

ORDINANCE NO. 136

AN ORDINANCE AUTHORIZING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT 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; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING TO THE ACQUISITION, CONSTRUCTION AND EQUIPMENT OF THE INDUSTRIAL PROJECT AND THE FINANCING THEREOF; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Barling, 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 securing and developing of industrial 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, constructed and equipped and secured by a lien thereon and security interest therein; and

WHEREAS, the necessary arrangements have been made with Antique Creations of Arkansas, Inc., an Arkansas corporation ("Antique Creations") for a substantial industrial project consisting of the acquisition and construction of lands, buildings, machinery, equipment, improvements and facilities

for the expansion of its industrial operations within the City of Barling (the "Project") and to lease the Project to Antique Creations pursuant to the terms of a Lease and Agreement subsequently identified herein and referred to as the "Lease Agreement"; and

WHEREAS, permanent financing of the Project costs, necessary costs and expenses incidental thereto and expenses of authorizing and issuing Bonds, is being furnished by the City issuing Industrial Development Revenue Bonds (the "Bonds") under the provisions of Act No. 9 in the principal amount of not to exceed Four Hundred Fifty Thousand Dollars (\$450,000) (excluding any bonds issued to refund the Bonds); and

WHEREAS, Bonds are being issued in the principal amount, dated, bearing interest, maturing and subject to the redemption as hereinafter set forth in the form of Indenture authorized by this Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE Board of Directors of the City of Barling, Arkansas:

Section 1. That there be, and there is hereby authorized and directed the following:

- (a) The sale of the Bonds to First National Bank of Fort Smith, Arkansas, at a purchase price of \$450,000 pursuant to the recommendation of Antique Creations and, in connection therewith, the execution by the Mayor and Clerk of a Bond Purchase Agreement with such purchaser.
- (b) The acquiring, constructing and equipping of the Project, and in connection therewith, the execution of architectural, engineering, construction and other contracts or the acceptance of an assignment

of any such contracts previously executed by Antique Creations, for the acquiring, constructing, and equipping of the Project; and

- (c) The performance of all obligations of the City under the Lease Agreement pertaining to the acquiring, constructing and equipping of the Project and the performance of all obligations of the City under the contracts referred to in (b) above.

Section 2. That the issuance of the Bonds in the total principal amount of \$450,000 is hereby authorized, and the immediate delivery of the Bonds 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 the 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:

(A copy of the Trust Indenture is on file with the City Clerk and is incorporated herein by reference)

Section 3. That the Mayor and the 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 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 Bonds, the execution and delivery of an Official Statement (if one is required), 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 is waived. This action is taken by the Board of Directors pursuant to applicable laws of the State of Arkansas, including particularly Act No. 9.

Section 5. That 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 6. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. That there is hereby found and declared to be an immediate need for the securing and developing of industry in order to provide employment and 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 are immediately necessary for the accomplishing of the public benefits and purposes. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in force and effect immediately upon and after its passage.

PASSED this 15th day of June, 1982.

APPROVED:

Jerry Barling
Mayor

ATTEST:

Sheila Forget
City Clerk

(SEAL)

