

April 25, 1996

Introduced By:

Ron Sims
Larry Phillips

96-384.DOC (WC:clt)
clerk 4/30/96

Proposed No.:

96 - 384

12242

ORDINANCE NO.

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AN ORDINANCE approving the issuance of industrial revenue bonds by the King County Economic Enterprise Corporation for \$4,500,000, and approving Resolution No. 96-2 of the King County Economic Enterprise Corporation authorizing the sale of bonds to provide funds to finance certain industrial development facilities for NRG Barriers, Inc. in the City of Kent, King County, Washington, and related matters; and approving execution and delivery by the King County Economic Enterprise Corporation of a Bond Purchase Contract.

PREAMBLE:

King County Economic Enterprise Corporation ("the Issuer") is authorized and empowered by the provisions of Chapter 30, Laws of 1981 of the State of Washington (Chapter 39.84 RCW) (the "Act"), to issue nonrecourse revenue bonds for the purpose of facilitating economic development and employment opportunities and financing all or part of the cost of acquiring, expanding and equipping industrial development facilities in the City of Kent, King County, Washington.

In order to facilitate economic development and employment opportunities in King County, NRG Barriers Inc. (the "Company"), intends to construct certain industrial development facilities (the "Project") in King County.

Upon the request of the company and after due consideration of the construction and financing of the Project as promoting the purposes of the Act and the public purposes of the Issuer, the Issuer by Resolution No. 96-2 proposes to issue and sell its revenue bonds in the principal amount of \$4,500,000 pursuant to the provisions of the Act for the purpose of assisting in financing the costs of the Project.

The City of Kent, which exercises planning jurisdiction over the area in which the Project is located, by resolution, has approved the financing of the Project by the Issuer.

King County is the municipality under whose auspices the Issuer was created pursuant to the provisions of the Act.

1 Section 39.84.060 of the Act requires the Issuer to obtain
2 the approval of King County prior to issuing its bonds,
3 and Section 39.84.100(6) of the Act requires King County
4 to approve by ordinance any agreement by the Issuer to
5 issue bonds and further requires that King County
6 specifically approve the resolutions of the Issuer
7 providing for the issuance of the bonds no more than sixty
8 days before the date of the sale of the bonds.
9

10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 SECTION 1. Approvals of Bonds. The county approves the
12 issuance and sale by the Issuer of its nonrecourse industrial
13 revenue bonds or other obligations (the "Bonds") pursuant to
14 the provisions of the Act contingent upon NRG Barriers
15 Pacific, Inc. pursuing hiring of disadvantaged workers and
16 coordinating with the State of Washington Employment Security
17 Department, Port jobs and local school to work programs to
18 fill the new positions in the future indicated and further
19 specifically approves Resolution No. 96-2 of the Issuer
20 providing for the issuance of its Bonds in the principal
21 amount of \$4,500,000 to assist in financing the cost of the
22 Project, together with the costs incident to the
23 authorization, sale, issuance and delivery of the Bonds.

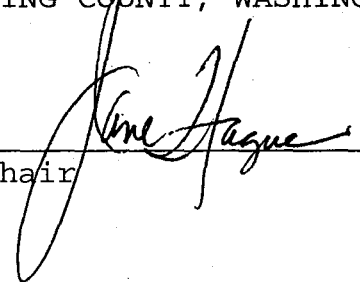
24 SECTION 2. Approval of Bond Purchase Contract. The county
25 approves the execution and delivery by the Issuer of the Bond
26 Purchase Contract by and among the Issuer, the Company, as
27 the user of the Project, State Street Bank and Trust, as the
28 purchaser of the Bonds. The Issuer may make or approve such
29 additions, modification and deletions in such Bond Purchase
30 Contract and the Exhibits thereto, and such other
31 certificates and documents required thereby as are deemed by
32 the Issuer not to be inconsistent with the purpose of this
33 ordinance and in substantial conformity with the documents
34 hereby approved and as may be reasonable and necessary to

1 facilitate the issuance and sale of the Bonds and the loan of
2 the proceeds thereof to the company and the accomplishments
3 of any matters related thereto.


4 INTRODUCED AND READ for the first time this 22nd
5 day of April, 1996.

6 PASSED by a vote of 12 to 0 this 29th day of
7 April, 1996.

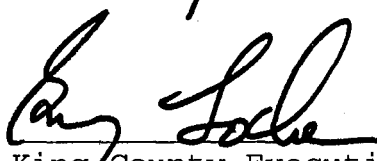
8 KING COUNTY COUNCIL
9 KING COUNTY, WASHINGTON

10 
11 _____
Chair

12 ATTEST:

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14 _____
Clerk of the Council

15 APPROVED this 9th day of May,
16 1996.

17 
18 _____
King County Executive

19 Attachments:

20 A. Resolution No. 96-2

12242

RESOLUTION NO. 96-2

A RESOLUTION of the Board of Directors of the King County Economic Enterprise Corporation authorizing the issuance and placement of its Variable Rate Revenue Bonds, 1996 (NRG Barriers, Inc. Project) in the principal amount of not to exceed \$4,500,000; approving the documentation in connection with the issuance of said bonds; appointing a trustee; and providing for other matters relating thereto.

WHEREAS, on March 19, 1996, the Board of Directors of the King County Economic Enterprise Corporation (the "Enterprise Corporation") approved Resolution No. 96-1, taking official action toward issuance and sale of its nonrecourse revenue bonds in the principal amount of not to exceed \$4,500,000 for the purpose of financing certain industrial development facilities described therein (the "Project") by NRG Barriers, Inc. (the "Company"); and

WHEREAS, on this date, the Enterprise Corporation held an open public hearing on the issuance of said nonrecourse revenue bonds pursuant to notice published in the Seattle Times on March 21, 1996;

WHEREAS, forms for the following documents ("Loan Documents") relating to the proposed issue of bonds and the loan of bond proceeds have been prepared and submitted to this Board in substantially the form attached hereto and are hereby directed to be filed with the Secretary of the Board:

(a) A Loan Agreement (the "Loan Agreement"), to be dated as of May 1, 1996, proposed to be made and entered into between the Enterprise Corporation and the Company;

(b) An Indenture of Trust (the "Indenture") to be dated as of May 1, 1996, proposed to be made and entered into between the Enterprise Corporation and First Interstate Bank of Washington, N.A. of Seattle, Washington as trustee (the "Trustee"), authorizing the issuance of and setting forth the terms and conditions of the said nonrecourse revenue bonds,

12242

assigning the Enterprise Corporation's interest in the Loan Agreement, and setting forth the proposed recitals, covenants and agreements of the parties with respect thereto;

(c) A Placement Agent Agreement (the "Placement Agent Agreement") to be dated as of the date of closing, proposed to be made and entered into between and among State Street Bank and Trust Company (the Placement Agent"), the Company and the Enterprise Corporation;

(d) An Indemnification and Compensation Agreement, between the Enterprise Corporation and the Company (the "Indemnification and Compensation Agreement");

(e) A Placement Memorandum to be circulated by the Placement Agent to prospective purchasers of the Bonds;

(f) A Remarketing Agreement (the "Remarketing Agreement"), to be dated as of May 1, 1996, among the Enterprise Corporation, the Company, the Trustee and State Street Bank and Trust Company in the capacity of Remarketing Agent (the "Remarketing Agent"); and

WHEREAS, pursuant to the foregoing Loan Documents, the Enterprise Corporation hereby determines that the issuance of its Variable Rate Revenue Bonds, 1996 (NRG Barriers, Inc. Project) in the aggregate principal amount of not to exceed \$4,500,000, (the "Bonds"), is in the public interest and consistent with the Act; and

WHEREAS, the Board has been advised that the Bonds will be secured by an irrevocable Letter of Credit (the "Letter of Credit") to be issued by State Street Bank and Trust Company, Boston, Massachusetts (the "Bank");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KING COUNTY ECONOMIC ENTERPRISE CORPORATION, as follows:

Section 1. Findings of the Enterprise Corporation. The Board hereby finds as follows:

(a) Financing the Project as described more fully in Resolution No. 96-1, the issuance and sale of the Bonds, the execution and delivery of the Loan Agreement, the Indenture, the Placement Agent Agreement, the Remarketing Agreement and the Indemnification and

12242

Compensation Agreement, and the performance of all covenants and agreements of the Enterprise Corporation contained in the Loan Agreement, the Indenture, the Remarketing Agreement, the Placement Agent Agreement and the Indemnification and Compensation Agreement and all other acts and things required under the Constitution and laws of the State of Washington to make the Loan Agreement, the Indenture, the Placement Agent Agreement, the Remarketing Agreement, the Indemnification and Compensation Agreement and the Bonds valid and binding, limited obligations of the Enterprise Corporation enforceable against the Enterprise Corporation in accordance with their terms, respectively, are authorized by the Act;

(b) The issuance and sale of the Bonds and the loan of the Bond proceeds by the Enterprise Corporation to the Company to finance the Project are in conformity with and satisfy the guidelines of the Enterprise Corporation with respect to the issuance of variable rate revenue bonds under the Act;

(c) The Enterprise Corporation hereby elects to have the provisions of Section 144(a)(4)(A) of the Internal Revenue Code of 1986 apply with respect to the Bonds, in order that the Bonds be issued as a qualified exempt small issue in excess of \$1,000,000; and

(d) In reliance upon delivery of an approving legal opinion from Bond Counsel, Preston Gates & Ellis, the Board hereby finds and determines that the interest on the Bonds will be exempt from income taxation by the federal government, subject to certain customary exceptions.

Section 2. Authorization and Approval. The Enterprise Corporation is hereby authorized to lend the proceeds of the Bonds to the Company to finance the Project and to pledge and assign the loan repayments and revenues therefrom and its interest in the Loan Agreement to the Trustee hereinafter appointed, all as provided in the Loan Agreement and the Indenture. The forms of the Loan Agreement, the Indenture, the Placement Agent Agreement, the Remarketing Agreement, the Bonds and the Indemnification and Compensation Agreement are approved subject to such modifications as are deemed appropriate and approved by the President of the Board of Directors

12242

and counsel for the Enterprise Corporation, which approval shall be conclusively evidenced by execution and delivery of the Loan Agreement, the Indenture, the Placement Agent Agreement, the Remarketing Agreement, the Indemnification and Compensation Agreement, and the Bonds by the President or Vice President and Secretary of the Board as therein required. The Loan Agreement is hereby directed to be executed in the name and on behalf of the Enterprise Corporation by the President or Vice President and Secretary of the Board, but only to be delivered upon execution thereof by the Company. The Indenture is directed to be executed in the name and on behalf of the Enterprise Corporation by the President or Vice President and Secretary of the Board, and delivered to the Trustee. The Remarketing Agreement is directed to be executed in the name and on behalf of the Enterprise Corporation by the President or Vice President, but only to be delivered upon execution thereof by the other parties thereto.

Section 3. Authorization of Bonds. To finance the Project, the Enterprise Corporation does hereby authorize the issuance, sale and delivery of the Bonds, in the aggregate principal amount of not to exceed \$4,500,000, in the form set forth in the Indenture, pursuant to the terms set forth therein.

Section 4. Placement of Bonds. The proposal of the Placement Agent to place the Bonds pursuant to the Placement Agent Agreement in accordance with the terms set forth in the Placement Agent Agreement is hereby accepted. The Placement Agent Agreement shall be executed in the name and on behalf of the Enterprise Corporation by the President or Vice President of the Board, but shall be delivered only upon execution thereof by the Company and the Placement Agent.

12242

The President and/or Secretary of the Board are each authorized to ratify and to approve on behalf of the Enterprise Corporation, the Placement Memorandum (and any Preliminary Placement Memorandum) relating to the issuance and placement of the Bonds and the distribution of the Bonds pursuant thereto with such changes, if any, as may be deemed by him/her to be appropriate.

Section 5. Execution and Delivery of Bonds. The President or Vice President and Secretary of the Board of Directors of the Enterprise Corporation are authorized and directed to execute by facsimile or manual signatures for and on behalf of the Enterprise Corporation the Bonds as provided in the Indenture and to deliver such Bonds to the Trustee hereinafter named for authentication and thereafter to deliver the Bonds to the purchasers upon the simultaneous payment of the purchase price as specified in the Placement Agent Agreement.

Section 6. Appointment of Trustee. First Interstate Bank of Washington, N.A. of Seattle, Washington is hereby designated as Trustee for the Bonds and further as the paying agent for the Bonds. The Enterprise Corporation does request and authorize the Trustee on behalf of the Enterprise Corporation to authenticate the Bonds and the President or the Vice President of the Board is authorized to execute a formal request to authenticate for and on behalf of the Enterprise Corporation.

Section 7. Further Documents and Certificates. The President, Vice President, Secretary and such other officers of the Enterprise Corporation as may be appropriate, are authorized and directed to execute any and all documents and do any and all things determined necessary to effect the accomplishment of the issuance, placement and delivery of the Bonds and to deliver the necessary documents to the proper parties as requested to carry out the intended purposes of this resolution.

Section 8. Limitations on Liability. Nothing contained in this resolution nor in the Bonds, the Loan Agreement, the Indenture, the Placement Agent Agreement, nor any other instrument, shall be construed with respect to the Enterprise Corporation or King County (the "County") as

12242

incurring a pecuniary liability or charge upon the general credit of the Enterprise Corporation or the County or against the taxing power of the County, nor shall the breach of any agreement contained in this resolution, the Bonds, the Loan Agreement, the Indenture, the Placement Agent Agreement, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Enterprise Corporation or the County or any charge upon the general credit of the County or the taxing power of the County.

ADOPTED by the Board of Directors of the King County Economic Enterprise Corporation this 9th day of April, 1996.

KING COUNTY ECONOMIC ENTERPRISE
CORPORATION

By *Andie M. Young*
President, Board of Directors

ATTEST:

Ray Brown
Secretary, Board of Directors

12242


CERTIFICATE

I, the undersigned, Secretary of the Board of Directors (the "Board") of the King County Economic Enterprise Corporation (the "Enterprise Corporation"), DO HEREBY CERTIFY:

1. That the attached Resolution No. 96-2 (the "Resolution") is a true and correct copy of a resolution of the Enterprise Corporation as adopted at a special meeting of the Board held on April 9, 1996.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Board voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the King County Economic Enterprise Corporation this 9th day of April, 1996.


Secretary

[SEAL]