



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Agenda Finance & Administration Council Committee

Tuesday, October 25, 2016

4:00 PM

Municipal Center

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

3. Approval of minutes

[MIN-16:128](#) Minutes for the Finance & Administration Committee Meeting on October 11, 2016

Attachments: [Minutes10112016.pdf](#)

[MIN-16:130](#) Minutes for the Finance & Administration Special Called Meeting on October 18, 2016

Attachments: [Minutes](#)

4. New Business

Ordinances To Be Introduced

[ORD-16:076](#) AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND PAYMENT IN LIEU OF TAXES AGREEMENT IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FOURTH SUPPLEMENTAL LEASE AGREEMENT RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Attachments: [Fourth Supplemental Lease Agreement \(Frito-Lay 2016\).PDF](#)
[Trust Indenture \(Frito-Lay 2016\).PDF](#)
[PILOT Agreement \(Frito-Lay\) \(2\).PDF](#)

EMERGENCY CLAUSE

Resolutions To Be Introduced

[RES-16:141](#) A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO

TO PARTNER WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION
DEPARTMENT FOR THE FOLLOWING PROJECT: Job 100872, Hwy. 18/Main
St./Highland Dr. Inters. Impvts. (Jonesboro) (S)

5. Pending Items

6. Other Business

7. Public Comments

8. Adjournment



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: MIN-16:128 **Version:** 2 **Name:**
Type: Minutes **Status:** To Be Introduced
File created: 10/12/2016 **In control:** Finance & Administration Council Committee
On agenda: **Final action:**
Title: Minutes for the Finance & Administration Committee Meeting on October 11, 2016
Sponsors:
Indexes:
Code sections:
Attachments: [Minutes10112016.pdf](#)

Date	Ver.	Action By	Action	Result
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Minutes for the Finance & Administration Committee Meeting on October 11, 2016



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Finance & Administration Council Committee

Tuesday, October 11, 2016

4:00 PM

Municipal Center

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

Present 5 - Ann Williams; John Street; Darrel Dover; Todd Burton and Rennell Woods

Absent 1 - Charles Coleman

3. Approval of minutes

MIN-16:124

Minutes for the Finance & Administration Committee Meeting on September 27, 2016

A motion was made by Councilman John Street, seconded by Councilwoman Ann Williams, that this matter be Passed . The motion PASSED with the following vote.

Aye: 4 - Ann Williams; John Street; Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

4. New Business

Ordinances To Be Introduced

ORD-16:073

AN ORDINANCE TO THE CITY OF JONESBORO, ARKANSAS TO AMEND THE 2016 BUDGET AND ENTER INTO A REAL PROPERTY DONATION AND SALE AGREEMENT FOR PROPERTY LOCATED ON HIGHWAY 63B/DAN AVENUE

Councilman Street asked how many total acres is that for. Chief Engineer Craig Light came to the podium to give some information and background on how the agreement came about. He said a few years ago, they looked at how they could correct the drainage issues out at Joe Mack Campbell Park. We had the Corp of Engineers look at it and do some cost estimating and we had a local consultant look at it as well. The cost they were looking at to provide very little protection for the structures out there was pushing \$3 million and we weren't providing much protection to the facilities at all with the expenditure of that amount of money. We started looking at different ideas of how do we operate out of here and keep our facilities dry so we started looking at a little bit of higher ground. We thought if we could acquire some property behind the Acme Brick Company and move the building that flooded, the Maintenance Facility to higher ground, that would be a win for us. We could probably do it much cheaper than the \$3 million and not have the flooding problem.

Parks Director Wixson Huffstetler started talks with the property owners, the Lacy Family, about the possibility of acquiring some of their property and it grew into a much larger piece. It is just shy of 73 acres, but they are willing to donate half the property to us if we purchase the other portion of it. The appraised value is just over \$1.1 million and they are offering to sell us that 72 plus acres for a little over \$542,000.

Councilman Street stated he read that we have to build a road in there to gain access. Mr. Light said they are going to dedicate a right-of-way to go to the new traffic signal at Henson Road so we would have a 60 ft ROW with the agreement that we are agreeing to build that roadway into the facility within 3 years which is a doable task. Councilman Street asked what the cost of the road would be. Mr. Light stated that we will probably end up with having several hundred thousand dollars in that road, but we will have a development plan for that property by that point to know exactly what we are going to use that facility for. We will come forward with a funding package at that time for those improvements. Chairman Dover asked if that money will come out of Capital Improvements. Chief Financial Officer said that it would come out of reserves. Councilman Street stated he thought it was a good deal.

A motion was made by Councilman John Street, seconded by Councilman Rennell Woods, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 4 - Ann Williams; John Street; Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

Resolutions To Be Introduced

RES-16:135

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO PARTNER WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR THE FOLLOWING PROJECT: JOB 100872, HWY 18/MAIN ST. HIGHLAND DR. INTERSECTION IMPROVEMENTS

Councilman Burton asked if City Engineer Craig Light could explain the plans for the area since there doesn't seem like there is a lot of space. Mr. Light stated there isn't a lot of space, but it would be redesigned to allow two through lanes turning left from Main onto Highland and left from Highland onto Main. They will continue to have the dual lanes that are left bound from Highland onto Southwest Drive. The scope of the project is to add three lanes of traffic to the intersection. It is not a large project, but it does cost money and this resolution is agreeing to participate in the funds that were encumbered a few weeks ago for the STIP projects.

Chairman Dover asked when this project is projected to begin. Mr. Light stated that it is currently under design and construction is scheduled for 2018, but we are hoping to get it moved up to the Fall of 2017. Councilman Woods stated he is trying to get a vision on how that would flow. Mr. Light said it would be a similar intersection to what is there now, but you would have an additional lane going North through the intersection, an additional lane that will turn left onto Highland Drive from Main Street. The Highland Drive part will not be a free flow movement. It will have a separate signal head.

Councilman Burton stated the intersection already looks much better with all of the work that has been done down there. He wanted to know about the billboard that is at that intersection. Mr. Light said it is a privately owned property and it is yet to be seen if the property may be required to do these improvements. It is a good likelihood that the property will need to be acquired to add that additional lane so at

that point, that sign would come down.

Councilman Street asked about the curving lane in front of Walgreens. Mr. Light said the plans are still under development. The current proposal is to bring the traffic on Highland to the signalized intersection and have them make a right turn. It will be much safer and you will not be able to cut across lanes. It gives us more room on that intersection to add pedestrian sidewalks and allows us to not have to take part of Walgreens parking lot.

A motion was made by Councilman John Street, seconded by Councilman Todd Burton, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 4 - Ann Williams;John Street;Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

5. Pending Items

Chief Financial Officer Suzanne Allen came to the podium to give an update on the Salary Plans. She stated she has met with City Attorney Carol Duncan this week, both Chiefs and anyone else who wanted to meet with her. She said we have been discussing the plans. The Police didn't have an actual plan to go through with their numbers so we have discussed about proposing one resolution and maybe even changing the Police Step Plan to add a step every year to be consistent with the Fire and Non-Uniform. Everything they have been discussing has to do with consistency and legalities. Ms. Allen said that the Johanson Group is coming in on Thursday, October 13, 2016. She said they have put a message out to all Department Heads to look at their positions to see if they need to be re-graded or they need changes. She said that Dewayne Douglas in HR is leading that.

6. Other Business

ORD-16:074

AN ORDINANCE TO APPROVE THE PURCHASE OF A CATERPILLAR EXCAVATOR FOR THE STREET DEPARTMENT, APPROPRIATING FUNDS, AND DECLARING AN EMERGENCY

Councilman Street motioned and Councilman Burton seconded to waive the rules and walk on ORD-16:074. All voted aye.

Street Superintendent Steve Tippitt stated this was for the purchase of another excavator to clean the ditches. The John Deere excavator that got approved did not have all the attachments and it was pulled from the Council agenda. When the company added the equipment, it made it \$1,900 higher than this excavator that is being walked on tonight. Chairman Dover asked if this excavator would be the one that will be extensively be in the ditches. Mr. Tippitt stated yes.

Recommended to Council

Aye: 4 - Ann Williams;John Street;Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

RES-16:138

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO LEVY A 2 MILL TAX ON ALL REAL AND PERSONAL PROPERTY FOR THE PUBLIC LIBRARY TAX

Councilman Street motioned and Councilwoman Williams seconded to waive the rules and walk on RES-16:138. All voted aye.

Recommended to Council

Aye: 4 - Ann Williams; John Street; Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

RES-16:139

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS LEVY A ONE- HALF (.5) MILL TAX ON ALL REAL AND PERSONAL PROPERTY FOR THE JONESBORO POLICE PENSION PLANS

Councilman Street motioned and Councilwoman Williams seconded to waive the rules and walk on RES-16:139. All voted aye.

A motion was made by Councilman John Street, seconded by Councilwoman Ann Williams, that this matter be Recommended to Council . The motion PASSED with the following vote:

Aye: 4 - Ann Williams; John Street; Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

RES-16:140

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO LEVY A ONE-HALF (.5) MILL TAX ON ALL REAL AND PERSONAL PROPERTY FOR THE LOCAL FIREMENS PENSION PLANS

Councilman Street motioned and Councilwoman Williams seconded to waive the rules and walk on RES-16:140. All voted aye.

A motion was made by Councilman John Street, seconded by Councilman Todd Burton, that this matter be Recommended to Council . The motion PASSED with the following vote:

Aye: 4 - Ann Williams; John Street; Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

ORD-16:075

AN ORDINANCE TO AMEND THE 2016 ANNUAL BUDGET FOR THE CITY OF JONESBORO TO ADD ONE ADDITIONAL POSITION OF CAPTAIN TO THE FIRE DEPARTMENT AND MAKE ONE PART-TIME RECORDS CLERK FULL-TIME IN THE POLICE DEPARTMENT.

Councilman Street motioned and Councilman Burton seconded to waive the rules and walk on ORD-16:075. All voted aye.

Police Chief Elliott stated they need a full-time records clerk in the Police Department for the Washington building to do data entry so that would free up the Police Officer to concentrate on his other duties. He said they would not fill the part-time position, only move the part-time records clerk to a full-time position. Fire Chief Kevin Miller stated they are looking to add one additional position of Captain to the Fire Department's Marshall's staff without having to reduce staff on their existing units. This would create another Fire Marshall position and we would be able to move someone over to that position and hire in someone to fill the vacancy. Chairman Dover asked if it was all Civil Service. Chief Miller stated yes that it all has to go through Civil Service. Chairman Dover asked Chief Financial Officer if the ordinance was for two positions. She stated yes, one for the Police Department and one for the Fire Department.

A motion was made by Councilman John Street, seconded by Councilman

Todd Burton, that this matter be Recommended to Council . The motion PASSED with the following vote:

Aye: 4 - Ann Williams;John Street;Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman

7. Public Comments

8. Adjournment

A motion was made by Councilman John Street, seconded by Councilman Todd Burton, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 4 - Ann Williams;John Street;Todd Burton and Rennell Woods

Absent: 1 - Charles Coleman



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: MIN-16:130 **Version:** 1 **Name:**
Type: Minutes **Status:** To Be Introduced
File created: 10/19/2016 **In control:** Finance & Administration Council Committee
On agenda: **Final action:**
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Sponsors:
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Date	Ver.	Action By	Action	Result
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Minutes for the Finance & Administration Special Called Meeting on October 18, 2016



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Finance & Administration Council Committee

Tuesday, October 18, 2016

5:10 PM

Municipal Center

Special Called Meeting

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

Present 6 - Ann Williams; John Street; Darrel Dover; Charles Coleman; Todd Burton and Rennell Woods

3. New Business

Resolutions To Be Introduced

RES-16:143

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO AMEND THE CITY'S SALARY AND ADMINISTRATION POLICY

Attachments: [Salary Administration Plan October 2016.pdf](#)
[Exhibit A Fire Plan Steps.pdf](#)
[Exhibit A Police Plan Steps.pdf](#)

Chairman Dover stated with the aid of City Attorney Carol Duncan, CFO Suzanne Allen, and the Finance Department, they have written a resolution that will cover all of the pay plans that we are considering. He read the City of Jonesboro Salary Schedule and Administration Policy. Chairman Dover asked if the second section on page 5 for Status Change Procedure needed to reflect that section is for Non-Uniform Employees only. City Attorney Carol Duncan said yes that does need to reflect that it applies to Non-Uniform Employees only. City Clerk stated that they need to make a motion to amend that section. Ms. Duncan said that it wouldn't hurt to do that. Councilman Coleman stated they had just received this by email yesterday. He wanted to know if anyone had spoken with Department Heads or anyone else about this plan before this meeting. City Attorney Carol Duncan stated she thought it went out to everyone because her employees got it yesterday but she cannot speak for everyone else. City Clerk Donna Jackson stated that it was just put into Legistar today.

Chairman Dover said this basically was a culmination of several months as we have gone through this. This process started way back last year and when we came back with the initial raise and then we came with the Public Safety Committee's recommendation. Once that was passed, we followed up with a recommendation from Council members to develop a plan for the other groups. CFO Suzanne Allen can speak better to the process of all of this. Her staff put a lot of time into this and tried to touch base with everybody. This goes back to trying to come up with a plan

that anyone can pick up, read it, and understand it. That is the purpose of this one resolution from recommendations from our City Attorney to try to have one resolution to do this.

Chairman Dover said the one issue that has not been put into concrete is the effective date of this. The Police Plan had an effective date of September 20, 2016 when it was passed and so that was the assumption. Let me back up. The assumption was that this would back date to January 1, 2016 and we made the other two like that. The effective date of these plans is something that this council is going to have to decide. Obviously, that is going to have an impact on the amount of money that comes out of the reserves. We will have to discuss that tonight at the full council meeting. Councilman Street said we actually passed the one in September for the Police. He wanted to know if they would go ahead and do the Firefighter's and Non-Uniformed employees back to that date. Chairman Dover said that is a choice, but it would have to go back to amend the ordinances that are on second reading for tonight. Councilman Burton said he thought that would be the most consistent thing to do. Chairman Dover said that is an issue we deal with there. CFO Suzanne Allen said it would be simpler to make it to the first of the month since the pay starts there and that is October 1st.

Councilman Street stated that we already passed the Police Plan in September. City Attorney Carol Duncan stated that it was passed on September 20, 2016, but she assumes it would go on the next paycheck which would be October 1, 2016 which would make it retro. Councilman Burton stated that we need to be consistent with that. Chairman Dover said that was something we would decide at the Council meeting. Ms. Duncan stated that those ordinances are to appropriate funds and one of them does say going back to January 1, 2016 so that will need to be amended. Chairman Dover said the intent was to be consistent. Ms. Duncan said there is also a typo if you are amending. She said page 3 says regarded instead of re-graded and that makes a big difference.

Councilman Burton stated that along the lines of consistency there is an issue with non-uniform being at step grades every year and the police and fire being at different steps. Chairman Dover stated he would let CFO Suzanne Allen address that. Ms. Allen said we did discuss that with the police ordinance already passing and the fire ordinance on the table with the scale, we left them as is. She said they can be changed. Ms. Duncan said that means you are going to have to do another attachment and bring this back. Chairman Dover said we cannot amend something that is not on the agenda. Ms. Duncan said technically what that ordinance did was appropriate the money with an attachment suggesting how the money would be spent. It mostly appropriated the money. This was adopting how the actual pay plan will work which is why we incorporated all three together. You could amend this to do that, but I don't know that we have those numbers ready for you to have in front of you tonight. She said she didn't know if they had the actual numbers ready to substitute into this. You would need that document in order to substitute it onto the record to know what you are voting on.

Ms. Allen asked if the scale was attached to the ordinance. She asked if they need to amend that ordinance as well, wasn't that attached. Ms. Duncan said there was a scale attached midway through, but that had a lot of changes in it already. Remember, it had errors in it as well. Ms. Allen said the numbers of the people had errors, but the scale is the same. Ms. Duncan said yes the scale is the same. Ms. Allen asked if we would have to amend the ordinance and said she didn't know because that was her department. Ms. Duncan stated that is going to make things more complicated and we would have to bring it back one more time.

Chairman Dover stated that right now the pressing item is the wish of the council concerning resolution 16:143. Do we want to forward that to be walked on the full council this evening where that might be the appropriate time to discuss amending it or not? Councilman Coleman stated it needed to be walked on and at the same time those changes could be attached to it. Ms. Duncan stated that you will not have the numbers in front of you. I suppose you could order them. You could move to amend it to say that the scale is 1, 2, 3, 4, 5 for police and fire. However those numbers work out so they would be equal to if they got it at 1, 3, 5. You would divide it out. Chairman Dover said the numbers are going to be the same whether you get it every year or every other year. Ms. Duncan said the numbers will be the same. Chairman Dover stated that the total amount is the same. It's just what budget year you spend it in. Councilman Coleman said as long as you don't keep going backwards.

Ms. Allen said the ordinance was for one year anyway, the amount was. Not moving forward. Ms. Duncan said it appropriated funds for this year. She said she thinks it is doable if you all choose to change it to 1, 2, 3, 4, 5, 6 to amend it. Chairman Dover asked which one do they amend. Ms. Duncan said you will amend Exhibit A. Chairman Dover asked if we walk this on this evening, the ordinance that is on the agenda, we still have to pass that for the amount of money. Ms. Duncan said you still have to appropriate the funds through the ordinance. The resolution is to say how it works. Chairman Dover asked if they would have to amend the ordinance. Ms. Duncan said other than having to take out that back pay issue. Chairman Dover said yes, the starting date. Ms. Duncan said yes. Ms. Allen said and establishing one for the fire because it didn't have one.

Councilman Burton asked if they could have that discussion at full council. Chairman Dover said yes and the thing they need to do now is he needs a motion and second to walk this onto the full council agenda this evening.

Ms. Allen said that if the council decides to amend exhibit A, she can do that prior to bringing it up in the council meeting. Councilman Burton said it is something we need to discuss.

Councilman Coleman motioned, seconded by Councilwoman Williams to walk on RES-16:143 to tonight's full council meeting. All voted aye.

A motion was made by Councilman Charles Coleman, seconded by Councilwoman Ann Williams, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Ann Williams; John Street; Darrel Dover; Charles Coleman; Todd Burton and Rennell Woods

4. Adjournment

A motion was made by Councilman John Street, seconded by Councilman Rennell Woods, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 6 - Ann Williams; John Street; Darrel Dover; Charles Coleman; Todd Burton and Rennell Woods



Legislation Details (With Text)

File #:	ORD-16:076	Version:	1	Name:	
Type:	Ordinance	Status:		To Be Introduced	
File created:	10/20/2016	In control:		Finance & Administration Council Committee	
On agenda:		Final action:			
Title:	AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND PAYMENT IN LIEU OF TAXES AGREEMENT IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FOURTH SUPPLEMENTAL LEASE AGREEMENT RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Fourth Supplemental Lease Agreement (Frito-Lay 2016).PDF Trust Indenture (Frito-Lay 2016).PDF PILOT Agreement (Frito-Lay) (2).PDF				

Date	Ver.	Action By	Action	Result
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AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS UNDER THE MUNICIPALITIES AND COUNTIES INDUSTRIAL DEVELOPMENT REVENUE BOND LAW FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY; TO AUTHORIZE THE SALE OF THE BONDS AND PAYMENT IN LIEU OF TAXES AGREEMENT IN CONNECTION THEREWITH; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; TO AUTHORIZE AND PRESCRIBE CERTAIN MATTERS PERTAINING TO THE PROJECT, THE ACQUISITION, CONSTRUCTION, AND EQUIPPING THEREOF, AND THE FINANCING THEREOF; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FOURTH SUPPLEMENTAL LEASE AGREEMENT RELATING TO THE PROJECT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Jonesboro, Arkansas (the “City”) is authorized under the provisions of Amendment 65 to the Arkansas Constitution, Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas, approved January 21, 1960, as amended, the Economic and Industrial Development Revenue Bond Law of 1985, as amended, and the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 to - (collectively, the “Act”), to own, acquire, construct, equip, and lease facilities to secure and develop industry through the issuance of bonds payable from the revenues derived from such facilities; and

WHEREAS, Frito-Lay, Inc. (the “Company”) has evidenced its interest in acquiring, constructing, and equipping an expansion of an industrial facility in the City if the City will secure and develop this industry through the issuance of bonds under the authority of the Act; and

WHEREAS, the City has agreed to cooperate with the Company in the acquisition, construction, and equipping of an industrial facility in the City and specifically to secure and develop the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products to be located at 2810 Quality Way, Jonesboro, Arkansas (the “Project”) relating to the operations of the Company; and

WHEREAS, the City will issue multiple series of its taxable industrial development revenue bonds under the provisions of the Act designated “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2016, in the principal amount of not to exceed \$150,000,000.00 (the “Bonds”); and

WHEREAS, the Bonds will be issued pursuant to the provisions of a Trust Indenture (the “Trust Indenture”) to be entered into between the City and Regions Bank, as Trustee (the “Trustee”); and

WHEREAS, the City and the Company intend to enter into a Fourth Supplemental Lease Agreement (the “Supplemental Lease”) relating to the real property, infrastructure and improvements constituting a portion of the Project, which contemplates that a portion of the Project will be leased to the Company, with an option to purchase for a nominal price, and the rental payments therefor together with other moneys available shall be sufficient to pay debt service on the Bonds and all related costs; and

WHEREAS, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, the City and the Company will enter into a Payment in Lieu of Taxes Agreement (the “PILOT Agreement”) in substantially the form presented at this meeting; and

WHEREAS, the City caused a form of a notice of public hearing to be published on September 23, 2016, and the City hereby ratifies the form of notice published; and

WHEREAS, an open public hearing on the question of the issuance of the Bonds was held before the City Council on October 4, 2016 following publication of notice of the hearing and that having heard all persons desiring to be heard in the matter, the City has taken under advisement the comments and statements of such persons, and declared the public hearing duly closed; and

WHEREAS, the City proposes to sell the Bonds to PepsiCo, Inc., an affiliate of the Company (the “Purchaser”); and

WHEREAS, the completion of the Project will furnish additional employment and other benefits to and be in the best interest of the City and its residents.

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

Section 1. There be, and there is hereby, authorized and directed the following:

(a) The Bonds shall be issued in one or more series in an aggregate principal amount of not to exceed \$150,000,000.00, and the Bonds shall be sold to the Purchaser for a price of par plus the costs of issuance upon the terms and conditions set forth in the Trust Indenture.

(b) The execution and delivery of the PILOT Agreement by the Mayor and City Clerk on behalf of the City, in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the documents, their execution to constitute conclusive evidence of such approval, is hereby

authorized and directed. Executed copies of the PILOT Agreement shall be filed in the City Clerk's office. (c) The acquisition, construction, and equipping of the Project, and, in connection therewith, the execution of any necessary architectural, engineering, or construction contracts or the acceptance of an assignment of any such contracts previously executed by the Company for the construction and equipping of the Project on behalf of the City is hereby authorized and directed.

Section 2. The issuance of the Bonds in the total principal amount of not to exceed \$150,000,000.00 is hereby authorized. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall bear interest (at a rate or rates) and shall be subject to redemption prior to maturity, all upon the terms and conditions to be set forth in the Trust Indenture. That to further prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed (when requested to do so by the Company) to execute and acknowledge the Trust Indenture, and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting (and a copy of such Trust Indenture is on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with the Trustee and the Company in order to complete the Trust Indenture 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.

Section 3. There be, and there is hereby, authorized and directed the execution and delivery of the Supplemental Lease, and the Mayor and City Clerk are hereby authorized to execute, acknowledge, and deliver the Supplemental Lease for and on behalf of the City. The Supplemental Lease is hereby approved in substantially the form submitted to this meeting (and a copy of such Supplemental Lease is on file with the City Clerk and available for inspection by any interested person), and the Mayor is hereby authorized to confer with the Company, in order to complete the Supplemental Lease in substantially the forms 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.

Section 4. The sale of the full principal amount of the Bonds to PepsiCo, Inc. for the purchase price of one hundred cents on the dollar is approved and authorized.

Section 5. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect (i) the execution of the Supplemental Lease, (ii) the performance of the City's obligations under the Supplemental Lease, (iii) the execution and delivery of the Trust Indenture, (iv) the performance of all obligations of the City under and pursuant to the Trust Indenture, (v) the execution and delivery of the Bonds, (vi) the execution and delivery of the PILOT Agreement, (vii) the performance of the City's obligations under the PILOT Agreement, and (viii) the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, in connection with the issuance of the Bonds and in connection with on-going rights and obligations that arise after issuance and prior to maturity of the Bonds, 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, but not limited to, the execution of one or more Home Office Payment Agreements, Memorandums of Lease, Delivery Instructions and other closing certificates.

Section 6. The Project involves the acquisition, constructing, and equipping of a complex industrial project, requiring highly specialized work and specialized types of machinery and equipment. In compliance with Ark.

Code. Ann. § 14-164-204, it has been and is hereby determined by the City Council that competitive bidding be, and the same is hereby, waived as to this particular industrial project. This action is taken by the City Council pursuant to applicable laws of the State of Arkansas, including particularly the Act.

Section 7. All actions heretofore taken by the City, the Company, and the Purchaser in connection with the issuance, offer and sale of the Bonds and the development and completion of the Project are hereby in all respects ratified and approved.

Section 8. *Severability*. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

Section 9. *Repealer*. All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

FOURTH SUPPLEMENTAL LEASE AGREEMENT

between

CITY OF JONESBORO, ARKANSAS

and

FRITO-LAY, INC.

Dated as of December __, 2016

THE INTEREST OF THE CITY OF JONESBORO, ARKANSAS IN THIS FOURTH SUPPLEMENTAL LEASE AGREEMENT HAS BEEN ASSIGNED TO REGIONS BANK, AS TRUSTEE UNDER THE TRUST INDENTURE DATED AS OF DECEMBER __, 2016, FROM THE CITY OF JONESBORO, ARKANSAS, WHICH TRUST INDENTURE AUTHORIZES THE ISSUANCE OF AND SECURES ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS (FRITO-LAY, INC. PROJECT), SERIES 2016.

FOURTH SUPPLEMENTAL LEASE AGREEMENT

THIS FOURTH SUPPLEMENTAL LEASE AGREEMENT made and entered into as of December __, 2016 (this "Fourth Supplemental Lease") by and between **CITY OF JONESBORO, ARKANSAS** (herein called the "Issuer"), a public body corporate and politic and a city of the first class duly organized and existing under the Constitution and laws of the State of Arkansas, as Lessor and **FRITO-LAY, INC.** (herein called the "Lessee"), a corporation duly organized and existing under the laws of the State of Delaware and duly qualified to do business in the State of Arkansas as a foreign corporation, as Lessee.

WITNESSETH:

WHEREAS, the Issuer is a city of the first class and a political subdivision of the State of Arkansas; and

WHEREAS, the Issuer is authorized under the provisions of Act Nine of the Special Session of the General Assembly of the State of Arkansas for the year 1960, as amended, the Economic and Industrial Development Revenue Bond Law of 1985, as amended, and Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (collectively, the "Acts"), to issue bonds to assist in the securing and developing of industry; and

WHEREAS, the Issuer has previously acquired, constructed, equipped and installed the Original Project (as hereinafter defined) within the Issuer's city limits on the land described in **Exhibit C** and leased the same to the Lessee in a manner consistent with the stated purpose of the Acts; and

WHEREAS, in order to induce the Lessee to locate its business in the City of Jonesboro and to assist the Lessee in acquiring the Original Project and leasing the Original Project, the Issuer has taken title to the Original Project and leased the Original Project to the Lessee to permit the Lessee to make payments based on the Payment in Lieu of Tax Agreement dated August 17, 1996; and

WHEREAS, in order to induce the Lessee to expand its business and Facilities in the City of Jonesboro and to assist the Lessee in acquiring the Expansion Projects and leasing the Expansion Projects, the Issuer has taken title to the Expansion Projects and is leasing the Expansion Projects to the Lessee to permit the Lessee to make ad valorem tax payments based on the Payment in Lieu of Tax Agreement dated as of the date hereof; and

WHEREAS, the Original Project is leased to the Lessee pursuant to the Lease Agreement dated as of December 1, 1997 (the "1997 Lease"), the Supplemental Lease Agreement dated as of June 1, 1999 (the "1999 Supplemental Lease"), the Second Supplemental Lease Agreement dated as of April 21, 2006 (the "Second Supplemental Lease"), and the Third Supplemental Lease Agreement dated as of December 1, 2008 (the "Third Supplemental Lease," and collectively with the 1997 Lease, the 1999 Supplemental Lease, the Second Supplemental lease and the Third Supplemental Lease, the "Original Lease"), and the parties now wish to enter

into this Fourth Supplemental Lease under which expansion projects more particularly described on **Exhibit B** (“Expansion Projects”) will be leased to the Lessee pursuant to this Fourth Supplemental Lease;

WHEREAS, the Issuer and Lessee entered into the 1997 Lease, the 1999 Lease, the Second Supplemental Lease, and the Third Supplemental Lease for the additional purpose of providing a means of securing and developing the Original Project by the issuance of the Issuer’s \$104,700,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project) Series 1997, \$95,300,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 1999, \$67,000,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2006 and \$133,000,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2008 (collectively, the “Prior Bonds”); therefore, the 1997 Lease, the 1999 Lease, the Second Supplemental Lease and the Third Supplemental Lease constitute a financing lease in the form of a sale and leaseback transaction;

WHEREAS, the Issuer and Lessee are entering into this Fourth Supplemental Lease for the purpose of providing a means of securing and developing the Expansion Projects by the issuance of the Issuer’s not to exceed \$150,000,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2016 (the “Bonds”); therefore, the Fourth Supplemental Lease constitutes a financing lease in the form of a sale and leaseback transaction;

WHEREAS, the Issuer’s interest in the Original Lease has been assigned to Regions Bank, as trustee for the Prior Bonds, and Issuer’s interest in this Fourth Supplemental Lease has been assigned to Regions Bank, as Trustee for the Bonds (the “Trustee”);

In consideration of the respective representations and agreements herein contained, the parties hereto agree as follows (provided, that any obligation of the Issuer to pay money created or arising out of this Fourth Supplemental Lease shall be payable solely out of the proceeds derived from this Fourth Supplemental Lease, the sale of the bonds referred to in Section 1.5 hereof, the insurance and condemnation awards as herein provided and any other revenues arising out of or in connection with its ownerships, leasing or sale of the Expansion Projects as hereinafter defined):

ARTICLE I SUPPLEMENTAL PROVISIONS

The Original Lease, between the Issuer as Lessor and Lessee, is hereby amended and supplemented to add the following provisions:

Section 1.1. Representations. The Issuer and the Lessee reaffirm the representations of each of them contained in Sections 2.1 and 2.2 of the 1997 Lease as if they were made on the effective date of this Fourth Supplemental Lease.

Section 1.2 Demise of the Project. The Issuer hereby demises and leases to the Lessee, and the Lessee hereby leases from the Issuer, the Expansion Projects as set forth in **Exhibit B** at the rental set forth in Section 1.8 hereof and in accordance with the provisions of the Fourth Supplemental Lease, subject to Permitted Encumbrances.

Section 1.3. Quiet Enjoyment. The Issuer covenants and agrees that it will warrant and defend the Lessee in the quiet enjoyment and peaceable possession of the Expansion Projects free from all claims of all persons whomsoever, throughout the Lease Term, so long as the Lessee shall perform the covenants, conditions, and agreements to be performed by it hereunder, or so long as the period for remedying any default in such performance shall not have expired.

Section 1.4 Agreement to Acquire the Expansion Projects. The Issuer agrees that it will cause the Expansion Projects to be acquired, at the direction of the Lessee. ~~It is anticipated that the Expansion Projects will be acquired over a period of five~~**[ten]** years.

Section 1.5 Agreement to Issue Bonds. In order to provide funds for the purchase of the Expansion Projects, the Issuer agrees that it will sell, issue and cause to be delivered, pursuant to the Trust Indenture (the "Indenture"), the Bonds, bearing interest, maturing and having the other terms and provision set forth in the Indenture. Upon receipt of the proceeds derived from the sales of the Bonds, the Issuer will cause said proceeds to be deposited in the Construction Fund, if directed to do so by the purchaser of the Bonds.

Section 1.6. Disbursements from the Construction Fund. In the Indenture, the Issuer has authorized and directed the Trustee that moneys in the Construction Fund shall be used to pay the Project Development Costs, or to reimburse the Issuer or the Lessee for any Project Development Costs paid or incurred by the Issuer or the Lessee before or after execution of this Fourth Supplemental Lease and delivery of the Bonds. Such payments shall be made by the Trustee upon receipt of a requisition meeting the requirements of Section 4.3 of the Original Lease.

Section 1.7. Effective Date of this Fourth Supplemental Lease. The Term and the agreements contained in this Fourth Supplemental Lease shall become effective as of the ~~dated~~ date hereof. Unless sooner terminated or extended in accordance with the provisions of the Original Lease or this Fourth Supplemental Lease, ~~and the Lease Term of the Original Lease and this Fourth Supplemental Lease~~ shall expire on December 31, 203**67**.

Section 1.8. Rents Payable. The Lessee shall make rental payments directly to the Purchaser pursuant to the Home Office Payment Agreement, dated as of the date hereof, by and among the Company, the Issuer, the Purchaser and the Trustee for the account of the Issuer at the times and in the amounts set forth in **Schedule A** to this Fourth Supplemental Lease. Each rental payment shall be sufficient to pay the total amount of the principal and interest payable on the Bonds on the interest payment date.

ARTICLE II DEFINED TERMS

Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the 1997 Lease.

"Equipment" means those items of machinery, equipment and other tangible personal property required or permitted herein to be acquired and installed, or which have previously been acquired and installed as part of the Expansion Projects with the proceeds from the sale of the Bonds and any item of machinery, equipment and other tangible personal property acquired and

installed in substitution thereof, *less* such machinery, equipment and other tangible personal property as may be released from this Fourth Supplemental Lease pursuant to Section 6.2 of the 1997 Lease or damaged or destroyed and not restored as provided in Section 7.1 of the 1997 Lease or taken by the exercise of the power of eminent domain as provided in Section 7.2 of the 1997 Lease.

“Expansion Projects” means the land, buildings, furniture, fixtures, equipment and other facilities as they may at any time exist, including, but not limited to, warehouse and manufacturing facilities, infrastructure, improvements and equipment for the preparation, processing, packaging, handling and storage of food products located at 2810 Quality Way, Jonesboro, Arkansas ~~means the Improvements and the Equipment~~ acquired or to be acquired, constructed or installed and financed with the proceeds of the Bonds as generally described in **Exhibit B** hereto.

“Original Project” means the facilities, including the land, the Improvements and the Equipment, acquired or to be acquired, constructed and installed pursuant to plans and specifications, as generally described in **Exhibit D** to the 1997 Lease, in **Exhibit B** to the 1999 Lease as Additions to the Project, in **Exhibit B** to the Second Supplemental Lease as Expansion Projects, and in **Exhibit B** to the Third Supplemental Lease and financed with the proceeds of the Prior Bonds, respectively.

“Project Development Costs” shall include:

(a) all obligations of the Issuer or the Lessee incurred or expected to be incurred for the purchase or supply of equipment, machinery, labor and materials in connection with the acquisition, construction, installation and equipping the Expansion Projects;

(b) the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Expansion Projects;

(c) all costs of architectural and engineering services, including the cost of the Issuer or the Lessee for test borings, surveys, estimates, preliminary studies, all costs connected with developing the Plans and Specifications, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction and equipping of the Project;

(d) all other costs and expenses which the Issuer or the Lessee may properly pay or accrue for the acquisition, construction, installation or equipping of the Expansion Projects or the leasing thereof to the Lessee; and

(e) any sums required to reimburse the Issuer or the Lessee for advances made by either of them for any of the above items, or for any other costs incurred and for work done by either of them, which are properly chargeable to the Expansion Projects, whether incurred before or after the date of this Fourth Supplemental Lease.

All other capitalized terms used herein shall have the meaning set forth in the 1997 Lease.

ARTICLE III
FOURTH SUPPLEMENTAL LEASE AMENDATORY;
LEASE AFFIRMED

Section 3.1. Fourth Supplemental Lease Amendatory. This Fourth Supplemental Lease is executed to subject the Expansion Projects to the provisions of the 1997 Lease, the 1999 Lease, the Second Supplemental Lease, and the Third Supplemental Lease and to provide for Lease Payments to pay debt service on the Bonds. Except as provided in Article I and Article III, this Fourth Supplemental Lease does not repeal or modify any of the provisions of the Original Lease as they apply to the Original Project or the Expansion Projects.

Section 3.2. Lease Affirmed. The provisions of the 1997 Lease, the 1999 Lease, the Second Supplemental Lease, and the Third Supplemental Lease are hereby affirmed except to the extent that they are supplemented, repealed or modified by this Fourth Supplemental Lease.

IN WITNESS WHEREOF, the Issuer and the Lessee have caused this Fourth Supplemental Lease to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna Jackson, City Clerk

FRITO-LAY, INC.

By: _____

Name: _____

Title: _____

STATE OF ARKANSAS)
) ss.
COUNTY OF CRAIGHEAD)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna Jackson**, to me personally well known, who stated that they were the Mayor and City Clerk of the **City of Jonesboro, Arkansas**, a public body corporate and politic duly organized and existing under the Constitution and laws of the State of Arkansas and were duly authorized in their respective capacities to execute the foregoing instruments for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ____ day of December, 2016.

Notary Public

My commission expires:

(S E A L)

STATE OF _____)
) ss.
COUNTY OF _____)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named _____, to me personally well known, who stated that he/she was the _____ of **Frito-Lay, Inc.**, a corporation duly organized and existing under the laws of the State of Delaware and was duly authorized in that capacity to execute the foregoing instruments for and in the name and behalf of said corporation, and further stated and acknowledged that he/she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this ____ day of December, 2016.

Notary Public

My commission expires:

(S E A L)

EXHIBIT A

Reserved.

EXHIBIT B

EXPANSION PROJECTS

Improvement and Equipment located at the ~~Facilities Project located at~~ located at 2810 Quality Way, Jonesboro, Arkansas, which may or may not include equipment related to any of the following:

1. Product packaging, handling and storage equipment~~Examples from prior transactions; update with current projects [Production lines for Better For You healthy snacks or other snack food products.]~~
2. Tortilla cChip manufacturing lLine preparation and processing equipment.~~[Capacity boost and productivity projects (including equipment and/or buildings).]~~
3. ~~—~~Potato cChip manufacturing lLine preparation and processing equipment.~~[Sustainability/Logistic projects and equipment such as recycling, utility reductions, or distribution network upgrades.]~~

In addition to the equipment described above, the Expansion Projects include all other Equipment and improvements acquired or to be acquired with the proceeds of the City of Jonesboro Industrial Development Revenue Bonds (Frito-Lay, Inc. Project) Series 2016, which is located at the Jonesboro Plant at any one moment in time.

EXHIBIT C

LEGAL DESCRIPTION:

A part of Section 28, Township 14 North, Range 5 East, Craighead County, Arkansas, being more particularly described as follows: Begin at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 28, Township 14 North, Range 5 East, Craighead County, Arkansas; thence South 87 degrees 24' 07" West along the forty acre line 656.69 feet to the centerline of Quality Way; thence North 01 degrees 33' 58" West along the centerline of Quality Way 2963.06 feet; thence North 87 degrees 15' 42" East 1967.64 feet to a forty acre line; thence with the meanderings of said forty acre line as follows: South 01 degrees 36' 58" East 353.31 feet; South 01 degrees 36' 57" East 1307.13 feet; South 01 degrees 36' 56" East 1307.12 feet to a forty acre line; thence South 87 degrees 24' 07" West along the said forty acre line 1313.41 feet to the point of beginning, and subject to all rights of way and easements of record, and being a part of Craighead Technology Park, Jonesboro, Craighead County, Arkansas, as shown on Plat recorded in Plat Cabinet "B" Page 71 at Jonesboro, Arkansas, LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT OF LAND: A part of the East Half of the Northeast Quarter of the Southwest Quarter and a Part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 14 North, Range 5 East, Craighead Technology Park, being more particularly described as follows: Begin at the Southwest corner of the Northwest Quarter of the Southeast Quarter of Section 28, Township 14 North, Range 5 East; thence South 87 degrees 24' 07" West along the 40 acre line 656.69 feet to the centerline of Quality Way; thence North 01 degrees 33' 58" West along the centerline of Quality Way 120.02 feet to the point of beginning proper; thence North 01 degrees 33' 58" West along said centerline 100.02 feet; thence North 87 degrees 24' 07" East 1969.91 feet to the 40 acre line; thence South 01 degrees 36' 56" East along the 40 acre line 100.02 feet; thence South 87 degrees 24' 07" West 1970.00 feet to the point of beginning proper, subject to all rights of way and easements of record.

SCHEDULE A

Principal
Interest
Term of Loan
Issue Date
Maturity Date
Payment Amount
Payments

Year	Payment Number	Date	Beginning Balance	Total Payment	Interest Portion of Payment	Principle Portion of Payment	Ending Principle
1							

TRUST INDENTURE

CITY OF JONESBORO, ARKANSAS

as Issuer

to

REGIONS BANK

as Trustee

Dated as of December __, 2016

providing for

**Not to Exceed \$150,000,000
Taxable Industrial Development Bonds
(Frito-Lay, Inc. Project)
Series 2016**

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TRUST INDENTURE

THIS TRUST INDENTURE (as hereinafter defined, the "Indenture"), dated as of December __, 2016, between the **CITY OF JONESBORO, ARKANSAS**, a city of the first class, political subdivision and a public body corporate and politic duly created and existing under the Constitution and laws of the State of Arkansas (the "Issuer"), and **REGIONS BANK**, an Alabama state bank, duly created and existing under the laws of the State of Alabama and authorized to accept and execute trusts of the character herein set out, as Trustee (the "Trustee," as hereinafter defined);

WITNESSETH:

WHEREAS, the City of Jonesboro, Arkansas (the "Issuer" or "the City") is a city of the first class, a political subdivision and a body corporate and politic under the laws and constitution of the State of Arkansas; and

WHEREAS, Act Nine of the Special Session of the General Assembly of the State of Arkansas for the year 1960, as amended, the Economic and Industrial Development Revenue Bond Law of 1985, as amended, and Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Acts") permit the Issuer to issue its revenue bonds for the purpose of financing any "project," and the term "project" as defined in the Act includes the acquisition, construction, leasing, or equipping of new industrial facilities located or to be located in the City or for the purpose of refunding any such bonds theretofore issued; and

WHEREAS, the Issuer has previously acquired, constructed, equipped and installed a snack food manufacturing facility (the "Original Project") within the Issuer's city limits and leased the same to Frito-Lay, Inc., as Lessee (the "Lessee") pursuant to the Lease Agreement dated as of December 1, 1997 (the "1997 Lease"), the Supplemental Lease Agreement dated as of June 1, 1999 (the "1999 Supplemental Lease"), the Second Supplemental Lease Agreement dated as of April 21, 2006 (the "Second Supplemental Lease"), and the Third Supplemental Lease Agreement dated as of December 1, 2008 (the "Third Supplemental Lease," and collectively with the 1997 Lease, the 1999 Supplemental Lease, the Second Supplemental lease and the Third Supplemental Lease, the "Original Lease"); and

WHEREAS, to provide funds for acquisition, construction and equipping of the Original Project and expansions thereto, the Issuer has issued its \$104,700,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project) Series 1997, its \$95,300,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 1999, its \$67,000,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2006 and its \$133,000,000 Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2008 (collectively, the "Prior Bonds"); and

WHEREAS, Lessee has determined that it is in the best interest of the Lessee for the Issuer to issue its bonds for the purpose of securing and developing the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products to be located at 2810 Quality Way, Jonesboro, Arkansas (the "Expansion Projects"); and

WHEREAS, the Issuer determined that the most feasible method of securing and developing the acquisition, construction, installation and equipping of the Expansion Projects is through the issuance and sale of its City of Jonesboro, Arkansas, Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2016 (the “Bonds”), in one or more series, in the aggregate principal amount not to exceed \$150,000,000, the proceeds of which will be used to secure and develop the acquisition, construction, installation and equipping of the Expansion Projects; and

WHEREAS, the Issuer, in furtherance of the purposes of the Acts and pursuant to authorization hereinafter set forth, desires to enter into a Fourth Supplemental Lease Agreement, dated as of December __, 2016 (the “Fourth Supplemental Lease”) with the Lessee, as Lessee, pursuant to which the Issuer will agree to issue the Bonds to secure and develop the Expansion Projects, and the Lessee will agree to make lease payments to the Issuer as set forth in the Fourth Supplemental Lease; and

WHEREAS, as security for the Bonds to be issued pursuant to this Indenture, the Issuer has agreed to pledge to the Trustee for the benefit of the holders of the Bonds from time to time, the rents and other payments derived and to be derived by the Issuer pursuant to the Fourth Supplemental Lease (excepting only any indemnification payments and payments to the Issuer for expenses incurred under Sections 5.3(c), 5.3(d), 6.4, 6.5 and 10.4 as described in the Original Lease); and

WHEREAS, all things necessary to make the Bonds, when issued as in this Indenture provided, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the rents, payments, revenues, and earnings derived and to be derived by the Issuer pursuant to the Fourth Supplemental Lease and in connection with the Expansion Projects as security for the payment of the principal of and interest on the Bonds, and the execution and delivery of this Indenture, and the creation, execution and delivery of the Fourth Supplemental Lease and the creation, execution and issue the terms hereof, have been and are hereby in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

The Issuer, in consideration of the premises and of the purchase and acceptance of the Bonds by the holders and owners thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of and interest on such Bonds according to their tenor and effect and to insure the performance and observance by the Issuer of all the covenants expressed or implied herein and in such Bonds, has given, granted, bargained, sold, conveyed, transferred, pledged, and assigned, and does by these presents, give, grant, bargain, sell, convey, transfer, pledge, and assign to the Trustee for the benefit of the holders from time to time of the Bonds and any Additional Bonds to be issued hereunder and their successors and assigns forever:

GRANTING CLAUSE FIRST

All right, title, and interest of the Issuer in and to the rents and other payments derived and to be derived by the Issuer under the provisions of the Fourth Supplemental Lease, excepting only the Unassigned Payments.

GRANTING CLAUSE SECOND

All right, title, and interest of the Issuer in and to any other rents, revenues and earnings of the Issuer arising out of or in connection with the Issuer's interest in the Expansion Projects.

GRANTING CLAUSE THIRD

All right, title, and interest of the Issuer in and to the rents and other payments derived and to be derived by the Issuer under the provisions of any additional lease or leases covering the Expansion Projects and entered into from time to time excepting only any payments to the Issuer for indemnification or reimbursement of expenses under any such provision of such additional lease or leases.

TO HAVE AND TO HOLD all and singular the same with all privileges and appurtenances hereby granted, bargained, sold, conveyed, assigned, pledged, mortgaged and transferred or agreed or intended so to be, whether now owned or hereafter acquired, unto the Trustee for the holders from time to time of the Bonds and any Additional Bonds to be issued hereunder and their successors and assigns forever, upon the terms herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds and any Additional Bonds without privilege, priority or distinction as to the lien or security interest or otherwise of any holder of any of the Bonds and any Additional Bonds over any other holder thereof except as herein expressly provided, and such pledged property shall immediately be subject to the security interest, charge and lien hereof without any physical delivery thereof or any further act, and said security interest, charge and lien shall be valid and binding against the Issuer and against all parties having claims of any kind against the Issuer whether such claims have arisen in contract, tort or otherwise and irrespective of whether such parties have notice thereof, and said security interest, charge and lien shall constitute a first security interest, charge, and lien securing the payment of the principal of and interest on the Bonds;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns shall well and truly pay or cause to be paid the principal of and interest on the Bonds and any Additional Bonds, at the times and in the manner mentioned in the Bonds and any Additional Bonds according to the true intent and meaning thereof, or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment thereof when and as authorized by the provisions hereof, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, then upon such final payment this Indenture and the rights hereby granted and liens hereby created shall cease, determine, and be void; otherwise this Indenture and said rights and liens to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that the Bonds and any Additional Bonds issued and secured hereunder are to be issued and delivered, and all said property, rights, and interest, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Issuer, for itself and its successors, does hereby covenant and agree to and with the Trustee and its

successors in said trust, for the benefit of the holders and owners of the Bonds and any Additional Bonds from time to time, as follows:

ARTICLE I. DEFINITIONS

Section 1.01. Definitions. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Fourth Supplemental Lease. The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

“Acts” mean Act Nine of the First Extraordinary Session of the Arkansas General Assembly for the year 1960, as amended, the Economic and Industrial Development Revenue Bond Law of 1985, as amended, and Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.*

“Additional Bonds” means any additional bonds authorized and issued by the Issuer pursuant to Section 208 hereof.

“Affiliate of the Lessee” means any entity controlled by, under common control with or otherwise affiliated with, the Lessee.

“Bond Fund” or “City of Jonesboro, Arkansas Bond Fund (Frito-Lay, Inc. Project), Series 2016” means the fund created by Section 5.02 of this Indenture.

“Bonds” means any of the City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2016 in the aggregate principal amount of not to exceed \$150,000,000, authorized and issued pursuant to Section 2.02 hereof, and any Additional Bonds.

“Bondholder,” “holder” or “owner of the Bonds” means the registered owner of any Bond.

“Construction Fund” or “City of Jonesboro, Arkansas Construction Fund (Frito-Lay, Inc. Project), Series 2016” means the fund created by Section 6.02 hereof.

“Counsel” means an attorney who is duly licensed to practice before the highest court of at least one state in the United States of America.

“City” means Jonesboro, Arkansas, a political subdivision of the State of Arkansas, and any public entity, body or Issuer to which is hereafter transferred or delegated by law the duties, powers, authorities, obligations, or liabilities of the present political subdivision.

“Default” means any Default under this Indenture, as specified in and defined by Section 10.01 hereof.

“Expansion Projects” means the land, buildings, furniture, fixtures, equipment and other facilities leased under the Fourth Supplemental Lease, as they may at any time exist, including, but not limited to, warehouse and manufacturing facilities, infrastructure, improvements and equipment

for the preparation, processing, packaging, handling and storage of food products located at 2810 Quality Way, Jonesboro, Arkansas.

“Extraordinary Services” and “Extraordinary Expenses” means services and expenses hereunder other than Ordinary Services, or Ordinary Expenses, respectively.

“Facilities” means the Lessee’s manufacturing facility located in Jonesboro, Arkansas.

“Fourth Supplemental Lease” or “Supplemental Lease” means that certain Fourth Supplemental Lease Agreement dated as of December __, 2016, between the Issuer and the Lessee, as the same may be amended or supplemented in accordance with its terms.

“Government Obligations” means (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, or (b) obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully and unconditionally guaranteed as a full faith and credit obligation by the United States of America.

“Indenture” means this Trust Indenture, dated as of December __, 2016, between the Issuer and the Trustee, as the same may be amended or supplemented in accordance with its terms.

“Independent Auditor” means an independent certified public accountant, or firm thereof, of recognized standing who or which does not devote his or her or its full time to either the Issuer or the Lessee (but who or which may be regularly retained by either).

“Independent Counsel” means an attorney or firm thereof duly admitted to practice before the highest court of any state of the United States of America and not a full-time employee of the Issuer or the Lessee.

“Issuer” means the City of Jonesboro, Arkansas, a political subdivision of the State of Arkansas.

“Lessee” means Frito-Lay, Inc., a Delaware corporation, and its permitted successors and assigns under the Fourth Supplemental Lease.

“Maturity Date” means December 31, 2036, or if all of the Bonds have not been fully paid and retired (or provision for such payment made as provided herein), on such date or provision for payment shall have been made.

“Nationally recognized bond counsel” means an attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America.

“Ordinary Services” and “Ordinary Expenses” means those services normally rendered and those expenses normally incurred by a person in the capacity of the Trustee under instruments

similar to this Indenture and for which no payment over and above any agreed payment schedule from the Issuer or the Lessee to the Trustee is required.

“Outstanding” or “Bonds Outstanding” means all Bonds, which have been issued pursuant to this Indenture, except:

- (a) Bonds canceled after purchase or because of payment at or redemption prior to maturity;
- (b) portions of Bonds to the extent that partial redemption or cancellation thereof has been noted thereon in accordance with Section 306 hereof,
- (c) Bonds for the payment or redemption of which cash funds or Government Obligations shall have been theretofore deposited with the Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided, that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Paying Agent shall have been made therefor, or waiver of such notice satisfactory in form to the Paying agent shall have been filed with the Paying Agent; and

- (d) Bonds in lieu of which others have been authenticated under Section 207 hereof.

“Permitted Investments” means

- (a) Government Obligations; and
- (b) Any other investments that are approved by the one hundred percent of the Bondholders.

“Person” means any natural person, firm, association, corporation or public body.

“Pledged Property” or “Property Herein Conveyed” means the property described in the First through Third granting clauses of this Indenture.

“Trust Estate” means the property described in the granting clauses of this Indenture.

“Trustee” means the Trustee so named and designated in the first paragraph of this Indenture and its successors and any corporation resulting from or surviving any consolidation or merger to which or its successors may be a party and any successor at any time serving as successor trustee hereunder.

“Unassigned Payments” means the rights of the Issuer to receive (i) rental payments under Section 5.3(c) of the Original Lease, (ii) indemnification under Section 6.4 of the Original Lease, (iii) repayments of advances made by the Issuer, plus interest, as provided in Section 6.5 of the Original Lease, and (iv) attorneys' fees and expenses payable to the Issuer under Section 10.4 of the Original Lease.

Section 1.02. Miscellaneous Use of Words. “Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Indenture and not solely to the particular portion thereof in which any such word is used. The definitions set forth in Section 1.01 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to

include both singular and plural and to cover both genders. Any percentage of Bonds, specified herein for any purpose, is to be figured on the unpaid principal amount thereof then outstanding.

ARTICLE II. THE BONDS

Section 2.01. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of the Bonds that may be issued hereunder is hereby expressly limited to \$150,000,000, except that Additional Bonds may be issued hereunder in accordance with the provisions of Section 2.08 hereof.

Section 2.02. Issuance of Series 2016 Bonds. (a) The Bonds shall be designated “City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay, Inc. Project), Series 2016.” The Bonds shall be issuable as fully registered bonds without coupons in any denomination and shall be numbered consecutively from R-1 upward, in order of authentication.

(b) The Bonds shall be dated as of the delivery date. Each Bond shall bear interest from the date of delivery or if delivered subsequent to the date of original delivery, from the interest payment date next preceding its date of authentication, or if authenticated on an interest payment date, it shall bear interest from its date of authentication; and provided, however, that if, on the date of authentication of any Bond, interest on the Bonds shall be in default, Bonds issued in exchange for the Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Bonds surrendered.

The Bonds shall bear interest at the rate of 2.94% per annum, which shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date. The Bonds are subject to optional extraordinary and redemption pursuant to Section 3.02 hereof.

Interest on the Bonds shall commence to accrue on the date of their original issuance and delivery by the Issuer. The interest on the Bonds shall be payable annually on December 1 of each year, commencing December 1, 2017, until payment of the principal amount thereof, by check or draft drawn on the Trustee and mailed to the registered owner at his address as it appears on the bond registration books kept by the Trustee. Payment of interest on the Bonds may, at the option of any holder of the Bonds in an aggregate principal amount of at least \$1,000,000 be transmitted by wire transfer to such holder to the bank account number on file with the bond Registrar by the fifteenth day next preceding any interest payment date. Payment of the principal of and any redemption premium on each Bond shall be made upon surrender thereof at the principal office of the Bond Registrar. All payments shall be made in lawful money of the United States of America. Payments shall be made pursuant to a Home Office Payment Agreement by and among the Issuer, the Trustee, the Lessee and Pepsico, Inc. (the “Bondholder”) unless such agreement is terminated at the written request of the Lessee and Bondholder.

Section 2.03. Execution; Limited Obligation. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Mayor, and attested by the manual or facsimile signature of its City Clerk, and shall have impressed, imprinted or otherwise reproduced thereon the seal of the Issuer. Any such facsimiles shall have the same force and effect as if

manually signed. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or other facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

The Series 2016 Bonds issued pursuant to this Indenture shall not be payable from or charged upon any funds other than the Trust Estate pledged to the payment thereof, nor shall the State of Arkansas, the City or any political subdivision of the State of Arkansas be subject to any pecuniary liability thereon. No holder or holders of the Bonds shall ever have the right to compel any exercise of the taxing power of the State of Arkansas, the City or any other political subdivision of the State of Arkansas to pay the Bonds or the interest thereon, nor to enforce the payment thereon against any property of the State of Arkansas, the City or any other political subdivision of the State of Arkansas; nor shall the Bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of the State of Arkansas, the City or any other political subdivision of the State of Arkansas.

Section 2.04. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bonds substantially in the form set forth on **Exhibit A** attached hereto shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by the Trustee if signed by an authorized signatory of the Trustee, but it shall not be necessary that the same officer execute the certificate of authentication on all of the Bonds.

Section 2.05. Form of Bonds. The Bonds shall be in substantially the form set forth in **Exhibit A** hereto, each with such appropriate variations, omissions, substitutions and insertions as are permitted or required by this Indenture and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon, as may be required to comply with any applicable laws or rules or regulations, or as may, consistent herewith, be determined by the officers executing such Bonds. The definitive Bonds shall have endorsed thereon, until such time as the Trustee shall have been advised to the contrary, as hereinafter provided, a legend or text in substantially the following form:

TRANSFER RESTRICTED

THIS BOND HAS NOT BEEN REGISTERED UNDER THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED, OR THE ARKANSAS SECURITIES ACT OR ANY OTHER STATE SECURITIES LAW. THIS BOND MAY NOT BE TRANSFERRED, SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED UNLESS REGISTERED PURSUANT TO SUCH ACTS AND ANY OTHER APPLICABLE STATE SECURITIES LAW OR UNLESS, IN THE OPINION OF LEGAL COUNSEL, ACCEPTABLE TO THE ISSUER AND THE LESSEE, AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

Section 2.06. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and deliver a new Bond of like maturity and tenor in lieu of and in substitution for the Bond mutilated, lost, stolen or destroyed; provided that, in the case of

any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence satisfactory to it of the ownership of such Bond and of such loss, theft or destruction, together with indemnity satisfactory to it and the Issuer. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond, the Issuer may pay the same. The Issuer may charge the holder or owner of such Bond with its and the Trustee's reasonable fees and expenses in this connection.

Section 2.07. Registration and Exchange of Bonds. Upon surrender for transfer of any Bond at the principal office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the registered owner or his attorney duly authorized in writing, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the same series and same maturity for a like aggregate principal amount. The Bonds may be exchanged at said office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations of the same series and same maturity for a like aggregate principal amount. The Issuer shall execute and the Trustee shall authenticate and deliver Bonds bearing numbers not contemporaneously then outstanding. The execution by the Issuer of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond. The Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Indenture to be kept by the Trustee, as Bond Registrar. The Trustee shall not be required to transfer or exchange any Bond during the period of fifteen days next preceding any interest payment date of the Bonds (the "Record Date") nor to transfer or exchange any Bond after the mailing of notice calling any Bond for redemption has been made, nor during the period of fifteen days next preceding mailing of a notice of redemption of any Bonds. Prior to delivering any Bonds hereunder, the Issuer shall cause the validation certificate thereon to be appropriately executed.

As to any Bond, the person in whose name such Bond shall be registered shall be deemed and regarded the owner thereof for all purposes, and payment of or on account of either principal or interest on any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The cost of any services rendered or other expenses incurred by the Trustee in connection with any exchange or transfer shall be treated in the arrangement for services between the Issuer and the Trustee as Ordinary Services or Ordinary Expenses of the Trustee, and shall be reimbursed as such pursuant to the provisions in the Original Lease.

Notwithstanding the foregoing, in the case any Bond to be exchanged bears the restrictive legend described in Section 2.05 hereof, no transfer thereof shall be effected unless there shall have been delivered to the Trustee the legal opinion described in such legend or a legal opinion to the effect that such legend is no longer required as described in Section 2.05 hereof.

Section 2.08. Issuance of Additional Bonds.

(a) Subject to the requirements of applicable law, so long as the Fourth Supplemental Lease is in effect and the Lessee shall not be in default thereunder, one or more series of Additional Bonds may be authorized by ordinance of the Issuer and thereupon issued and delivered pursuant to the terms of a supplemental indenture for the purposes and under the conditions stated in this Section and in Section 4.2 of the Original Lease and upon compliance with the provisions of this Section and such Section of the Original Lease. Any such Additional Bonds shall rank *pari passu* with the Bonds as to the security for the payment thereof and interest thereon.

(b) In the event the proceeds of the Bonds are insufficient to provide for completion of the Expansion Projects, and the Issuer desires to finance completion of the Expansion Projects, or in the event that the Issuer desires to refund in whole or in part the Bonds, or to finance any extensions, improvements, repairs, renovations or extensions of the Facilities or any additional equipment, or other real or personal property in connection therewith (collectively herein called “Improvements”), it may at any time, and from time to time, issue Additional Bonds in one or more series for such purposes.

(c) Additional Bonds shall be in fully registered form, shall be in such form and may contain such provisions for prepayment prior to stated maturity all as may be provided in a supplemental indenture under which they are issued; provided that any Additional Bonds may also be subject to mandatory prepayment, at such prepayment price or prices and times as shall be fixed prior to their issuance.

(d) The proceeds from the issuance of any Additional Bonds shall be used solely for the payment of the costs (including the costs of issuing such bonds, legal fees and other related costs) of completion of the Expansion Projects, for reimbursement to the Issuer or the Lessee of advances of costs of the Expansion Projects, for the retirement of loans made to pay the costs of completion of the Expansion Projects, or for refunding in whole or in part the Bonds or any Additional Bonds, or for the costs of any Improvements.

(e) Prior to the issuance of any such Additional Bonds, the Issuer shall provide to the Trustee a supplemental indenture under which any series of Additional Bonds shall be issued, duly executed, sealed and acknowledged on behalf of the Issuer, and shall deliver to the Trustee a fully executed and acknowledged copy of an agreement between the Issuer and the Lessee supplemental to the Fourth Supplemental Lease containing the following: (i) an agreement by the Lessee to pay annually additional rent in amounts at least sufficient to pay the principal of and the interest on such Additional Bonds, as such principal and interest mature, (ii) if the last stated maturity of such Additional Bonds is subsequent to the last stated maturity of the Bonds then outstanding under the Indenture, an extension of the term of the Fourth Supplemental Lease until or beyond the last stated maturity of such Additional Bonds, (iii) a recognition and agreement by the Lessee and the Issuer that from and after the issuance of such Additional Bonds, any reference in the Fourth Supplemental Lease to the “Bonds” shall, unless the context clearly indicates otherwise, be construed to refer both to all the Bonds then outstanding under the Indenture and to the Additional Bonds proposed to be issued, (iv) provisions making subject to the demise of the Fourth Supplemental Lease all properties acquired, constructed and installed by the Issuer for such purpose, and (v) any other provisions not in conflict with the Indenture or the Fourth Supplemental Lease.

(f) The Issuer shall assign and pledge such supplemental lease and all revenues derived or to be derived therefrom as security for the payment of the outstanding Bonds, including the Additional Bonds.

(g) The Issuer shall deliver to the Trustee a certificate of the Issuer signed by the Mayor thereof, which is to the effect that no event of default has occurred and is continuing under this Indenture.

(h) The Issuer shall authorize the issuance of the Additional Bonds by ordinance.

(i) Upon receipt of the documents required by the provisions of this Section to be furnished to it, the Trustee shall, unless it has cause to believe any of the statements set out in said documents are incorrect, thereupon execute and deliver the supplemental indenture so presented, and it shall authenticate the Additional Bonds with respect to which the said documents shall have been made and shall, upon receipt of evidence satisfactory to it that the Issuer has received the purchase price or other consideration therefor, deliver the Additional Bonds so authenticated to the person or persons to whom the proceedings provided for in subsection (h) of this Section directed that such Additional Bonds be delivered.

ARTICLE III. REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01. Optional Redemption. The Bonds are subject to optional redemption by the Issuer at the direction of the Lessee prior to their stated maturity in whole or in part at any time and from time to time at a redemption price equal to one hundred percent (100%) of the principal amount of the Bonds to be redeemed, plus accrued interest to the redemption date. Notice of any such optional redemption shall be given to the Trustee by the Lessee not less than ten (10) days before the redemption date. Any such notice for redemption in part shall specify the principal amount of the Bonds to be redeemed.

In the event that the Lessee or an Affiliate of the Lessee is not the registered owner of all the Bonds, the Issuer (at the direction of the Lessee) shall give written notice to the Trustee of its determination to prepay the Bonds at least sixty (60) days prior to the redemption date.

Section 3.02. Extraordinary Optional.

(a) The Bonds shall be subject to extraordinary optional redemption by the Issuer in whole or in part, at any time, from time to time, at a price equal to the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date, if any of the following events shall have occurred:

- (i) the Expansion Projects or any portion thereof shall have been damaged by fire or other casualty to such an extent that, in the judgment of the Lessee, it would not be practicable or desirable to complete, repair, rebuild or restore the Expansion Projects; or

- (ii) title to, or the temporary use of, the Expansion Projects or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority to the extent that, in the judgment of the Lessee, it would not be practicable to restore the Expansion Projects; or
- (iii) the Lessee shall exercise its option to purchase the Expansion Projects as provided in Section 11.2 of the Original Lease.

To exercise this option, the Lessee must have exercised its option to cause the Issuer to redeem Bonds pursuant to Sections 7.1 or 7.2 of the Original Lease or its option to purchase the Expansion Projects pursuant to the provisions of Section 11.2 of the Original Lease. Any such notice of redemption in part shall specify the principal amount of the Bonds to be redeemed.

Section 3.03. Notice of Redemption.

Notice of the call for any such redemption identifying the Bonds to be redeemed shall be given by the Trustee by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least five (5) days but not more than sixty (60) days prior to the redemption date to the registered owner of each Bond to be redeemed at the address shown on the registration books. Such notice must (i) specify the Bonds to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon redemption must be payable and (ii) state that on the redemption date, the Bonds to be redeemed will cease to bear interest; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of the Bonds. Notwithstanding the foregoing, so long as the Lessee or an Affiliate of the Lessee shall be the registered owner of all of the Bonds, the notice required by this Section shall be given at least one business day prior to the redemption date.

Section 3.04. Redemption Payments. Prior to the date fixed for redemption, the Issuer shall place (or cause to be placed) funds with the Trustee in the Bond Fund Redemption Account sufficient to pay the principal amount of the Bonds called for redemption, accrued interest thereon to the redemption date and the required redemption premium, if any. Upon the happening of the above conditions, the Bonds so designated for redemption shall, on the redemption date designated in such notice, become and be due and payable as hereinabove specified, and from and after the date of redemption so designated, interest on the Bonds so designated for redemption shall cease to accrue, and the same shall no longer be protected by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture.

Section 3.05. Principal and Redemption Payment Credits. Nothing herein contained shall be construed to limit the right of the Issuer to purchase any Bonds, at the written direction of the Lessee, in the open market, with any excess moneys in the Bond Fund, at a price not exceeding the redemption price set forth in this Article, as a credit against its Bond fund principal payment obligations, or its redemption payment obligations. Any such Bonds so purchased may not be reissued and shall be disposed of as is hereinafter provided in this Bond Indenture.

Section 3.06. Partial Redemption. The Bonds may be redeemed in any denomination. Upon surrender of any Bond for redemption in part only, the Issuer shall execute and the Trustee

shall authenticate and deliver to the holder thereof a new Bond or Bonds of the same series and same maturity, of authorized denominations, in the aggregate principal amount equal to the unredeemed portion of the Bond surrendered. At the option of any Bondholder, any Bond subject to partial redemption may be presented to the Trustee for notation of such partial redemption on the Table of Partial Redemptions appearing on each Bond, after which the Paying Agent shall return the said Bond bearing the appropriate notation to the holder. In the event less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be redeemed in the principal amount designated by the Lessee.

Section 3.07. Cancellation. All Bonds which have been surrendered for the purpose of payment (including Bonds which have been redeemed prior to maturity) shall be canceled and cremated or otherwise destroyed by the Paying Agent and shall not be reissued, and a certificate of cremation or destruction evidencing such cremation or destruction shall be furnished by the Trustee to the Issuer.

ARTICLE IV. GENERAL COVENANTS

Section 4.01. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of and interest on the Bonds at the place, on the dates, and in the manner provided herein and in the form of the Bonds according to the true intent and meaning hereof and thereof. The principal and interest are payable solely from rental payments and other payments received from the Lessee under the Fourth Supplemental Lease, together with all other revenues, rents, and earnings arising out of or in connection with the Issuer's interest in the Expansion Projectss, which payments, revenues, rents and earnings (excepting only any Unassigned Payments) are hereby specifically pledged to the payment of principal and interest on the Bonds in the manner and to the extent herein specified. The principal of, and interest on, the Bonds are payable solely from the Bond Fund established pursuant to Section 502 hereof.

Section 4.02. Performance of Covenants; Issuer. The Issuer covenants that it will faithfully perform at all terms any and all covenants, agreements, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond, and in all proceedings of the Issuer pertaining thereto. The Issuer warrants and represents that it is duly authorized under the Constitution and laws of the State of Arkansas to issue the Bonds and to adopt this Indenture and to pledge the rental payments and other payments received from the Lessee under the Fourth Supplemental Lease together with all other revenues, rents and earnings arising out of or in connection with its interest in the Expansion Projectss in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the adoption of this Indenture has been duly and effectively taken; and that the Bonds are and will be valid and enforceable obligations of the Issuer in accordance with their terms.

Section 4.03. Ownership. The Issuer represents and covenants that it lawfully owns and is lawfully possessed of the real property described in **Exhibit C** to the Fourth Supplemental Lease and that it has good and marketable fee simple title therein and thereto, or on and as of the date of issuance of the Bonds, it will lawfully own and be possessed and have good and marketable fee

simple title in and to such real property (subject, however, to such encumbrances as are described in the Fourth Supplemental Lease).

Section 4.04. Payment of Taxes and Related Charges. Pursuant to the provisions of Section 6.3 of the Original Lease, the Lessee has agreed to pay all lawful taxes, assessments, and charges at any time levied or assessed upon or against the Expansion Projects which might impair or prejudice the lien and priority of this Indenture; provided, however, that nothing contained in this Section 404 shall require the payment of any such taxes, assessments and charges not required to be paid under Section 6.3 of the Original Lease.

Section 4.05. Maintenance and Repair. Pursuant to the provisions of Section 6.1 of the Original Lease, the Lessee has agreed at its own expense to cause the Expansion Projects to be maintained, preserved and kept in good condition, repair, and working order, and that it will, from time to time, cause to be made all needed repairs thereto, and that the Lessee may, at its own expense, make, from time to time, additions, modifications and improvements to the Expansion Projects under the terms and conditions set forth in the Fourth Supplemental Lease.

Section 4.06. Recordation of the Fourth Supplemental Lease and Indenture. The Issuer covenants that it will cause the Fourth Supplemental Lease and all supplements thereto or a memorandum thereof in recordable form to be filed and recorded in the real estate records of the office of the Circuit Clerk of Craighead County, Arkansas.

Section 4.07. Inspection of Project Books. The Issuer covenants that all books and documents in its possession relating to the Expansion Projects and the rents, revenues and earnings derived from the Expansion Projects shall at reasonable times be open to inspection by such accountant or other agents as the holders of more than 50% in aggregate principal amount of the Bonds then outstanding may, from time to time, designate.

Section 4.08. Priority of Pledge. The pledge herein made of the rental payments and other payments received from the Lessee under the Fourth Supplemental Lease, excepting only any Unassigned Payments, together with all other rents, revenues, and earnings arising out of or in connection with the Issuer's interest in the Expansion Projects, is a first and prior pledge thereof and shall not be impaired directly or indirectly by the Issuer and neither such payments, rents, revenues and earnings nor the Expansion Projects or the Issuer's interest in the Fourth Supplemental Lease shall otherwise be pledged and no person shall have any rights with respect thereto except as provided herein and in the Fourth Supplemental Lease.

Section 4.09. Rights Under the Fourth Supplemental Lease. The Fourth Supplemental Lease sets forth the respective obligations of the Issuer and the Lessee relating to the leasing of the Expansion Projects. Reference is hereby made to the Original Lease for a detailed statement of the obligations and rights of the Lessee thereunder.

Section 4.10. Payment for Extraordinary Expenses. Anything to the contrary herein or in the Fourth Supplemental Lease notwithstanding, neither the Issuer nor the Lessee shall be liable for payment of any Extraordinary Expense or for any Extraordinary Service unless the same was approved in writing in advance by the Lessee.

ARTICLE V. REVENUES AND FUNDS

Section 5.01. Source of Payment of Bonds. The obligations of the Issuer to pay the principal of and interest on the Bonds is not a general obligation of the Issuer but is a limited obligation payable solely out of the Bond Fund from the rental payments and other payments received from the Lessee under the Fourth Supplemental Lease, excepting only any Unassigned Payments, together with all other rents, revenues, and earnings arising out of, or in connection with, the Issuer's ownership of the Expansion Projects and as authorized and provided herein.

The Expansion Projects has been leased under the Fourth Supplemental Lease and the rental payments provided for in Section 5.3 of the Original Lease are to be paid directly to the Trustee for the benefit of the Bondholders and are to be deposited in the Bond Fund provided for in Section 502 hereof. Such rental payments are sufficient in amount and become due in a timely manner so as to insure the prompt payment of the principal of and interest on the Bonds.

Section 5.02. Creation of the Bond Fund; Pledge of Same. There is hereby created by the Issuer and ordered established with the Trustee a trust fund to be designated "City of Jonesboro, Arkansas Bond Fund (Frito-Lay, Inc. Project), Series 2016" which shall be used only to pay the principal of, premium, if any, and interest on the Bonds. There shall be established within the Bond Fund a Principal and Interest Account and a Redemption Account; such Accounts, together, shall comprise the Bond Fund. The Bond Fund is hereby pledged to and charged with the payment of (i) the interest on the Bonds as such interest shall become due, (ii) the principal of the Bonds as the same shall become due, and (iii) the necessary charges of the Trustee, as Paying Agent, for paying principal and interest.

Section 5.03. Payments into the Bond Fund. There shall be paid into the Bond Fund Principal and Interest Account all rental payments specified in Section 5.3(a) of the Original Lease. There shall be paid into the Bond Fund Redemption Account, as and when received, (a) all moneys required to be remitted to the Trustee or paid into the Bond Fund pursuant to Sections 5.3, 7.2, 9.5 and Article 11 of the Original Lease, and (b) all moneys required to be so deposited pursuant to Section 3.04 hereof. All other moneys received by the Trustee under and pursuant to any of the provisions of the Original Lease or Fourth Supplemental Lease or this Indenture shall be deposited into the Principal and Interest Account or the Redemption Account in accordance with the direction accompanying any such moneys. The Issuer covenants that so long as any of the Bonds are outstanding it will pay, or cause to be paid, into the Bond Fund from the sources of payment described in Section 5.01 hereof sufficient to pay promptly the principal of and interest on the Bonds as the same become due and payable.

Section 5.04. Use of Moneys in the Bond Fund. Except as provided in Section 5.09 hereof, moneys in the Bond Fund shall be used solely for the payment of the principal of and interest on the Bonds and redemption of Bonds prior to maturity. Except for extraordinary redemptions pursuant to Section 3.02 of this Indenture, no part of the rental payments under the Original Lease required to be paid into the Bond Fund (excluding prepayments under Section 9.5 of the Original Lease and amounts paid in connection with the provision for redemption under Section 3.02 hereof) shall be used to redeem the Bonds prior to maturity. Moneys held in the Bond Fund Redemption Account may be used for the purchase of bonds in the manner provided in Section 3.05 hereof.

Section 5.05. Non-Presentation of Bonds. If any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the redemption date, provided moneys sufficient to pay such Bonds shall have been made available to the Trustee are held in the Bond Fund for the benefit of the holder thereof, all liability of the Issuer to the holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon, subject to the laws having to do with unclaimed property in the State of Arkansas, it shall be the duty of the Trustee to hold such moneys, without liability for interest thereon, for the benefit of the holder of such Bond who shall thereafter be restricted exclusively to such moneys for any claim of whatever nature on his part under this Indenture or on, with respect to, such Bond.

Section 5.06. Moneys to be Held in Trust. All moneys paid over to the Trustee for the account of the Bond Fund under any provision of this Indenture shall be held in trust by the Trustee for the benefit of the holders of the Bonds entitled to be paid therefrom.

Section 5.07. Insurance and Condemnation Proceeds. Reference is hereby made to Sections 7.1, 7.2 and 7.3 of the Original Lease for provisions as to the disposition of net proceeds of insurance and condemnation awards.

Section 5.08. Repayment to the Lessee from the Bond Fund. Any amounts remaining in the Bond Fund after payment in full of all Bonds (taking into consideration that sufficient moneys or obligations such as are described in Section 9.02 hereof must be retained in the Bond Fund to pay all principal of and interest then due and payable with respect to each Bond not yet presented for payment and to pay all principal and interest relating to each Series 2016 Bond which is not yet due and payable but with respect to which the lien of this Indenture has been defeased upon compliance with Article IX hereof), and after payment of all of the fees, charges and expenses of the Trustee which have accrued and which will accrue and all other items required to be paid hereunder, if any, shall be paid to the Lessee upon the expiration or sooner termination of the term of the Original Lease as provided in Article XI of the Original Lease.

ARTICLE VI. CUSTODY AND APPLICATION OF PROCEEDS OF BONDS

Section 6.01. Disposition of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds from the sale of the Bonds (net of underwriting discount, if any) shall be paid into the hereinafter defined Construction Fund. To the extent any or all of the purchase price of the Bonds is paid with a promissory note or notes, such note or notes shall be deposited to the credit of the Construction Fund.

Section 6.02. Construction Fund; Disbursements.

(a) A special fund is hereby created by the Issuer and ordered established with the Trustee to be designated "City of Jonesboro, Arkansas Construction Fund (Frito-Lay, Inc. Project), Series 2016."

(b) Moneys in the Construction Fund shall be disbursed in accordance with the Original Lease, particularly Section 4.3 thereof.

(c) All payments from the Construction Fund shall be made as directed by an Authorized Lessee Representative upon checks signed or wire transfers or account debits and credits made by the Trustee who shall be relieved of all liability with respect to making disbursements from the Construction Fund in accordance with the provisions of Section 4.3 of the Original Lease.

(d) All moneys in and all securities held for the credit of the Construction Fund shall be made as directed by an Authorized Lessee Representative upon checks signed or wire transfers or account debits and credits made by the Trustee who shall be relieved of all liability with respect to making disbursements from the Construction Fund in accordance with the provisions of Section 4.3 of the Original Lease.

(e) All moneys in and all securities held for the credit of the Construction Fund shall be subject to a lien and charge in favor of the holders of the Bonds and shall be held for the security of such holders until paid out in the manner provided for hereinabove.

(f) The Trustee shall maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and after the Project has been completed and a certificate of payment of all costs filed as provided in Section 6.03 hereof, the Trustee shall file an accounting thereof with the Lessee.

Section 6.03. Reserved.

Section 6.04. Surplus Money in Construction Fund. All moneys remaining in the Construction Fund (including moneys earned on investments made pursuant to the provisions of Section 7.01 hereof) except for amounts retained in the Construction Fund for the payment of Project costs not then due and payable, shall be paid into the Bond Fund and used by the Trustee for the payment of the principal of the Bonds. Any amounts paid into the Construction Fund after the date on which the Bonds are exchanged for the Purchase Price thereof, or, in the case of Additional Bonds issued pursuant to Section 4.2 of the Lease and Section 2.08 hereof, shall be used for the payment of the principal of the Bonds.

Section 6.05. Surplus Money in Bond Fund.

Any moneys remaining in the Bond Fund after payment in full of (i) all of the bonds (taking into consideration that sufficient moneys or obligations deposited therein or credited thereto remain to pay all principal of and interest on Bonds then due and payable but not yet presented for payment, (ii) the fees, charges and expenses of the Trustee and the Issuer which have accrued or will accrue and (iii) all other items required to be paid hereunder (other than the Special Funds), shall be paid to the Lessee upon the expiration or sooner termination of the Supplemental Lease.

ARTICLE VII.

INVESTMENTS; CUSTODIANS OF MONEY AND SECURITY FOR DEPOSIT

Section 7.01. Construction Fund Investments. Any moneys held as a part of the Construction Fund shall be invested in obligations which may be book entry, which are Permitted Investments. Such investments shall be made upon the written direction of an Authorized Lessee Representative. Such investments shall be held by or under the control of the Trustee and shall be

deemed at all times a part of the Construction Fund and the interest accruing thereon and any profit resulting therefrom shall be credited to the Construction Fund and any loss resulting therefrom shall be charged to the Construction Fund. The Trustee is directed to sell and convert such investments to cash as directed by the Lessee from time to time to allow payment of requisitions and the making of timely disbursements from the Construction Fund.

Section 7.02. Bond Fund Investments. Moneys held in the Bond Fund Redemption and Principal and Interest Account shall, at the written direction of an Authorized Lessee Representative, be invested and reinvested by the Trustee in Permitted Investments in accordance with the treatment prescribed for Construction Fund moneys in Section 7.01 hereof. Investments shall mature at such times and in such amounts as will permit the timely payment of the amounts required to be paid from the Bond Fund. Such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the Bond Fund Redemption Account or Principal and Interest Account, as the case may be, and the interest accruing thereon and any profit realized therefrom shall be credited to the Bond Fund Redemption account or Principal and Interest Account, as the case may be, and any loss resulting therefrom shall be charged to the Bond Fund Redemption Account or Principal and Interest Account, as the case may be. The Trustee is directed to sell and convert to cash a sufficient amount of such investments in the Bond Fund whenever the cash is held in the Bond Fund is insufficient to provide for the payment of the principal of (whether at the maturity date or redemption date prior to maturity) and interest on the Bonds as the same become due and payable.

Section 7.03. Custodians of Moneys and Security for Deposit. All moneys received by the Issuer in connection with the issuance of the Bonds or otherwise in connection with or arising out of the Issuer's interest in the Project shall be deposited with the Trustee in accordance with the provisions of Article VI of this Indenture. All moneys deposited shall be applied in accordance with the terms and for the purposes herein set forth and shall not be subject to lien or attachment by any creditor of the Issuer.

ARTICLE VIII. SUBORDINATION OF RIGHTS TO THE LESSEE

Section 8.01. Subordination to Rights of the Lessee. This Indenture and the rights, options and privileges of the Bondholders hereunder and under the Supplemental Lease, are specifically made subject to and subordinate to the rights, options, and privileges of the Lessee set forth in the Supplemental Lease. So long as not otherwise provided in this Indenture, the Lessee shall be suffered and permitted to possess, use, and enjoy the Project and its appurtenances so as to carry out its obligations under the Supplemental Lease.

Section 8.02. Release of Certain Land. Reference is made to the provisions of the Supplemental Lease, including, without limitation, Section 11.3 thereof, wherein the Lessee has been granted the right to acquire certain portions of the Land upon compliance with the terms and conditions of the Supplemental Lease. The Issuer and the Lessee have agreed under the Supplemental Lease that upon compliance with the conditions applicable to the release of certain portions of the Land, any such portions of the Land which are released shall automatically cease to be subject to the Supplemental Lease and this Indenture and shall be released therefrom and herefrom without the necessity of any further action by the Issuer, the Lessee or any other Person.

Section 8.03. Release of Equipment. Reference is made to the provision of the Original Lease, including, without limitation, Section 6.2 thereof, wherein the Lessee has been granted the right to acquire items of Equipment upon compliance with the terms and conditions of that Section 6.2. The Issuer and the Lessee have agreed under the Supplemental Lease that upon compliance with the conditions applicable to the release of items of Equipment, and such items of Equipment which are related shall automatically cease to be subject to the Supplemental Lease and this Indenture and shall be released therefrom and herefrom without the necessity of any further action by the Issuer, the Lessee or any other Person.

Section 8.04. Granting of Easements. Reference is made to the provisions of the Original Lease, including, without limitation, Section 8.5 thereof, wherein the Lessee has reserved the right to grant or release easements and take other action upon compliance with the terms and conditions of the Original and Supplemental Lease. The Issuer shall confirm in writing any action taken by the Lessee under said Section 8.5 upon compliance with the provisions of the Supplemental Lease.

ARTICLE IX. DISCHARGE OF LIEN

Section 9.01. Discharge of Lien. If the Issuer shall pay or cause to be paid the principal of and interest on the Bonds at the times and in the manner stipulated therein and herein, and if the Issuer shall keep, perform and observe all and singular the covenants and agreements in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, then the lien of the Indenture shall cease, determine and be void. The Trustee shall thereupon execute and deliver to the Issuer such instruments in writing as shall be required to evidence the same, and recover to the Issuer the Pledged Property, and assign and deliver to the Issuer so much of the Pledged Property as may be in its possession or subject to its control, except for moneys and securities held in the Bond Fund for the purpose of paying Bonds which have not yet been presented for payment and moneys and obligations in the Bond Fund required to be paid to the Lessee pursuant to Section 5.08 hereof.

Section 9.02. Provision for Payment of Bonds. The Bonds shall be deemed to have been paid within the meaning of Section 9.01 hereof if:

there have been irrevocably deposited into the Bond Fund, either or both, (i) moneys in an amount, or (ii) Governmental Obligations the principal of and interest on which when due, will provide moneys in an amount which, without further investment or reinvestment, and together with the moneys in an amount which, without further investment or reinvestment, and together with the moneys, if any, deposited with or held by the Trustee at the same time and available for such purpose pursuant to this Indenture, shall be sufficient to pay the principal of and interest due and to become due on the Bonds at their respective maturities, and there shall have been paid to the Trustee all of the fees and expenses due or to become due to the Trustee in connection with the discharge of its obligations in connection with the payment or redemption of the Bonds, or otherwise with respect thereto, or there shall be sufficient moneys in said Bond Fund to pay or provide for such payment to the Trustee.

ARTICLE X.
DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDERS

Section 10.01. Defaults. If any of the following events occur, subject to the terms of Section 10.07 hereof, it is hereby defined as and declared to be and to constitute a “Default” under this Indenture.

(a) default in the due and punctual payment of any interest on any Bond and the continuance of such default for a period of ten (10) calendar days; or

(b) default in the due and punctual payment of the principal of or redemption premium, if any, on any Bond, whether at the maturity date or the redemption date prior to maturity and the continuance of such default for a period of ten (10) calendar days; or

(c) default in the performance or observance of any other of the covenants, agreements, or conditions on the part of the Issuer in the Indenture or in the Bonds contained; or

(d) the occurrence of any default under the Original Lease as provided in Section 10.1 thereof.

Section 10.02. Acceleration. Upon the occurrence of any Default hereunder, the Trustee may, and upon the written direction of the holders of more than 25% in aggregate principal amount of Bonds then outstanding shall, by notice in writing delivered to the Issuer, declare the principal of all Bonds and the interest accrued thereon to the date of such acceleration to be immediately due and payable, and the same shall thereupon become and be immediately due and payable; *provided, however,* that so long as the Lessee or an affiliate thereof is the holder of 100% in aggregate principal amounts of Bonds then outstanding, the Trustee may not declare the principal of the bonds and the interest accrued thereon immediately due and payable pursuant to this Section 10.02 without the prior written consent of such holder or holders of the Bonds.

Section 10.03. Other Remedies. Upon the occurrence of any default hereunder, the Trustee shall have the power to proceed with any right or remedy granted by the Constitution and laws of the State of Arkansas, as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law, and the right to the appointment, as a matter of right and without regard to the sufficiency of the security afforded by the Pledged Property, of a receiver for all or any part of the Pledged Property. The rights here specified are to be cumulative to all other available rights, remedies, or powers and shall not exclude any such rights, remedies or powers; *provided, however,* that so long as the Lessee or an Affiliate of the Lessee is the holder of 100% in aggregate principal amounts of Bonds then outstanding, the Trustee may not declare the principal of the bonds and the interest accrued thereon immediately due and payable pursuant to this Section 10.02 without the prior written consent of such holder or holders of the Bonds.

Section 10.04. Rights of Trustee and Bondholders.

(a) No right or remedy by the terms of this Indenture conferred upon or reserved to the Trustee or Bondholder is intended to be exclusive of any other right or remedy, but each and every such right and remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or Bondholders or now or hereafter existing at law, in equity, or by statute.

(b) No delay or omission to exercise any right or remedy accruing upon any Default hereunder shall impair any such right or remedy or shall be construed to be a waiver of any such Default or acquiescence therein; and every such right and remedy may be exercised from time to time and as often as may be deemed expedient.

(c) No waiver of any Default hereunder shall extend to or shall affect any subsequent Default or shall impair any rights or remedies consequent thereon.

Section 10.05. Application of Moneys.

(a) All moneys received pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee on behalf of the Bondholders in connection therewith, be deposited in the Bond Fund, Principal and Interest Account, and all moneys in the Bond Fund shall be applied as follows:

- (i) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied by the Trustee:

FIRST - To the payment to the persons entitled thereto of all installments of interest then due on the Bonds (other than installments of interest on Bonds with respect to the payment of which moneys or securities are set aside in the respective Bond Fund), in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - To the payment to the persons entitled thereto of the unpaid principal of any other Bonds which shall have become due (other than principal of Bonds with respect to the payment of which moneys or securities are set aside in the Bond Fund), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

- (ii) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the

principal and interest then due and unpaid upon the Bonds (other than the principal of and interest on the Bonds with respect to the payment of which moneys or securities are set aside in the Bond Fund), without preference or priority of principal and interest one over the other, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of paragraph (ii) of this subsection (a), in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (i) of this subsection (a).

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such days shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the holder be presented to the Trustee for appropriate endorsement or for cancellation if paid in full.

(c) Whenever all Bonds and interest thereon shall have been paid under the provisions of this Section and all expenses and charges of the Trustee, if any, shall have been paid, any balance remaining in the Bond Fund shall be paid to the Lessee as provided in Section 508 hereof.

Section 10.06. Termination of Proceedings. In case the Trustee or any Bondholder shall have proceeded to enforce any right or remedy under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and the Bondholders and the Trustee shall be restored to their former positions and rights hereunder with respect to the Pledged Property, and all rights, remedies and powers of the Bondholders shall continue as if no such proceedings had been taken.

Section 10.07. Notice of Defaults; Opportunity of the Issuer to Cure Defaults.

(a) No default specified in subsection 10.01(c) hereof shall constitute a Default hereunder until notice of such default by registered or certified mail shall be given by the Trustee to the Issuer and the Lessee, and the Issuer shall have had thirty (30) days after receipt of such notice to correct such default or cause said default to be corrected, and the Issuer shall not have corrected said default or caused said default to be corrected within the applicable period; provided, further, that if a default specified in said subsection 10.01(c) be such that it can be corrected but not within the period specified herein, it shall not constitute the basis of a Default hereunder if corrective action capable of remedying such default is instituted by the Issuer within the applicable period and diligently pursued

until the default is corrected, unless, by such action, the lien or charge hereof on any part of the Pledged Property shall be materially endangered or the Project or the revenue therefrom or material part thereof shall be subject to loss or forfeiture.

(b) With regard to any Default concerning which notice is given to the Lessee or any Affiliate of the Lessee or the Issuer under the provisions of this Section 10.07, the Issuer hereby grants to the Lessee full authority to perform any obligation the performance of which by the Issuer is alleged in such notice to be in default, such performance by the Lessee to be in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts with power of substitution.

Section 10.08. Waivers of Default. The Trustee may in its discretion waive any Default hereunder and its consequences and may rescind any declaration of acceleration of maturity of all the Bonds and shall do so upon the written request of the holders of (a) fifty percent (50%) in aggregate principal amount of all the Bonds then outstanding in respect of which Default in the payment of principal, premium (if any), and interest, or any of them, exists or (b) 50% in aggregate principal amount of all Bonds then outstanding in the case of any other Default, may waive any Default hereunder and its consequences and rescind any declaration of maturity of principal and interest on the Bonds; provided, however, that unless the Lessee or any affiliate thereof is the owner of one hundred percent (100%) in aggregate principal amount of all Bonds then outstanding, there shall not be waived (1) any Default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein or (2) any Default in the payment when due of the interest (to the extent permitted by law) at the rate of interest borne by the Bonds unless prior to such waiver or rescission, all arrears of interest, with interest (to the extent permitted by law) at the rate of interest borne by the Bonds on overdue installments of interest or all arrears of payments of principal and premium, if any, when due, as the case may be, and if any such Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Bondholders and the Trustee shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon. Any such waiver and rescission hereunder shall automatically, without further action by the Issuer, the Bondholders or the Trustee, constitute a waiver of the related event of default and a rescission of the related declaration under the Fourth Supplemental Lease.

Section 10.09. Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto, and any such proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any owners of the Bonds, and any recovery of judgment shall be for the equal and ratable benefit of all of the owners of the outstanding Bonds.

Section 10.10. Rights and Remedies of Bondholders. No owner of any Bonds shall have the right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or thereof or for the appointment of a receiver or any other remedy hereunder or thereunder unless (a) a Default has occurred, (b) the holders of not less than twenty-five percent (25%) in aggregate principal amount of bonds then outstanding shall

have made written requests to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) such holders of such Bonds shall have offered to the Trustee indemnity as provided in Section 10.10 hereof and (d) the Trustee shall for sixty (60) days after receipt of such request and indemnification fail or refuse to exercise the rights and remedies hereinbefore granted, or to institute such action, suit or proceeding in its own name, and such request, offer of indemnity and refusal are hereby declared in every case at the option of the Trustee to be a condition precedent to the execution of the power and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the holders of all Bonds then outstanding. However, nothing contained in this Indenture shall affect or impair the right of any holder of any Bond to enforce the payment of the principal of any interest on any Bond at and after the maturity or redemption date of such principal of interest, or the obligation of the Issuer to pay the principal of and interest on each of the bonds issued hereunder to the respective registered holders thereof at the time, place and from the source and in the manner in this Indenture and in the Bonds expressed.

ARTICLE XI. THE TRUSTEE, DEPOSITORIES OF MONEYS AND SECURITIES FOR DEPOSIT

Section 11.01. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as would an ordinary prudent trustee under a corporate mortgage, but only upon and subject to the following expressed terms and conditions.

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In the case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers, and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may but need not be the attorney or attorneys for the Issuer) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the authentication certificate of the Trustee endorsed on the Bonds), or for the validity of the execution by the Authority of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner of the Bonds secured hereby with the same right which it would have if not the Trustee.

(e) Unless an officer of the corporate trust department of the Trustee shall have actual knowledge thereof, the Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except defaults under Section 10.01(a) or (b) hereof unless the Trustee shall be specifically notified in writing of such default by the Issuer, the Lessee or a court of law or by any owner of a Bond. All notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(f) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request of the Issuer. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the registered owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(g) As to the existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled in good faith to rely upon a certificate by an Authorized Issuer Representative as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has knowledge, or is deemed to have notice pursuant to Section 11.01(e) hereof, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may, at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of an officer of the Municipality under its seal to the effect that an ordinance in the form therein set forth has been adopted by the Municipality as conclusive evidence that such ordinance has been duly adopted, and is in full force and effect.

(h) The permissive right of the Trustee to do things enumerated in this Indenture shall not, unless otherwise provided herein, be construed as a duty and it shall not be answerable for other than its gross negligence or willful misconduct.

(i) At any and all reasonable times, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right to inspect any and all of the books, papers and records of the Issuer pertaining to the revenues and receipts under the Bonds and the Trustee Estate, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal or any case, or any action whatsoever within the purview of the Issuer, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Series 2016 Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Article X (other than Section 10.02, 11.04 or 11.07 hereof), the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful misconduct by reason of any action so taken.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Except as provided herein, the Trustee shall not be under any liability for interest on any money received hereunder except as may be agreed upon.

Section 11.02. Fees, Charges and Expenses of Trustee, as Paying Agent, Bond Registrar, Authenticating Agent and Fund Custodian. Pursuant to the terms of the Supplemental Lease, the Lessee has agreed to pay directly to the Trustee, as Paying Agent, Bond Registrar, Authenticating Agent and Fund Custodian, until the principal of and interest on the Bonds shall have been paid in full: (i) an amount equal to the annual fee for its Ordinary Services rendered and its Ordinary Expenses incurred under this Indenture, and (ii) to the extent that they have been approved in writing by the Treasurer of the Issuer or a designee appointed by the Chairman of the Issuer, the reasonable fees and charges of such person, if any, for Extraordinary Services rendered by it and Extraordinary Expenses incurred by it under this Indenture, as and when the same become due, subject to the provisions of Section 410 hereof.

Section 11.03. Notice to Bondholders if Default. If the Trustee has actual knowledge in accordance with Section 1101(e) of an Event of Default, then the Trustee shall promptly give written notice thereof by registered or certified mail to the Issuer, the Lessee and the owners of all Bonds then Outstanding, as shown by the registration books kept at the office of the registrar. If any of the Bonds are to be accelerated, the date of effectiveness of such acceleration shall be fixed by the Trustee and notice given to each Bondholder in the same time and manner as if all of the Bonds were being redeemed by exercise of optional redemption.

Section 11.04. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interest of owners of the Bonds, the Trustee may intervene on behalf of the Bondholders, and shall do so if requested in writing by the owners of at least 25% of the aggregate principal amount of the Bonds then outstanding.

Section 11.05. Qualifications of Trustee. There will at all times be a Trustee hereunder which is a corporation or banking association organized and doing business under the laws of the United States of America or of a state thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$25,000,000 or trust assets under management of at least \$100,000,000, and subject to supervision or examination by federal or state authority. If such corporation or banking association publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or banking association will be deemed to be its combined capital and surplus as set forth in its most recent report of conditions so published. If any time the Trustee ceases to be eligible in accordance with the provisions of this Section, the Trustee will resign immediately in the manner and with the effect specified in Section 11.07 hereof.

Section 11.06. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party ipso facto shall be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; *provided, however,* that any such corporation shall be qualified to serve as Trustee hereunder pursuant to Section 11.05 hereof, and that the Trustee shall provide notice in writing to the Issuer and the Lessee at least thirty (30) days in advance of the consummation of any such conversion, sale, merger, consolidation or transfer and the Issuer and the Lessee shall consent in writing to the service of such corporation or association as Trustee hereunder. If the Issuer and the Lessee do not consent in writing to the service of such corporation or association as Trustee hereunder, the Trustee shall resign pursuant to Section 11.07 hereof.

Section 11.07. Resignation of Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' written notice by registered or certified mail to the Issuer, the Lessee and the registered owner of each Bond, and such resignation shall take effect upon the appointment of a successor Trustee by the Bondholders and the acceptance of such appointment by such successor.

Section 11.08. Removal of Trustee. The Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer an signed by the owners of a majority in aggregate principal amount of all Bonds then outstanding under this Indenture, such removal to be effective upon the appointment of a successor Trustee by the Bondholders and the acceptance of such appointment by such successor.

Section 11.09. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of all Bonds

then Outstanding hereunder, with the consent of the Issuer, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized. Nevertheless, in case of such vacancy, the Issuer may appoint a temporary Trustee to fill such vacancy until a successor to the Trustee shall be appointed by the Bondholders in the manner above prescribed; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by any Trustee so appointed by such Bondholders. Notice of the appointment of a successor Trustee shall be given in the same manner as provided by Section 1106 hereof with respect to the resignation of a Trustee. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or commercial bank possessing trust powers in good standing, having a reported capital and surplus of not less than \$25,000,000, or trust assets under management of at least \$100,000,000 and subject to supervision or examination by federal or state authority, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 11.10. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the Issuer or of the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all of the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Trustee shall deliver all securities, moneys, documents and other property held by it as the Trustee hereunder to its or his successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor. Any and all such instruments in writing shall, on request, be executed acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded.

Section 11.11. Indemnification of Trustee. The Issuer agrees to indemnify and hold the Trustee harmless from any and all liability, loss, damage, costs and expenses of any nature (including interest and reasonable counsel fees) arising out of or in connection with its obligations and duties, or those of its employees or agents arising from its performance under this Indenture, except for costs, expenses, fees and liabilities arising out of its gross negligence or willful misconduct. This indemnity includes, but is not limited to, any reasonable action taken or omitted within the scope of this Indenture or any action taken or omitted upon oral, telephonic or written instruction received or reasonably believed to have been received from the Issuer or any official of the Issuer.

Section 11.12. Depository. Except as otherwise provided in this Indenture, all moneys constituting the Trust Estate shall, subject to the giving of security as hereinafter provided, be deposited with the Trustee in the name of the Issuer. All moneys deposited under the provisions hereof shall be applied in accordance with the terms and for the purposes as set forth in this Indenture and shall not be subject to lien or attachment by any creditor of the Issuer.

No moneys belonging to any of the funds created hereunder shall be deposited or remain on deposit with the Trustee in an amount in excess of the amount guaranteed or insured by the Federal Deposit Insurance Corporation or other federal agency, unless such institution shall have pledged for the benefit of the Issuer and the Bondholders as collateral security for the moneys deposited, obligations of the type or types in which the Trustee is permitted to directly invest the moneys of the particular fund as hereinabove provided.

ARTICLE XII. SUPPLEMENTAL INDENTURES

Section 12.01. Supplemental Indentures Not Requiring Consent of Bondholders. After first providing written notice to the Bondholders, the Issuer may, without the consent of the Bondholders, adopt an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Indenture;
- (b) to grant or to confer for the benefit of the Bondholders any additional rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders;
- (c) to subject to the lien and pledge of this Indenture additional rents, revenues, receipts, properties or collateral;
- (d) to issue and to secure the payment of Additional Bonds as provided in Section 2.08 hereof; and
- (e) in connection with any other changes hereto which shall be deemed necessary or desirable for the purpose of modifying or altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein which do not prejudice the interests of the Bondholders.

Section 12.02. Supplemental Indentures Requiring Consent of Bondholders. Exclusive of supplemental indentures covered by Section 12.01 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the adoption by the Issuer of such other indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section shall permit or be construed as permitting:

- (a) an extension of the maturity date on which the principal of or the interest on any Bond is, or is to become, due and payable;
- (b) a reduction in the principal amount of any Bond or Bonds, the rate of interest thereon, or any redemption premium;

- (c) a privilege or priority of any Bond or Bonds over any other Bond or Bonds;
- (d) a reduction in the principal of the Bonds required for consent to any supplemental indenture;
- (e) an alteration of the date fixed in any of the Bonds for the payment of the principal of or interest on any Bond or other modification of the terms of payment of the principal at maturity of or interest or redemption premium, if any, on any Bond or imposition of any conditions with respect to such payment or adversely affecting the right of the owner of any Bond, which is absolute and unconditional, to institute suit for the enforcement of any such payment as provided herein;
- (f) any action affecting the rights of the owners of less than all of the Bonds then outstanding;
- (g) any action to increase the percentage of the principal amount of Bonds the action of the owners of which shall be required to declare all outstanding Bonds to be due pursuant to the provisions of Section 10.02 hereof; or
- (h) the creation of any lien or charge on any of the Pledged Property prior to or superior to the lien or charge created on the Pledged Property as security for the payment of the Bonds and any Additional Bonds hereafter issued pursuant to the provisions of this Indenture.

If the Issuer shall desire to adopt any such supplemental indenture for any of the purposes of this Section, it shall cause notice of the proposed adoption of such supplemental indenture to be given in writing by registered or certified mail, postage prepaid, to the registered owner of all Bonds Outstanding. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Issuer for inspection by all Bondholders. If, within sixty (60) days, or such longer period as shall be prescribed by the Issuer, following the mailing of such notice, the holders of not less than two-thirds (2/3) in principal amount of the bonds shall have consented to and approved the adoption of such supplemental indenture as herein provided, no holder of any Bond shall have the right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof. Upon the adoption of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be modified and amended in accordance therewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XI which affects any right of the Lessee under the Supplemental Lease shall not become effective unless and until the Lessee shall have consented to the execution and delivery of such supplemental indenture. In this regard, the Issuer shall cause notice of the proposed execution and delivery of any supplemental indenture together with a copy of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be delivered to the Lessee at least thirty (30) days prior to the proposed date of execution of any such supplemental indenture. The Lessee shall be deemed to have consented to the execution of any such supplemental indenture if the Issuer does not receive a letter of protest or objection thereto signed by or on behalf of the Lessee on or before 4:30 o'clock P.M., Little Rock, Arkansas time, on

the thirtieth (30th) day after the mailing of said notice and a copy of the proposed supplemental indenture.

ARTICLE XIII. AMENDMENT OF SUPPLEMENTAL LEASE

Section 13.01. Amendments to Supplemental Lease Not Requiring Consent of Bondholders. Any amendment, change or modification of the Supplemental Lease as may be required (i) by the provisions of the Supplemental Lease or this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission in this Supplemental Lease, (iii) in connection with the property included in the Project as described and/or defined in the Supplemental Lease so as to more precisely identify the same or substitute additional property acquired with the proceeds of the Bonds in accordance with the provisions of Sections 4.2(b) and 6.2 of the Original Lease; (iv) in connection with additional real estate which pursuant to the Supplemental Lease is to become part of the Land or (v) in connection with any other changes thereto which shall be deemed necessary or desirable and which do not prejudice the interests of the Bondholders, may be effected without the consent of, or notice to, the Bondholders.

Section 13.02. Amendments to Supplemental Lease Requiring Consent of Bondholders. Except for the amendments, changes or notifications as provided in Section 13.01 hereof, no amendment, change, or modification of the Supplemental Lease shall be effected without mailing of notice and the written approval or consent of the holders of not less than two-thirds (2/3) in principal amount of the Bond Outstanding given and procured as in Section 12.02 provided. If at any time the Issuer and the Lessee desire to effect any proposed amendment, change or modification of the Supplemental Lease, the Issuer shall cause notice of such proposed amendment, change or modification to be mailed in the same manner as provided by Section 12.02 hereof with respect to proposed supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by Bondholders.

ARTICLE XIV. IMMUNITY OF MEMBERS, OFFICERS AND EMPLOYEES OF THE ISSUER

No recourse shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds, or for any claim based thereon or otherwise in respect thereof or of the indebtedness represented thereby, or upon any obligation covenant, or agreement of this Indenture, against any member, officer or employee, as such, past, present or future, of the Issuer or of any successor, either directly or through the Issuer or any successor, whether by virtue of any conditional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Indenture and the Bonds are limited obligations and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee, as such, past, present or future, of the Issuer or any successor, either directly or through the Issuer or any successor, because of the incurring or any indebtedness hereby authorized or by reason of any of the obligations, covenants, promises or agreements contained in this Indenture or in the Bonds or to be implied herefrom or therefrom, and that all liability, if any, of that character

against every such member, officer and employee is expressly waived and released. This immunity shall not apply to gross negligence, intentional misconduct or acts or omissions taken or suffered in bad faith.

ARTICLE XV. MISCELLANEOUS

Section 15.01. Consents of Bondholders.

(a) Any request, demand, authorization, direction, notice, consent, waiver, or other action provided by this Indenture to be given or taken by Bondholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Bondholders in person or by their agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Issuer, and, where it is expressly required, to the Issuer and the Lessee. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or a member of a partnership, on behalf of such corporation or partnership, such certificate of affidavit shall also constitute proof of his authority.

(c) The fact and date of execution of any such instrument or writing may also be proved in any other manner which the Issuer deems sufficient, and the Issuer or the Trustee, as the case may be, may in any instance require further proof with respect to any of the matters referred to in this Section.

(d) The ownership of Bonds shall be proved by the registration books kept by the Trustee.

(e) Any request, demand, authorization, direction, notice, consent, waiver, or other action by any Bondholder shall bind every future holder of the same Bond in respect of anything done or suffered to be done by the Trustee or the Issuer in reliance thereon, whether or not notification of such action is made upon such Bond.

Section 15.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the Issuer, the Lessee, and the holders of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenants, agreements, conditions, and provisions herein contained; this Indenture and all of the covenants, agreements, conditions and provisions hereof being intended to be and being for the sole exclusive benefit of the Issuer, the Lessee, and the holders of the Bonds as herein provided.

Section 15.03. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any Constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question in operative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 15.04. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper if the same shall be duly mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

(a) If to the Issuer:

City of Jonesboro
300 South Church Street, Jonesboro, Arkansas
Jonesboro, Arkansas 72401
Attn: Mayor

(b) If to the Lessee:

Frito-Lay, Inc.
7701 Legacy Drive
Dallas, Texas 75024
Attn: Economic Development

with a copy to:

Frito-Lay, Inc.
7701 Legacy Drive
Plano, Texas 75024
Attn: General Counsel

(c) If to the Trustee:

Regions Bank
400 West Capitol, Seventh Floor
Little Rock, Arkansas 72201
Attn: Corporate Trust Officer

A duplicate copy of each notice, certificate or other communication given hereunder by the Issuer, the Lessee or the Trustee to any one of the others shall also be given to all of the others. The Issuer, the Lessee and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 15.05. Payments Due on Saturdays, Sundays and Holiday. In a case where the date of maturity of principal of or interest on the Bonds or the date fixed for redemption of any

Bonds shall be, in the city of payment, a Saturday, a Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal or interest need not be made on such date in such city but may be made on the next succeeding business day not a Saturday, a Sunday, a legal holiday or a day upon which banking institutions are authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 15.06. Laws Governing Indenture. The effect and meaning of this Indenture and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State of Arkansas.

Section 15.07. Counterparts. Any person entitled to rely on this Indenture may conclusively rely on a counterpart hereof duly certified by the Secretary of the Issuer for any purpose and any such counterpart may be introduced in evidence in any court proceedings or in any other proceedings for the enforcement hereof to the same extent as if such counterpart constituted the original record of proceedings of the Issuer where this Indenture and the adoption hereof is recorded.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and behalf and its official seal to be hereunto affixed and attested by its duly authorized officers, all as of the date first above written.

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

By: _____
Donna K. Jackson, City Clerk

[Signature of Trustee appears on the following page.]

TRUSTEE:

REGIONS BANK

By:_____

Name:_____

Title:_____

STATE OF ARKANSAS)
) ss:
COUNTY OF CRAIGHEAD)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **Harold Perrin** and **Donna K. Jackson**, to me personally well known, who stated that they were the Mayor and City Clerk of the **City of Jonesboro, Arkansas**, a city of the first class, political subdivision and a public body corporate and politic duly created and existing under the Constitution and laws of the State of Arkansas, and were duly authorized in their respective capacities to execute the foregoing instruments for and in the name and behalf of said City, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

Notary Public

My Commission Expires:

(S E A L)

STATE OF ARKANSAS)
) ss:
COUNTY OF PULASKI)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named _____, to me personally well known, who stated that she was a _____ of **Regions Bank**, an Alabama banking association with trust powers under the laws of the State of Alabama, and was duly authorized in her capacity to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day _____, 2016.

Notary Public

My Commission Expires:

(S E A L)

EXHIBIT A
FORM OF BOND

No. R-_____

\$_____

CITY OF JONESBORO, ARKANSAS
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(FRITO-LAY, INC. PROJECT)
SERIES 2016

TRANSFER RESTRICTED

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY OTHER STATE SECURITIES LAW. THIS BOND MAY NOT BE TRANSFERRED, SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED UNLESS REGISTERED PURSUANT TO SUCH ACT AND ANY APPLICABLE STATE SECURITIES LAW OR UNLESS IN THE OPINION OF LEGAL COUNSEL ACCEPTABLE TO THE ISSUER AND THE LESSEE (DEFINED BELOW) AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

ISSUANCE DATE:	INTEREST RATE:	MATURITY DATE:
DECEMBER __, 2016	2.94%	DECEMBER 31, 2036
REGISTERED OWNER:	PEPSICO, INC.	
PRINCIPAL AMOUNT:	_____	AND NO/100 DOLLARS

FOR VALUE RECEIVED, the **City of Jonesboro, Arkansas** (the "Issuer"), a body corporate and politic, and a city of the first class, duly existing under the Constitution and the laws of the State of Arkansas, hereby promises to pay to the registered owner hereof, solely from the special fund hereinafter described and from no other source, on the Maturity Date (as herein defined), the principal sum shown above and to pay solely from said special fund, interest thereon, from the interest payment date next preceding the date of authentication hereof, or if this Bond is authenticated on an interest payment date, from the date of authentication hereof, but if this Bond is authenticated prior to December 1, 2016, from the Issuance Date described above (provided, however, that if on the date of authentication hereof, interest on the hereinafter defined Bonds is in default, this Bond shall bear interest from the date to which interest hereon has been paid in full) at the interest rate per annum indicated hereinabove payable annually on December 1 in each year, commencing December 1, 2016 computed on the basis of a 360-day year consisting of twelve 30-day months, to the registered owner hereof, by check mailed to the address of such registered owner as shown on the books kept by the Trustee, as Bond Registrar, hereinafter defined; provided, however, that payment of interest on the Bonds may, at the option of any holder of Bonds in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer to such holder to the bank account number on file with the Trustee upon the written request of such holder to the Trustee not later than the fifteenth day next preceding any interest payment date (the "Record

Date”). Both the principal hereof and the interest hereon are payable in lawful money of the United States of America at the principal office of Regions Bank, as trustee (the “Trustee”) and as bond registrar (the “Bond Registrar”) under the hereinafter mentioned Indenture, or, if a successor is hereafter appointed, then at the principal office of such successor.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Arkansas to happen, exist, and be performed precedent to and in the issuance of this Bond, the adoption of the hereinafter defined Ordinance by the Issuer and the execution of the Indenture, have happened, exist and have been performed.

This Bond shall not become valid or obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been manually signed by the Trustee.

This Bond is one of an authorized issue of Series 2016 Bonds issued in aggregate principal amount of not to exceed \$150,000,000 under and secured by a Trust Indenture dated December __, 2016, by and between the Issuer and Regions Bank as trustee (the “Trustee”), issued pursuant to Ordinance 2016- ____ of the Issuer adopted on _____, 2016 (the “Ordinance”). The Bonds provide for payment of accrued interest annually on December 1 of each year, commencing December 1, 2017. The Bonds shall mature on December 31, 2036 (the “Maturity Date”) unless paid prior to maturity as provided in the Indenture. Otherwise, the Bonds are of like tenor except as to number, series designation, interest rate, stated maturity and amounts. The Bonds are issued by the Issuer for the purpose of paying the costs relating to the equipping of certain industrial facilities comprising a food manufacturing facility located in Jonesboro, Arkansas and facilities related thereto, all for use by and for the benefit of Frito-Lay, Inc. (the “Lessee”) which facilities, as more particularly defined in the hereinafter defined Supplemental Lease, shall be referred to hereinafter collectively as the “Expansion ProjectsExpansion Projects,” and have been leased to the Lessee, pursuant to, in compliance with, and in the execution of the powers and authority therefor provided by Act No. Nine of the First Extraordinary Session of the 66th General Assembly of the State of Arkansas, the Industrial Development Revenues Bond Law of 1985, as amended, and Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the “Acts”).

This Bond is issued under and the Ordinance was adopted by the Issuer under and pursuant to the Constitution and laws of the State of Arkansas, including particularly the Acts. Prior to the issuance hereof, the Issuer entered into a Fourth Supplemental Lease Agreement, dated as of December __, 2016 (as amended and supplemented from time to time in accordance with the terms thereof, the “Supplemental Lease”), between the Issuer and the Lessee, pursuant to the terms of which the Lessee is required to pay to the Issuer rental payments which are committed and will be fully sufficient to pay the principal of and the interest on the Bonds as the same become due. Under the terms of the Supplemental Lease, and except as provided in the Supplemental Lease, it is the obligation of the Lessee to pay the cost of maintaining the Expansion ProjectsExpansion Projects in good repair, to keep it properly insured, and to pay all taxes, levies or other charges assessed against or with respect to the Expansion ProjectsExpansion Projects. As security for the payment of the Bonds, all right, title and interest of the Issuer in the rents, payments, revenues and earnings to be received under the terms of the Supplemental Lease (excepting only certain Unassigned Payments

(as defined in the Supplemental Lease) generally relating to indemnification payments and payments to the Issuer for its fees and certain expenses incurred in connection therewith or otherwise arising out of or in connection with the Issuer's interest in the Expansion Projects (Expansion Projects) have been assigned and pledged for the benefit of the holders of the Bonds.

No recourse shall be had for the payment of the principal of or interest on this Bond against any officer or member of the Issuer. This Bond and the redemption premium, if any, and interest hereon shall not be payable from or charged upon any funds other than the Trust Estate provided for under the terms of the Indenture, nor shall the State of Arkansas, or any other political subdivision thereof be subject to any pecuniary liability thereon. No holder of this Bond shall ever have the right to compel any exercise of the taxing power of the State of Arkansas, Craighead County, City of Jonesboro, or any other political subdivision of the State of Arkansas to pay this Bond or the interest thereon, nor to enforce the payment thereof against any property of the State of Arkansas, Craighead County, City of Jonesboro, or any other political subdivision of the State of Arkansas; nor shall this Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the State of Arkansas, Craighead County, the City of Jonesboro or any other political subdivision of the State of Arkansas.

The Issuer has agreed that it will use its best efforts to collect rental payments for the Lessee's use of the Expansion Projects (Expansion Projects) sufficient to pay when due the principal of and the interest on the Bonds. It is provided in the Indenture that the Issuer may hereafter issue Additional Bonds from time to time under certain terms and conditions, and, if issued, such additional bonds will rank *pari passu* with this Bond as to the lien on the revenues to be derived by the Issuer in connection with the Expansion Projects (Expansion Projects). Reference to the Indenture is hereby made for a description of the aforesaid Bond Fund, the nature and extent of the security, rights, duties and obligations of the issuer, the Lessee and the Trustee, the rights of the holders of the Bonds, the issuance of Additional Bonds, the terms and conditions under and upon the occurrence of which the Indenture and the Supplemental Lease may be modified, and the terms and conditions under and upon the occurrence of which the lien of the Indenture may be defeased as to this Bonds prior to the maturity or redemption date hereof, to all of the provisions of which the holder hereof, by the acceptance of this Bond, assents.

The Bonds are subject to optional redemption prior to their stated maturity in accordance with and subject to the terms and conditions set forth in the Indenture.

When Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed shall be given by mailing a copy of the redemption notice by first class mail to the registered owner of each such Bond to be redeemed at the address shown on the registration books at least five (5) days but no more than sixty (60) days prior to the redemption date; provided, however, that failure to mail any such notice to any such registered owners shall not affect the validity of the proceedings for the redemption of Bonds. Notwithstanding the foregoing, so long as the Lessee or an affiliate of the Lessee shall be the registered owner of all of the Bonds, the notice described in the preceding sentence shall be given at least one (1) business day prior to the redemption date. All Bonds called for redemption shall cease to bear interest on the specified redemption date provided sufficient moneys for their redemption are on deposit at the designated place of payment at that time,

and such Bonds shall no longer be secured by the lien of the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the principal office of the Trustee, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds of the same series and the same maturity and of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Issuer and the Trustee may deem and treat the registered holder hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

This Bond is issued with the intent that the laws of the State of Arkansas shall govern its construction. Under the terms of the aforesaid Act and the other laws of the State of Arkansas, the interest on this Bond is exempt from present state income taxation within the State of Arkansas.

In certain events, on the conditions, in the manner, and with the effect set forth in the Indenture, the principal of all of the Bonds may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Indenture.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, and its seal to be hereunto affixed or imprinted or otherwise reproduced hereon and attested by the manual or facsimile signature of its City Clerk.

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

Donna K. Jackson, City Clerk

(S E A L)

AUTHENTICATION CERTIFICATE

This Bond is one of the Bonds described in the within-mentioned Indenture and is hereby authenticated.

REGIONS BANK, as Trustee

By: _____

Name: _____

Title: _____

Date of Authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Social Security or Federal Taxpayer Identification Number)

(Please print or typewrite Name and Address, including Zip Code, of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints the Registrar under the Indenture as Attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE:

SIGNATURE GUARANTEE SHOULD BE MADE BY A GUARANTOR INSTITUTION PARTICIPATING IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM OR IN SUCH OTHER GUARANTEE PROGRAM ACCEPTABLE TO THE TRUSTEE.

NOTICE:

THE SIGNATURE OF THE REGISTERED OWNER TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS ON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions the above bond may be surrendered to the Trustee for the appropriate notation by it on the table below:

DATE OF PAYMENT	AMOUNT REDEEMED	UNPAID PRINCIPAL AMOUNT	SIGNATURE OF TRUSTEE

PAYMENT IN LIEU OF TAXES AGREEMENT

City of Jonesboro, Arkansas
300 South Church Street
Jonesboro, Arkansas 72401

Dated: _____, 2016

Attention: Mayor

Re: Not to exceed \$150,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Frito-Lay Project), Series 2016 (the "Bonds")

Ladies and Gentlemen:

The City of Jonesboro, Arkansas (the "City") proposes to issue the Bonds identified above in one or more series under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Ark. Code Ann. §§ 14-164-201 *et seq.* (the "Act") for the purpose of securing and developing a substantial industrial project consisting of the acquisition and construction of warehouse and manufacturing facilities, infrastructure and improvements and the acquisition and installation of equipment for the preparation, processing, packaging, handling and storage of food products to be located at 2810 Quality Way, Jonesboro, Arkansas relating to the operations of Frito-Lay, Inc. (the "Project"). The Project will be leased and by the City to Frito-Lay, Inc. (the "Company") pursuant to a Lease Agreement (the "Lease Agreement") for a period of 20 years for rentals sufficient to pay debt service on the Bonds. The Company will use the Project as facilities for the warehousing and production of food products. The Project, as defined herein, is the "Leased Premises" as defined in the Lease Agreement.

Article IV of the Lease Agreement provides that the Company is obligated to pay all taxes and assessments levied and assessed on the Project during the term of the Lease Agreement. The Company is informed and understands that, notwithstanding the provision of Article IV of the Lease Agreement, under Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Arkansas Supreme Court in *Wayland v. Snapp*, 233 Ark. 57, 334 S.W. 2d 633 (1960), and *Pulaski County v. Jacuzzi Bros. Div.*, 332 Ark. 91, 964 S.W.2d 788 (1998), and Ark. Code Ann. §§ 14-164-701 *et seq.*, the Project will be exempt from ad valorem taxes because it is owned by the City and used for a public purpose within the meaning of the applicable Constitutional and statutory provisions affording the exemption.

Thus, the Company understands that it, as Lessee of the Project owned by the City, will, in fact, pay no ad valorem taxes on the Project under the provisions of Article IV of the Lease Agreement. The taxing authorities (defined below) have indicated a reluctance to lose all tax revenues which would otherwise be received by it if the property involved was privately owned.

Therefore, to induce the City to proceed with the issuance of the Bonds for the purpose indicated, which will inure to the benefit of the Company, and for other valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Company agrees with the City pursuant to this Payment in Lieu of Taxes Agreement (the "Agreement") as follows:

1. In lieu of ad valorem property taxes, the Company will pay to the City an annual sum equal to 35% of the amount which would be payable as ad valorem taxes that would have to be paid on the Project to the State of Arkansas, Craighead County, the Nettleton School District, and/or other political subdivisions of the State of Arkansas (the "taxing authorities") if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.* Payments are due not later than October 10 each year commencing after completion of construction. Payments not paid when due shall bear interest at 5% per annum until paid.

The payment is based on the land, buildings, improvements and equipment comprising the Leased Premises, excluding licensed vehicles. Any expansion or improvement of the Project will become subject to this Agreement using the same formula for the term of the Bonds.

2. The payments to be made pursuant to paragraph 1 are intended to be in lieu of all ad valorem taxes that would have to be paid on the Project to the taxing authorities if the Project were not exempt from ad valorem taxes under the provisions of Article 16, Section 5 of the Constitution of the State of Arkansas, as interpreted by the Supreme Court of the State of Arkansas in *Wayland v. Snapp, supra*, and *Pulaski County v. Jacuzzi Bros. Div., supra*, and Ark. Code Ann. §§ 14-164-701 *et seq.*, but are not intended to be in lieu of (i) any licenses, occupation or privilege tax, or fee imposed upon the Company for or with respect to its right to carry on its business in the State of Arkansas, (ii) any special benefit or local improvement tax or assessment, or (iii) fees or charges for utility services rendered, such as for water or sewer services.

3. The City agrees to distribute each payment under paragraph 1 among the taxing authorities in the proportion that the millage collected bears to the total millage collected by all during the year of distribution, unless all such taxing authorities, including without limitation the school district, shall otherwise agree and document the alternate basis upon which the payments shall be distributed.

4. The City and the Company agree to cooperate in sustaining the enforceability of this Agreement. However, if by reason of a change in the Constitution of the State of Arkansas, a change by the Supreme Court of the State of Arkansas in its interpretation of the Constitution, a change by the General Assembly of the State of Arkansas, or otherwise, the Company is required to pay any tax for which the payments specified in paragraph 1 are intended to be in lieu, the Company may deduct the aggregate of any such payments made by it from any amount herein agreed to be paid under paragraph 1. Furthermore, inasmuch as the payments in paragraph 1 herein agreed to be made are intended to be in lieu of taxes, it is agreed that said payments

shall not as to any year be in an amount greater than would otherwise be payable for such year in ad valorem taxes, in the aggregate, on account of its ownership of the Project.

5. Representatives of the Company will confer at least annually with the Craighead County Assessor and determine the assessed valuation of the real and personal properties comprising the Project. The determination shall be made by mutual agreement if possible, and if not, shall be made by the Craighead County Assessor as though the Project were privately owned. Because the valuation of such property is a key factor in calculating payments due, the City agrees to cooperate with the Company in any reasonable challenge to the valuation assigned to such property by the Craighead County Assessor to the fullest extent permitted by Arkansas law.

It is recognized by the City and the Company that the payments described in paragraph 1 hereof are to be calculated on the basis of annual amounts that would otherwise be payable as ad valorem taxes under Arkansas law on the Leased Premises if such property were on the tax rolls. The amount to be paid each year shall be determined by applying the millage that would be applicable to the Project for that year if the Project were privately owned. The Company shall be entitled to any refund occasioned by overpayment or a reduction in millage which requires a refund by the taxing authorities.

6. This Agreement shall terminate and be of no further force and effect from and after the date that the Lease Agreement shall terminate for any purpose other than a default on the part of the Company, including, but not limited to, the transfer of ownership of the Leased Premises to the Company. If such termination shall be at a point constituting a portion of a year, the Company shall pay for the year in which termination occurred that portion of the specified annual payment that the number of days in such year that the Project was exempt prior to the terminations bears to 365 days (366 days in a leap year).

7. This Agreement shall be binding upon the successors and assigns of the Company, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the City.

8. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original.

9. This Agreement shall be governed by, and interpreted in accordance with, the laws of the state of Arkansas.

When executed, this Agreement shall constitute a valid and binding contract between the Company and the City.

Very truly yours,

FRITO-LAY, INC.

By: _____
_____, _____

ACCEPTED:

CITY OF JONESBORO, ARKANSAS

By: _____
Harold Perrin, Mayor

ATTEST:

Donna Jackson, City Clerk



Legislation Details (With Text)

File #:	RES-16:141	Version:	1	Name:	
Type:	Resolution	Status:		To Be Introduced	
File created:	10/10/2016	In control:		Finance & Administration Council Committee	
On agenda:		Final action:			
Title:	A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO TO PARTNER WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR THE FOLLOWING PROJECT: Job 100872, Hwy. 18/Main St./Highland Dr. Inters. Impvts. (Jonesboro) (S)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:					

Date	Ver.	Action By	Action	Result
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A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF JONESBORO TO PARTNER WITH THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR THE FOLLOWING PROJECT: Job 100872, Hwy. 18/Main St./Highland Dr. Inters. Impvts. (Jonesboro) (S)

WHEREAS, the City of Jonesboro (City) and the Arkansas State Highway and Transportation Department have identified a need for improvements to the intersection of Highway 18, Main Street, and Highland Drive in the City of Jonesboro; and

WHEREAS, the City desires to partner with the Department in implementation these improvements; and

WHEREAS, the city hereby agrees to contribute \$1,000,000 towards the overall project cost; and

WHEREAS, the City will also be responsible for design of the project, including right of way and utility plans; and

WHEREAS, the cost of the design will count towards the City's share of the project; and

WHEREAS, the Department will handle right of way acquisition, utility relocation, advertising, letting, awarding, and inspection of the project; and

WHEREAS, the Department will be responsible for all project costs exceeding \$1,000,000.

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

SECTION I: The City of Jonesboro will participate in accordance with its designated responsibilities in this project.

SECTION II: The Mayor or his designated representative is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of this project.

SECTION III: The City of Jonesboro pledges its full support and hereby requests that the Arkansas Highway and Transportation Department initiate action to implement this project.

