



Legislation Text

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**File #:** ORD-88:1332, **Version:** 1

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AN ORDINANCE AUTHORIZING AMENDMENTS TO CERTAIN LEASES, PREPARATORY TO THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS, DECLARING AN EMERGENCY; AND FOR RELATED PURPOSES.

WHEREAS, the City of Jonesboro, Arkansas (the “City”) has, as lessor, entered into various outstanding lease agreements with (“Hytrol”) as follows:

Lease and Agreement dated November 1, 1969;

Lease and Agreement dated July 1, 1973;

Lease and Agreement dated October 1, 1975;

Lease and Agreement dated August 1, 1979

(The “Lease Agreements”); and

WHEREAS, the Lease Agreements were entered into as necessary to, and in connection with, the issuance, by the City, of its industrial development revenue bonds, as follows:

City of Jonesboro, Arkansas Industrial Development Revenue Bonds \$750,000 dated November 1, 1969 (Hytrol Project);

\$600,000 City of Jonesboro, Arkansas Industrial Development Revenue Bonds - Hytrol Project Series A, Dated July 1, 1973;

\$250,000 City of Jonesboro, Arkansas Industrial Development Revenue Bonds Hytrol Project, dated October 1, 1975;

\$1,750,000 City of Jonesboro, Arkansas Industrial Development Revenue Bonds Hytrol Project 1979 Series A - \$1,000,000, 1979 Series B - \$750,000

(The “Bonds”); and

WHEREAS, the Lease Agreements provide for rental to be paid by Hytrol in amounts and at times sufficient to provide for payment of principal of and interest on the Bonds as due; and

WHEREAS, the Bonds are not general obligations of the City but are special obligations, secured by a pledge of and payable from rentals paid and to be paid pursuant to the Lease Agreements; and

WHEREAS, the Lease Agreements provide for renewal or extension of the terms thereof after payment or discharge of the Bonds, at the option of Hytrol, but, unlike lease agreements typical in similar undertakings,

provide for renewal or extension only for rentals on the basis of fair market value of the unimproved lands subject thereto (the “Leased Premises”) and do not provide for purchase of the Leased Premises at the option of Hytrol; and

WHEREAS, Hytrol is prepared to undertake a substantial expansion of the Leased Premises, which expansion will result in increased employment and payrolls and otherwise benefit the City and its inhabitants; and

WHEREAS, the planned expansion is to be financed by industrial development bonds (the “Proposed Bonds”) to be issued by the Arkansas Development Finance Authority (“ADFA”), and, as a condition to the financing and the issuance of Proposed Bonds by ADFA, it is necessary that the Lease Agreements be amended to provide for options, on the part of the Hytrol or any successor lessee under the Lease Agreements, to renew or extend the Lease Agreements and to purchase the Leased Premises upon terms which are typical of industrial development revenue bond financing;

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Jonesboro, Arkansas:

SECTION 1: The Mayor and City Clerk of the City are hereby authorized and directed to execute, on behalf of the City, amendments to the Lease Agreements to provide for options in favor of Hytrol (or any successor lessee under the Lease Agreements):

(A) To renew or extend the terms thereof upon the basis of a rental of \$100 per year (or the annual principal and interest requirements of any then outstanding Bonds and Proposed Bonds), and

(B) To purchase the Leased Premises for a purchase price equal to \$100 (or the amount necessary to pay or discharge any then outstanding Bonds or Proposed Bonds).

SECTION 2: The Mayor and the City Clerk are authorized to execute and deliver, on behalf of the City, such documents as may be appropriate to assure that the City recognizes and acknowledges the assignment of Hytrol’s leasehold interests created pursuant to the respective Leases and agrees to permit a lender secured thereby to cure or correct any failure of performances on the part of Hytrol under any such Lease.

SECTION 3: All ordinances and resolutions in conflict herewith are hereby amended to the extent of such conflict.

SECTION 4: It is greatly in the interest of the City and its inhabitants that the expansion to be financed by the Proposed Bonds and that the provisions of this Ordinance are essential to the issuance of such Proposed Bonds. Therefore, an emergency is declared to exist and this Ordinance, being necessary for the preservation of the public peace, health and safety, shall be in force upon its adoption and approval.

PASSED AND ADOPTED this 21<sup>st</sup> day of November, 1988.