

INCENTIVE AGREEMENT

This Incentive Agreement is effective 12/8, 2021, and is entered into between the following parties:

GO TOPEKA: GROWTH ORGANIZATION OF TOPEKA/SHAWNEE COUNTY, INC.

719 S. Kansas Ave., Suite 100
Topeka, KS 66603
Phone: (785) 234-2644
Fax: (785) 234-8656
Contact Person/Title: Molly Howey, President, GO Topeka

ERNEST-SPENCER METALS
5600 SW Topeka Blvd
Topeka, KS 66609

WITNESSETH:

WHEREAS, ERNEST-SPENCER METALS is a corporation that is in good standing and qualified to do business under the laws of the state of Kansas; and

WHEREAS, ERNEST-SPENCER METALS is contemplating investing approximately Three Million Eight Hundred Thousand Dollars (\$3,800,000.00) to purchase real estate, construct improvements, and equip additional production space in Shawnee County, Kansas; and

WHEREAS, ERNEST-SPENCER METALS intends to expand its operations and, in the process, create Thirty-Five (35) full time jobs over the next approximately five (5) years; and

WHEREAS, GO TOPEKA desires to assist and promote ERNEST-SPENCER METALS by offering up to Two Hundred Fourteen Thousand Dollars (\$214,000.00) in employment, training and capital investment incentives; and

WHEREAS, ERNEST-SPENCER METALS acting in reliance upon the incentives set forth in this Agreement, has decided to maintain and expand its operations in Shawnee County, Kansas; and

WHEREAS, the parties wish to memorialize their understanding regarding the details of the incentive package through this legally enforceable contract.

NOW, THEREFORE, in consideration of such mutual benefits and the mutual covenants and agreements expressed herein, the parties covenant and agree as follows:

1. Local Employment Incentive. GO TOPEKA agrees to provide to ERNEST-SPENCER METALS an employment incentive of up to One Hundred Fifty-Seven Thousand Five Hundred Dollars (\$157,500.00) (the "Employment Incentive") for new Full Time Employment Positions created and maintained by ERNEST-SPENCER METALS over the next approximately five (5) years, subject to the limitations and requirements outlined herein.

A new Full Time Employment Position as defined below may be eligible for an Employment Incentive of Four Thousand Five Hundred Dollars (\$4,500), paid over five (5) consecutive years (\$900 per year). The incentives payable hereunder shall be paid in five (5) installments of nine hundred dollars (\$900) per year, for years the new Full Time Employment Position is added/or maintained in accordance with the timeline outlined herein.

The eligibility for Employment Incentive is based on the calculated average annual compensation of all eligible new Full Time Employment Positions. The annual compensation for all eligible new Full Time Employment Positions shall be averaged. This calculated average must be at least Forty-Three Thousand Five Hundred Dollars (\$43,500) in order for any of the new Full Time Employment Positions to qualify for the Employment Incentive. If the calculated average is below Forty-Three Thousand Five Hundred Dollars (\$43,500) none of the new Full Time Employment Positions will qualify for the Employment Incentive for that year.

As used in this agreement, a "Full Time Employment Position" is an employee position that includes approximately 2080 paid hours of service in Shawnee County, Kansas, during each calendar year. For purposes of determining eligibility for Employment Incentives (and the amount thereof), compensation includes salary, bonuses or other cash incentives paid by ERNEST-SPENCER METALS to a full-time employee in a calendar year, but does not include benefits. Each position shall be eligible to receive health insurance benefits, at least part of the premiums of which are paid by ERNEST-SPENCER METALS, and paid time off. Nothing herein shall require that a Full Time Employment Position be held by the same person, nor shall this Agreement preclude ERNEST-SPENCER METALS from changing the title, purpose or utility of a position (as long as it meets the other requirements identified herein, including

compensation). Each Full Time Employment Position must be one in which ERNEST-SPENCER METALS withholds and pays all federal, state and local employment taxes attributable to the employee. More than one position cannot be aggregated to qualify for an Employment Incentive.

Only new Full Time Employment Positions shall be eligible for the Employment Incentive. A “new” Full Time Employment Position is an otherwise eligible Full Time Employment Position that is in excess of and in addition to the Fifty-Three (53) Full Time Employees employed by ERNEST-SPENCER METALS as of May 19, 2021. To qualify for the Employment Incentive, the Full Time Employment Positions must commence on or after May 19, 2021 and be hired and receiving compensation by June 30, 2026.

A Full Time Employment Position shall not fail to qualify for the Employment Incentive if the position is vacated (voluntarily or otherwise) and ERNEST-SPENCER METALS is undertaking an open and active search and such position is filled within one hundred eighty (180) days after the vacancy during the calendar year. If unfilled for longer than one hundred eighty (180) days during a calendar year, the position will cease to qualify as Full Time Employment Position and will not be eligible for an Employment Incentive for that year.

Notwithstanding anything to the contrary herein, a maximum Employment Incentive available hereunder shall not exceed One Hundred Fifty-Seven Thousand Five Hundred Dollars (\$157,500) in the aggregate. Generally, the maximum yearly Employment Incentive shall be thirty-one thousand five hundred dollars (\$31,500); however, if ERNEST-SPENCER METALS is experiencing faster than anticipated growth and the GO TOPEKA budget allows, the yearly Employment Incentive may exceed the noted maximum at the direction of the President of GO TOPEKA.

GO TOPEKA will endeavor to make incentive payments according to the following schedule:

- New Full Time Employment Positions hired between May 19, 2021 and December 31, 2021 will be eligible to receive the first incentive payment installment in 2022;
- New Full Time Employment Positions hired between January 1, 2022 and December 31, 2022 will be eligible to receive the first incentive payment installment in 2023;
- New Full Time Employment Positions hired between January 1, 2023 and December 31, 2023 will be eligible to receive the first incentive payment installment in 2024;

- New Full Time Employment Positions hired between January 1, 2024 and December 31, 2024 will be eligible to receive the first incentive payment installment in 2025;
- New Full Time Employment Positions hired between January 1, 2025 and December 31, 2025 will be eligible to receive the first incentive payment installment in 2026;
- New Full Time Employment Positions hired between January 1, 2026 and June 30, 2026 will be eligible to receive the first incentive payment installment in 2027;

provided, however, that ERNEST-SPENCER METALS must first provide GO TOPEKA with sufficient documentation relating to such employment levels (as required elsewhere herein). GO TOPEKA shall make all reasonable efforts to complete payment of all incentive payments within sixty (60) days of the receipt of such sufficient documentation relating to employment levels.

The parties recognize there may be some turnover and fluctuations in ERNEST-SPENCER METALS's employment levels. Therefore, a position may qualify for an Employment Incentive in one year after failing to qualify in a prior year.

For purposes of illustration, if ERNEST-SPENCER METALS hires two (2) new Full Time Employment Positions between May 19, 2021 and December 31, 2021 and maintains those positions through 2022, plus hires three (3) new Full Time Employment Positions throughout the period between January 1, 2022 and December 31, 2022 and the average compensation among all five (5) positions is at least Forty-Three Thousand Five Hundred Dollars (\$43,500), ERNEST-SPENCER METALS would be eligible to receive an Employment Incentive installment in the amount of \$4,500 (5 x \$900) in 2023 upon receipt and verification of appropriate documentation.

2. Employment Incentive Calculation Documentation. When and as reasonably requested by GO TOPEKA, ERNEST-SPENCER METALS shall provide GO TOPEKA with state and federal employment tax returns and/or other information reasonably necessary to establish employment levels in Shawnee County, Kansas, for purposes of calculating Employment Incentives and monitoring ERNEST-SPENCER METALS's performance hereunder. GO TOPEKA is granted the right to audit payroll and human resources records at any time during the term of this Agreement. GO TOPEKA is granted the right to reduce payments made to ERNEST-SPENCER METALS by amounts found to be improper, unauthorized or unsubstantiated. GO TOPEKA shall have sole authority in this regard and shall

base its decision upon information submitted, including absence of documents to substantiate expenditure.

3. Employee Training Incentive. ERNEST-SPENCER METALS may earn an Employee Training Incentive in an amount not to exceed Thirty-Five Thousand Dollars (\$35,000.00) (the "Employee Training Incentive"). GO Topeka shall reimburse ERNEST-SPENCER METALS for verifiable training costs including, but not limited to, tuition, registration fees, computer software for in-house training and other direct training costs incurred from May 19, 2021 to December 31, 2026 in accordance with the following provisions. ERNEST-SPENCER METALS shall be eligible for One Thousand Dollars (\$1,000.00) in Employee Training Incentive for each net new Full Time Employment Position (as defined in Section 1 "Local Employment Incentive"), up to thirty-five (35), created by ERNEST-SPENCER METALS. Thus, for ERNEST-SPENCER METALS to receive all Thirty-Five Thousand Dollars (\$35,000.00) in Employee Training Incentive the company's full time employment would need to increase to a least Eighty-Eight (88).

An Employee Training Incentive payment may be made to ERNEST-SPENCER METALS starting in 2022 for training costs incurred by any full time employee (new or existing) at ERNEST-SPENCER METALS in 2021 upon proof of approved training expenses in the form of paid invoices, or other verifiable records confirming payment for approved training expenses. The amount of Employee Training Incentive available in 2022 will be based on net new Full Time Employment Positions created by ERNEST-SPENCER METALS in 2021. For example, if ERNEST-SPENCER METALS created five (5) net new Full Time Employment Positions in 2021, increasing the company's full time employee count to Fifty-Eight (58), ERNEST-SPENCER METALS could receive a reimbursement of up to \$5,000 for expenses incurred to train any existing or new full time employee. Payment for training expenses incurred shall be available on a yearly basis thereafter through 2027 based on the previous year's net new job creation and verifiable training costs. GO TOPEKA shall not reimburse ERNEST-SPENCER METALS for wages paid to an employee while they are in training or incidental costs associated with training such as travel expenses, meals, and lodging.

4. Real Estate and Equipment Investment Incentive. For each One Million Dollars (\$1,000,000.00) in expenditures for the purchase of real estate, including associated transaction costs, and/or for the construction or renovation of improvements thereon made by

ERNEST-SPENCER METALS in Shawnee County, Kansas, GO TOPEKA shall pay a real estate incentive to ERNEST-SPENCER METALS of Eight Thousand Dollars (\$8,000.00).

For each One Million Dollars (\$1,000,000.00) in equipment investment made by ERNEST-SPENCER METALS in or related to equipment housed in its purchased and/or constructed or renovated real estate located in Shawnee County, Kansas, GO TOPEKA shall pay an equipment incentive to ERNEST-SPENCER METALS of Two Thousand Dollars (\$2,000.00).

The aggregate of said Real Estate and Equipment Investment Incentive payments shall not exceed Twenty-One Thousand Five Hundred Dollars (\$21,500.00). The Real Estate and Equipment Investment Incentive payments shall be made to ERNEST-SPENCER METALS upon GO TOPEKA's receipt of closing documents showing the purchase of the real estate along with any and all appropriate documentary evidence showing further capital investment in the real estate for the construction or renovation of improvements thereon and the purchase of said equipment. Purchases related to the Real Estate and Equipment Investment Incentive must be made by ERNEST-SPENCER METALS between May 19, 2021 and June 30, 2026.

5. **Use of Funds.** The funds received by ERNEST-SPENCER METALS pursuant hereto shall be used for the purpose of purchasing and improving real estate and equipment in Shawnee County, Kansas and for the employment and training of persons to be employed in Shawnee County, Kansas.

6. **Notices.** Any notices required or permitted to be given pursuant to this Agreement may be delivered in person or mailed, certified mail, return receipt requested, to the addresses identified above.

7. **Miscellaneous.** The following miscellaneous provisions shall apply to this Agreement:

a. ERNEST-SPENCER METALS agrees to make every reasonable effort to use, if qualified, Shawnee County residents to fill the new Full Time Employment Positions in Shawnee County, Kansas.

b. ERNEST-SPENCER METALS agrees to make every reasonable effort, if qualified, to include in the bidding process Shawnee County, Kansas-based vendors for construction at its facility and the purchase or procurement of the machinery and equipment contemplated herein.

c. ERNEST-SPENCER METALS shall provide prompt advance notice to GO TOPEKA of any material change in ERNEST-SPENCER METALS's ownership, control or management, including issues of insolvency or bankruptcy, or other material changes that could reasonably result in a default by ERNEST-SPENCER METALS under any agreement to which it is a party related to the matters set forth herein, or a change in the Full Time Employment Positions maintained in Shawnee County, Kansas.

d. ERNEST-SPENCER METALS agrees to participate in a public event with GO TOPEKA in Shawnee County, Kansas, celebrating the employment expansion contemplated by this Agreement. Such event would include general recognition of JEDO's and GO TOPEKA's involvement in the project.

e. This writing contains the entire agreement reached between the parties hereto with respect to the subject matter hereof, and may be amended only in writing, duly executed by all parties concerned.

f. This Agreement shall be interpreted under the laws of the State of Kansas, with venue being solely in the state District Court of Shawnee County, Kansas. In the event any provision is found to be unenforceable or unconstitutional, all other provisions shall remain in full force and effect.

g. Time is of the essence of this Agreement.

h. By signing this Agreement, the parties affirm that they have the authority of their respective entities to enter into this Agreement and bind their respective entities.

i. This Agreement shall bind and inure to the benefit of the parties to this Agreement, their heirs, legal representatives, assignees, transferors and successors.

j. No failure by a party to insist on prompt performance by the other party of its obligations hereunder shall constitute a waiver of rights under the Agreement. Similarly, the waiver by a party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

k. This Agreement may be executed in counterparts, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all parties.

l. The parties acknowledge and agree that ERNEST-SPENCER METALS shall not assign, transfer, hypothecate or otherwise encumber this Agreement and its rights hereunder, without the prior written approval of GO TOPEKA.

m. Sarbanes-Oxley and similar legislation may have application to, or affect the accounting for, this Agreement by ERNEST-SPENCER METALS.

n. GO TOPEKA makes no representation as to the taxability or tax effect of this Agreement and the incentive payments hereunder.

o. GO TOPEKA's obligations hereunder are contingent upon approval hereof by the Joint Economic Development Organization ("JEDO") and the continued funding of GO TOPEKA at adequate levels through a portion of the Shawnee County retailer's sales tax and/or by JEDO. GO TOPEKA may unilaterally reduce or eliminate any payments hereunder in the event that sufficient funds are not available (taking into account GO TOPEKA's other obligations). GO TOPEKA will endeavor to give ERNEST-SPENCER METALS advance notice of any reduction of funds when practical. ERNEST-SPENCER METALS agrees and understands that if there are not sufficient funds appropriated or available to GO TOPEKA to continue to make any payments hereunder (taking into account GO TOPEKA's other obligations), GO TOPEKA may terminate this Agreement with written notice of termination to ERNEST-SPENCER METALS. The reduction or elimination of any payments, and/or termination of this Agreement pursuant to this paragraph, shall not cause any penalty or damages to be charged to GO TOPEKA and ERNEST-SPENCER METALS waives and releases any rights, causes of action or claims it may have should such insufficiency of funds occur.

p. In carrying out the terms and provisions of this agreement, ERNEST-SPENCER METALS shall not unlawfully discriminate against any employee, applicant for employment, recipient of service or applicant to receive or provide services because of race, color, religion, sex, age, disability, national origin or any other status protected by applicable federal or state law or local ordinance.

q. ERNEST-SPENCER METALS agrees to make a good faith effort to provide relocating information to existing employees, and/or new employees with information/relocation materials regarding Topeka and Shawnee County, that support and promote residency within the Topeka/Shawnee County limits. Annual reporting of these efforts shall be provided to GO TOPEKA during the incentivized period defined in this Agreement.

r. Every duty, right, or obligation contained in this Agreement imposes an obligation of good faith in its performance or enforcement. For the purposes of the Agreement, "good faith" dealing means honesty in fact in the conduct or the transaction concerned.

s. Nothing herein contained shall be construed or held to make any party a partner, joint venture or associate of another party in the conduct of its business, nor shall either party be deemed the agent of the other, it being expressly understood and agreed that the relationship between the Parties hereto is and shall at all times remain contractual as provided by the terms and conditions of this Agreement.

t. The parties agree to execute and deliver such other documents, agreements or instruments as may be necessary or convenient to effect the purposes of this Agreement and to comply with any of the terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

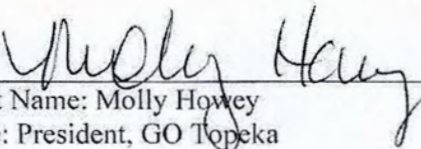
"ERNEST-SPENCER METALS"

By: 

Name/Title: Neal P. Spencer President

"GO TOPEKA"

GROWTH ORGANIZATION OF TOPEKA/SHAWNEE COUNTY, INC.

By: 
Print Name: Molly Howey
Title: President, GO Topeka