

ORDINANCE NO. 97-004

AN ORDINANCE OF THE COUNTY OF SCOTT, KENTUCKY, AUTHORIZING AMENDMENTS TO CERTAIN DOCUMENTS RELATED TO THE COUNTY'S OUTSTANDING INDUSTRIAL BUILDING REVENUE BOND, SERIES 1995 (LOUISVILLE FORGE AND GEAR WORKS, INC. PROJECT), APPROVING THE SUBSTITUTION OF LOUISVILLE FORGE AND GEAR WORKS, LLC, AS LESSEE UNDER THE LEASE AGREEMENT SECURING SUCH BOND, AND REPEALING ORDINANCE NO 96-010 ADOPTED ON SEPTEMBER 23, 1996

WHEREAS, the County of Scott, Kentucky (the "Issuer"), by Ordinance No. 95-005 adopted by its Fiscal Court on December 22, 1995, pursuant to the provisions of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended, authorized and subsequently issued its Industrial Building Revenue Bond, Series 1995 (Louisville Forge and Gear Works, Inc. Project), in a principal amount up to \$22,000,000 (the "Bond") for the purpose of financing 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") for use by Louisville Forge and Gear Works, Inc. (the "Company"), in the manufacture of metal products and for related purposes and activities; and

WHEREAS, by Ordinance No. 96-010 adopted by the Issuer's Fiscal Court on September 23, 1996, at the Company's request, the Issuer approved the assignment of the Bond to KeyBank National Association, as agent for itself and others, from the holder, National City Bank of Kentucky (formerly National City Bank, Kentucky) (the "Bank"), together with amendments to certain documents relating to the security and administration of the Bond; however, such assignment and amendments were not carried out and no action was taken pursuant to authority of Ordinance No. 96-010; and

WHEREAS, the Company has informed the Issuer that it now desires to amend certain documents related to the issuance of the Bond (with the Bank continuing as holder of the Bond), to cause the substitution of a new Kentucky limited liability company, Louisville Forge and Gear Works, LLC, as lessee under the Lease Agreement securing the Bond and to repeal Ordinance No. 96-010 adopted September 23, 1996; and the Company has further requested that the Issuer authorize and approve all such actions; and

WHEREAS, drafts of the amendatory documents have been submitted to the Fiscal Court and the County Attorney and have been duly considered by the Issuer to the extent it deems necessary in order to take the following actions;

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

Section 1. The recitals set forth in the preamble of this Ordinance, including the terms therein defined, are hereby adopted and incorporated as a part of this Ordinance.

Section 2. The County Judge/Executive is hereby authorized and directed to execute, acknowledge and deliver on behalf of the Issuer, a First Supplemental Lease Agreement between the Issuer and the Company (the "First Supplemental Lease"), supplementing and amending the Lease Agreement dated as of December 1, 1995, between the Issuer and the Company, which First Supplemental Lease is hereby approved, authorized and adopted in substantially the form submitted herewith, with such additions, deletions or changes therein 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. In the foregoing connection, the Issuer specifically approves the substitution of Louisville Forge and Gear Works, LCC, a Kentucky limited liability company, as lessee under the Lease, as amended and supplemented by the First Supplemental Lease.

Section 3. The County Judge/Executive is hereby authorized and directed to execute and acknowledge on behalf of the Issuer a First Supplemental Indenture of Assignment (the "First Supplemental Indenture"), supplementing and amending the Indenture of Assignment dated as of December 1, 1995, between the Issuer and the Bank, and the County Judge/Executive is hereby authorized, empowered and directed to cause the First Supplemental Indenture to be accepted, executed and acknowledged by the Bank as Assignee. The First Supplemental Indenture is hereby approved, authorized and adopted in substantially the form submitted herewith, with such additions, deletions or changes as the County Judge/Executive may require or approve on behalf of the Issuer, such approval to be conclusively evidenced by the execution and delivery thereof.

The Bond shall be modified and such modification shall be executed by the Issuer as provided in the First Supplemental Indenture.

Section 4. 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, an amendment to the Mortgage and Security Agreement dated as of December 1, 1995, with respect to the Project (the "Mortgage") and any necessary documents regarding the mortgaging of and granting of a security interest in the Project in such form as shall be recommended by counsel and consistent with the purposes of this Ordinance.

Section 5. 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 First Supplemental Indenture, its execution and acceptance by the Bank as Assignee, the performance of all obligations of the Issuer under and pursuant to the First Supplemental Indenture, the First Supplemental Lease and the Mortgage, as amended, the execution and delivery of a new Bond or an Addendum to the Bond, if required, and the performance of all other actions of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and by the First Supplemental Indenture, the First Supplemental Lease and the Mortgage, as amended. 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 First Supplemental Indenture, the First Supplemental Lease and the Mortgage, as amended, 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 First Supplemental Lease, the First Supplemental Indenture, the Mortgage and related documents and to discharge all of the obligations of the Issuer under the First Supplemental Lease, the First Supplemental Indenture, the Mortgage, as amended, and related documents.

Section 6. 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 7. 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. Ordinance No. 96-010 adopted on September 23, 1996, is specifically repealed and rescinded.

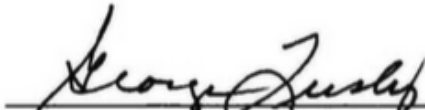
Section 8. This Ordinance shall be in full force and effect from and after its adoption as provided by law. The summary of this Ordinance read at the meetings of the Fiscal Court described below is approved for purposes of such readings and publication as provided by law, and the accuracy of such summary is hereby certified.

INTRODUCED, SECONDED AND GIVEN FIRST READING at a duly convened meeting of the Fiscal Court of the Issuer held on the 28th day of July, 1997.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of said Fiscal Court held on the 4th day of August, 1997, 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:

  
Fiscal Court Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Fiscal Court Clerk of the County of Scott, Kentucky, and as such Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly adopted by the Fiscal Court of said County at a duly convened meeting held on August 4, 1997, signed by the County Judge/Executive, and now in full force and effect, all as appears from the official records of said County in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of August, 1997.

  
Fiscal Court Clerk

## ORDINANCE

AN ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF SCOTT, KENTUCKY, DIRECTING SCOTT COUNTY PUBLIC PROJECTS CORPORATION TO TAKE CERTAIN FORMAL ACTIONS AS THE AGENCY AND INSTRUMENTALITY AND AS THE CONSTITUTED AUTHORITY OF THE COUNTY OF SCOTT, KENTUCKY TO REFUND CERTAIN OUTSTANDING BONDS OF THE CORPORATION AT LOWER INTEREST RATES; AND SPECIFICALLY DIRECTING THE ISSUANCE OF AND AUTHORIZING AND APPROVING LEASE REVENUE REFUNDING BONDS OF SCOTT COUNTY PUBLIC PROJECTS CORPORATION.

WHEREAS, Scott County Public Projects Corporation, a nonprofit, no-stock corporation ("Corporation"), has been duly organized and created pursuant to the provisions of Kentucky law to act as the agency and instrumentality of the County of Scott, Kentucky ("County") in the planning, development, construction, acquisition and financing of public projects, as provided by Section 58.180 of the Kentucky Revised Statutes; and

WHEREAS, it is hereby determined to be necessary and desirable that the Corporation's outstanding "Scott County Public Projects Corporation Lease Revenue Bonds, Series 1990," dated January 1, 1990, which mature on January 1 of the years 2002 through 2010 and are subject to optional redemption on January 1, 2000, be refunded in order that substantial interest cost savings may be achieved by the County;

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

Section 1. Scott County Public Projects Corporation (the "Corporation"), the agency and instrumentality and the constituted authority of the County of Scott, Kentucky (the "County") is hereby directed to forthwith adopt such ordinances, resolutions and orders and take such actions as may be necessary for the formal authorization by the Corporation of approximately \$3,385,000 principal amount of "Scott County Public Projects Corporation Lease Revenue Refunding Bonds, Series 1997," to be dated July 1, 1997 (the "Bonds"). The principal amount of the Bonds shall be adjusted to enable approximately level debt service to be provided and to maximize interest cost savings to the County in the manner provided in the hereinafter approved documentation. The principal maturities, security provisions, redemption provisions, form of Bonds, conditions of sale and all other terms and provisions incident to said Bonds shall be in accordance with the provisions which are set forth in the "Contract, Lease and Option" and the "Trust Indenture," hereinafter referred to and described

Section 2. The County of Scott, Kentucky, hereby directs and approves the issuance, sale and delivery by the Corporation of the Bonds, and the application of the proceeds of the Bonds to the purposes set forth and described in the Contract, Lease and Option and Trust Indenture, hereinafter referred to and described. The County of Scott, Kentucky, hereby authorizes and approves the issue of Bonds, dated July 1, 1997, as specifically described in the Trust Indenture. The sale of the Bonds by the Corporation to the lowest and best bidder upon the occasion of the public competitive sale of the Bonds held on August 19, 1997, is hereby approved, ratified and ordered

Section 3. It is acknowledged that the Bonds are to be issued by the Corporation, acting as the agency and instrumentality of the County of Scott, Kentucky, and as the constituted authority thereof, for the purpose of defeasing, refunding and discharging \$3,035,000 outstanding principal amount of "Scott County Public Projects Corporation Lease Revenue Bonds, Series 1990," dated January 1, 1990, which mature on January 1, 2002 through January 1, 2010, and are subject to optional redemption on January 1, 2000 (the "Refunded Bonds"), together with necessary costs and miscellaneous expenses incident to the issuance and delivery of the Bonds. The Scott County Jail and Justice Complex financed by application of the proceeds of the Refunded Bonds (the "Project") was financed, acquired and constructed for public purposes and for public use and is so used

Section 4. A certain instrument designated "Contract, Lease and Option," dated as of July 1, 1997, a copy of which is appended to this Ordinance, intended for execution by and on behalf of the County of Scott, Kentucky, as Lessee, and the Corporation, as Lessor (and contemplating the lease by the County from the Corporation of the Project for an initial period, with exclusive options to the County to renew the same from year to year for one year at a time upon the terms and conditions therein expressed) is hereby expressly approved, and the same is hereby authorized to be executed in the name and on behalf of the County of Scott, Kentucky, as the Lessee named therein, by the County Judge/Executive, with attestation under seal by the Fiscal Court Clerk. Said Contract, Lease and Option as so executed on behalf of the County shall be tendered to the Corporation in connection with the issuance of the Bonds and upon execution thereof by the Corporation shall be duly recorded in the office of the Clerk of the County of Scott, Kentucky.

Section 5. The County of Scott, Kentucky, hereby expressly approves and directs the execution and delivery by the Corporation of a certain "Trust Indenture", dated as of July 1, 1997, a copy of which is appended to this Ordinance, to First National Bank and Trust Company, Georgetown, Kentucky, as Trustee. Said Trust Indenture shall assign in trust to said Trustee all income, revenues and rights of the Corporation arising under said Contract, Lease and Option, and shall assign to the Trustee all of the Corporation's income, revenues and rights arising from the Trust Estate, as defined in the Trust Indenture, together with all rights arising pursuant to the Contract, Lease and Option, all the same to be done for the security of those who shall from time to time be and become the holders of the Bonds.

Section 6. Pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the County hereby specifically designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the County hereby represents that the County and its subordinate entities do not reasonably expect to issue in excess of \$10,000,000 principal amount of obligations the interest on which is excluded from gross income for income tax purposes (other than obligations described in Section 265(b)(3)(C)(ii) of the Code) and that the County will not designate more than \$10,000,000 of "qualified tax-exempt obligations" issued by the County or its constituent units in the calendar year during which the Bonds are issued and delivered as such "qualified tax-exempt obligations."

Section 7. In connection with the undertaking and implementation by the Corporation of the financing herein described, which is hereby expressly directed, the Corporation, its Board of Directors and its officers are hereby authorized and directed to continue to take and carry out any and all necessary, desirable or appropriate actions to effect such refunding, payment and discharge of the Refunded Bonds, including the preparation and issuance of the Bonds.

Section 8. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions.

Section 9. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 10. This Ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

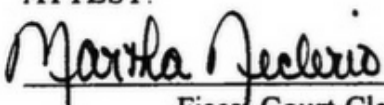
GIVEN FIRST READING APPROVAL at a duly convened meeting of the Fiscal Court of the County of Scott, Kentucky, held on the 31st day of January, 1997.

GIVEN SECOND READING APPROVAL AND ADOPTED at a duly convened meeting of the Fiscal Court of the County of Scott, Kentucky, held on the 19th day of August, 1997, after having received first reading at such meeting of the Fiscal Court held on January 31, 1997.

(SEAL)

  
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County Judge/Executive

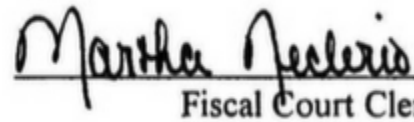
ATTEST:

  
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Fiscal Court Clerk

CERTIFICATION

The undersigned, as Fiscal Court Clerk of the County of Scott, Kentucky, does hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Fiscal Court of the County of Scott, Kentucky, at a duly convened meeting properly held on the 19th day of August, 1997, signed by the County Judge/Executive and now in full force and effect, as shown by the official records in my custody and under my control.

WITNESS my hand and the seal of said County, this 19th day of August, 1997.

  
Fiscal Court Clerk

(SEAL)