

ORDINANCE NO. A-594

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 COSTS 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 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, constructed and equipped and secured by a lien thereon and security interest therein: and

WHEREAS, the necessary arrangements have been made with Braden Industries, Inc., a Delaware corporation ("Braden"), 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 Braden shall elect to manufacture (the "Project") and to lease the Project to Braden pursuant to the terms of a Lease and 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 expenses of authorizing and issuing 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 Five Million Dollars (\$5,000,000) (the "bonds"), which have been approved by the electors of the City at a special election; and

WHEREAS, the bonds are to be sold and delivered in series, with there being initially issued Series A in the principal amount, dated, bearing interest, maturing and subject to redemption as hereinafter set forth in the form of Indenture authorized by this Ordinance:

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 acquiring, constructing and equipping of the Project, and in connection therewith, the execution of architectural, engineering, construction and other contracts or the acceptance of an assignment of any such contracts previously executed by Braden, for the acquiring, constructing and equipping of the Project: and
- (c) The performance of all obligations of the City under the Lease Agreement pertaining to the acquiring, 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 Industrial Development Revenue Bonds of the City under Act No. 9 in the total principal amount of not to exceed \$5,000,000 are hereby authorized, and the immediate delivery of Series A is hereby authorized. 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 (the "Indenture"), and the City Clerk is hereby authorized and directed to execute and acknowledge the Indenture and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Indenture to be accepted, executed and acknowledged by the Trustee. The Indenture, which constitutes and is hereby made a part of this Ordinance, shall be in substantially the following form to-wit:

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 Indenture, its execution and acceptance by the Trustee, the performance of all obligations of the City under and pursuant to the Indenture, the execution and delivery of the Series A Bonds, the execution and delivery of an Official Statement or Offering Circular, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by the Indenture and by this Ordinance. 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 such authority or to evidence the exercise thereof.

Section 4. That the City is here involved with the acquiring, constructing and equipping of complex industrial facilities, requiring highly specialized work and specialized types of equipment, and, therefore, competitive bidding is waived. 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, as amended, 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 and 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 industry in order to provide employment and payrolls , alleviate unemployment and otherwise benefit the public health, safety and welfare of the City and the inhabitants thereof,, and the issuance of the bonds authorized hereby and the taking of the other action authorized hereby are immediately necessary for the accomplishing of these public benefits and purposes. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public health, safety and welfare shall be in force and effect immediately upon and after its passage.

PASSED: September 24 , 1974.

APPROVED:



Mayor

ATTEST:



City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of Conway, Arkansas, hereby certifies that the foregoing pages are a true, correct and compared copy of Ordinance No. A-594 of the City of Conway, Arkansas, passed at a Regular session of the City Council of Conway, Arkansas, held at the regular meeting place of the Council at 7:00 o'clock P.m., on the 24 day of September 1974, and that the Ordinance is of record in Ordinance Record Book No. 8 at Page 403, now in my possession.

GIVEN under my hand and the seal of the City this 25 day of September, 1974.

Adria Penn
City Clerk

(SEAL)