

ORDINANCE NO. _____

AN ORDINANCE CONFIRMING MATTERS PERTAINING TO INDUSTRIAL DEVELOPMENT REVENUE BONDS PREVIOUSLY ISSUED; AUTHORIZING AND PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jonesboro, Arkansas (the "City") has issued its Taxable Industrial Development Revenue Bonds (Millard Refrigerated Services, Inc. Project), Series 2002 (the "Bonds"), in the aggregate principal amount of not to exceed \$35,000,000, pursuant to the provisions of Title 14, Chapters 164, Subchapter 2 of the Arkansas Code of 1987 Annotated, for the purpose of financing certain industrial facilities (the "Project"); and

WHEREAS, the Project is leased to Millard Refrigerated Services, Inc., a Georgia corporation (the "Company"), under a Lease Agreement dated as of June 1, 2002 (the "Lease Agreement"), by and between the City and the Company; and

WHEREAS, pursuant to the provisions of the Lease Agreement, the Company proposes to assign its interest in the Lease Agreement and certain other documents entered into in connection with the issuance of the Bonds to Nestle Prepared Foods Company, a Pennsylvania corporation ("Nestle"); and

WHEREAS, the Company will retain ownership of certain machinery, equipment and other personal property and desires to amend the Lease Agreement to specify the items of property to be excluded from the Lease Agreement; and

WHEREAS, there has been presented to this meeting the form of the following instruments which the City proposes to execute to carry out the transaction described above:

(a) Assignment and Assumption Agreement among the Company, Nestle, the City, and The Bank of New York Trust Company, N.A., as Trustee (the "Assignment and Assumption Agreement");

(b) First Amendment to Lease Agreement between the City and the Company (the "Amendment to Lease"); and

(c) Estoppel Agreement among the Company, the City, Nestle, and others (the "Estoppel Agreement"), relating to the Payment in Lieu of Taxes Agreement dated as of March 7, 2001, and the Development Agreement dated as of July 25, 2001;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jonesboro, Arkansas:

Section 1. There is hereby authorized the execution and delivery of the Assignment and Assumption Agreement, the Amendment to Lease, and the Estoppel Agreement, and the Mayor and City Clerk, as appropriate, are hereby authorized to execute, acknowledge and deliver the same for and on behalf of the City. The foregoing documents are hereby approved in substantially the forms submitted to this meeting, and the Mayor is hereby authorized to confer with the Company and others in order to complete the same in substantially the forms 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.

Section 2. 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 carry out the authority conferred by this Ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, 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.

Section 3. The City Clerk is hereby authorized and directed to file in the office of the City Clerk, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person copies of the Assignment and Assumption Agreement, the Amendment to Lease, and the Estoppel Agreement, and such documents shall be on file for inspection by any interested person.

Section 4. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 5. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. There is hereby found and declared to be an immediate need, as expressed by the Company, for the accomplishment of the transaction herein described, and this Ordinance is necessary for the accomplishment of such transaction. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and effect immediately upon and after its passage.

PASSED: August 5, 2008.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Jonesboro, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. _____, adopted at a regular session of the City Council of the City of Jonesboro, Arkansas, held at the regular meeting place of the City at 6:30 o'clock p.m., on the 5th day of August, 2008, and that the Ordinance is of record in Ordinance Record Book No. _____, at page _____, now in my possession.

GIVEN under my hand and seal on this _____ day of August, 2008.

City Clerk

(SEAL)