

ORDINANCE NO. 0-75-9

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REFUNDING AND CONSTRUCTION REVENUE BONDS UNDER 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, FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING OF THE COSTS 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; THE ACCEPTANCE OF A GUARANTY AGREEMENT; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING TO THE INDUSTRIAL PROJECT, THE ACQUIRING, CONSTRUCTING AND EQUIPPING THEREOF AND THE FINANCING; 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 own, acquire, construct and equip lands, 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 Refunding and Construction Revenue Bonds payable from revenues derived from the industrial project so owned, acquired, constructed and equipped and secured by a lien thereon and security interest therein; and

WHEREAS, the City issued Industrial Development Revenue Bonds, dated September 1, 1962 (the "1962 Bonds"), to finance the acquisition of lands and the construction of buildings thereon (the "existing facilities") for an industrial plant leased to Prince Gardner Company, Inc., a Pennsylvania corporation ("Prince Gardner"), pursuant to an Agreement of Lease, dated as of December 11, 1962; and

WHEREAS, thereafter all assets and liabilities of Prince Gardner were subsequently transferred to Prince Gardner Company, Inc., a New York corporation, and a wholly-owned subsidiary of Swank, Inc., a Delaware corporation,

which wholly-owned subsidiary was subsequently merged into Swank, Inc.; and

WHEREAS, the leasehold interest was subsequently assigned by Swank, Inc. to Fleming & Sons, Inc., a Texas corporation (which changed its name to TXI Paper Products, Inc. ("TXI")), by TXI to Clevepak Corporation, a Delaware corporation ("Clevepak"), and by Clevepak to Rock City Packaging of Arkansas, Inc., an Arkansas corporation ("Rock City"), on April 29, 1974; and

WHEREAS, the necessary arrangements have been made with Rock City for financing the refunding of the 1962 Bonds, the acquisition of the existing facilities and the construction and equipping of an expansion to the existing facilities, consisting of lands, buildings, machinery, improvements, equipment and facilities (the "new facilities"), with the existing facilities and new facilities (collectively the "Project") to be utilized for the manufacturing of such products as Rock City shall elect to manufacture and to lease the Project to Rock City pursuant to the terms of a Lease and Agreement subsequently identified herein and referred to as the "Lease Agreement"; and

WHEREAS, Rock City is a subsidiary of Rock-Tenn Company, a Tennessee corporation ("Rock-Tenn"), and Rock-Tenn has agreed to unconditionally guarantee performance by Rock City of the obligations under the Lease Agreement by an instrument identified as the "Rock-Tenn Guaranty Agreement"; and

WHEREAS, permanent financing of the refunding and Project costs, necessary costs and expenses incidental thereto and expenses of authorizing and issuing bonds, is being furnished by the City issuing Industrial Development Refunding and Construction Revenue Bonds under the provisions of Act No. 9 in the principal amount of not to exceed Two Million Dollars (\$2,000,000) (the "Bonds"), which have been approved by the electors of the City at a special election (the electors have approved the issuance of bonds in the principal amount of not to exceed \$5,000,000 but only \$2,000,000 will be issued under the Indenture hereinafter authorized); and

WHEREAS, the Bonds are to be sold and delivered in series, with there being initially issued Series A in the principal amount, dated, bearing interest, maturing and subject to redemption as hereinafter set forth in the form of Indenture authorized by this Ordinance;

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 Series A Bonds to Reynolds Securities Inc.;
- (b) The refunding of the 1962 Bonds and the acquisition, construction and equipping of the Project, and in connection therewith, the execution of any contracts, or the acceptance of an assignment of any such contracts previously executed by Rock City, for the acquisition, construction and equipping of the Project;
- (c) The performance of all obligations of the City under the Lease Agreement pertaining to the acquisition, construction and equipping of the Project and the performance of all obligations of the City under any contracts referred to in (b) above; and
- (d) The acceptance, execution and delivery of the Rock-Tenn Guaranty Agreement in substantially the form presented to the City Council. After execution and delivery a copy shall be filed in the office of the City Clerk.

Section 2. That Industrial Development Refunding and Construction Revenue Bonds of the City under Act No. 9 in the total amount of not to exceed \$2,000,000 are hereby authorized, and the immediate delivery of Series A is hereby authorized. To prescribe the terms and conditions upon which the bonds are to be secured, executed, authenticated, accepted and held, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture (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, which constitutes and is hereby made a part of this Ordinance, shall be in substantially the following form to wit:

Section 3. That the Mayor and City Clerk, or either of them, 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 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 Series A Bonds, the execution and delivery of an Official Statement or Offering Circular used in connection with the sale of the Bonds, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by the Indenture and 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 4. That the City is here involved with the acquiring, constructing and equipping of complex industrial facilities, requiring highly specialized work and specialized types of equipment, and, therefore, competitive bidding has been and is hereby, waived. This action is taken by the City Council pursuant to applicable laws of the State of Arkansas, including particularly Act No. 9.

Section 5. That the Mayor and City Clerk for and on behalf of the City, be and they are hereby authorized and directed to take all action, and execute and file all documents, necessary to perfect an election to proceed under Section 103 (c) (6) (D) of the Internal Revenue Code of 1954, as amended, to the end of insuring that interest on the Bonds is exempt from federal income taxes.

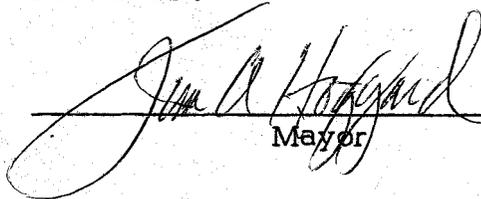
Section 6. That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 7. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 8. That there is hereby found and declared to be an immediate need for the securing and developing of industry in order to provide additional employment and increased 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 health, safety and welfare shall be in force and effect immediately upon and after its passage.

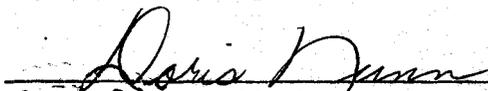
PASSED: April 8, 1975.

APPROVED:



Mayor

ATTEST:



City Clerk

