



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.

PASSED AND APPROVED this 1st day of November, 2016.