

ORDINANCE NO. ~~940011~~ ppel

AN ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF SIMPSON, KENTUCKY AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE UNDER THE INDUSTRIAL BUILDING REVENUE BOND ACT, SECTIONS 103.200 TO 103.285, INCLUSIVE, OF KENTUCKY REVISED STATUTES, OF ITS INDUSTRIAL DEVELOPMENT REVENUE BONDS (AIRCO, INC. PROJECT) SERIES 1982 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000, FOR THE PURPOSE OF FINANCING CERTAIN INDUSTRIAL BUILDING FACILITIES; AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT BETWEEN SAID COUNTY AND AIRCO, INC.; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST SECURING SAID BONDS; AUTHORIZING THE SALE OF SAID BONDS TO THE PURCHASER THEREOF AND APPROVING AN OFFICIAL STATEMENT AND A BOND PURCHASE AGREEMENT IN CONNECTION THEREWITH; AND AUTHORIZING OTHER MATTERS PERTAINING TO THE ISSUANCE OF SAID BONDS; SAID BONDS TO BE RETIRED FROM THE LOAN REPAYMENTS TO BE MADE BY AIRCO, INC. UNDER SAID FINANCING AGREEMENT WITH THE COUNTY, ALL AS AUTHORIZED BY K.R.S. 103.200 TO 103.285, INCLUSIVE.

WHEREAS, the County of Simpson, Kentucky, a county and political subdivision of the Commonwealth of Kentucky (the "Issuer"), is authorized by the Industrial Building Revenue Bond Act (appearing as the provisions of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended (the "Act"), to issue revenue bonds for the purposes set forth in the Act and to permit the expenditure of the proceeds thereof to defray, among other things, the cost of acquisition, construction and installation of "industrial building" facilities as defined in the Act; and

WHEREAS, Airco, Inc., a Delaware corporation, or any successor, surviving, resulting or transferee corporation (the "Company") is acquiring, constructing and installing certain industrial building facilities (the "Project") located in the County of Simpson, Kentucky and wishes to have the Issuer issue its revenue bonds to finance the cost of the Project pursuant to the provisions of the Act; and

WHEREAS, in furtherance of the purposes set forth in the Act, the Issuer wishes to provide for the financing of the cost of the Project by the sale and issuance of its revenue bonds and authorizing such actions as might be required to implement such stated intention; and

WHEREAS, pursuant to and in accordance with provisions of the Act, the Issuer is now prepared to proceed with financing the Project and to issue and sell its Industrial Development Revenue Bonds (Airco, Inc. Project) Series 1982 in the aggregate principal amount of \$4,400,000 (the "Bonds") to provide the same, such Bonds to be secured by the Indenture (hereinafter defined) and, except to the extent payable from Bond proceeds or moneys from the investment thereof, to be payable solely from the revenues and receipts and other amounts received by the Issuer pursuant to the Financing Agreement (hereinafter defined); and

WHEREAS, Dillon, Read & Co. Inc., the underwriter (the "Underwriter") has submitted to the Issuer a form of Bond Purchase Agreement (hereinafter defined) setting forth the Underwriter's proposal to purchase the Bonds; and

WHEREAS, copies of the Financing Agreement, Indenture, Bond Purchase Agreement and Official Statement have been presented to and are before this meeting;

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court of the County of Simpson, Commonwealth of Kentucky, as follows:

Section 1. The following words and terms as used in this ordinance shall have the following meanings unless the context clearly indicates another or different meaning or intent:

"Act" shall mean the Industrial Building Revenue Bond Act (appearing as the provisions of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended).

"Bond Purchase Agreement" shall mean the Bond Purchase Agreement to be entered into between the Issuer and the Underwriter, as approved by this ordinance, relating to the purchase and sale of the Bonds.

"Bonds" shall mean the Issuer's Industrial Development Revenue Bonds (Airco, Inc. Project) Series 1982 in an aggregate principal amount of \$4,400,000 authorized to be issued pursuant to this ordinance and Article II of the Indenture.

"Company" shall mean Airco, Inc. and any successor, surviving, resulting or transferee corporation as permitted by Section 5.2 of the Financing Agreement.

"Financing Agreement" shall mean the Financing Agreement dated as of October 1, 1982 between the Issuer and the Company, as approved by this ordinance, and as the same may be amended from time to time.

"Indenture" shall mean the Indenture of Trust dated as of October 1, 1982 between the Issuer and the Trustee, as the same may be supplemented from time to time in accordance with its terms.

"Issuer" shall mean the County of Simpson, Kentucky or any successor succeeding to its rights or obligations under the Financing Agreement and the Indenture.

"Official Statement" shall mean the Official Statement to be dated of even date with the Bond Purchase Agreement with respect to the Bonds and as further described and defined in the Bond Purchase Agreement.

"Project" shall mean the property described and defined as such in the Financing Agreement and the Indenture.

"Trustee" shall mean the trustee appointed under the Indenture, or its successor.

"Underwriter" shall mean Dillon, Read & Co. Inc.

Section 2. Pursuant to the Act, the Issuer does hereby authorize the financing of all or a portion of the costs of the acquisition, construction and installation of the Project in accordance with the terms of the Financing Agreement and does hereby determine it is in furtherance of the public purposes set forth in the Act; and that, therefore, providing for the Project through the issuance and sale of the Bonds is in the public interest.

Section 3. The Fiscal Court of the Issuer does hereby find, declare and determine that (i) pursuant to the Financing Agreement authorized by this ordinance, the Company will covenant and agree to pay amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds in each year the Bonds are outstanding, (ii) it is not deemed advisable or necessary to establish any reserve funds in connection with the retirement of the Bonds or the maintenance of the Project, and (iii) pursuant to said Financing Agreement, the Company will covenant and agree to provide for maintenance of the Project in order to keep it in good repair and to carry all necessary insurance to keep the Project properly insured.

Section 4. To provide for the financing of the cost of the acquisition, construction and installation of the Project, the Issuer does hereby authorize the issuance of revenue bonds of the Issuer under the Act, to be designated "County of Simpson, Kentucky, Industrial Development Revenue Bonds (Airco, Inc. Project) Series 1982" in the aggregate principal amount of \$4,400,000. The Bonds shall be issued in the forms and denominations set forth in the Indenture; shall be dated, except as otherwise provided in the Indenture, October 1, 1982; shall be numbered as provided in the Indenture; shall mature no earlier than October 1, 1985 and no later than October 1, 2012; shall be subject to redemption prior to maturity upon the terms and conditions set forth in the Indenture; shall bear interest payable semiannually at a rate or rates not greater than 14% and not less than 9% per annum; and the Bonds shall be sold to the Underwriter at a price

of not less than 97% of the aggregate principal amount thereof plus accrued interest thereon from October 1, 1982 to the Closing Date (as defined in the Bond Purchase Agreement).

The exact interest rate or rates, maturity date or dates and purchase price of the Bonds shall be as set forth in the Bond Purchase Agreement described in Section 11 hereof as executed and delivered by the County Judge/Executive of the Issuer.

Section 5. The Bonds shall be limited obligations of the Issuer and, except to the extent payable from Bond proceeds or moneys from the investment thereof, shall be payable solely from the revenues and receipts and other amounts received by or on behalf of the Issuer pursuant to the Financing Agreement and otherwise as provided therein and in the Indenture. Bonds and interest thereon shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation and shall not constitute nor give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers.

Section 6. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of the County Judge/Executive of the Issuer and attested by the manual or facsimile signature of the Clerk of the Fiscal Court of the Issuer (provided that one such signature shall be manual) and shall have impressed thereon the official seal of the Issuer. The coupons attached to the coupon Bonds shall bear the facsimile signature of the County Judge/Executive and Clerk of the Fiscal Court of the Issuer.

If any of the officers who shall have signed or sealed any of said Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed shall have been actually authenticated by the Trustee or delivered by the Issuer, such Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or officers of the Issuer; and also any such Bonds may be signed and sealed on behalf of the Issuer by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers of the Issuer, although at the nominal date of such Bonds any such person shall not have been such officer of the Issuer.

Section 7. The Issuer reserves the right, but does not hereby obligate itself, to issue additional bonds for the purposes and upon the conditions set forth in the Financing Agreement and the Indenture.

Section 8. The Issuer shall have no obligation with respect to the Project, and all costs, expenses, taxes, govern-

mental charges and fees and charges with respect to the Project shall be paid by the Company.

Section 9. The Indenture is hereby approved in substantially the form submitted to this meeting, and the County Judge/Executive and Clerk of the Fiscal Court of the Issuer are hereby authorized and directed to execute, acknowledge and deliver the Indenture with such changes therein as shall be approved on behalf of the Issuer by such persons executing such document, their execution to constitute conclusive evidence of such approval, and the Clerk of the Fiscal Court is hereby authorized and directed to affix to the Indenture his corporate seal.

Section 10. The Financing Agreement between the Issuer and the Company is hereby approved in substantially the form submitted to this meeting, and the County Judge/Executive and Clerk of the Fiscal Court of the Issuer are hereby authorized and directed to execute, acknowledge and deliver the Financing Agreement with such changes therein as shall be approved on behalf of the Issuer by such persons executing such document, their execution to constitute conclusive evidence of such approval, and the Clerk of the Fiscal Court is hereby authorized and directed to affix to such document his corporate seal.

Section 11. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the County Judge/Executive of the Issuer is hereby authorized to confer with the Purchaser in order to complete such Bond Purchase Agreement and to execute and deliver said Bond Purchase Agreement on behalf of the Issuer in substantially the form presented to this meeting with such changes therein as he shall approve on behalf of the Issuer, his execution to constitute conclusive evidence of such approval, and the sale of the Bonds pursuant to the Bond Purchase Agreement is hereby authorized, approved and directed.

Section 12. The Official Statement in substantially the form submitted to this meeting (proof of October 4, 1982), with such changes as shall be approved on behalf of the Issuer by the person executing the Bond Purchase Agreement, whose approval shall be conclusively evidenced by his execution of the Bond Purchase Agreement, is hereby authorized for use in accordance with the Bond Purchase Agreement.

Section 13. Each of the authorized officials of the Issuer are hereby empowered and directed to execute and deliver the Bonds and all documents and other instruments which may be required under the terms of the Bond Purchase Agreement, the Indenture, the Financing Agreement and this ordinance. For purposes of this section "authorized officials of the Issuer" shall mean the County Judge/Executive, Deputy County Judge/Executive, Clerk of the Fiscal Court and County Attorney of the Issuer.

Section 14. 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 15. In the event of any conflict between the provisions of this ordinance and any prior ordinances, orders, resolutions or parts thereof, the provisions of this ordinance shall prevail.

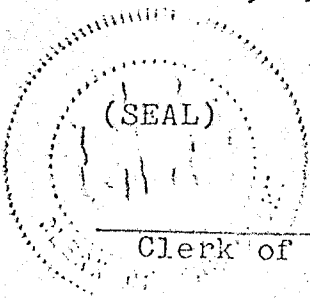
Section 16. Pursuant to the provisions of Section 103.210 of the Act, the Clerk of the Fiscal Court is hereby directed to cause the title of this ordinance to be published, together with a statement signed by the Clerk of the Fiscal Court in the following form:

"The County of Simpson, Kentucky has authorized, pursuant to the above entitled Ordinance adopted on second reading on October 12, 1982 \$4,400,000 aggregate principal amount of its Industrial Development Revenue Bonds (Airco, Inc. Project) Series 1982 to finance certain facilities constituting "industrial building" facilities within the meaning of K.R.S. 103.200 for use by Airco, Inc. Said Bonds are to be retired from the loan repayments to be made by Airco, Inc. under a Financing Agreement with the County, all as authorized by K.R.S. 103.200 to 103.285, inclusive."

The summary of this ordinance presented and read at the meetings at which this ordinance was introduced and adopted is approved for reading and publication according to law.

Section 17. This Ordinance shall be effective immediately upon its passage according to law.

Passed and approved by the Fiscal Court of the County of Simpson, Kentucky upon second reading this 12th day of October, 1982 following first reading on October 5, 1982.



Kenneth W. Haynes
County Judge/Executive

Walter L. Link
Clerk of the Fiscal Court

Ayes: Glen Evans
Claypool Kinnaird
Bill Scott
Bobby Williams

Nays:

LODGED FOR RECORD
1982 OCT 15 AM 10 35
J. U. GROW, CLERK
SIMPSON COUNTY COURT KY.

STATE OF KENTUCKY }
COUNTY OF SIMPSON } SS

I, J. U. Grow, Clerk of Simpson County Court, do certify
that the foregoing instrument was this day lodged to be and is,
with this and the foregoing certificate duly recorded in my office
Given under my hand this 15 day of Oct, 19 82

J. U. Grow, Clerk
By Ann Stow D.C.

LOGGED FOR RECORD
1982 OCT 15 AM 10:35
J.U. GROW, CLERK
SIMPSON COUNTY COURT KY.

STATE OF KENTUCKY }
COUNTY OF SIMPSON } SS

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J. U. Grow, Clerk

By Amos S. ... D.C.