

ORDINANCE NO. 0-95-91

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR THE PURPOSE OF FINANCING CERTAIN INDUSTRIAL FACILITIES; AUTHORIZING A TRUST INDENTURE SECURING THE BONDS; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF CONWAY, ARKANSAS AND KIMBERLY-CLARK CORPORATION; AUTHORIZING THE SALE OF THE BONDS AND THE EXECUTION OF BOND PURCHASE AGREEMENT IN CONNECTION THEREWITH; AND AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Conway, Arkansas (the "City"), is authorized and empowered under the provisions of Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act"), to issue revenue bonds and to expend the proceeds thereof to finance the acquisition, construction and equipment of land, buildings or facilities which can be used in securing or developing industry; and

WHEREAS, the City and Kimberly-Clark Corporation, a Delaware corporation (the "Company"), have heretofore entered into an Agreement to Issue Bonds dated as of January 11, 1994, providing for the issuance of revenue bonds for the purpose of financing the acquisition, construction and equipping of an industrial project (the "Project"), consisting of an expansion to the Company's existing industrial plant located at 480 Exchange Avenue, Conway, Arkansas 72032 (the "Plant"); and

WHEREAS, it is proposed that the City now issue its revenue bonds under the Act for the purpose of financing the Project; and

WHEREAS, pursuant to and in accordance with applicable provisions of Arkansas law, a public hearing was held on the date hereof before the City Council on the question of the issuance of such revenue bonds under the Act; and

WHEREAS, after due consideration, the City is now prepared to proceed with financing the Project and to issue and sell not to exceed \$20,000,000 in principal amount of its Industrial Development Revenue Bonds (Kimberly-Clark Corporation Project), Series 1996 (the "Bonds"), to provide such financing; and

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

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

Section 1. The City Council hereby finds that the acquiring, constructing and equipping of the Project, and the issuance of the Bonds to finance the same, will ensure the continuation existing employment and provide additional employment and payrolls, thereby securing and developing industry within and near the City.

Section 2. The issuance of the Bonds in the aggregate principal amount of not to exceed \$20,000,000 is hereby authorized. The Bonds shall be issued in series as requested from time to time by the Company. The Bonds shall be issued in the forms and denominations, shall be numbered, shall be dated, shall mature (over the period or periods recommended by the Company but not to exceed 30 years), shall bear interest (at the rate or rates recommended by the Company but not to exceed the maximum permitted by law), and shall be subject to redemption prior to maturity all upon the terms and conditions recommended by the Company and to be set forth in the Indenture.

Section 3. The Bonds shall be sold to Goldman, Sachs & Co. (the "Purchaser"), for the purchase price of 100% of par, plus accrued interest, if any, from the date of the Bonds to the date of delivery, which price is recommended by the Company, and upon the terms and conditions set forth in a Bond Purchase Agreement to be entered into among the City, the Company and the Purchaser (the "Bond Purchase Agreement"). The Mayor is hereby authorized to execute and deliver the Bond Purchase Agreement for and on behalf of the City. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company, the Purchaser and others in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 4. 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 Associated Bank, N.A., Neenah, Wisconsin, which will act as Trustee thereunder (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 and others 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 5. There is hereby authorized the execution and delivery of a Lease Agreement by and between the City and the Company (the "Lease Agreement"), pursuant to which the Project and all or a portion of the properties comprising the Plant will be leased to the Company, and the Mayor and City Clerk are hereby authorized to execute, acknowledge and deliver the Lease Agreement for and on behalf of the City. The Lease Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company and others in order to complete the 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 6. Because the undertaking authorized hereby involves the accomplishment of industrial facilities, pursuant to applicable laws of the State of Arkansas, including particularly the Act, competitive bidding is waived.

Section 7. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the documents herein authorized and the performance of all obligations of the City thereunder, the issuance, execution, sale and delivery of the Bonds, the securing of the payment of the Bonds by a lien on and security interest in all or a portion of the properties comprising the Plant as may be hereafter determined to be necessary or desirable by the Company and the Purchaser, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk 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 8. 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 copies of the Bond Purchase Agreement, the Indenture, and the Lease Agreement, and such documents shall be on file for inspection by any interested person.

Section 9. 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. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: December 12, 1995.

ATTEST:

Maitha Hartwick
city clerk

(SEAL)

APPROVED:

David A. Genley
Mayor