

RESOLUTION NO. R-78-53

A RESOLUTION AUTHORIZING A MEMORANDUM OF INTENT BY AND BETWEEN THE CITY OF CONWAY, ARKANSAS AND BALDWIN PIANO & ORGAN COMPANY PERTAINING TO THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR FINANCING THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING INDUSTRIAL FACILITIES; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

BE IT RESOLVED by the City Council of the City of Conway, Arkansas:

Section 1. That there be, and there is hereby authorized the execution and delivery of a Memorandum of Intent by and between the City of Conway, Arkansas (the "Municipality"), and Baldwin Piano & Organ Company, an Ohio corporation (the "Company"), in substantially the form and with substantially the contents hereinafter set forth, and the Mayor and City Clerk be, and they are hereby, authorized to execute and deliver the Memorandum of Intent for and on behalf of the Municipality. The form and contents of the Memorandum of Agreement, which are approved and which are made a part hereto, shall be substantially as follows:

Section 2. That the Mayor and City Clerk be, and they are hereby authorized and directed, for and on behalf of the Municipality, to do all things, execute all instruments and otherwise take all action necessary to the realization of the Municipality's obligations under the Memorandum of Intent.

PASSED: \_\_\_\_\_, 1978.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

(SEAL)

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 Baldwin Piano & Organ Company, an Ohio corporation, party of the second part (hereinafter referred to as the "Company").

IN CONSIDERATION of the undertakings of the parties set forth herein and the benefits to be derived therefrom and of other good and valuable considerations, receipt of which is hereby acknowledged by the parties, the Municipality and the Company AGREE:

1. Preliminary Statement. (a) The Municipality is a duly organized and existing city of the first class under the laws of the State of Arkansas and is authorized by the laws of the State of Arkansas, including particularly 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 9"), to issue revenue bonds for financing the costs of acquiring, constructing and equipping industrial facilities (as defined in and authorized by Act 9) and to lease and/or sell the same for such rentals and payments and upon such terms and conditions as the Municipality deems advisable.

(b) It is proposed that an existing industrial plant at the Municipality (presently leased to the Company and consisting of lands, buildings and improvements) be acquired and that additional industrial facilities (consisting of buildings, improvements, machinery, equipment and facilities) be acquired, constructed and equipped as part of an expansion to the plant. The existing industrial plant and the additional industrial facilities are hereinafter collectively referred to as the "Project."

(c) The Company has determined that prior to commencement of acquisition, construction or equipment of the Project,

it must obtain a commitment from the Municipality that it will issue revenue bonds under Act 9 as the Company and the Municipality, upon advice of counsel, shall deem appropriate and make the proceeds available for the permanent financing of any part of the costs and expenses incurred in acquiring, constructing and equipping the Project.

(d) In order to secure and develop industry which will furnish and will assure the continuation of substantial employment and payrolls (in furtherance of the public purpose of Act 9), the Municipality is willing to so commit and to proceed with the issuance of such bonds as and when requested by the Company, in principal amounts necessary to furnish such permanent financing subject to compliance with all conditions set forth in Act 9.

(e) The Municipality considers that the acquiring, constructing and equipping of the Project and the leasing or sale thereof to the Company, will secure and develop industry and thereby promote the general health and economic welfare of the inhabitants of the Municipality and adjacent areas.

## 2. Undertakings on the Part of the Municipality.

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

(a) That when requested by the Company, it will authorize and take, or cause to be taken, the necessary steps to issue bonds under Act 9, in the aggregate principal amount necessary to furnish the permanent financing of any part of the costs of accomplishing the Project. In this regard, it is estimated at this time that revenue bonds in the aggregate principal amount of \$2,000,000 will be issued. However, the Municipality's commitment is to issue revenue bonds under Act 9 in such amount as shall be requested by the Company for accomplishing all or any part of the Project, whether that amount is more or less than the above estimate.

(b) That it will, at the proper time and subject in all respects to the recommendation and approval of the Company, have the bonds underwritten and will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents

as may be necessary and advisable for the authorization, sale and issuance of the bonds, the acquiring, constructing and equipping of the Project, and for the leasing or sale thereof to the Company, all in conformity with Act 9 and any other applicable federal and state laws and upon terms and conditions mutually satisfactory to the Municipality and the Company.

(c) That the aggregate basic rents or payment (i.e., the rents or payments to be used to pay the principal of, premiums, if any, and interest on the bonds) payable under leases or sale agreements between the Municipality and the Company, shall be sufficient to pay the principal of, premiums, if any, and interest on the bonds when due. The leases or sale agreements shall contain such provisions as are necessary or desirable, consistent with the authority conferred by Act 9.

(d) That it will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

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

(a) That it will cooperate with the Municipality in the sale and issuance of the bonds to the end of achieving timely and favorable marketing thereof.

(b) That it will enter into such leases, sale agreements or other appropriate agreements with the Municipality under which the Company will obligate itself to pay to the Municipality rents or payments sufficient to pay the principal of, premiums, if any, and interest on the bonds when due and containing such other provisions as are necessary or desirable consistent with the authority conferred by Act 9.

(c) That it will 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.

4. General Provisions. (a) This Memorandum shall continue in full force and effect until the Project and its

financing by bonds, as herein specified, is accomplished, and in this regard it is understood that there may be separate issues of Bonds, and separate series within a particular issue, with different maturities, interest rates, redemption provisions and other details. In the case of each issue, and of each series, the Municipality will take appropriate action by ordinance or resolution to sell and authorize the bonds and to authorize and execute such agreements and documents as may be determined necessary or desirable by the Municipality and the Company.

(b) The Company agrees to pay, for distribution to the ad valorem taxing authorities, annual payments in a sum equal to 0.65% of the principal amount of the bonds which are issued, as shall be specified and more fully set forth in an agreement to be executed between the Company and the Municipality prior to the date of issuance of the bonds.

IN WITNESS WHEREOF, the parties hereto have entered into this Memorandum by their officers thereunto duly authorized as of the \_\_\_\_ day of \_\_\_\_\_, 1978.

ATTEST:

CITY OF CONWAY, ARKANSAS

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

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

(SEAL)

ATTEST:

BALDWIN PIANO & ORGAN COMPANY

\_\_\_\_\_  
\_\_\_\_\_  
(title)

By \_\_\_\_\_  
\_\_\_\_\_  
(title)

(SEAL)