

RESOLUTION NO. 24-97

**RESOLUTION APPROVING AN AGREEMENT BY MESQUITE INDUSTRIAL DEVELOPMENT CORPORATION TO ISSUE BONDS FOR MORRISON PRODUCTS, INC. AND THE BOND RESOLUTION PROVIDING FOR THE ISSUANCE OF SUCH BONDS**

WHEREAS, Mesquite Industrial Development Corporation (the "Issuer") was created under the auspices of the City of Mesquite, Texas (the "Governmental Unit"); and

WHEREAS, the Issuer proposes to issue bonds (the "Bonds") to pay the costs of certain manufacturing facilities to serve the Mesquite plant of Morrison Products, Inc. (the "Company") in Dallas County, Texas, in a principal amount not to exceed \$5,000,000; and

WHEREAS, on January 30, 1997, the Issuer adopted a Resolution With Respect to the Issuance of Bonds to Finance Facilities for Morrison Products, Inc. (the "Inducement Resolution"); and

WHEREAS, it is deemed necessary and advisable that this Resolution be adopted.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, THAT:

Section 1. The "Loan Agreement between Mesquite Industrial Development Corporation and Morrison Products, Inc.," in substantially the form and substance as attached to this Resolution and made a part hereof for all purposes, is hereby approved, and the Bonds are approved to be issued pursuant thereto for the purpose of paying the costs of certain manufacturing facilities to serve the plant of the Company, located in the City of Mesquite, Dallas County, Texas.

Section 2. The "Resolution Authorizing the Issuance of Mesquite Industrial Development Corporation Industrial Development Revenue Bonds (Morrison Products, Inc. Project) Series 1997; the Execution of an Indenture of Trust, a Loan Agreement, and a Placement Agreement; Approval of a Placement Memorandum; and Other Matters in Connection Therewith", in substantially the form and substance attached to this Resolution and made a part hereof for all purposes, is hereby specifically approved, and the Bonds may be issued as provided for therein.

Section 3. The approvals contained herein are solely for the purposes of Section 25(f) of the Development Corporation Act of 1979, as amended (Article 5190.6, Vernon's Texas Civil Statutes) and Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Governmental Unit shall have no liability for the payment of the Bonds nor shall any of its assets be pledged to the payment of the Bonds.

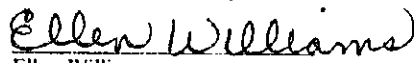
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DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the  
21st day of July, 1997.



Mike Anderson  
Mayor

ATTEST:



Ellen Williams  
City Secretary

APPROVED:



B. J. Smith  
City Attorney

EXHIBIT "A"

The Loan Agreement is enclosed elsewhere is the transcript

EXHIBIT "B"

Resolution Authorizing the Issuance of Mesquite Industrial Development Corporation Industrial Development Revenue Bonds (Morrison Products, Inc. Project) Series 1997; the Execution of an Indenture of Trust, a Loan Agreement, and a Placement Agreement; Approval of a Private Placement Memorandum; and Other Matters in Connection Therewith," adopted on July 21, 1997, is enclosed elsewhere in transcript.

RESOLUTION AUTHORIZING MESQUITE INDUSTRIAL DEVELOPMENT CORPORATION INDUSTRIAL DEVELOPMENT REVENUE BONDS (MORRISON PRODUCTS, INC. PROJECT) SERIES 1997; THE EXECUTION OF AN INDENTURE OF TRUST, A LOAN AGREEMENT, AND A PLACEMENT AGREEMENT; APPROVAL OF A PLACEMENT MEMORANDUM; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, Mesquite Industrial Development Corporation (the "Issuer") is a non-stock, non-profit industrial development corporation organized and existing under the laws of the State of Texas, including particularly the Development Corporation Act of 1979, as amended, Article 5190.6, V.A.T.C.S. (the "Act"); and

WHEREAS, a Loan Agreement, dated as of August 1, 1997 (the "Agreement"), will be duly executed between the Issuer and Morrison Products, Inc. (the "Company") prior to the delivery of the bonds hereinafter authorized; and

WHEREAS, at the request of the Company the Issuer has determined to issue its revenue bonds to pay the costs of certain manufacturing facilities at the plant of the Company within the City of Mesquite, Texas (the "Governmental Unit"), as contemplated by the Agreement and as hereinafter provided; and

WHEREAS, the Bonds are to be secured by an Indenture of Trust dated as of August 1, 1997 (the "Indenture") between the Issuer and PNC Bank, Ohio, National Association (the "Trustee") and are additionally to be secured by a Letter of Credit (the "Letter of Credit") to be issued by KeyBank National Association (the "Bank") to the Trustee,

WHEREAS, as provided in the Agreement, the Company has requested that the Bonds, be issued, sold, and delivered as provided in this Resolution and the Indenture, and that, upon the issuance, sale, and delivery of the Bonds, the Company will be unconditionally obligated to the Issuer and the Trustee to make or pay, or cause to be made or paid, to the Trustee the "Loan Payments" required by the Agreement, this Resolution and the Indenture, in amounts sufficient to pay and redeem, and provide for the payment and redemption of, the principal of, redemption premium, if any, and interest on and purchase price of, the Bonds when due, all as hereinafter set forth;

WHEREAS, the Bonds, and the interest thereon, are and shall be payable from and secured by a first and superior lien on and pledge of the payments designated as "Loan Payments" to be made by the Company pursuant to the Agreement in amounts sufficient to pay and redeem, and provide for the payment of the principal of, premium, if any, and interest on and purchase price of, the Bonds, when due, and the fees and expenses of the Trustee and any paying agent for the Bonds, all as required by the Agreement and the Indenture;

WHEREAS, the form of a Placement Agreement (the "Placement Agreement") with KeyBank National Association (the "Placement Agent") has been presented to the Issuer;

WHEREAS, the form of a Preliminary Private Placement Memorandum relating to the Bonds has been presented to the Issuer.

WHEREAS, certified copies of the Bond Resolution have been duly filed with the Trustee;

WHEREAS, there have been prepared and presented to, and are before the Issuer the following documents:

- (1) Form of proposed Indenture (presented before this meeting as Exhibit A);
- (2) Form of Bonds (contained in the Indenture);
- (3) Form of proposed Agreement (presented before this meeting as Exhibit B);
- (4) Form of proposed Placement Agreement (presented before this meeting as Exhibit C);
- (5) Form of Preliminary Private Placement Memorandum (presented before this meeting Exhibit D); and

WHEREAS, the Issuer has determined and does hereby determine that the issuance of the Bonds in accordance with the terms of this Resolution is in the best interests of the Issuer and the Company;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MESQUITE INDUSTRIAL DEVELOPMENT CORPORATION, THAT:

Section 1. There is hereby authorized and directed the execution, issuance and sale by the Issuer of its Industrial Development Revenue Bonds (Morrison Products, Inc. Project) Series 1997 in an aggregate principal amount approved by the President or the Secretary of the Issuer, but in no event to exceed \$5,000,000, for the purpose of paying the costs of certain manufacturing facilities at the plant of the Company within the Governmental Unit. The Bonds will mature on such date or dates not later than forty years from the date hereof, will bear interest at a rate or rates per annum and may be subject to optional or mandatory redemption on such date or dates, all as approved by the President or the Secretary of the Issuer on or before the date of issuance of the Bonds. The interest on the Bonds will be payable on the dates and at such places as are specified in the Indenture. In no event will the interest rate on the Bonds exceed the maximum interest rate specified in the Indenture. The Bonds shall be dated and numbered as provided in the Indenture and shall have the form, details and specifications set out in the Indenture. The Bonds shall be additionally secured by the Letter of Credit and may be secured by such additional credit enhancement or security as approved by the President or Secretary of the Issuer. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signatures of the President and Secretary of the Issuer and shall have impressed or imprinted thereon the official seal of the Issuer or a facsimile thereof.

Section 2. For the purpose of securing the Bonds, of providing the details thereof and of prescribing the terms and conditions on which the Bonds are to be secured, executed, authenticated, accepted and held, the Indenture substantially in the form presented before this meeting as Exhibit A is hereby approved and authorized to be executed and delivered on behalf of the Issuer by the President or Vice President and attested by the Secretary or any Assistant Secretary, with such

changes therein as shall be approved by such officers, their execution thereof to constitute conclusive evidence of such approval.

**Section 3.** The Agreement in substantially the form presented before this meeting as Exhibit B is hereby approved and the President or the Vice President of the Issuer is hereby authorized and directed, for and on behalf of the Issuer to date, sign, and otherwise execute the Agreement, and the Secretary or any Assistant Secretary is hereby authorized and directed, for and on behalf of the Issuer, to sign, attest, and affix the seal of the Issuer to the Agreement, with such changes therein as shall be approved by such officers, their execution thereof to constitute conclusive evidence of such approval.

**Section 4.** The sale of the Bonds to the Placement Agent at a price as shall be approved by the President or the Secretary on or before the date of issuance of the Bonds, but in no event less than 95% of the principal amount thereof plus accrued interest, if any, is hereby authorized and approved, and the Placement Agreement substantially in the form presented before this meeting as Exhibit C and any supplements thereto which may be necessary to accomplish issuance of Bonds is hereby authorized to be dated, executed and delivered on behalf of the Issuer by the President or Vice President and attested by the Secretary or any Assistant Secretary, with such changes therein as shall be approved by such officers, their execution thereof to constitute conclusive evidence of such approval.

**Section 5.** Distribution of the Preliminary Private Placement Memorandum for the Bonds, in substantially the form presented before this meeting as Exhibit D, is hereby authorized, and the distribution of a final Private Placement Memorandum for the Bonds and any supplements thereto which may be necessary to accomplish the issuance of Bonds is hereby authorized, with such changes therein as shall be approved by the President or the Vice President or the Secretary, such officer's execution of the Placement Agreement to constitute conclusive evidence of such approval; provided, however, that this approval and authorization do not apply to the information with respect to the Company or the Bank, as applicable, contained in such Private Placement Memorandum, but nothing herein shall be construed as prohibiting the Placement Agent from including such information pursuant to authorization from the Company.

**Section 6.** PNC Bank, Ohio, National Association is hereby designated as the Trustee, Paying Agent, Tender Agent, and Bond Registrar for the Bonds under the Indenture.

**Section 7.** The President or the Vice President and the Secretary or any Assistant Secretary are hereby authorized and directed to execute (i) such certificates as shall be necessary to establish that the Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986 (the "Code"); (ii) an Information Return for Private Activity Bond Issues (Form 8038), as required under Section 149(e) of the Code, to be filed with the Internal Revenue Service; (iii) any representation letters required by The Depository Trust Company in connection with the book-entry only system; and (iv) any certificates necessary to comply with Securities and Exchange Commission Rule 15c2-12.

Section 8. The officers are each hereby authorized and directed to execute, attest, seal and deliver any and all additional certificates, documents or other papers and to do any and all things deemed necessary to effect the issuance and sale of the Bonds and the execution and delivery of the Agreement, the Indenture, the Bonds, the Placement Agreement and the Private Placement Memorandum and to carry out the intent and purposes of this Resolution, including the preambles hereto.

The President, the Vice President, the Secretary or any Assistant Secretary of the Issuer is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to said Bonds pending their delivery and the investigation, examination and approval by the Attorney General of the State of Texas of the proceedings authorizing the Bonds.

The President and the Secretary are each hereby authorized, appointed and designated as the officer or employee of the Issuer authorized to act on behalf of the Issuer in the selling and delivering of the Bonds and carrying out the other procedures specified in this Resolution and the Indenture, including fixing the price at which they will be sold, the amount of each installment of principal thereof, the due date of each such installment, the aggregate of such installments, the rate of interest to be borne by each such installment, the interest payment periods, the dates, price, and terms upon and at which the Bonds shall be subject to redemption prior to due date or maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions and all other matters relating to the issuance, sale, and delivery of the Bonds; and the President or Secretary also is authorized to change the designation of the Bonds or any portion thereof from Series 1997 to any other series date or designation, and also to change the date of all or any portion of the Bonds from August 1, 1997, to any other date or dates not later than the date of delivery of such Bonds or portions thereof. The President and the Secretary are each further authorized, for and on behalf of the Issuer, to approve the final Private Placement Memorandum, and any supplements thereto, relating to the Bonds and referred to in the Placement Agreement.

Section 9. All details of the Bonds required to be prescribed in this Resolution by the Act not fully set forth herein are set forth in the Indenture, and the Indenture is hereby incorporated in this Resolution as if fully set forth herein.

Section 10. Based solely on representations made to the Board and to the Texas Department of Commerce by the Company and the Bank, it appears and the Board hereby finds that:

(a) the Project described in the Agreement is required or suitable for the promotion of commercial or industrial development and expansion, the promotion of employment, or for use by commercial, manufacturing, or industrial enterprises, irrespective of whether in existence or required to be acquired or constructed after the making of these findings by the Board,

(b) the Project sought to be financed pursuant to the Agreement is in furtherance of the public purpose of the promotion and development of new and expanded industrial and manufacturing enterprises to promote and encourage employment and the public welfare.



Section 11. After the Bonds are issued, this Resolution shall be and remain irrevocable until the Bonds and the interest thereon shall have been fully paid, canceled and discharged.

Section 12. The provisions of this Resolution are hereby declared to be separable, and, if any section, phrase or provisions 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 13. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.