund or account shall to the extent practicable be invested and reinvested in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States, which will mature, or which will be subject to redemption by the holder thereof at the option of the holder, not later than the date or dates on which the money held for credit of the particular fund shall be required for the purposes intended. The Trustee shall so invest and reinvest pursuant to instructions from a duly designated representative of UMC.

(c) Obligations so purchased as an investment of moneys in any such fund or account shall be deemed at all times a part of such fund. **Any** profit or income realized from such investments shall be transferred to the Bond Fund.

ARTICLE VIII  
POSSESSION, USE AND RELEASE OF  
MORTGAGED PROPERTY

Section 801. This Indenture and the rights and privileges hereunder of the Trustee and the holders of the bonds are specifically made subject and subordinate to the rights and privileges of the Lessee set forth in the Lease Agreement including, particularly, any grant, release, agreement, or other arrangement made pursuant to Sections 8.5 and 8.6 thereof. so long as not otherwise provided in this Trust Indenture, the City and any Lessee of the City shall be suffered and permitted to **possess**, use and enjoy the mortgaged property and appurtenances.

Section 802. Reference is made to the provisions of the Lease Agreement, including without limitation Sections 8.5 and 11.3 thereof, whereby the City and the Lessee have reserved the right to withdraw certain portions of the Leased Land upon compliance with the terms and conditions of the Lease Agreement. The Trustee shall release from this Indenture any such Leased Land upon compliance by the parties with the provisions of the Lease Agreement.

Section 803. Reference is made to the provisions of the Lease Agreement, including without limitation Section 6.2 thereof, whereby the Lessee may withdraw certain items of Leased Equipment upon compliance by the parties with the terms and conditions of the Lease Agreement. The Trustee shall at the request of the City or the Lessee confirm that any such Leased Equipment is no longer subject to this Indenture upon compliance by the parties with the provisions of the Lease Agreement and receipt by the Trustee of a certificate of the President or any Vice President of the Lessee that such Provisions have been complied with.

Section 804. Reference is made to the provisions of the Lease Agreement, including without limitation Section 8.6 thereof, whereby the Lessee may grant easements, enter into certain agreements or other arrangements and take other action upon compliance by the parties with the terms and conditions of the Lease Agreement. The Trustee shall execute or confirm the grants or release of easements, licenses, rights of way and other rights and privileges permitted by Section 8.6 thereof upon compliance by the parties with the provisions of the Lease Agreement.

#### ARTICLE IX

##### DISCHARGE OF LIEN

Section 901. If the City shall pay or cause to be paid to the holders and owners of the bonds and coupons the principal and interest to become due thereon at the times and in the manner stipulated therein, and if the City shall keep, perform and observe all and singular the covenants and promises in the bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, then these presents and the estate and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the City such instruments in writing as shall be requisite to satisfy the lien hereof, and re-convey to the City the estate hereby conveyed, and assign and deliver to the City any property at the time subject to the lien of this Indenture which may then be in its possession, except cash held by it for the payment of the principal of and interest on the bonds.

Bonds and coupons for the payment or redemption of which moneys shall have been deposited with the Trustee (whether upon or prior to the maturity or the redemption date of such bonds) shall be deemed to be paid within the meaning of this Section; provided, however, that if such bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given.

The City may at any time surrender to the Trustee for cancellation by it any bonds previously authenticated and delivered hereunder, together with any unpaid coupons thereto belonging which the City may have acquired in any manner whatsoever, and such bonds and coupons, upon such surrender and cancellation, shall be deemed to be paid and retired.

#### ARTICLE X

##### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 1001. If any of the following events occur, subject to the provisions of Section 1013 hereof, it is hereby defined as and declared to be and to constitute an "event of default":

(a) Default in the due and punctual payment of any interest on any Revenue Bond hereby secured and outstanding and the continuance thereof for a period of thirty (30) days;

(b) Default in the due and punctual payment of any moneys required to be paid to the Trustee under the provisions of Article V hereof and the continuance thereof for a period of thirty (30) days;

(c) Default in the due and punctual payment of the principal of any Bond hereby secured and outstanding hereunder,

whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;

(d) Default in the performance or observance of any other of the covenants, agreements or conditions on its part in this Indenture, or in the Bonds contained, and the continuance thereof for a period of thirty (30) days after written notice to the City by the Trustee or by the holders of not less than ten per cent (10%) in aggregate principal amount of Bonds outstanding hereunder.

The term "default" shall mean default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Indenture, or in the Bonds outstanding hereunder, exclusive of any period of grace required to constitute a default an "event of default" as hereinabove provided.

Section 1002. Upon the occurrence of any event of default, the Trustee may, and upon the written request of the holders of twenty-five per cent (25%) in aggregate principal amount of the Bonds outstanding hereunder, shall, by notice in writing delivered to the City, declare the principal of all Bonds hereby secured then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

Section 1003. Upon the occurrence of an event of default, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of, all or any part of the mortgaged property with the books, papers, and accounts of the City pertaining thereto and to hold, operate

and manage the same, and from time to time make all needful repairs and improvements as by the Trustee shall be deemed wise; and the Trustee, with or without such permission, may collect, receive and sequester the rents, revenues, issues, earnings, income, products and profits therefrom and out of the same and any moneys received from any receiver of any part thereof pay, and/or set up proper reserves for the payment of, all proper costs and expenses of so taking, holding and managing the same, including reasonable compensation to the Trustee, its agents and counsel, and any charges of the Trustee hereunder, and any taxes and assessments and other charges prior to the lien of this Indenture which the Trustee may deem it wise to pay, and all expenses of such repairs and improvements, and apply the remainder of the moneys so received by the Trustee in accordance with the provisions of Section 1008 hereof. Whenever all that is due upon such bonds and installments of interest under the terms of this Indenture shall have been paid and all defaults made good, the Trustee shall surrender possession to the City, its successors or assigns; the same right of entry, however, to exist upon any subsequent event of default.

While in possession of such property the Trustee shall render annually to the bondholders, at their addresses as set forth in the list required by Section 408 hereof, a summarized statement of income and expenditures in connection therewith.

Section 1004. Upon the occurrence of any event of default, the Trustee may, as an alternative, proceed either after entry or without entry, to pursue any available remedy by suit at law or equity to enforce the payment of the principal of and interest on the bonds then outstanding hereunder, including, without limitation, foreclosure and mandamus.

If an event of default shall have occurred, and if it shall have been requested so to do by the holders of twenty-five per cent (25%) in aggregate principal amount of Bonds outstanding hereunder and shall have been indemnified as provided in Section 1101 hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section and by Section 1003 as the Trustee, being advised by counsel, shall deem most expedient in the interests of the bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the bondholders) is intended to be exclusive of any other remedy, but each and every such remedy given to the Trustee or to the bondholders hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by the Trustee or by the holders of the Bonds, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 1005. Anything in this Indenture to the contrary notwithstanding, the holders of a majority in aggregate principal amount of Bonds outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the

enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Trust Indenture.

Section 1006. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the mortgaged property and of the rents, revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 1007. In case of an event of default on its part, as aforesaid, to the extent that such rights may then lawfully be waived, neither the City nor anyone claiming through it or under it shall or will set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Indenture, but the City, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all rights of appraisement and redemption to which it may be entitled under the laws of the State of Arkansas.

Section 1008. Available moneys shall be applied by the Trustee on account of Bonds as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:



First: To the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

Second: To the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

Third: To the payment of the interest on the principal of the Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article V of this Indenture.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any bond over any other bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article, then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as it shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the holder of any unpaid coupon or any bond until such coupon or such bond and all unmatured coupons, if any, appertaining to such bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 1009. All rights of action (including the right to file proof of claim) under this Indenture or under any of the bonds or coupons may be enforced by the Trustee without the possession of any of the bonds or coupons or the production thereof

in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustees shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any holders of the bonds hereby secured, and any recovery of judgment shall be for the equal benefit of the holders of the outstanding bonds and coupons in the order herein provided.

Section 1010. No holder of any bond or coupons shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless also a default has occurred of which the Trustee has been notified as provided in sub-section (g) of Section 1101, or of which by said sub-section it is deemed to have notice, nor unless also such default shall have become an event of default and the holders of twenty-five per cent (25%) in aggregate principal amount of Bonds outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 1101 nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it

being understood and intended that no one or more holders of the bonds or coupons shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceeding at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of the holders of all bonds outstanding hereunder in the order of their security hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of any bondholder which is absolute and unconditional to enforce the payment of the principal of and interest on any bond at and after the maturity thereof, or the obligation of the City which is also absolute and unconditional, to pay the principal of and interest on each of the bonds issued hereunder or secured hereby to the respective holders thereof at the time and place in said bonds and the appurtenant coupons expressed.

Section 1011. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City and the Trustee shall be restored to their former positions and the rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 1012. The Trustee may in its discretion waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal, and shall do so upon the written request of the holders of (1) one-half in aggregate prin-

cipal amount of all the Bonds outstanding hereunder in respect of which default in the payment of principal and/or interest exists, or (2) 50% in principal amount of all the Bonds outstanding hereunder in the case of any other default, provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any Bonds issued hereunder and outstanding hereunder at the date of maturity specified therein or (b) any default in the payment of the interest or of Bond Fund moneys, unless prior to such waiver or rescission all arrears of interest, with interest at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of Bond Fund payments, as the case may be, and all expenses of the Trustee and paying agent, shall have been paid or provided for, and in case of any such waiver or rescission or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, Trustee and the bondholders shall be restored to their former positions and rights hereunder respectively; but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 1013. Anything herein to the contrary notwithstanding, no default (other than a default under Section 1001 (a), (b) and (c) hereof to which this Section 1013 shall not be applicable) shall constitute an event of default until actual notice of such default by registered or certified mail (with or without return receipt requested) shall be given to the Lessee under the Lease Agreement, and the Lessee under the Lease Agreement shall have had sixty (60) days after receipt of such notice to correct

said default or cause said default to be corrected, and the Lessee under the Lease Agreement shall not have corrected said default or caused said default to be corrected within said sixty (60) days period; provided, however, if said default be such that it cannot be corrected within sixty (60) days, it shall not constitute an event of default if corrective action is instituted within said sixty (60) days period and diligently pursued until the default is corrected. With regard to any alleged default concerning which notice is given to the Lessee under the Lease Agreement under the provisions of this Section 1013, the City names and appoints the Lessee under the Lease Agreement as its attorney in fact and agent with full authority to perform any covenant or obligation of the City alleged in said notice to constitute a default in the name and stead of the City with full power to do any such things and acts to the same extent that the City could do and perform any such things and acts and with power of substitution. In this regard, it is agreed that the parties hereto have familiarized themselves with the terms and provisions of the Lease Agreement.

Section 1014. The rights and remedies provided in favor of the Trustee and the holders of the bonds by the provisions of this Indenture are in each case subject to the proviso that each and every such right and remedy shall be and may be exercised only subject and subordinate to the rights of said Lessee under the Lease Agreement.

Section 1015. If the Trustee receives notice, pursuant to the provisions of Section 8.9 of the Lease Agreement or otherwise, that interest on the bonds has become taxable, it shall give notice of such fact by mail to the bondholders reflected on the list maintained pursuant to the provisions of Section 408 of this Trust Indenture and to the registered owners of all bonds regis-

tered as to principal or as to principal and interest on the book maintained by it as bond registrar. In that event, the Trustee may, and, if so requested in writing by the holders of at least ten per cent (10%) of the aggregate principal amount of bonds outstanding hereunder, shall demand that the Lessee either purchase the leased premises or prepay rent in accordance with the provisions of Section 8.9 of the Lease Agreement.

#### ARTICLE XI

##### THE TRUSTEE

Section 1101. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as an ordinarily prudent trustee under a corporate mortgage, but only upon and subject to the following express terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney, surveyor, engineer or accountant selected in the exercise of reasonable care, or, if selected or retained by the City prior to the occurrence of a default of which the Trustee has been notified as provided in sub-section (g) of this Section, or of which by said sub-section the Trustee is deemed to have notice, approved by the Trustee in the exercise of such care. The Trustee shall not be responsible for any loss or damage resulting from any

action or non-action in accordance with any such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in said bonds (except in respect to the certificate of the Trustee endorsed on such bonds), or for the recording or re-recording, filing or re-filing of this Indenture, or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the County of this Indenture or of any supplemental indentures or instruments of further assurance, or for the sufficiency of the security for the bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property herein conveyed pursuant to any provisions of this Indenture, it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the City, except as hereinafter set forth; but the Trustee may require of the City full information and advice as to the performance of the covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed.

(c) The Trustee shall not be accountable for the use of any bonds authenticated or delivered hereunder. The Trustee may become the owner of bonds and coupons secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or per-



sons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any bond secured hereby, shall be conclusive and binding upon all future owners of the same bond and upon bonds issued in exchange therefor or in place thereof.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the City signed by its Mayor and attested by the City Clerk as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in sub-section (g) of this Section, or of which by said sub-section it is deemed to have notice, and shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its or their discretion, at the reasonable expense of the City, in every case secure such further evidence deemed necessary or advisable but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Clerk of the City under its seal to the effect that an ordinance or resolution in the form therein set forth has been duly passed and adopted by the City Council of the City of West Memphis as conclusive evidence that such ordinance or resolution has been duly passed and adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall be answerable for other than its negligence or willful default.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to make or cause to be made any of the payments to the Trustee required to be made by Article V (with the time limitation noted in (b) of Section 1001) unless the Trustee shall be specifically notified in writing of such default by the City or by the holders of at least ten per cent (10%) in aggregate principal amount of Bonds outstanding hereunder and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered to the office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(h) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts during any period in which it may be in the possession of or managing the real and tangible personal property as in this Indenture provided.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers and records of the City pertaining to the Project and the bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be

required, to demand, in respect of the authentication of any bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

1) Before taking such action hereunder, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the negligence or willful default by reason of any action so taken.

Section 1102. The Trustee shall be entitled to payment and/or reimbursement for reasonable fees for services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in and about the execution of the trusts created by this Indenture and in and about the exercise and performance of the powers and duties of the Trustee hereunder and for the reasonable and necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful default of the Trustee). The City has made provision in the Lease Agreement for the payment of said reasonable and necessary advances, fees, costs and expenses and reference is hereby made to said Lease Agreement for the provisions so made. In this regard, it is understood that the City pledges no funds or revenues

other than those provided for in said Lease Agreement and the revenues derived from and the avails of the mortgaged property to the payment of any obligation of the City set forth in this Indenture, including the obligations set forth in this Section 1102, but nothing herein shall be construed as prohibiting the City from using any other funds and revenues for the payment of any of its obligations under this Indenture. Upon default, but only upon default, by the City, pursuant to the provisions of this Indenture pertaining to default, the Trustee shall have a first lien with right of payment prior to payment on account of interest or principal of any bond issued hereunder upon the mortgaged property for the said reasonable and necessary advances, fees, costs and expenses incurred by them respectively.

Section 1103. If a default occurs of which the Trustee is by sub-section (g) of Section 1101 hereof required to take notice or if notice of default be given as in said sub-section (g) provided, then, the Trustee shall give written notice thereof by mail to the last known owners of all bonds outstanding hereunder shown by the list of bondholders required by the terms of Section 408 hereof to be kept at the office of the Trustee.

Section 1104. If any judicial proceeding to which the City is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of owners of bonds issued hereunder, the Trustee may intervene on behalf of bondholders and shall do so if requested in writing by the owners of at least ten per cent (10%) of the aggregate principal amount of Bonds outstanding hereunder. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction in the premises.

Section 1105. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor trustee shall have capital and surplus of at least \$3,000.000.

Section 1106. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving thirty (30) days written notice to the City and by registered or certified mail to each registered owner of bonds outstanding hereunder as shown by the list of bondholders required to Section 408 hereof to be kept by the Trustee, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor trustee by the bondholders or by the City. Such notice to the City may be served personally or sent by registered mail.

Section 1107. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the City, and signed by the owners of a majority in aggregate principal amount of Bonds outstanding hereunder.

Section 1108. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution

or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds outstanding hereunder, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized; provided, nevertheless, that in case of such vacancy the City by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed by the bondholders in the manner above provided; and any such temporary trustee so appointed by the City shall immediately and without further act be superseded by the trustee so appointed by such bondholders. Every such trustee appointed pursuant to the provisions of this Section 1108 shall be a trust company or bank in good standing, having a reported capital and surplus of not less than Three Million Dollars (\$3,000,000), if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 1109. Every successor trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the City an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the City, or of its successor, execute and deliver an instrument transferring to such successor

trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor trustee shall deliver all securities and money held by it as trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. The resignation of any trustee and the instrument or instruments removing any trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed and/or recorded by the successor trustee in each recording office where the Indenture shall have been filed and/or recorded.

Section 1110. In case the City shall fail seasonably to pay or to cause to be paid any tax, assessment or governmental or other charge upon any part of the property herein conveyed, to the extent, if any, that the City may be liable for same, the trustee may pay such tax, assessment or governmental charge, without prejudice, however, to any rights of the Trustee or the bondholders hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of six per cent (6%) per annum, shall be repaid by the City upon demand, and shall become so much additional indebtedness secured by this Indenture, and the same shall be given a preference in payment over any of said bonds, and shall be paid out of the proceeds of revenues collected from the property herein conveyed, if not otherwise caused to be paid by the City; but the Trustee shall not be under obligation to make

any such payment unless it shall have been requested to do so by the holders of at least ten per cent (10%) of the aggregate principal amount of the bonds outstanding hereunder and shall have been provided with adequate funds for the purpose of such payment.

Section 1111. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

Section 1112. In the event of a change in the office of Trustee, the old Trustee which has resigned or been removed shall cease to be Paying Agent.

Section 1113. The City shall be entitled to appoint a bank or trust company as an Alternate Paying Agent at any time by delivering written notice to the Trustee, and the City will cause such Alternate Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee that it will hold all sums held by it as such agent for the payment of principal of and interest on the bonds in trust for the benefit of the bondholders, or for the benefit of the Trustee, as the case may be. Such bank or trust company shall be in good standing and have capital and surplus of not less than \$3,000,000. The Alternate Paying Agent may resign at any time by delivering written notice to the City and the Trustee or may be removed at any time by the City delivering written notice to the Alternate Paying Agent and the Trustee. Upon any such resignation or removal, the Alternate Paying Agent shall promptly pay to the Trustee all sums held in trust by it under this Indenture.



Section 1114. There shall be paid the standard and customary Paying Agent's fees and charges of the Paying Agent for handling the payment of the principal of, premium (if any) and interest on the bonds, and funds sufficient to pay the same shall be deposited with the Paying Agent prior to the dates on which payments are required to be made on principal and interest.

Section 1115. The City and the Trustee shall have power to appoint and upon the request of the Trustee the City shall for such purpose join with the Trustee in the execution of all instruments necessary or proper to appoint another corporation or one or more persons approved by the Trustee and satisfactory to the Lessee under the Lease Agreement, so long as there is no termination of the interest of the Lessee under the Lease Agreement by virtue of an event of default or otherwise, either to act as co-trustee or co-trustees jointly with the Trustee of all or any of the property subject to the lien hereof, or to act as separate trustee or trustees of all or any such property, with such powers as may be provided in the instrument of appointment and to vest in such corporation or person or persons as such separate trustee or co-trustee any property, title, right or power deemed necessary or desirable. In the event that the City shall not have joined in such appointment within fifteen days after the receipt by it of a request so to do, the Trustee alone shall have the power to make such appointment. Should any deed, conveyance or instrument in writing from the City be required by the separate trustee or co-trustee so appointed for more fully and certainly vesting in and confirming to him or to such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City. Every such co-trustee and separate trustee shall, to the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

- (1) The bonds shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody of all money and securities pledged or deposited hereunder, shall be exercised solely by the Trustee; and
- (2) The Trustee, at any time by an instrument in writing, may remove any such separate Trustee or co-trustee.

Every instrument, other than this Indenture, appointing any such co-trustee or separate trustee, shall refer to this Indenture and the conditions of this Article XI expressed, and upon the acceptance in writing by such separate trustee or co-trustee, he, they or it shall be vested with the estates or property specified in such instrument, jointly with the Trustee (except insofar as local law makes it necessary for any separate trustee to act alone), subject to all the trusts, conditions and provisions of this Indenture. Any such separate trustee or co-trustee may at any time, by an instrument in writing, constitute the Trustee as his, their or its agent or attorney-in-fact with full power and authority, to the extent authorized by law, to do all acts and things and exercise all discretion authorized or permitted by him, them or it, for and on behalf of him, them or it and in his, their or its name. In case any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of said separate trustee or co-trustee shall vest and be exercised by the Trustee until the appointment of a new trustee or a successor to such separate trustee or co-trustee.

ARTICLE XII

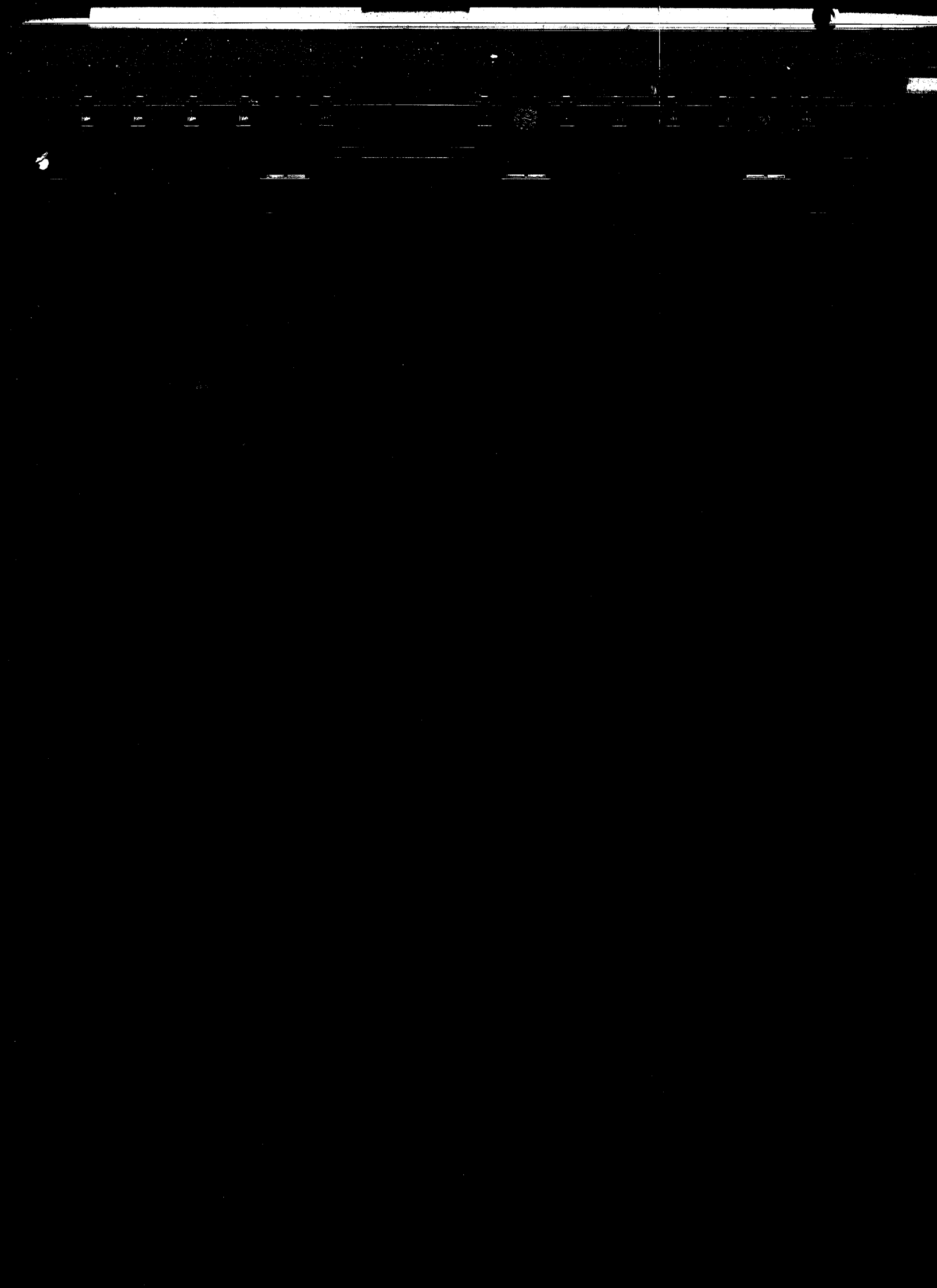
SUPPLEMENTAL INDENTURES

Section 1201. The City and the Trustee may, from time to time, without the approval of any bondholder, enter into such indentures supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental indentures shall thereafter form a part hereof), (a) to cure any ambiguity or formal defect or omission in this Indenture or in any supplemental indenture, or (b) to grant to or confer upon the Trustee for the benefit of the bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the bondholders or the Trustee, or (c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral or (d) in connection with the issuance of additional bonds pursuant to the provisions of Section 202B. hereof.

Section 1202. Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than two-thirds (2/3) in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing herein contained shall permit, or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any

bond issued hereunder, or (b) a reduction in the principal amount of any bond or the rate of interest thereon, or (c) the creation of a lien upon the mortgaged property or a pledge of the revenues pledged to the bonds other than the lien and pledge created by this Indenture, or (d) a privilege or priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental indenture. Nothing herein contained, however, shall be construed as making necessary the approval of bondholders of the execution of any supplemental indenture as provided in Section 1201 of this Article.

If at any time the City shall request the Trustee to enter into any supplemental indenture for any of the purposes of this Section, the Trustee shall, at the expense of the City, cause notice of the proposed execution of such supplemental indenture to be published one time in a daily newspaper of general circulation published in the City of Little Rock, Arkansas and one time in a newspaper or financial journal of general circulation among dealers in municipal securities published in the City of New York, New York. Also, a copy of the notice shall be mailed by first class mail to each registered owner at his address on the bond registration book maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by bondholders. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to publish or mail such notice, and any such failure shall not affect the validity of such supplemental indenture when consented to and approved as provided in



this Section. If the holders of not less than two-thirds (2/3) in aggregate principal amount of the bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any bond shall have any right to object to any of the terms and provisions contained therein, or the operation therein, or the operation thereof, or in any manner to question the property of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 1203. Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XI shall not become effective unless and until the Lessee under the Lease Agreement shall have consented to the execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Lessee under the Lease Agreement at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture. The Lessee under the Lease Agreement shall be deemed to have consented to the execution and delivery of any such supplemental indenture if the Trustee receives a letter signed by an authorized officer of the Lessee under the Lease Agreement expressing said consent within thirty (30) days after the mailing of notice and a copy of the proposed supplemental indenture to the Lessee under the Lease Agreement or if the Trustee does not receive a letter signed

by an authorized officer on or before 4:00 p.m., C.S.T., of the thirtieth day after the mailing of said notice, the Lessee under the Lease Agreement shall be deemed to have consented to the execution and delivery of such supplemental indenture.

### ARTICLE XIII

#### AMENDMENT OF LEASE AGREEMENT

Section 1301. The Trustee may from time to time, and at any time, but not prior to thirty (30) days after publication of the notice provided for in Section 1302 hereof, consent to any amendment, change or modification of the Lease Agreement for the purpose of (i) curing any ambiguity or formal defect or omission, (ii) in connection with the issuance of additional bonds under the provisions of Section 202 B hereof, (iii) required by the provisions of the Lease Agreement or this Indenture, or (iv) making any other change which in the reasonable judgment of the Trustee is not to the prejudice of the Trustee or the holders of the bonds. The Trustee shall not consent to any other amendment, change or modification of the Lease Agreement without the prior approval or consent of the holders of not less than two-thirds (2/3) in aggregate principal amount of the bonds at the time outstanding, evidenced in the manner provided in Section 1401 hereof.

Section 1302. If at any time the City or Lessee under the Lease Agreement shall request the Trustee's consent to a proposed amendment, change or modification requiring bondholder approval under Section 1301, the Trustee shall, at the expense of the requesting party, cause notice of such proposed amendment, change or modification to be published one time in a newspaper of general circulation published in the City of Little Rock, Arkansas and

one time in a newspaper or financial journal of general circulation among dealers in municipal securities published in the City of New York, New York. Also, a copy of the notice should be mailed by first class mail to each registered owner at his address on the bond registration book maintained by the Trustee. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file in the principal office of the Trustee for inspection by any interested bondholder. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to publish or mail such notice, and any such failure shall not affect the validity of such amendment, change or modification when consented to by the Trustee in the manner hereinabove provided.

#### ARTICLE XIV

##### MISCELLANEOUS

Section 1401. Any request, direction, objection or other instrument required by this Indenture to be signed and executed by the bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction, objection or other instrument or of the writing appointing any such agent and of the ownership of bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer



in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of holding by any person of bonds and/or coupons transferable by delivery and the amounts and numbers of such bonds, and the date of the holding of the same, may be provided by a certificate executed by any trust company, bank or bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank or to such banker, as the property of such party, the bonds and/or coupons therein mentioned if such certificate shall be deemed by the Trustee to be satisfactory. The Trustee may, in its discretion, require evidence that such bonds have been deposited with a bank, bankers or trust company, before taking any action based on such ownership.

For all purposes of the Indenture and of the proceedings for the enforcement thereof, such person shall be deemed to continue to be the holder of such bond until the Trustee shall have received notice in writing to the contrary.

Section 1402. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the bonds issued hereunder, is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the bonds and coupons secured by this Indenture, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole exclusive benefit of the parties hereto and the holders of the bonds and coupons hereby secured as herein provided.

Section 1403. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof.

Section 1404. It shall be sufficient service of any notice, request, complaint, demand or other paper on the City if the same shall be duly mailed to the City by registered or certified mail addressed to the Mayor of the City, or to such address as the City may from time to time file with the Trustee.

Section 1405. This Indenture shall be considered to have been executed in the State of Arkansas and it is the intention of the parties that the substantive law of the State of Arkansas govern as to all questions of interpretation, validity and effect.

Section 1406. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City of Conway, Arkansas has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its

Clerk, and, to evidence its acceptance of the trust hereby created, Worthen Bank & Trust Company, Little Rock, Arkansas has caused these presents to be signed in its name and behalf by its \_\_\_\_\_ and its corporate seal to be hereunto affixed and attested by its \_\_\_\_\_ all as of the day and year first above written.

CITY OF CONWAY, ARKANSAS

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(S E A L)

WORTHEN BANK & TRUST COMPANY  
TRUSTEE

By \_\_\_\_\_  
\_\_\_\_\_  
(Title)

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_  
(Title)

ACKNOWLEDGMENT

STATE OF ARKANSAS     )  
                                  ) ss  
COUNTY OF FAULKNER    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1972, before me, a Notary Public, duly commissioned, qualified and acting, within and for the State and County aforesaid, appeared in person the within named \_\_\_\_\_ and \_\_\_\_\_, Mayor and Clerk, respectively, of the City of Conway, Arkansas, a municipality of the State of Arkansas, to me personally known, who stated that they were duly authorized in their respective capacities to execute the foregoing instrument for and in the name of the municipality, and further stated and acknowledged that they had signed, executed and delivered the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1971.

\_\_\_\_\_  
Notary Public

My commission expires;  
\_\_\_\_\_

(S E A L)

ACKNOWLEDGMENT

STATE OF ARKANSAS    )  
                                  ) ss  
COUNTY OF PULASKI    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1972, before me,  
a Notary Public duly commissioned, qualified and acting within  
and for the State and County aforesaid, appeared in person the  
within named \_\_\_\_\_ and  
\_\_\_\_\_, \_\_\_\_\_ and  
\_\_\_\_\_, respectively, of Worthen Bank & Trust  
Company of Little Rock, to me personally well known, who stated  
that they were duly authorized in their respective capacities to  
execute the foregoing instrument for and in the name and behalf  
of the Bank, and further stated and acknowledged that they had so  
signed, executed and delivered the foregoing instrument for the  
consideration, uses and purposes therein mentioned and set forth

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1972.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

(S E A L)

Section 3. 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 of the Trust Indenture, its execution and acceptance by the Trustee, the performance of all obligations of the City under and pursuant to the Trust Indenture, the execution and delivery of the bonds, and the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and by the Trust Indenture. That the Mayor and the 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 the authority or to evidence the exercise thereof.

Section 4. That since the City is here involved with the constructing and equipping of a complex industrial project, requiring highly specialized work and specialized types of machinery and equipment, it has been and is hereby determined by the City Council that competitive bidding be, and the same are hereby, waived as to this particular industrial project. This action is taken by the City Council pursuant to applicable laws of the State of Arkansas, including particularly Act No. 9.

Section 5. That the Mayor and City Clerk for and on behalf of the City, be and they are hereby, authorized and directed to take all action, and execute and file all documents, necessary to perfect an election to proceed under Section 103(c)(6)(D) of the Internal Revenue Code of 1954 to the end of insuring that interest on the bonds is exempt from federal income taxes.

Section 6. That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration

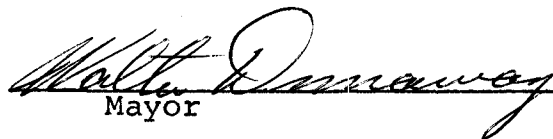
shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 7. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

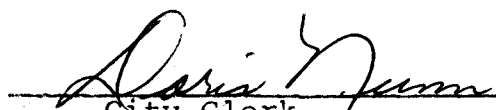
Section 8. That there is hereby found and declared to be an immediate need for the securing and developing of substantial industrial operations in order to provide additional employment, alleviate unemployment and otherwise benefit the public health, safety and welfare of the City and the inhabitants thereof, and the issuance of the bonds authorized hereby and the taking of the other action authorized herein are immediately necessary in connection with the securing and developing of substantial industrial operations and deriving the public benefits referred to above. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public health, safety and welfare shall be in force and take effect immediately upon and after its passage.

PASSED: May 9, 1972.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

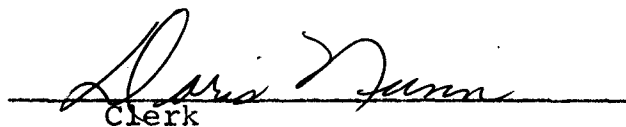
(S E A L)

(All matters not pertaining to the execution of said Lease  
and to the issuance of said bonds are omitted.)

There being no further business, the Council adjourned.

  
Mayor

ATTEST:

  
Clerk

(S E A L)