

ORDINANCE NO. 0-81-35

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 THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT BETWEEN THE CITY OF CONWAY, AS LESSOR, AND UMC INDUSTRIES, INC., AS LESSEE; 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 manufacturing buildings, improvements and facilities and to incur other costs and expenses and make other expenditures incidental to and for the implementing and accomplishing of 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 and constructed and secured by a lien thereon and security interest therein; and

WHEREAS, the necessary arrangements have been made with UMC Industries, Inc. (the "Company"), a Delaware corporation, for the acquisition, renovation and equipping of facilities which will be utilized for the manufacture, processing, sale and distribution of wood and metal products and such other products as the Company shall elect to manufacture, process, sell or distribute (the "Project"), and to lease the Project to the Company pursuant to the terms of a lease agreement; 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 Nine Hundred Seventy Thousand Dollars (\$970,000) (the "bonds"); and

WHEREAS, the completion of the Project will furnish continued employment, encourage additional 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 not to exceed \$970,000, and which are to be in one or more series, are to be dated, bear interest and mature as hereinafter set forth and are to be issued and subject to the provisions of a trust indenture substantially in the form authorized by this Ordinance; and

WHEREAS, the City proposes to enter into a Bond Purchase Agreement as requested by the Company for the sale 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 to be recommended by the Company, according to the terms of a Bond Purchase Agreement, substantially in the form submitted at this meeting, which Bond Purchase Agreement shall be entered into by the Mayor and the City Clerk with the firm or firms recommended by the Company (the "Purchaser"), and an executed copy of which shall be filed with the City Clerk.
- (b) The acquisition, construction, renovation and equipping 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 acquisition, construction, renovation and equipping of the Project; and
- (c) The performance of all obligations of the City under the Lease Agreement pertaining to the acquisition, constructing, renovation 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 rate or rates specified in the Bond Purchase Agreement (but not in excess of the maximum rate permitted by Section 511(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980), shall mature at such time or times as may be specified in the Bond Purchase Agreement not exceeding thirty (30) years from the date of any series, and shall be in the original principal amount of not to exceed \$970,000, provided that bonds not exceeding the aggregate of said amount may be issued in successive series at the request of the Company and the Purchaser. 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, dated as of August 10, 1981 (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 and deliver the Indenture with such changes as shall be approved by the Mayor and City Clerk, 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 and Agreement, dated as of August 10, 1981, 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 and deliver the Lease Agreement with such changes as shall be approved by the Mayor and City Clerk, 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. 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 and delivery 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 (if requested) in form and substance satisfactory to said officers and the Purchaser of the bonds, 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. The agreement by the City to execute the documents referred to in the preceding paragraphs of this ordinance is made in reliance on the Company's representations that it will make payments to the City in lieu of the ad valorem taxes from which the Company shall be exempt as a result of this Project, and that it will enter into an agreement with the City to that effect. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to execute such an agreement.

Section 6. 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.

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 maintain existing employment, provide additional employment, alleviate unemployment and otherwise benefit the public health, safety