

ORDINANCE NO. A-582

AN ORDINANCE AUTHORIZING AN AGREEMENT BETWEEN THE CITY AND ROCK CITY PACKAGING OF ARKANSAS, INC. PERTAINING TO THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS TO FINANCE THE ACQUISITION, IMPROVEMENT, EXTENSION AND EQUIPPING OF INDUSTRIAL FACILITIES; AUTHORIZING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE City Council of the City of Conway, Arkansas, as follows:

Section 1. The Mayor and City Clerk be, and they are hereby, authorized for and on behalf of the City of Conway, Arkansas (the "Municipality") to enter into a Memorandum of Intent with Rock City Packaging of Arkansas, Inc. in the form and with the contents set forth in Exhibit "A" which is attached hereto and by this reference thereto made a part hereof.

Section 2. The Mayor and City Clerk be, and they are hereby, authorized and directed to take all action necessary to perform all obligations and realize all rights of the Municipality set forth in the foregoing Memorandum of Intent and to execute all documents necessary to carry out the authority conferred by this Ordinance to evidence the exercise thereof.

Section 3. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision hereof 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 hereof.

Section 4. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent

of such conflict.

Section 5. There is hereby found and declared to be and exist an immediate need for the securing and developing of industry in order to provide employment and payrolls, to alleviate unemployment and otherwise benefit the public health, safety and welfare of the Municipality and the inhabitants thereof, and the issuance of the industrial-development revenue bonds authorized hereby and the taking of the other action authorized or directed 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: March 26, 1974.

APPROVED :

\_\_\_\_\_  
Mavor

ATTEST :

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

( S E A L )

CERTIFICATE

The undersigned, City Clerk of the City of Conway, Arkansas, hereby certifies that the foregoing pages are a true and compared copy of an Ordinance passed at a regular session of the City Council held at the regular meeting place of the City Council in Conway, Arkansas, at 7:00 P.M., on the 26 day of March, 1974, and that the Ordinance is of record in Ordinance Record Book No. 8, Page 340, now in my possession.

GIVEN under my hand and the seal of the City this 27 day of March, 1974,

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

( S E A L )

## MEMORANDUM OF INTENT

THIS MEMORANDUM OF INTENT is between the City of Conway, Arkansas, party of the first part (hereinafter referred to as the "Municipality"), and Rock City Packaging of Arkansas, Inc., an Arkansas corporation, party of the second part (hereinafter referred to as the "Company").

WHEREAS, for the purpose of securing and developing industry the Municipality 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 issue industrial development revenue bonds for defraying the costs of acquiring, improving, extending and equipping industrial plants; and

WHEREAS, the Company proposes to acquire an existing manufacturing plant: which is owned by the City and presently leased to Clevepak Corporation, a Delaware corporation, and to improve, extend and equip the same (hereinafter referred to as the "proposed Project") and it will utilize the Proposed Project to manufacture folding cartons or such other products as it shall elect to manufacture; and

WHEREAS, the Municipality has been advised that there exists a strong possibility that Clevepak Corporation may be forced to consolidate its folding carton operations at its existing plant in Dallas, Texas, resulting in the shutting down of its said leased plant in the Municipality; and

WHEREAS, the Company does not want to incur costs and expenses in connection with the acquisition, improvement, extension and equipping of the proposed Project without satisfactory assurances from the Municipality that, if desired

and requested by the Company, the proceeds of the sale of industrial development revenue bonds of the Municipality will be made available for the permanent financing of the costs and expenses incurred in acquiring, improving, extending and equipping the proposed Project; and

WHEREAS, the Municipality considers that: the acquiring, improving, extending and equipping of the proposed Project for lease to the Company will promote industrial development and thereby promote the general health and welfare of the inhabitants of the Municipality;

NOW, THEREFORE, in consideration of the mutual undertakings of the parties set forth in this Memorandum, it is agreed by the Municipality and by the Company as follows:

1. Undertakings on the Part of the Municipality.

Subject to the premises above stated, the Municipality agrees as follows:

(a) that, if and when requested by the Company, it shall take, or cause to be taken, such steps and proceedings, and it shall authorize the execution of such documents, as may be necessary and advisable for the authorization, sale and issuance of the industrial development revenue bonds and it shall use the proceeds from the sale of said bonds to defray the costs and expenses of acquiring, improving, extending and equipping the proposed Project (including the refunding of any outstanding bonds which are secured by the plant being acquired), all in conformity with Act No. 9 and other applicable laws; and

(b) that it shall take or cause to be taken such other actions and shall adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

2. Undertakings on the Part of the Company. Subject to the premises above stated, the Company agrees as follows:

(a) that it shall cooperate with the Municipality, subject to its approval of all terms and conditions of the sale of the bonds as aforesaid, in the issuance of the bonds;

(b) that it shall enter into a Lease Agreement with the Municipality in the form generally used in Arkansas in connection with Act No. 9 financing under the terms of which the Company will obligate itself to pay to the Municipality basic rents sufficient in the aggregate to pay the principal of, and interest and redemption premiums, if any, on, the bonds as and when the same become due and payable;

(c) that it shall cause its parent corporation, Rock-Tenn Company, a Tennessee corporation, to unconditionally guarantee the Company's obligations under said Lease Agreement; and

(d) that it shall take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3. General Provisions.

(a) All commitments of the Municipality under paragraph 1 hereof and of the Company under paragraph 2 hereof are subject to the conditions that the Municipality and the Company shall agree to mutually acceptable terms for the bonds and of the sale, issuance and delivery thereof, and mutually acceptable terms and conditions of the instruments and proceedings referred to herein. The commitments of the Municipality are subject to the further conditions that the electors of the Municipality shall approve the issuance of the bonds at a special election called for that purpose in conformity with the requirements of Act No. 9. It is agreed that the Municipality, upon request of the Company, will proceed

promptly to call and cause to be held the necessary election and that the Municipality and the Company will proceed in good faith to reach agreement on the terms and conditions of the bonds and other instruments and proceedings referred to herein.

(b) It is understood that the Company, in reliance upon the Municipality's commitments herein, is proceeding with the <sup>acquiring</sup>, improving, extending and equipping of the proposed Project, including the entering into of necessary contracts, agreements and purchase orders to accomplish that purpose. If bonds are issued pursuant to this Memorandum, the Company will be reimbursed out of bond proceeds for all expenditures made and expenses incurred in accomplishing the acquiring, improving, extending and equipping of the proposed Project.

(c) All expenses of conducting the election and issuing the bonds will be paid by the Company, subject to reimbursement from bond proceeds.

(d) It is recognized that the proposed Project will not, so long as title thereto is in the Municipality, be subject to ad valorem taxation. It is agreed that the Municipality and the Company shall enter into an agreement, satisfactory to both parties, for a payment by the Company to the Municipality in lieu of ad valorem taxes. Such agreement shall be in the general form of like agreements between the Municipality and other industries using Act No. 9 financing and the amount of the payment by the Company shall be proportional (on the basis of amount of bonds issued) to payments made by other industries.

IN WITNESS WHEREOF, the parties hereunto have entered into this Memorandum by their officers thereunto duly authorized as of the \_\_\_\_\_ day of \_\_\_\_\_, 1974.

CITY OF CONWAY, ARKANSAS

ATTEST:

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

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

(SEAL)

ROCK CITY PACKAGING OF ARKANSAS, INC.

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Title