

ORDINANCE NO. 95-005

AN ORDINANCE OF THE COUNTY OF SCOTT, KENTUCKY, AUTHORIZING THE SALE AND ISSUANCE OF ITS INDUSTRIAL BUILDING REVENUE BOND, SERIES 1995 (LOUISVILLE FORGE AND GEAR WORKS, INC. PROJECT), IN A PRINCIPAL AMOUNT UP TO \$22,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT BETWEEN THE COUNTY AND LOUISVILLE FORGE AND GEAR WORKS, INC., AN INDENTURE OF ASSIGNMENT SECURING THE BOND AND RELATED DOCUMENTS; AUTHORIZING THE NEGOTIATED SALE OF THE BOND; AND TAKING OTHER RELATED ACTION.

WHEREAS, the County of Scott, Kentucky (the "Issuer"), pursuant to the provisions of Section 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended (the "Act"), is authorized to issue its industrial building revenue bonds and to cause the proceeds from the sale thereof to be utilized for the acquisition and construction of "industrial building" properties as defined in the Act; and

WHEREAS, Louisville Forge and Gear Works, Inc. (the "Company"), proposes that the Issuer, pursuant to the Act, acquire and lease to the Company certain industrial building properties consisting of an existing 655,000 square-foot building, ancillary buildings and structures, improvements and appurtenances (including among other things major new building additions, renovations and improvements and installation of site improvements, fixtures, systems and major machinery and equipment), all on an aggregate site of approximately 112 acres in the Triport Industrial Park Subdivision (being the former Clark Equipment Company property) in the County (collectively the "Project," as more particularly described in the Lease Agreement hereinafter identified and approved); and the Project, which will generate substantial new job opportunities in the area, will be used in the manufacture of metal products and for related purposes and activities and qualifies for financing within the meaning of the Act; and

WHEREAS, the Issuer has agreed and is willing, pursuant to the Act, to issue its industrial building revenue bonds and to utilize the proceeds of such bonds for purposes of acquiring, constructing, improving and installing the Project for lease to the Company upon terms which are set forth in the Lease Agreement hereinafter identified and approved; and

WHEREAS, in accordance with the provisions of Section 103.230 of the Act, the Company has made a request in writing, addressed to the Issuer, that the sale of the bond hereinafter identified and authorized (the "Bond"), bearing interest as set out in the Indenture of Assignment hereinafter identified and approved, shall be made upon a negotiated basis; and

WHEREAS, the Company will convey the Project to the Issuer; and

WHEREAS, it is necessary and proper in the interests of the general welfare of the citizens, residents and inhabitants of the Issuer and the Commonwealth of Kentucky that the Issuer (a) authorize the issuance of the Bond and undertake the acquisition, construction, improvement and installation of the Project, (b) authorize the execution of a Lease Agreement between the Issuer and the Company, (c) authorize the execution of an Indenture of Assignment for the security of the holder or holders of the Bond and the execution of related documents, and (d) carry out the sale of the Bond and approve other necessary or related documents and actions;

NOW, THEREFORE, THE COUNTY OF SCOTT, KENTUCKY, ACTING BY AND THROUGH ITS FISCAL COURT HEREBY ORDAINS AS FOLLOWS:

Section 1. Incorporation of Preamble. The preamble, which is incorporated as a part hereof, the Issuer hereby:

(a) Confirms and ratifies its Resolution adopted on October 31, 1994, whereby the Issuer agreed to authorize and issue its bonds for the purpose of financing the Project.

(b) Authorizes the sale, issuance, execution and delivery of the County of Scott Kentucky, Industrial Building Revenue Bond, Series 1995 (Louisville Forge and Gear Works, Inc. Project), in a principal amount up to \$22,000,000 (the "Bond"), which shall be in the form and subject to the terms and specifications set forth in the Indenture of Assignment and the Bond Purchase Agreement identified and approved herein.

(c) Authorizes the use of the proceeds of the Bond, as provided in the Indenture of Assignment and the Lease Agreement hereinafter identified and approved, for the acquisition, construction, improvement and installation of the Project for lease to the Company.

(d) Acknowledges the acceptance and conveyance to the Issuer of title to the Project pursuant to the Act and authorizes the Issuer to lease the Project to the Company pursuant to the Lease Agreement.

(e) The Lease Agreement identified and approved herein is hereby authorized and directed to be executed and acknowledged by the Issuer, with the attestation of the Fiscal Court Clerk, as Exhibit A attached hereto.

Section 2. The County Judge/Executive is hereby authorized and directed to execute, acknowledge and deliver on behalf of the Issuer, with the attestation of the Fiscal Court Clerk, a certain Lease Agreement between the Issuer and the Company (the "Lease Agreement"), which Lease Agreement is hereby approved, authorized and adopted in substantially the form submitted herewith and designated Exhibit A, with such additions, deletions or changes as the officer executing the same may require or approve on behalf of the Issuer, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. In order to provide for the authorization and security of the Bond to be issued pursuant to the Act (to finance the acquisition, construction, improvement and installation of the Project and expenses incident to such financing) and to prescribe the terms and conditions upon which the Bond is to be secured, executed, authenticated, accepted and held, the County Judge/Executive is hereby authorized and directed to execute and acknowledge on behalf of the Issuer, with the attestation of the Fiscal Court Clerk, a certain Indenture of Assignment (the

"Indenture"), and said officials are hereby authorized, empowered and directed to cause the Indenture to be accepted, executed and acknowledged by the Assignee, National City Bank, Kentucky (the "Assignee"). The Indenture is hereby approved, authorized and adopted in substantially the form submitted herewith and designated Exhibit B, with such additions, deletions or changes as the officer executing the same may require or approve on behalf of the Issuer, such approval to be conclusively evidenced by the execution and delivery thereof. The Issuer hereby declares its intention to elect to follow the provisions of Section 103.251 of the Act with respect to the imposition of a forecloseable mortgage lien on (and security interest in) the Project in connection with the security of the Bond. The Bond will finally mature as to principal not later than ten and one-half (10 1/2) years from its date of issuance, will be subject to prepayment and will bear interest payable periodically at the rate or rates determined from time to time as set forth in the Indenture (none of which rates shall in any event exceed 20% per annum), all as provided in the Indenture, reference to which is hereby made.

Section 4. With respect to the sale of the Bond, the Issuer hereby approves, and the County Judge/Executive or the Fiscal Court Clerk is authorized and directed to execute and deliver on behalf of the Issuer, a certain Bond Purchase Agreement (the "Bond Purchase Agreement") between the Issuer and the Assignee as purchaser of the Bond (the "Purchaser"), and approved by the Company, in connection with the sale of the Bond, such document being hereby approved in substantially the form submitted herewith and designated Exhibit C, subject to such additions, deletions or changes as the officer executing the same may require or approve on behalf of the Issuer, as evidenced by his execution thereof. The sale of the Bond to the Purchaser pursuant to the terms of the Bond Purchase Agreement is hereby authorized, approved and directed.

Section 5. With respect to the security of the Bond, the County Judge/Executive is hereby authorized and directed to execute and deliver on behalf of the Issuer, upon the advice of counsel, a mortgage and security agreement and/or a consent and agreement related to the Company's execution of a first mortgage and security agreement with respect to the Project (in either case the "Mortgage") in favor of the Assignee as Purchaser and any necessary documents regarding the mortgaging of and granting of a security interest in the Project and/or the Company's leasehold interest therein.

Section 6. The County Judge/Executive, Fiscal Court Clerk, County Attorney and other appropriate Issuer officials, and each of them, for and on behalf of the Issuer, are hereby authorized, empowered and directed to do and perform any and all things necessary to effect the execution and delivery of the Indenture, its execution and acceptance by the Assignee, the performance of all obligations of the Issuer under and pursuant to the Indenture, the Lease Agreement, the Bond Purchase Agreement and the Mortgage, the execution and delivery of Bond and the performance of all other acts of the Issuer necessary to effect and carry out the authority conferred by this Ordinance and by the Indenture, the Lease Agreement, the Bond Purchase Agreement and the Mortgage. The County Judge/Executive, Fiscal Court Clerk, County Attorney and other appropriate Issuer officials and each of them are hereby further authorized, empowered and directed for and on behalf of the Issuer to execute all papers, documents, certificates or other instruments that may be required for the carrying out and

effectuation of the authority conferred by this Ordinance and the Indenture, the Lease Agreement, the Bond Purchase Agreement and the Mortgage, or to evidence said authority, and to exercise and otherwise take all action necessary to the full realization of the rights and purposes of the Issuer under the Lease Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage and related documents and to discharge all of the obligations of the Issuer under the Lease Agreement, the Indenture, the Bond Purchase Agreement, the Mortgage and related documents.

Section 7. The Issuer shall never be required to pay from its own funds any obligation arising from the issuance of the Bond, and the Bond is declared to be a special and limited obligation payable solely and exclusively from the receipts derived under the Lease Agreement with respect to the Project and the security provided under the Indenture and the Mortgage, as provided in the documents herein approved.

Section 8. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 9. In the event of any conflict or conflicts between the provisions of this Ordinance and of any prior ordinances, orders, resolutions or parts thereof, the provisions of this Ordinance shall prevail.

Section 10. This Ordinance shall be in full force and effect from and after its adoption as provided by law. The summary of this Ordinance read at the meetings of the Fiscal Court describes its contents and the approval for passage of such readings and publications as provided by law.

PASSED AND APPROVED ON SECOND AND FINAL READING at a duly convened meeting of the Issuer held on the 15th day of December, 1995.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of said Fiscal Court held on the 22nd day of December, 1995, signed by the County Judge/Executive as evidence of his approval, attested by the Fiscal Court Clerk, ordered published in summary form and duly enrolled as required by law.

(Seal)

County Judge/Executive

ATTEST:

Maria G. Neelario
Fiscal Court Clerk