

RESOLUTION NO. 1987-16

A RESOLUTION APPROVING A LEASE AND AGREEMENT BETWEEN THE CITY OF JONESBORO, ARKANSAS, AS LESSOR, AND ASSOCIATED PLASTICS, INC., AS LESSEE; AUTHORIZING THE EXECUTION AND DELIVERY OF THE LEASE AND AGREEMENT IN SUBSTANTIALLY THE FORM AND WITH SUBSTANTIALLY THE CONTENT SET FORTH IN AND MADE A PART OF THIS RESOLUTION; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jonesboro, Arkansas (the "City") has outstanding an issue of its Industrial Development Revenue Bonds - Flintrol Project, Series C, dated February 1, 1978 (the "Bonds"), issued under the authority of Act No. 9 of the First Extraordinary Session of the 62nd General Assembly of the State of Arkansas, approved January 21, 1960, as amended ("Act No. 9"); and

WHEREAS, the Bonds were issued pursuant to a Trust Indenture dated as of July 1, 1974, as amended and supplemented by a First Supplemental Trust Indenture dated as of July 1, 1975, and a Second Supplemental Trust Indenture dated as of February 1, 1978 (the "Indenture"), by and between the City and Mercantile Bank, in the City of Jonesboro, Arkansas, as trustee (the "Trustee"); and

WHEREAS, the Bonds were issued to finance the acquisition, construction, and equipment of lands, buildings, improvements, machinery, equipment, and facilities (the "1978 Project") located within the boundaries of the City; and

WHEREAS, the City leased the 1978 Project to Flintrol, Inc., an Arkansas corporation ("Flintrol"), pursuant to a Lease and Agreement dated February 1, 1978, by and between the City and Flintrol (the "1978 Lease"); and

WHEREAS, Flintrol has defaulted in its covenants and agreements with the City under the 1978 Lease, and has abandoned the 1978 Project; and

WHEREAS, a trustee in bankruptcy for Flintrol has been appointed by the United States Bankruptcy Court and that trustee has formally agreed to abandon the 1978 Project to the City; and

WHEREAS, the payment of principal of and interest on the Bonds is guaranteed by the Arkansas Industrial Development Commission (the "AIDC"); and

WHEREAS, the machinery and equipment forming a part of the 1978 Project are no longer located on the premises; and

WHEREAS, at the request of the AIDC, the City desires to lease that portion of the 1978 Project consisting of lands, buildings, improvements, and facilities to Associated Plastics, Inc., a California corporation (the "Lessee"), pursuant to a Lease and Agreement between the City as lessor and the Lessee;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS:

Section 1. That there be, and there is hereby authorized the execution and delivery of a Lease and Agreement, dated as of May 1, 1987, by and between the City, as lessor, and Associated Plastics, Inc., a California corporation, as Lessee (the "Lessee"), and the Mayor and City Clerk be, and they are hereby authorized to execute, acknowledge, and deliver the Lease and Agreement for and on behalf of the City. The Lease and Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Lessee, the AIDC, and the Trustee in order to complete the Lease and Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

[Advice is given that, pursuant to Act No. 9, a copy of the Lease and Agreement in substantially the form authorized to be executed is on file with the City Clerk of the City, and is available for inspection by any interested person.]

Section 2. That the Mayor and City Clerk be, and they are hereby, authorized and directed, for and on behalf of the City, to do any and all things necessary to effect the execution of the Lease and Agreement and the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this Resolution, and 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, including without limitation execution and delivery for and on behalf of the City of a Mutual Release Agreement between the City and Flintrol.

Section 3. That the provisions of this Resolution 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 4. That all ordinances, resolutions, and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. That there is hereby found and declared to be an immediate need for the securing and developing of substantial industrial operations in order to provide additional employment, alleviate unemployment, and otherwise benefit the public health, safety, and welfare of the City and the inhabitants thereof, and the execution and delivery of the Lease and Agreement authorized hereby and the taking of the other actions authorized herein are immediately necessary in connection with the securing and developing of substantial industrial operations and deriving the public benefits referred to above. It is, therefore, declared that an emergency exists and this Resolution, being necessary for the immediate preservation of the public health, safety, and welfare, shall be in force and take effect immediately upon and after its passage.

PASSED April 20, 1987.