BILL NO. 2017-014 ORDINANCE NO. 2017-____

AN ORDINANCE APPROVING A SUPPLEMENTAL PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF A FROZEN FOODS MANUFACTURING FACILITY; AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $10,035,000 TO FINANCE ADDITIONAL PROJECT COSTS; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Joplin, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, pursuant to the Act and a Trust Indenture dated as of January 1, 2017 (the "Original Indenture") between the City and Commerce Bank (the "Trustee"), the City issued its Taxable Industrial Development Revenue Bonds (DEF, LLC Project), Series 2017 (the "Series 2017A Bonds"), in the maximum principal amount of $44,250,000, on January 27, 2017, for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a frozen foods manufacturing facility on approximately 26 acres of land located on the north side of East 32nd Street at the intersection of East 32nd Street and Prairie View Road in the City (the "Project Site"), including such land and the associated buildings, structures and fixtures (the "Project Improvements") and equipment (the "Project Equipment", with the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project"); and

WHEREAS, the City has leased the Project to DEF, LLC, a Missouri limited liability company (the "Company") pursuant to a Lease Agreement dated as of January 1, 2017 (the "Original Lease"); and

WHEREAS, in the course of completing the Project, the Company has determined a need for additional Project Improvements and Project Equipment (together the "Series 2017B Project") to complete the Project according to the needs of the Company; and

WHEREAS, the Company has submitted a Supplemental Plan for an Industrial Development Project for a Food Manufacturing Plant dated November 13, 2017 (the "Supplemental Plan"), and requested the issuance of $10,035,000 (Aggregate Maximum Principal Amount) City of Joplin, Missouri Taxable Industrial Development Revenue Bonds (DEF, LLC Project), Series 2017B (the "Series 2017B Bonds," together with the Series 2017A Bonds, the "Bonds") for the Series 2017B Project; and

WHEREAS, the City gave notice of the Supplemental Plan on November 13, 2017 by mail to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and held a public hearing regarding

the Supplemental Plan on December 4, 2017, during which hearing those in attendance were given the opportunity to provide comments with respect to the Supplemental Plan; and

WHEREAS, the City now desires to approve the Supplemental Plan; and

WHEREAS, the City desires to issue the Series 2017B Bonds to finance the Series 2017B Project; and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Series 2017B Bonds for the purpose described above; and

WHEREAS, Section 4.23 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least fifteen days' notice in a newspaper published in Joplin, Missouri; and

WHEREAS, a notice of sale was published in the *Joplin Globe* on November ___, 2017 inviting potential bond purchasers to submit bids for the Series 2017B Bonds and the City has received one bid for the bonds; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with approval of the Supplemental Plan and the issuance of the Series 2017B Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI:

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Series 2017B Project will promote the economic welfare and the development of the City, and the issuance of the Series 2017B Bonds by the City to pay the costs of the Series 2017B Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Supplemental Plan attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Series 2017B Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (DEF, LLC Project), Series 2017B, in an aggregate principal amount not to exceed $10,035,000, for the purpose of providing funds to pay the costs of the Series 2017B Project. The Series 2017B Bonds shall be issued and secured pursuant to the herein authorized First Supplemental Trust Indenture (the "First Supplemental Indenture," together with the Original Indenture, the "Indenture") and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the First Supplemental Indenture upon the execution thereof, and the signatures of the officers of the City executing the First Supplemental Indenture shall constitute conclusive evidence of their approval and the City's approval thereof.

The City hereby determines that the sealed proposal for purchase of the Series 2017B Bonds submitted by the Company was the only bid submitted at the public sale of the Series 2017B Bonds and that it is in the best interest of the City to accept the bid submitted by the Company. The sale of the Series

2017B Bonds to the Company at the interest rate and upon the terms set forth in the First Supplemental Indenture is hereby approved.

Section 4. Limited Obligations. The Series 2017B Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement dated as of January 1, 2017, as amended by the First Supplemental Lease Agreement dated as of December 1, 2017 (collectively, the "Lease Agreement"), and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Indenture. The Series 2017B Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Series 2017B Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) First Supplemental Trust Indenture between the City and Commerce Bank;

(b) First Supplemental Lease Agreement between the City and the Company;

(c) Bond Purchase Agreement between the City and the Company; and

(d) First Supplemental Performance Agreement between the City and the Company.

Section 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Series 2017B Bonds and to deliver the Series 2017B Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the First Supplemental Indenture. The Mayor, City Manager or Finance Director of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Series 2017B Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. Further Authority. The Mayor, City Manager, Finance Director, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Series 2017B Bonds and the City Documents. The Mayor is authorized to grant on behalf of the City such consents and waivers relating to the Series 2017B Bonds, the First Supplemental Indenture, the First Supplemental Performance Agreement or the First Supplemental Lease Agreement as may be requested during the term thereof and as the Mayor may deem appropriate with the advice and counsel of city staff; provided, such consents and/or waivers shall not increase the principal amount of the Series 2017B Bonds, increase the term of the Lease Agreement or the tax abatement as provided for therein, or materially change the nature of the transaction.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this 18th day of December, 2017.

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[SEAL] MAYOR

ATTEST:

_____

CITY CLERK

Approved as to form:

_____

CITY ATTORNEY

EXHIBIT A

SUPPLEMENTAL PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT