

RESOLUTION NO. 04-04

OF

THE  
GOVERNING BODY OF  
THE CITY OF WATHENA, KANSAS

RELATING TO AD VALOREM PROPERTY TAX ABATEMENT  
IN CONNECTION WITH  
NOT TO EXCEED  
\$3,000,000  
INDUSTRIAL REVENUE BONDS  
(MK MINERALS, INC.)

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RESOLUTION NO. 04-04

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WATHENA, KANSAS, APPROVING AN AD VALOREM PROPERTY TAX EXEMPTION FOR PROPERTY ACQUIRED WITH THE PROCEEDS OF CERTAIN INDUSTRIAL REVENUE BONDS.

WHEREAS, the governing body of the City of Wathena, Kansas (the "City"), desires to promote, stimulate and develop the general economic welfare and prosperity of the City, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended (the "Act"), and all acts amendatory thereof or supplemental thereto, said City is authorized to issue revenue bonds of the City and to refund any revenue bonds previously issued; and

WHEREAS, pursuant to the Act, the City previously issued its Industrial Revenue Bonds, Series 1998 (MK Minerals, Inc. Project), dated June 1, 1998, in the original principal amount of \$3,600,000, of which \$2,475,000 remain outstanding (the "Refunded Bonds") for the purpose of purchasing, acquiring, constructing and equipping a certain manufacturing facility (the "1998 Project"), which 1998 Project is currently leased to MK Minerals, Inc., a Kansas corporation (the "Tenant"); and

WHEREAS, pursuant to Resolution No. 04-03 of the City, the City has indicated its preliminary intent to issue certain industrial revenue bonds in an aggregate principal amount of approximately \$3,000,000 (herein the "Bonds") pursuant to the Act for the purpose of: (i) paying the costs of purchasing, acquiring and installing certain additions to the 1998 Project (the "2004 Project"), (ii) refunding and redeeming the Refunded Bonds, and (iii) paying certain costs of issuance; and

WHEREAS, since the adoption of Resolution No. 04-03 of the City, the City has caused a notice of its consideration of the issuance of the Bonds and the accompanying ad valorem property tax abatement on the 2004 Project to be published in the official City newspaper at least seven days prior to the date hereof and has notified Doniphan County, Kansas and Unified School District No. 406 of its consideration thereof; and

WHEREAS, the City has caused a cost benefit analysis to be prepared in connection with its consideration of ad valorem property tax abatement on the 2004 Project, which cost benefit analysis includes an analysis of the effect on state revenues; and

WHEREAS, the City has conducted a public hearing on the issue of both the issuance and delivery of the Bonds, as well as the accompanying ad valorem property tax exemption, and all persons present were afforded the opportunity to be heard on such matters; and

WHEREAS, a 100% ad valorem property tax abatement on the 2004 Project is in keeping with the Doniphan County policy for tax exemption incentives on real estate improvements which could otherwise be granted under Section 13 of the Constitution of the State of Kansas.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WATHENA, KANSAS:

SECTION 1. Tax Exemption. The City intends that the 2004 Project, to the extent acquired with up to \$110,000 principal amount of the proceeds of the 2004 Bonds be 100% exempted from ad valorem property taxation for a ten-year period commencing the calendar year after the year in which the Bonds are issued in accordance with Kansas law; provided proper application is made therefor and such exemption is ultimately granted by the Kansas Board of Tax Appeals, or other administrative body then having jurisdiction over such matters.

SECTION 2. Special Assessments. Any special assessment levied against the real property portion of the 2004 Project, if any, shall not abate and shall continue to be the obligation of the Tenant, payable in the manner provided by law.

SECTION 3. Approval of Exemption. This Resolution is conditioned on the issuance by the Board of Tax Appeals of the State of Kansas of an order exempting the 2004 Project from *ad valorem* taxation in accordance with Kansas law, including particularly K.S.A. 79-201a *Second*.

SECTION 4. Other Actions Required. The Mayor and City Clerk are hereby authorized and directed to take all such other actions not inconsistent herewith as may be appropriate or desirable to accomplish the purposes contemplated by this Resolution.

SECTION 5. Effective Date. This Resolution shall become effective upon its approval and passage by the governing body of the City of Wathena, Kansas.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by the governing body of the City of Wathena, Kansas this 4<sup>th</sup> day of October, 2004.

CITY OF WATHENA, KANSAS

[seal]

By James McAnerney  
James McAnerney, Mayor

ATTEST:

By Jim Richardson  
Jim Richardson, City Clerk