

ORDINANCE NO. 091-18

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR THE PURPOSE OF REFUNDING THE CITY'S \$1,000,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS (SICO PROJECT), SERIES 1981; AUTHORIZING A BOND PURCHASE AGREEMENT PROVIDING FOR SALE OF THE BONDS; AUTHORIZING A TRUST INDENTURE SECURING THE BONDS; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF CONWAY, ARKANSAS, AS LESSOR, AND CONWAY LAND COMPANY, AS LESSEE; AUTHORIZING A SUBLEASE AGREEMENT BETWEEN CONWAY LAND COMPANY, AS SUBLESSOR, AND SICO INCORPORATED, AS SUBLESSEE; AUTHORIZING AN OFFICIAL STATEMENT; AUTHORIZING THE SALE OF THE BONDS; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "**City**"), is authorized and empowered under the provisions of Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas, approved January 21, 1960, as amended (the "**Act**"), to issue refunding bonds and to expend the proceeds thereof to refund any obligations issued under the Act; and

WHEREAS, the necessary arrangements were made with Conway Land Company, a Minnesota general partnership (the "**Partnership**") for a substantial industrial project consisting of land, buildings, improvements, fixtures and facilities for the manufacture, treatment, processing, sale and distribution of in-wall beds, and related accessories and for the manufacture, treatment, processing, sale and distribution of such other products as the Partnership elected to manufacture, process, sell or distribute (the "**Project**"), and to lease the Project to the Partnership pursuant to the terms of a Lease Agreement, dated November 1, 1981 (the "**1981 Lease Agreement**"); and

WHEREAS, the Project was subleased by the Partnership to SICO Incorporated, a Minnesota corporation (the "**Company**"), pursuant to the terms of a Sublease Agreement, dated November 1, 1981 (the "**1981 Sublease Agreement**"); and

WHEREAS, permanent financing of the Projects costs, necessary costs and expenditures incidental thereto in the cost of issuance of bonds was furnished by the City's issuance of \$1,000,000 City of Conway, Arkansas Industrial Development Revenue Bonds (SICO Project), Series 1981 (the "**Series 1981 Bonds**"); and

WHEREAS, the necessary arrangements have been made with the holders of the Series 1981 Bonds for the redemption of those Bonds; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the City has declared that the refunding of the Project and accompanying redemption of the Series 1981 Bonds (the "Refunding") is in the best interest of the City and the City is now prepared to proceed with the Refunding and to issue and sell up to \$650,000 in principal amount of its Industrial Development Refunding Bonds (SICO Project) Series 1991 (the "Bonds"), to provide such financing; and

WHEREAS, in connection with the Refunding, the City shall lease the Project to the Partnership pursuant to the terms of a Lease Agreement (the "Lease Agreement"), and the Partnership shall sublease the Project to the Company, pursuant to the terms of a Sublease Agreement (the "Sublease Agreement"); and

WHEREAS, copies of the hereinafter described Mortgage and Trust Indenture, Lease Agreement, Sublease Agreement, Bond Purchase Agreement, and Official Statement have been presented to and are before this meeting;

WHEREAS, the Bonds are to be sold and delivered in one series, Series 1991, in the principal amount of up to \$650,000, dated May 1, 1991, bearing interest, maturing and subject to redemption as hereinafter set forth in the form of Trust Indenture authorized by this Ordinance; and

WHEREAS, it is necessary that the issuance of the Bonds be approved by the City Council of the City; and

WHEREAS, the City Council has determined that the purposes for which the Bonds are to be issued serve a valid public purpose;

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

Section 1. That the issuance of the Bonds is hereby authorized. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature over a period not to exceed thirty (30) years, shall bear interest at a rate or rates not to exceed the maximum amount allowed by law, and shall be subject to redemption prior to maturity, all upon the terms and conditions recommended by the Partnership and to be set forth in the Trust Indenture (hereinafter authorized) securing the Bonds.

Section 2. That the Bonds be sold to Powell & Satterfield, Inc., as purchaser (the "Purchaser") for the purchase price recommended by the Partnership and upon the terms and conditions set forth in the Bond Purchase Agreement by and between the City, the Partnership and the Purchaser, which Bond Purchase Agreement is hereby authorized in substantially the form submitted to this meeting. The Mayor and City Clerk are hereby authorized to

execute, acknowledge and deliver the Bond Purchase Agreement for and on behalf of the City.

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, 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 (the "**Trustee**"), dated as of May 1, 1991 (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 Partnership 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.

Section 4. That there be, and there is hereby authorized the execution and delivery of a Lease Agreement by and between the City as Lessor, and the Partnership 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 Partnership, 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.

Section 5. That there be, and there is hereby authorized the execution and delivery of an Official Statement by the City (the "**Official Statement**"), and the Mayor be, and he is hereby, authorized to execute, acknowledge and deliver the Official Statement for and on behalf of the City. The Official Statement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Partnership, the Trustee and the Purchaser in order to complete the Official Statement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 6. That the Mayor and the City Clerk, for and on behalf of the City, be, and they are hereby, authorized and directed to do any and all things necessary to effect the execution and delivery of the Lease Agreement, the performance of all obligations of the City under the Lease Agreement, the execution

and delivery of the Indenture, the performance of all obligations of the City under and pursuant to the Indenture, the execution and delivery of the Bond Purchase Agreement, the performance of all obligations of the City under and pursuant to the Bond Purchase Agreement, the issuance, execution, sale and delivery of the Bonds, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. That the Mayor and 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 7. That the City Clerk is hereby authorized and directed to file in the office of the City Clerk, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person, a copy of the Indenture and Lease Agreement, and such documents shall be on file for inspection by any interested person.

Section 8. That the law firm of Williams & Anderson, Little Rock, Arkansas, be appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

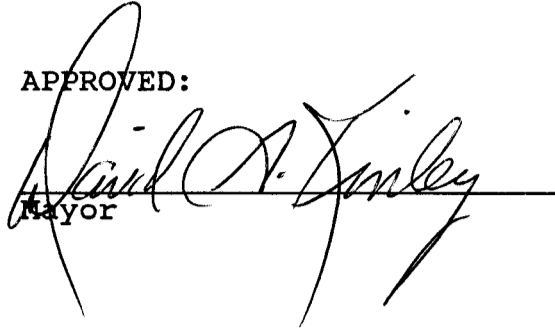
Section 9. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 10. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

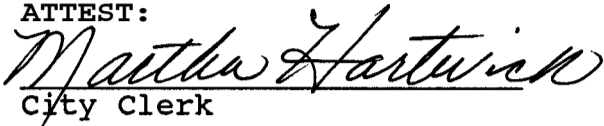
Section 11. That there is hereby found and declared to be an immediate need for the refunding in order secure and develop industry in order to provide employment and payrolls, alleviate unemployment and otherwise benefit the public health, safety and welfare of the City and the inhabitants thereof, and 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 peace, health and safety shall be in force and effect immediately upon and after its passage.

PASSED: April 1, 1991.

APPROVED:

  
Mayor

ATTEST:

  
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Conway, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 0-91-18, adopted at a special session of the City Council of the City of Conway, Arkansas, held at the regular meeting place in the City at 12:00 p.m., on the 1st day of April, 1991, and that the Ordinance is of record in Ordinance Record Book No. 11, at page 814, now in my possession.

GIVEN under my hand and seal on this 1st day of April, 1991.

*Martha Hartwick*  
City Clerk

(S E A L)