

RESOLUTION NO. 2007- 4

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, KANSAS: (a) ACKNOWLEDGING RECEIPT OF NOTICE FROM ERNEST SPENCER METALS (THE "TENANT") WHEREIN THE TENANT WILL: (1) EXERCISE ITS OPTION TO PURCHASE THE PROJECT ACQUIRED UNDER THAT LEASE PURCHASE AGREEMENT BETWEEN TENANT AND JEFFERSON COUNTY, KANSAS (THE "COUNTY"), DATED AS OF SEPTEMBER 15, 1999; (2) DEPOSIT WITH THE SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, (THE "TRUSTEE"), PURSUANT TO AN ESCROW TRUST AGREEMENT SUFFICIENT FUNDS TO DEFEASE THE TRUST INDENTURE, COMPLETE THE PURCHASE OPTION AND THEREBY TERMINATE THE LEASE; AND (3) EXECUTE SUCH DOCUMENTS, CERTIFICATES AND AGREEMENTS AS ARE RELATED TO THE PURCHASE OPTION BY THE TENANT; AND (b) AUTHORIZING THE; (1) CALL FOR REDEMPTION ALL OF THE COUNTY'S SERIES 1999 INDUSTRIAL REVENUE BONDS, EXCEPT ONE \$5,000 BOND WHICH MATURES 2010, (2) EXECUTION AND DELIVERY OF A SPECIAL WARRANTY DEED TO THE TENANT, AND (3) SUCH OTHER DOCUMENTS AS ARE NECESSARY TO EFFECTUATE THE PURCHASE OPTION BY THE TENANT THEREBY DEFEASING THE TRUST INDENTURE AND TERMINATING THE LEASE AND SUCH OTHER DOCUMENTS RELATED TO THE SERIES 1999 BONDS.

**WHEREAS**, Jefferson County, Kansas (the "County"), pursuant to the Kansas Economic Development Revenue Bond Act, as codified in *K.S.A. §12-1740 et seq.*, as amended (the "Act"), has heretofore determined that in order to promote, stimulate and develop the general economic welfare and prosperity of the County and the State of Kansas that the County issue its Industrial Revenue Bonds, Series 1999 (Ernest Spencer Metals, Inc. Project) dated September 15, 1999 in the aggregate principal amount of \$2,250,000 (the "Series 1999 Bonds"), for the purpose of providing funds to pay the costs of acquiring a certain tract of land, and constructing, equipping and furnishing a building thereon to facilitate the manufacturing of articles of commerce (the "Project") by the Ernest Spencer Metals, Inc., a Kansas for-profit corporation (the "Tenant"), which Project assists the Tenant in its manufacturing enterprise; and

**WHEREAS**, the County further determined that it was necessary and desirable in connection with the issuance of the Series 1999 Bonds to execute and deliver: (i) a Trust Indenture dated as of September 15, 1999 (the "Indenture"), with Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"), which prescribed the terms and conditions of issuing and securing the Series 1999 Bonds; (ii) a Lease Purchase Agreement with the Tenant dated as of September 15, 1999 (the "Lease"), under which the County caused the Project to be acquired, constructed and installed in consideration of payments of Basic Rent and other payments provided for therein from the Tenant, and (iii) such other documents, certificates and instruments as were deemed necessary (collectively, the "Bond Documents"); and

**WHEREAS**, pursuant to Article X of the Lease the Tenant may purchase the Project provided all Rent Payments due under the Lease have been made or provision therefore has occurred in compliance with the Lease and the Indenture; and

**Whereas**, pursuant to Articles V and X of the Indenture, the Tenant may irrevocably deposit sufficient moneys, government obligations or both, (the "Purchase Price Deposit") with the Trustee to be

used to prepay all Rent due under the Lease and thereby effectuate the early call for redemption and payment of all or a portion of the Bonds outstanding; and

**Whereas**, the Tenant in order to accomplish its option to purchase (the "Purchase Price Deposit") will irrevocably deposit sufficient funds with the Trustee to redeem and pay all of the principal of and interest on Series 1999 Bonds on March 1, 2007, except one Bond in the principal amount of \$5,000.00 which matures September 1, 2010; and

**Whereas**, upon the Trustee's receipt of such irrevocable Purchase Price Deposit, the Lease is deemed terminated, and, the Indenture is deemed defeased, with the Purchase Price Deposit held by the Trustee for the benefit of the owners of the Bonds being the security granted to the Bondowners; and

**Whereas**, the County has received a notice, (the "Notice") from the Tenant of its intent to exercise its purchase option and purchase the Project; and

**Whereas**, the Board of the County deems it prudent, in conformity with the Lease and the Indenture to effect the Tenant's option to purchase the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, KANSAS AS FOLLOWS:**

**Section 1. Definition of Terms.** All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture and Lease herein authorized.

**Section 2. Authority for Notice of Redemption.** The County's Bond Counsel shall notify the Trustee of the Tenant's intent to exercise its option to purchase the Project and direct the Trustee that all of the outstanding the Bonds are to be called for redemption and payment on March 1, 2007 (the "Redemption Date"), except for the 2010 Bond to be left outstanding.

**Section 3. Authority to Effect the Purchase Price Deposit for the Bonds.** The Chairman of the Board of County Commissioners or Vice Chairman in the absence of the Chairman, the County Clerk and such other County officials, employees or agents are hereby authorized to execute and deliver such documents as may be necessary to effect the Tenant's irrevocable deposit of the Purchase Price Deposit with the Trustee to consummate; (i) the Tenant's purchase of the Project, (ii) the termination of the Lease, (iii) the defeasance of the Indenture, (iv) release and termination of the Guaranty Agreement, Easement and Party Wall Agreement and (v) the County's execution and ultimate delivery of a deed for the Project to the Tenant in conformity with the Bond Documents.


**Section 4. Authority for Execution and Delivery of Deed and Documents.** The Chairman of the Board of County Commissioners or Vice Chairman in the absence of the Chairman, the County Clerk and such other County officials, agents or employees are hereby authorized and directed to take such action, including the execution and delivery of a special warranty deed for the Project to the Tenant, and such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Resolution to consummate the purchase option by the Tenant in compliance with the Bond Documents.

**Section 5. Payment of Costs and Expenses.** The Tenant in its Notice and pursuant to the Bond Documents, is responsible to pay all reasonable expenses incurred in connection with the Tenant exercising its purchase option and has agreed to pay said expenses and hold the County harmless therefrom, and, in reliance thereon, the Board of the County has authorized the matters herein.

**Effective Date.** This Resolution shall take effect from and after its passage.

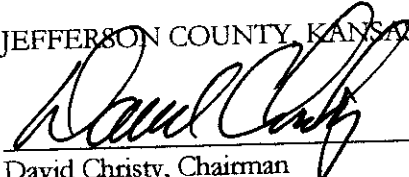
PASSED and approved by the Board of Commissioners of Jefferson County, Kansas, this 16<sup>th</sup> day of January 2007.

ATTEST:

  
Linda Buttron, County Clerk



JEFFERSON COUNTY, KANSAS

  
David Christy, Chairman

  
Donald Edmonds, Commissioner

  
Francis Grollmes, Commissioner

EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
JEFFERSON COUNTY, KANSAS  
HELD ON JANUARY 16, 2007

The governing body of Jefferson County, Kansas (the "County"), met in session at the usual meeting place in the County, at 9:00 a.m., with the following members present and participating: Commissioners

Absent: Ø

A Resolution was presented entitled:

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Commissioner Christy moved that the Resolution be adopted. The motion was seconded by Commissioner Grillmes. The Resolution was read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

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(Other Proceedings)

On motion made and seconded, the meeting was adjourned.

(SEAL)

Linda M. Butt

County Clerk

