

BOND ORDINANCE

AUTHORIZING AND APPROVING

DOCUMENTS RELATING TO

\$320,000 OF

COUNTY OF SIMPSON

INDUSTRIAL BUILDING REVENUE BONDS

(SOUTHERN MACHINERY, INC. PROJECT)

DATED JULY 1, 1980

BOND ORDINANCE

AN ORDINANCE OF THE COUNTY OF SIMPSON, KENTUCKY, RELATING TO THE ACQUISITION AND CONSTRUCTION OF AN INDUSTRIAL BUILDING PROJECT BY THE COUNTY FOR USE AND OCCUPANCY FOR INDUSTRIAL PURPOSES, INCLUDING AN INDUSTRIAL BUILDING, THE SITE THEREOF, AND APPURTENANCES THERETO, AND CERTAIN MACHINERY AND EQUIPMENT, IN ORDER THAT THE COUNTY MAY BE PROVIDED WITH FACILITIES FOR INDUCING ADDITIONAL PRIVATE INDUSTRY TO LOCATE IN THE COMMUNITY AS A MEANS OF AVOIDING OR REDUCING UNEMPLOYMENT AND PROMOTING THE GENERAL WELFARE OF THE COUNTY; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$320,000 OF COUNTY OF SIMPSON INDUSTRIAL BUILDING REVENUE BONDS (SOUTHERN MACHINERY, INC. PROJECT), DATED JULY 1, 1980, FOR THAT PURPOSE, WHICH BONDS WILL BE PAYABLE SOLELY AND ONLY FROM REVENUES, RENTAL INCOME, AND PROCEEDS OF THE PROJECT; AND AUTHORIZING (1) THE ACCEPTANCE OF A DEED CONVEYING THE SITE OF THE PROJECT TO THE COUNTY, (2) THE EXECUTION OF A LEASE AGREEMENT, WHEREBY THE PROJECT WILL PRODUCE REVENUES AND RENTAL INCOME SUFFICIENT TO PAY THE INTEREST ON AND THE PRINCIPAL OF THE BONDS AS SAME BECOME DUE, AND (3) THE EXECUTION OF A MORTGAGE DEED OF TRUST FOR THE PURPOSE OF SECURING THE BONDS BY A PLEDGE OF THE REVENUES OF THE PROJECT AND BY A FORECLOSABLE MORTGAGE LIEN AGAINST THE PROJECT, WHICH MORTGAGE DEED OF TRUST PROVIDES FOR THE COLLECTION, SEGREGATION, AND APPLICATION OF THE REVENUES OF THE PROJECT, SETS FORTH THE TERMS AND CONDITIONS UPON WHICH THE BONDS ARE TO BE ISSUED AND OUTSTANDING, AND PROVIDES FOR THE RIGHTS OF BONDHOLDERS AND THE ENFORCEMENT THEREOF; AND PROVIDING FOR THE NEGOTIATED SALE OF THE BONDS.

WHEREAS, the County of Simpson, Kentucky (the "County"), is authorized and empowered by the Industrial Building Revenue Bond Act (Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, hereinafter referred to as the "Act"), to acquire any building, structure, or related improved area, and to lease the same to a domestic or foreign corporation in order that the County might encourage the increase of industry in Kentucky and increase employment therein; and

WHEREAS, the County is authorized by the Act to issue bonds payable solely out of the revenues and other proceeds derived from the leasing or ownership of the industrial building project (the "Project") to be acquired through the issuance of such bonds, and is authorized to execute a mortgage deed of trust to grant a foreclosable mortgage lien as additional security for bonds, in accordance with KRS 103.251; and

WHEREAS, Southern Machinery, Inc. (the "Company"), a corporation organized and existing under the laws of the State of Kentucky, and qualified to do business in Kentucky, with its principal office in Franklin, Kentucky, has offered to the County to operate the Project to be constructed on the Project Site described in the Mortgage Deed of Trust (hereinafter identified), if the County will agree to issue \$320,000 of industrial building revenue bonds (the "Bonds"), pursuant to the Act, such Project to be used and occupied by the Company as a processing, assembly, fabricating and distribution plant for the purpose of manufacturing and distributing electronics, mini-computers, and light machinery, and other similar and related products, and for uses incidental thereto, which will result in the employment of a substantial number of workers; and

WHEREAS, by Inducement Contract and other actions taken, the County has invited the Company to proceed with the proposed Project; and

WHEREAS, the County and the Company have agreed that the Company, on behalf of the County, will construct the Project on Project Site to be owned by the County, and the Company will lease the Project and the Project Site from the County at a rental which will be sufficient in each year to pay the cost of the Project to the County, through the retirement of Bonds issued by the County to finance said cost, all as set forth in the agreed Lease Agreement (the "Lease") hereinafter approved; and

WHEREAS, under the terms of the Lease, the County will receive rentals and other payments from the Company, which shall be pledged, together with the Lease itself, as security for the payment of the principal of, premium (if any) and interest on the Bonds secured by the Mortgage Deed of Trust, dated as of July 1, 1980, by and between the County and Simpson County Bank, as Trustee (the "Trustee"), and

WHEREAS, the County has satisfactorily investigated the financial condition, reputation, and ability of the Company to pay the required rentals over a period of years and has further found and determined that the Company has a record of providing good working conditions and of affording fair and

favorable treatment to its employees, and that the operation of the proposed Project will tend to relieve existing conditions of unemployment in the area and will otherwise promote the general welfare of the County and all of its citizens and inhabitants;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF SIMPSON, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

1. AUTHORIZATION OF BONDS.

For the purpose of paying the costs of the Project, the County hereby authorizes and approves the issuance of the negotiable County of Simpson Industrial Building Revenue Bonds (Southern Machinery, Inc. Project), dated July 1, 1980, (the "Bonds"), in the aggregate principal amount of Three Hundred Twenty Thousand Dollars (\$320,000), issuable as coupon bonds registrable as to principal only, in the denomination of \$5,000 each, numbered one upwards in order of issuance, or as fully registered bonds in the denomination of \$5,000 each or any integral multiple thereof, numbered R-1 upwards in order of issuance. The Bonds shall bear interest from July 1, 1980, payable semi-annually on the first days of January and July in each year, beginning January 1, 1981, at an interest rate of 9.8% per annum, which interest rate has been agreed upon by the County, the Company, and Simpson County Bank, as purchaser (the "Purchaser"), pursuant to Section 103.230 of the Kentucky Revised Statutes. The numbering, principal maturities (on July 1, in each of the respective years, 1981 through 1990, inclusive), and principal and interest requirements of said \$320,000 principal amount of Bonds, based on the agreed interest rate, are specified in the Mortgage.

2. APPROVAL AND AUTHORIZATION OF EXECUTION OF VARIOUS DOCUMENTS; LEASE AGREEMENT; MORTGAGE DEED OF TRUST; CONTRACT OF PURCHASE OF BONDS; AND SEPARATE APPROVAL OF GUARANTY AGREEMENT.

The following documents in the respective forms attached to this Ordinance, are hereby approved, subject to such minor changes, insertions, or omissions as may be approved by the County Judge/Executive, in order to effectuate the purposes of this Ordinance, and the County Judge/Executive is hereby authorized to execute and acknowledge same for and on behalf of the County; and the County Clerk is authorized to attest same and to affix thereto the corporate seal of

the County. Said documents are hereby ordered to be filed in the office of the County Clerk, labelled respectively, Exhibits A through D, as identified below, and each of said documents is ordered to be recorded with this Ordinance in the official Ordinance Book of the County;

(A) The Lease Agreement (the "Lease"), dated as of July 1, 1980, between the County and the Company. (Exhibit A)

(B) The Mortgage Deed of Trust (the "Mortgage"), dated as of July 1, 1980, between the County and Simpson County Bank, of Franklin, Kentucky, Trustee. (Exhibit B)

(C) The Contract of Purchase of Bonds, dated as of the date of enactment of this Ordinance, between the County and Simpson County Bank, Franklin, Kentucky (the "Purchaser"), and also approved by the Company, providing for the sale of the Bonds to the Purchaser at the aggregate price, at the interest rates, and upon the respective terms and conditions set forth in said Contract. The approval of said Contract by the Company and a separate attached letter from the Company to the County evidences the request of the Company that the Bonds be sold at private sale upon a negotiated basis, as authorized by KRS 103.230. (Exhibit C)

(D) The Guaranty Agreement, dated as of July 1, 1980, between the Company, the Individual Guarantor, and the Trustee, is hereby approved by the County, although the County is not a party to that Agreement and records its approval only for the purpose of the record. (Exhibit D)

3. ACQUISITION OF PROJECT SITE.

In order to promote the general welfare of the County and of its inhabitants, by providing opportunities for permanent employment, the County is hereby authorized to acquire the Project Site and to acquire and construct the Project thereon pursuant to the Lease and the Mortgage.

4. COMPANY HAS BEEN AND IS AUTHORIZED TO AND SHALL ARRANGE CONSTRUCTION; APPROVAL OF COMPANY CONTRACTS.

(a) The County specifically finds that (1) inasmuch as the Project will be undertaken, and the facilities will be constructed or installed, for the purpose of conforming to the requirements of the Company as Lessee, in order that the Company may afford employment to citizens and residents of the

community, (2) the Company is better able than the County to judge which facilities will be most suitable for its operation, and (3) such judgments must be made, in some cases, as construction progresses, the direct negotiation of construction contracts by the Company has been and will be necessary, and the reimbursement of the Company is authorized for advancements made by the Company under such contracts and for other expenses related to the Project. The County hereby ratifies and approves all action taken by the Company in initiating the Project, and authorizes the letting of further contracts and the taking of other actions necessary to complete the Project, so that same will be suitable for use by the Company under the terms of the Lease.

(b) The Contract or Agreement of Employment heretofore entered into by and between the architects and the Company (and by and between the contractors and the Company) is hereby assumed by the County to the extent that amounts payable thereunder shall be payable from the proceeds of the sale of the Bonds. The fees of the architects (and any amounts due to contractors) shall be paid from the proceeds of the sale of the Bonds, and shall not be payable from any other funds of the County, except that advancements may be made by the Company for Project purposes which are reimbursable from the proceeds of the Bonds.

5. DISBURSEMENT OF PROCEEDS OF BONDS.

The Company and the Trustee are authorized to carry out the procedures specified in the Mortgage for the supervision of the acquisition and construction of the Project and for the payment from time to time of the costs of such acquisition and construction and related expenses as same progress. Such procedures shall include reimbursement to the Company for all advances made by the Company toward the cost of the Project in contemplation of the issuance of these Bonds, in reliance on the commitment of the County in the original Inducement Contract approved by Inducement Resolution adopted by the Fiscal Court of the County on April 29, 1980.

6. REVENUES OF THE PROJECT.

The rentals and other payments to be received by the County for the use of the Project under the terms of the Lease are determined to be sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable; and all of said rental payments and other payments received under the Lease and all other revenues arising out of or in connection with the ownership of the Project, together with the Lease, are hereby pledged to secure such payments and revenues, and in addition, for such other purposes as are more fully specified in the Mortgage.

7. FORECLOSABLE MORTGAGE LIEN.

The foreclosable mortgage lien upon the Project created and granted by the Mortgage pursuant to Section 103.251 of the Kentucky Revised Statutes is recognized, confirmed, and declared to be valid and binding upon the County and the Project, and shall take effect immediately upon the issuance and delivery of the Bonds.

8. DESIGNATION OF TRUSTEE.

SIMPSON COUNTY BANK, is hereby designated as the Corporate Trustee under the Mortgage and also as the Paying Agent and Bond Registrar for the Bonds.

9. EXECUTION OF BONDS.

The Bonds shall be executed in the manner provided in the Mortgage and shall be delivered to the Trustee for proper authentication and delivery by the Trustee to the Purchaser, with instructions to that effect, as provided in the Mortgage.

10. COUNTY JUDGE/EXECUTIVE AND OTHER COUNTY OFFICIALS TO TAKE ANY OTHER NECESSARY ACTION.

Pursuant to the Constitution and Laws of the Commonwealth of Kentucky, the County Judge/Executive, the County Clerk, and all other appropriate officials of the County are hereby authorized and directed to take any and all further action and to execute and deliver all other documents as may be necessary to effect the issuance and delivery of the Bonds, the acquisition of the Project Site, and the leasing of the Project to the Company.

11. COMPLIANCE WITH FEDERAL ARBITRAGE REQUIREMENTS.

The County covenants that sums derived from the proceeds of the Bonds shall not be invested in investments in a manner which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 103 of the Internal Revenue Code, as amended, and the applicable Regulations thereunder.

Prior to or at the time of delivery of the Bonds, the County Judge/Executive and/or the County Treasurer, who are jointly and severally charged with the responsibility for the issuance of the Bonds, are authorized to execute the appropriate certification with reference to the matters required and contemplated by such Statute and Regulations, setting out all known and contemplated facts concerning the anticipated construction, expenditures, and investments, including the execution of necessary and/or desirable certifications contemplated by the aforesaid regulations in order to assure that interest on the Bonds will be exempt from all federal income taxes and that the Bonds will not be treated as "arbitrage bonds". Such officer(s) is entitled to rely upon information furnished by the Lessee in making such certifications and representations unless they, or either of them, shall be aware of any fact or circumstances which would cause such certifications or representations to be questioned.

12. SEVERABILITY CLAUSE.

If any section, paragraph, clause, or provision of this Ordinance shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the remaining provisions hereof.

13. CAPTIONS OF CLAUSES.

The captions of this Ordinance are for convenience only and are not to be construed as part of this Ordinance nor as defining or limiting in any way the scope or intent of the provisions hereof.

14. PROVISIONS IN CONFLICT REPEALED.

All motions, orders, ordinances, and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

15. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall take effect from and after its adoption, approval, and publication of Notice of Passage hereof (including the title to this Ordinance), which publication is hereby approved and ordered to be made by the County Clerk, pursuant to KRS 103.210 and KRS 67.077.

INTRODUCED, AND GIVEN FIRST READING ON June 24, 1980.

GIVEN SECOND READING, PASSED AND ENACTED ON July 1, 1980.

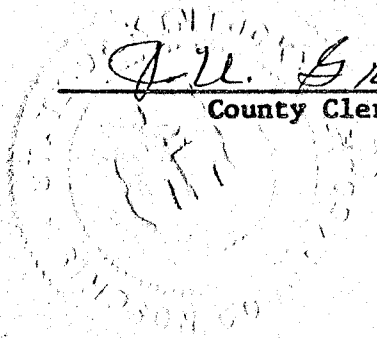
COUNTY OF SIMPSON, KENTUCKY

(Seal of County)

Attest:

By Jesse W. Lint
County Judge/Executive

J. U. Grow
County Clerk



LOGGED FOR RECORD
1980 JUL -1 PM 12:12
J. U. GROW, CLERK
SIMPSON COUNTY COURT KY.

CERTIFICATE OF COUNTY CLERK

I, J. U. GROW, hereby certify that I am the duly qualified and acting County Clerk of Simpson County, Kentucky, that the foregoing Ordinance is a true copy of an Ordinance duly adopted by the Fiscal Court of said County, signed by the County Judge/Executive of said County, and attested under seal by me as Fiscal Court Clerk, at a properly convened term and session of said Fiscal Court held on July 1, 1980, as shown by the official records in my custody and under my control, that Notice of Adoption of said Ordinance has been ordered to be published as required by law (KRS 103.210), that said Ordinance appears as a matter of public record in Fiscal Court Ordinance Book No. 1, beginning at Page Appendix Page 1, that attached hereto are true copies of the documents approved therein, and that copies of such documents have also been duly filed and recorded in the official records of the Fiscal Court of the County.

IN WITNESS WHEREOF, I have hereto set my hand as County Clerk and the Seal of the County, this 7/1, 1980.

(Seal of County)

J. U. Grow
County Clerk

