

ORDINANCE NO. 0-84-40

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER ACT NO. 9 OF 1960, AS AMENDED, FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING FOR 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 CERTAIN OTHER MATTERS PERTAINING TO THE INDUSTRIAL PROJECT, THE CONSTRUCTING THEREOF AND THE FINANCING THEREOF; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF CONWAY, AS LESSOR AND CONWAY PARTNERSHIP, AS LESSEE, IN SUBSTANTIALLY THE FORM AND WITH SUBSTANTIALLY THE CONTENTS SET FORTH IN AND MADE A PART OF THIS ORDINANCE; AUTHORIZING THE EXECUTION AND DELIVERY OF THE LEASE AGREEMENT; PRESCRIBING OTHER MATTERS RELATING THERETO; 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 buildings, improvements, and facilities and incur other costs and expenses and make other expenditures incidental to and for the implementing and accomplishing of the conduct of industrial 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 Conway Partnership, a Wisconsin general partnership (the "Company") for an industrial project consisting of the acquisition of land, construction and equipping of facilities (the "Project") and to lease the Project to the Company pursuant to the terms of a Lease Agreement, and the sublease of the Project to Conway Machine, Inc., an Arkansas corporation (the "Guarantor"), which Project will be utilized by the Guarantor for the design, manufacture and repair of special industrial machines and automation equipment, and such other industrial operations as the Guarantor shall elect; 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 of the principal amount of not to exceed Seven Hundred Thousand Dollars (\$700,000) (the "Bonds"); and

WHEREAS, the completion of the Project will provide improved industrial technology, maintain existing employment, furnish increased employment and other benefits, and be in the best interests of the City and its residents; and

WHEREAS, the Bonds are to be sold and delivered in the principal amount of \$700,000, and 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 proposes to enter into a Bond Purchase Agreement with First State Bank & Trust Co., of Conway, Arkansas (the "Purchaser") for the sale to it of said Bonds;

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 Bonds for the price of \$700,000 plus accrued interest to date of delivery according to the terms of said Bond Purchase Agreement (the "Bond Purchase Agreement"), which Agreement is hereby approved and authorized to be executed by the Mayor and City Clerk on behalf of the City at the request of the Company, an executed copy of which shall be filed with the City Clerk;
- (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 the Company for the construction and equipping of the Project; and
- (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 above.

Section 2. The Bonds shall bear interest at the variable rate set out in the Bond Purchase Agreement not to exceed the maximum rate permitted by law, shall be payable in quarterly installments of principal and mature finally 12 years from date, and shall be in the original principal amount of \$700,000. To provide the terms and conditions upon which the Bonds are to be secured, executed, authenticated, issued, accepted and held, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture, by and between the City and a bank or trust company which will act as trustee thereunder, dated as of October 1, 1984 (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 is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Company and the Purchaser in order to complete the Indenture in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

(Advice is given that, pursuant to Act No. 9, a copy of the Indenture in substantially the form authorized to be executed is on file with the City Clerk of the City of Conway, and is available for inspection by any interested person.)

Section 3. That there be, and there is hereby authorized the execution and delivery of a Lease Agreement, dated as of October 1, 1984, by and between the City as Lessor and the Company as Lessee (the "Lease Agreement"), and the Mayor and City Clerk be, and they are hereby authorized to execute, acknowledge and deliver the Lease Agreement for and on behalf of the City. The Lease Agreement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company, the Trustee and the Purchaser in order to complete the Lease Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

(Advice is given that, pursuant to Act No. 9, a copy of the Lease Agreement in substantially the form authorized to be executed is on file with the City Clerk of the City of Conway, and is available for inspection by any interested person.)

Section 4. 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 Lease Agreement, the performance of the City's obligations under the Lease Agreement, the execution and delivery 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 Bond Purchase Agreement, the execution and delivery of the Bonds, the execution and delivery of an official statement in form and substance satisfactory to said officers and the Purchaser, and the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred 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 5. 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 is 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 6. Rose Law Firm, a Professional Association, of Little Rock, Arkansas, is hereby appointed as Bond Counsel with respect to the issuance of said bonds, the fees and expenses of which firm shall be costs of the Project.

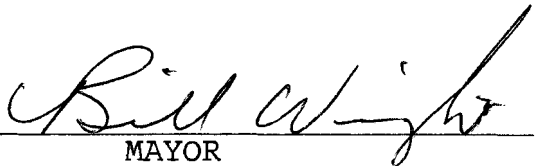
Section 7. That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 8. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. 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: September 11, 1984.


MAYOR

ATTEST:


CITY CLERK

(S E A L)