

KING COUNTY

1200 King County Courthouse 516 Third Avenue Seattle, WA 98104

Signature Report

March 5, 2007

Motion 12477

Proposed No. 2007-0150.2

Sponsors Phillips and Constantine

1	A MOTION approving of the Washington Economic
2	Development Finance Authority's plan to issue non-
3	recourse economic development revenue bonds, the
4 .	proceeds of which will be loaned to Delta Marine
5	Industries, for capital improvements at the Delta Marine
6	Industries facility located in unincorporated King County.
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9	WHEREAS, the Washington Economic Development Finance Authority
10	("WEDFA") has approved Resolution No. W-2003-0004, as amended by Resolution
11	Nos. 2004-003, 2005-005, 2006-008 and 2006-021, copies of which are attached to this
12	motion, declaring official intent to issue non-recourse economic development revenue
13	bonds in a maximum amount not to exceed ten million dollars, and
14	WHEREAS, the proceeds of the bonds would be loaned to Delta Marine
15	Industries to finance costs of acquiring, constructing, equipping and improving real or
16	personal property for a capital improvement project at the facilities of Delta Marine
17	Industries located in unincorporated King County, in accordance with a loan agreement

or other appropriate financing agreement, and used for the purpose of constructing and
equipping the project and to pay certain costs of issuance of the bonds, and

WHEREAS, the capital improvements to be financed at the facilities of Delta

Marine Industries, located in unincorporated King County would expand and improve the
existing facility and increase its capacity to serve the market for large recreational yachts,
and

WHEREAS, it is the policy of the WEDFA not to issue revenue bonds except upon the approval of the county, city or town within whose planning jurisdiction the proposed industrial development facility lies, and

WHEREAS, the project lies within the boundaries of unincorporated King County;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

A. The council hereby approves of the WEDFA's plan to issue non-recourse economic development revenue bonds, the proceeds of which will be loaned to Delta Marine Industries in accordance with a loan agreement or other appropriate financing agreement, and used for the purpose of constructing and equipping the project and to pay certain costs of issuance of the bonds, as described in Resolution No. W-2003-0004, as amended by Resolution Nos. 2004-003, 2005-005, 2006-008 and 2006-021;

B. The bonds shall not constitute an obligation of the state of Washington or of King County, and no tax funds or revenues of the state of Washington or of King County shall be used to pay the principal or interest on the bonds. Neither the faith and credit nor any taxing power of the state of Washington or of King County shall be pledged to pay the principal or interest on the bonds; and

41 C. Approval by the council of the bond issuance does not constitute county 42 approval or disapproval of any other permits, certifications or actions or waive any of the 43 permitting, environmental review, financial obligations or legal requirements applicable 44 to the project. 45 46 Motion 12477 was introduced on 2/26/2007 and passed by the Metropolitan King County Council on 3/5/2007, by the following vote: Yes: 9 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr. Dunn, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. Constantine No: 0 Excused: 0 KING COUNTY COUNCIL KING COUNTY, WASHINGTON arry Gossett, Chair ATTEST: Anne Noris, Clerk of the Council Attachments A. Resolution No. W-2003-0004, B. Resolution No. W-2004-003, C. Resolution No. W-2005-005, D. Resolution No. W-2006-008, E. Resolution No. W-2006-021

RESOLUTION NO. W-2003-0004

A RESOLUTION OF THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY TAKING OFFICIAL ACTION TOWARD THE ISSUANCE OF NONRECOURSE ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM AMOUNT NOT TO EXCEED \$6,000,000 AND AUTHORIZING THE EXECUTION OF AN INDEMNIFICATION AND COMPENSATION AGREEMENT BY AND BETWEEN THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AND DELTA MARINE INDUSTRIES, INC. (the "Company").

WHEREAS, the Washington Economic Development Finance Authority (the "Issuer") is a duly organized and existing instrumentality of the State of Washington authorized and empowered by the provisions of RCW Chapter 43.163 (collectively, the "Act") to issue nonrecourse economic development revenue bonds for the purpose of carrying into effect the construction of improvements and the acquisition of personal properties and provide working capital suitable for use by any industry, and to loan its moneys when necessary or convenient to carry out its powers under the Act; and

WHEREAS, the Company has informed the Issuer that it wishes to acquire, construct, equip, and improve the manufacturing facilities to be located in Seattle, King County, Washington, as more fully described in Exhibit A attached hereto and incorporated herein (the "Site"), all of which are located within the territorial limits of the State of Washington, and the Company has requested the Issuer to issue nonrecourse economic development revenue bonds (the "Bonds") in a maximum amount not to exceed SIX MILLION dollars (\$6,000,000) pursuant to the Act to carry into effect the acquisition, construction, equipping, and improving of real and personal property and provision of working capital at the Site to be used in the manufacturing facilities of the Company, as more fully described in Exhibit A hereto (the "Project"), to loan the proceeds of the Bonds to finance the acquisition, construction, improvement, equipping, and installation of the Project; and

WHEREAS, a form of agreement designated as an "Indemnification and Compensation Agreement" has been prepared setting forth the respective agreements and undertaking of the Issuer and the Company with respect to the Bonds and the Project; and

WHEREAS, it is considered necessary and desirable for the best interest of the Issuer that the Indemnification and Compensation Agreement be executed for and on the behalf of the Issuer; and

WHEREAS, the Indemnification and Compensation Agreement requires the Company to pay all reasonable and necessary costs incurred by the Issuer in connection with the Bonds and/or in connection with the Project; and

WHEREAS, the Issuer finds that the Project constitutes the development and improvement of economic development facilities under the Act; and

WHEREAS, it is intended that this resolution shall constitute a declaration of official intent to reimburse Project expenditures within the meaning of Sections 1.103-(8)(T)(a)(5) and 1.150-2 of the Federal Income Tax Regulations.

NOW THEREFORE, be it resolved by the Washington Economic Development Finance Authority as follows:

- Section 1. It is hereby determined that (a) the acquisition, construction and installation of the Project and its operation as an economic development facility; (b) the issuance of the bonds of the Issuer in one or more series and in a maximum amount not to exceed \$6,000,000, to finance costs of the Project, such total costs to be financed by the Bonds presently estimated to be approximately \$6,000,000; and (c) the execution and delivery of such contracts and agreements with the Issuer as are necessary to provide for the payment by the Issuer of amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds, together with certain costs of the Issuer, will all be in furtherance of the Act.
- Section 2. Subject to the conditions listed in Section 3 below, including such other conditions as in the judgement of the Issuer and bond counsel are necessary to insure the validity of the Bonds and the tax-exempt or taxable status of the Bonds, it is the intent of the Issuer to proceed toward the issuance and sale of the Bonds pursuant to the provisions of the Act. Nothing in this resolution shall be construed as legally binding the Issuer to authorize, issue, or sell the Bonds.
- <u>Section 3.</u> The authorization, issuance, and sale of the Bonds by the Issuer are subject to the following conditions:
- (a) the Company shall have caused to be issued an irrevocable letter of credit (the "Letter of Credit") by an investment-grade rated commercial bank, acceptable to the Issuer (the "Letter of Credit Bank"), which shall be used to pay and secure the Bonds or shall have secured a bond purchase agreement (the "Bond Purchase Agreement") from an Accredited Investor, as such term is defined in 17 CFR 230.501(a), acceptable to the Issuer, for the purchase of the Bonds;
- (b) the Company shall enter into such contracts and loan agreements with the Issuer as shall be necessary to secure payment of the principal of, premium, if any, and interest on the Bonds as when the same shall come due and payable;

- (c) on or before two (2) years from the date hereof (or such later date as shall be mutually satisfactory to the Issuer and the Company) the Issuer and the Company shall have agreed to mutually acceptable terms and conditions of the contracts and agreements referred to in paragraph (b) of this Section 3;
- (d) the Issuer shall have received an opinion of bond counsel that, with certain customary exceptions, such of the Bonds which it is intended shall be issued as tax-exempt obligations may be so issued pursuant to the provisions of the Internal Revenue Code of 1986;
- (e) if required, the Issuer shall have received an allocation of the State ceiling on private activity bonds imposed by Section 146 of the Internal Revenue Code of 1986 in an amount equal to the aggregate face amount of such of the Bonds as shall be issued as tax-exempt obligations, and shall have allocated such amount to the Bonds;
- (f) the Issuer shall have received evidence that the county, city, or town within whose planning jurisdiction the Project lies has approved the Project and the Bonds or such other evidence satisfactory to the Issuer that the Project will be welcomed by the community in which the Project will be located; and
- (g) such other conditions as in the judgement of the Issuer and bond counsel are necessary to insure the validity of the Bonds and the tax-exempt status of such of the Bonds as shall be issued as tax-exempt obligations.
- Section 4. The proper officials of the Issuer are hereby authorized to take such further action as is necessary to carry out the intent and purposes hereof under the terms and conditions stated herein and in compliance with the applicable provisions of law.
- <u>Section 5.</u> That it is deemed necessary and advisable that the Indemnification and Compensation Agreement be approved and executed for and on behalf of the Issuer.
- <u>Section 6.</u> That an Indemnification and Compensation Agreement by and between the Issuer and the Company be, and the same is hereby, approved and authorized and the Chair of the Issuer is hereby authorized to execute the Indemnification and Compensation Agreement on behalf of the Issuer.
- <u>Section 7.</u> Each Bond, when and if issued, shall substantially state the following language on the face thereof:

THE OBLIGATIONS OF THE ISSUER HEREUNDER SHALL NOT BE DEEMED TO BE A DEBT, LIABILITY, OBLIGATION, OR PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF WASHINGTON, OF ANY MUNICIPALITY, OR OF ANY MUNICIPAL CORPORATION, QUASI MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OF WASHINGTON, OR TO PLEDGE

ANY OR ALL OF THE FAITH AND CREDIT OF ANY OF THESE ENTITIES. NEITHER THE STATE OF WASHINGTON, THE ISSUER, ANY MUNICIPALITY, OR ANY OTHER MUNICIPAL CORPORATION, OUASI MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OF WASHINGTON IS OBLIGATED TO PAY THE PRINCIPAL OR THE INTEREST THEREON. NO TAX FUNDS OR GOVERNMENTAL REVENUE MAY BE USED TO PAY THE PRINCIPAL OR INTEREST THEREON. NEITHER ANY OR ALL OF THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF WASHINGTON. THE ISSUER, IF ANY, OR ANY MUNICIPAL CORPORATION, QUASI MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR OF THE INTEREST ON THE BONDS.

<u>Section 8.</u> This Resolution shall be effective after its adoption.

ADOPTED by the Washington Economic Development Finance Authority this th day of April, 2003.

By:	
Chair	

RESOLUTION NO. W-2004-003

A RESOLUTION OF THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AMENDING ITS RESOLUTION NO. W-2003-004 TO DECLARE OFFICIAL INTENT TOWARD THE ISSUANCE OF NONRECOURSE ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM AMOUNT NOT TO EXCEED \$7,500,000.

WHEREAS, the Washington Economic Development Finance Authority (the "Issuer") is established as a public body, corporate and politic, with perpetual corporate succession, constituting an instrumentality of the State of Washington authorized and empowered by the provisions of RCW Chapter 43.163 (the "Act") to issue nonrecourse revenue bonds for the purpose of financing economic development activities as defined in the Act; and

WHEREAS, on April 23, 2003, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2003-004 (the "Resolution") declaring official intent toward the issuance of nonrecourse economic development revenue bonds in a maximum amount not to exceed \$6,000,000, the proceeds of such issuance to be loaned to Delta Marine Industries, Inc. (the "Borrower") to finance project costs of acquiring, constructing, equipping and improving real or personal property to be used in the manufacturing facilities of the Borrower (the "Project"), as more fully described in the Resolution; and

WHEREAS, the Borrower subsequently informed the Issuer that its estimate of eligible costs of the Project had increased to \$7,500,000 due to an increase in costs for site work and for equipment purchase; and

WHEREAS, the Borrower has requested that the Issuer amend the Resolution to reflect this increase in costs; and

WHEREAS, the Issuer finds that the amended Project constitutes economic development activities as defined under the Act; and

WHEREAS, it is intended that this resolution shall constitute a declaration of official intent to reimburse Project expenditures within the meaning of Sections 1.103-(8)(T)(a)(5) and 1.150-2 of the Federal Income Tax Regulations.

NOW, THEREFORE, be it resolved by the Washington Economic Development Finance Authority as follows:

Section 1. The Resolution is amended to increase the maximum amount of issuance of bonds of the Issuer from \$6,000,000 to \$7,500,000 to finance costs of the Project, such total costs to be financed by the Issuer's bonds being presently estimated to be \$7,500,000.

<u>Section 2.</u> All other provisions of the Resolution shall remain unchanged and in full force as provided for in the Resolution.

<u>Section 3.</u> This resolution shall be effective after its adoption.

ADOPTED by the Washington Economic Development Finance Authority this 9th day of June, 2004.

By:	
Vice Chair	

RESOLUTION NO. W-2005-005

A RESOLUTION OF THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AMENDING ITS RESOLUTION NO. W-2004-003 TO DECLARE OFFICIAL INTENT TOWARD THE ISSUANCE OF NONRECOURSE ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM AMOUNT NOT TO EXCEED \$7,500,000.

WHEREAS, the Washington Economic Development Finance Authority (the "Issuer") is established as a public body, corporate and politic, with perpetual corporate succession, constituting an instrumentality of the State of Washington authorized and empowered by the provisions of RCW Chapter 43.163 (the "Act") to issue nonrecourse revenue bonds for the purpose of financing economic development activities as defined in the Act; and

WHEREAS, on April 23, 2003, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2003-004 (the "Resolution") declaring official intent toward the issuance of nonrecourse economic development revenue bonds in a maximum amount not to exceed \$6,000,000, the proceeds of such issuance to be loaned to Delta Marine Industries, Inc. (the "Borrower") to finance project costs of acquiring, constructing, equipping and improving real or personal property to be used in the manufacturing facilities of the Borrower (the "Project"), as more fully described in the Resolution; and

WHEREAS, on June 9, 2004, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2004-003 (the "Amended Resolution") amending the Resolution to increase the maximum amount of issuance of bonds of the Issuer from \$6,000,000 to \$7,500,000 to finance costs of the Project; and

WHEREAS, the Amended Resolution required that, within two years of the date of the Resolution, the Borrower enter into such contracts and loan agreements with the Issuer as shall be necessary to secure payment of the principle of, premium, if any, and interest on the Bonds when the same shall become due and payable: and

WHEREAS, the aforementioned two year period shall end on April 23, 2005; and

WHEREAS, the Borrower has informed the Issuer that due to delays in the planning process for the proposed facility, it will require an additional period of 1 year to enter into such contracts and loan agreements; and

WHEREAS, the Borrower has requested that the Issuer amend the Amended Resolution to reflect this extension of the period allowable for entering into such contracts and loan agreements; and

WHEREAS, the Issuer finds that the amended Project constitutes economic development activities as defined under the Act; and

WHEREAS, it is intended that this resolution shall constitute a declaration of official intent to reimburse Project expenditures within the meaning of Sections 1.103-(8)(T)(a)(5) and 1.150-2 of the Federal Income Tax Regulations.

NOW, THEREFORE, be it resolved by the Washington Economic Development Finance Authority as follows:

- Section 1. The Amended Resolution is amended to extend the maximum period for entering into such contracts and loan agreements with the Issuer as shall be necessary to secure of payment of the principal of, premium, if any, and interest on the Bonds as when the same shall become due and payable until June 30, 2006.
- <u>Section 2.</u> All other provisions of the Amended Resolution shall remain unchanged and in full force as provided for in the Amended Resolution.
 - <u>Section 3.</u> This resolution shall be effective after its adoption.

ADOPTED by the Washington Economic Development Finance Authority this 16th day of February, 2005.

By:		
Chair		

RESOLUTION NO. W-2006-008

A RESOLUTION OF THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AMENDING ITS RESOLUTION NO. W-2005-005 TO DECLARE OFFICIAL INTENT TOWARD THE ISSUANCE OF NONRECOURSE ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM AMOUNT NOT TO EXCEED \$7,500,000.

WHEREAS, the Washington Economic Development Finance Authority (the "Issuer") is established as a public body, corporate and politic, with perpetual corporate succession, constituting an instrumentality of the State of Washington authorized and empowered by the provisions of RCW Chapter 43.163 (the "Act") to issue nonrecourse revenue bonds for the purpose of financing economic development activities as defined in the Act; and

WHEREAS, on April 23, 2003, at a special meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2006-005 (the "Resolution") declaring official intent toward the issuance of nonrecourse economic development revenue bonds in a maximum amount not to exceed \$6,000,000, the proceeds of such issuance to be loaned to Delta Marine Industries, Inc. (the "Borrower") to finance project costs of acquiring, constructing, equipping and improving real or personal property to be used in the manufacturing facilities of the Borrower (the "Project"), as more fully described in the Resolution; and

WHEREAS, on June 9, 2004, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2004-003 (the "Amended Resolution") amending the Resolution to increase the maximum amount of issuance of bonds of the Issuer from \$6,000,000 to \$7,500,000 to finance costs of the Project; and

WHEREAS, on February 16, 2005 at a special meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2005-005 (the "Second Amended Resolution") extending the period within which the Borrower would be required to enter into such contracts and loan agreements with the Issuer as shall be necessary to secure payment of the principle of, premium, if any, and interest on the Bonds when the same shall become due and payable: and

WHEREAS, the aforementioned extension will end on June 30, 2006: and

WHEREAS, the Borrower has informed the Issuer that due to further delays in the proposed facility, it would require an additional period of 1 year to enter into such contracts and loan agreements; and WHEREAS, the Borrower requested that the Issuer amend the Resolution to reflect this extension of the period allowable for entering into such contracts and loan agreements; and

WHEREAS, the Issuer finds that the amended Project constitutes economic development activities as defined under the Act; and

WHEREAS, it is intended that this resolution shall constitute a declaration of official intent to reimburse Project expenditures within the meaning of Sections 1.103-(8)(T)(a)(5) and 1.150-2 of the Federal Income Tax Regulations.

NOW, THEREFORE, be it resolved by the Washington Economic Development Finance Authority as follows:

<u>Section 1.</u> The Resolution is amended to extend the maximum period for entering into such contracts and loan agreements with the Issuer as shall be necessary to secure of payment of the principal of, premium, if any, and interest on the Bonds as when the same shall become due and payable until June 30, 2007.

<u>Section 2.</u> All other provisions of the Resolution shall remain unchanged and in full force as provided for in the Resolution.

<u>Section 3.</u> This resolution shall be effective after its adoption.

ADOPTED by the Washington Economic Development Finance Authority this 16th day of June, 2006.

By:	
Chair	

RESOLUTION NO. W-2006-021

A RESOLUTION OF THE WASHINGTON ECONOMIC DEVELOPMENT FINANCE AUTHORITY AMENDING ITS RESOLUTION NO. W-2006-008 TO DECLARE OFFICIAL INTENT TOWARD THE ISSUANCE OF NONRECOURSE ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM AMOUNT NOT TO EXCEED \$10,000,000.

WHEREAS, the Washington Economic Development Finance Authority (the "Issuer") is established as a public body, corporate and politic, with perpetual corporate succession, constituting an instrumentality of the State of Washington authorized and empowered by the provisions of RCW Chapter 43.163 (the "Act") to issue nonrecourse revenue bonds for the purpose of financing economic development activities as defined in the Act; and

WHEREAS, on April 23, 2003, at a special meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2003-004 (the "Resolution") declaring official intent toward the issuance of nonrecourse economic development revenue bonds in a maximum amount not to exceed \$6,000,000, the proceeds of such issuance to be loaned to Delta Marine Industries, Inc. (the "Borrower") to finance project costs of acquiring, constructing, equipping and improving real or personal property to be used in the manufacturing facilities of the Borrower (the "Project"), as more fully described in the Resolution; and

WHEREAS, on June 9, 2004, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2004-003 (the "Amended Resolution") amending the Resolution to increase the maximum amount of issuance of bonds of the Issuer from \$6,000,000 to \$7,500,000 to finance costs of the Project; and

WHEREAS, on February 16, 2005 at a special meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2005-005 (the "Second Amended Resolution") extending the period within which the Borrower would be required to enter into such contracts and loan agreements with the Issuer as shall be necessary to secure payment of the principle of, premium, if any, and interest on the Bonds when the same shall become due and payable: and

WHEREAS, on June 16, 2006, at a regular meeting of the Board of Directors of the Issuer, the Issuer adopted its Resolution No. W-2006-008 (the "Third Amended Resolution") amending the Resolution to extend the period within which the Borrower would be required to enter into such contracts and loan agreements with the Issuer as

shall be necessary to secure payment of the principle of, premium, if any, and interest on the Bonds when the same shall become due and payable until June 30, 2007; and

WHEREAS, the Borrower has subsequently informed the Issuer that its estimate of eligible costs of the Project has increased to \$10,000,000 due to an increase in costs of construction and equipment purchase; and

WHEREAS, the Issuer finds that the amended Project constitutes economic development activities as defined under the Act; and

WHEREAS, it is intended that this resolution shall constitute a declaration of official intent to reimburse Project expenditures within the meaning of Sections 1.103-(8)(T)(a)(5) and 1.150-2 of the Federal Income Tax Regulations.

NOW, THEREFORE, be it resolved by the Washington Economic Development Finance Authority as follows:

Section 1. The Resolution is amended to increase the maximum amount of issuance of bonds of the Issuer from \$7,500,000 to \$10,000,000 to finance costs of the Project, such total costs to be financed by the Issuer's bonds being presently estimated to be \$10,000,000.

Section 2. All other provisions of the Resolution shall remain unchanged and in full force as provided for in the Resolution.

<u>Section 3.</u> This resolution shall be effective after its adoption.

ADOPTED by the Washington Economic Development Finance Authority this 13th day of November, 2006.

Bv:		
Chair		