

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 1357

AN ORDINANCE PROVIDING FOR THE ACQUIRING OF TWO INDUSTRIAL PLANTS AND THE LEASING OF THE SAME TO VALLEY SALES CO.; AUTHORIZING THE ISSUANCE OF FIVE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$565,000) PRINCIPAL AMOUNT OF INDUSTRIAL DEVELOPMENT REVENUE BONDS (VALLEY SALES PROJECT), SERIES A, IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 18-1614 THROUGH 18-1623 INCLUSIVE, REISSUE REVISED STATUTES OF NEBRASKA, 1943, AS AMENDED; APPROVING AND AUTHORIZING THE LEASE AND AGREEMENT WITH VALLEY SALES CO.; APPROVING AND AUTHORIZING THE EXECUTION OF A MORTGAGE AND TRUST INDENTURE WITH LEXINGTON STATE BANK AND TRUST CO., AS TRUSTEE; APPROVING THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND VALLEY SALES CO. AND DETERMINING THAT THE BONDS SHALL NOT CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF THE CITY OR CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA:

Section 1. The Mayor and Council of the City of Lexington, Nebraska hereby find and determine:

(a) Valley Sales Co. desires to acquire two industrial plants at the City of Lexington, Nebraska, one being an already existing facility and the other to be a newly constructed facility, and the City is desirous of having said plants and is willing to assist by purchasing the existing plant and acquiring land and constructing thereon a new plant and leasing both of said plants to said corporation as far as it is permitted to do so under the provisions of Sections 18-1614 through 18-1623, Reissue Revised Statutes of Nebraska, 1943, as amended.

(b) The documents necessary to acquire such existing plant and to acquire such land and construct the new plant and issue bonds to pay the cost thereof and to lease such plants to Valley Sales Co. have been prepared and submitted to the City, approved by the City Attorney, and said documents should be formally approved and their execution authorized.

(c) The amount necessary to pay the principal of and interest on the Industrial Development Revenue Bonds (Valley Sales Project), Series A, in the principal amount of Five Hundred Sixty-five Thousand Dollars (\$565,000) is equal to the basic rent which shall be payable by Valley Sales Co. pursuant to the Lease and Agreement; that no reserve funds in connection with the retirement of the Series A Bonds or maintenance of the Project to be established, other than the Bond Reserve of \$25,000 provided in the Mortgage and Trust Indenture; that the Lease and Agreement provides that the Lessee shall maintain the Project and carry all proper insurance with respect thereto and that Lessee shall pay all taxes with respect to the Project.

Section 2. The following instruments should be and hereby are approved:

(a) Lease and Agreement between the City of Lexington and Valley Sales Co., dated as of August 15, 1974, a copy of which has been presented to this meeting.

(b) Mortgage and Trust Indenture between the City of Lexington and Lexington State Bank and Trust Co., dated as of August 15, 1974, a copy of which has been presented to this meeting.

(c) Contract between the City of Lexington and Valley Sales Co. pertaining to the construction of the new plant, a copy of which Contract has been presented to this meeting.

Section 3. The interest rates which the Series A Bonds shall bear shall be such rate or rates as shall be designated by Chiles, Heider & Co., Inc., subject to approval of such interest rates by Valley Sales Co. The amount of the basic rentals to be paid by Valley Sales Co. under the Lease and Agreement and shown on Exhibit B of the Lease and Agreement shall be equal to the principal and interest requirements of the Series A Bonds, which basic rentals shall be payable monthly, and the City Clerk of the City is hereby authorized to insert, or cause to be inserted, such basic rentals into Schedule B of the Lease and Agreement in the necessary and required amounts, as designated by Chiles, Heider & Co., Inc.

Section 4. The President of the Council, as ex officio Mayor, and the City Clerk be and they hereby are authorized and directed to execute and deliver said Lease and Agreement, said Mortgage and Trust Indenture and said Contract, including necessary counterparts, in substantially the form and content as exhibited to this meeting, with the insertions as authorized by Section 3 of this Ordinance, but with such other changes, modifications, additions and deletions therein as shall be to them necessary, desirable or appropriate for and on behalf of the City of Lexington and affix the seal of the City thereto, and said President and City Clerk are further authorized and directed to execute and deliver any other documents or certificates and do all other things necessary or appropriate to fully consummate the transaction and carry out said agreements.

Section 5. The City of Lexington shall issue its Industrial Development Revenue Bonds (Valley Sales Project), Series A, in the principal amount of Five Hundred Sixty-five Thousand Dollars (\$565,000) as provided in said Mortgage and Trust Indenture, bearing interest as designated pursuant to Section 3 above, and the President of the Council, as ex officio Mayor, and the City Clerk of the City of Lexington, Nebraska, be and hereby are authorized and directed to execute said Series A Bonds and to affix the seal of the City thereto as provided in the said Mortgage and Trust Indenture and to execute and deliver such other instruments and certificates and do all other things necessary or proper for the execution and delivery of said Bonds.

Section 6. The said Series A Bonds, when executed and registered as required by the said Mortgage and Trust Indenture, shall be delivered to Lexington State Bank and Trust Co., as Trustee, and shall be delivered by said Trustee to Chiles, Heider & Co., Inc., as purchaser of the Series A Bonds, upon payment for said Series A Bonds as provided in the Mortgage and Trust Indenture.

Section 7. The Series A Bonds and interest thereon shall not constitute or give rise to any pecuniary liability of the City of Lexington or a charge against its general credit or taxing powers, and the said Series A Bonds and interest thereon shall be payable solely from the revenues of the Project or other security given for said Bonds, including, but not limited to, the Guaranty Agreement executed by Valley Sales Co. to the Trustee, which the Trustee is hereby authorized to receive, and any insurance guaranteeing the payment of basic rentals by Valley Sales Co. under the Lease and Agreement.

Section 8. If any section, paragraph, clause or provision of this Ordinance or of any of the documents referred to herein shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance or of said documents.

Section 9. This Ordinance does hereby incorporate by reference the provisions of Sections 18-1614 through 18-1623, Reissue Revised Statutes of Nebraska, 1943, as amended, as fully as if the same were set out herein.

Section 10. All ordinances or orders, or parts thereof, in conflict with the provisions of this Ordinance are to extent of such conflict hereby repealed.

Section 11. This Ordinance shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 23rd day of July, 1974.

Chas. Wightman  
President of the Council and ex  
officio Mayor

ATTEST:

Jarris L. Warren  
City Clerk