

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3839

AN ORDINANCE relating to local improvement districts; establishing Consolidated Local Improvement District No. 255/273 and Consolidated Local Improvement Fund District No. 255/273; fixing the amount, form, date, interest rates, maturity and denominations of the Consolidated Local Improvement District No. 255/273 Bonds; providing for the sale and delivery thereof to Shearson Lehman Brothers Inc., Foster & Marshall Division, in Seattle, Washington; and fixing the interest rate on local improvement district assessment installments.

WHEREAS, the City Council of the City heretofore has created Local Improvement Districts Nos. 255 and 273 for various purposes; and

WHEREAS, RCW 35.45.160 authorizes the establishment of consolidated local improvement districts for the purpose of issuing bonds only and provides that if the governing body of any municipality orders the creation of such consolidated local improvement district the money received from the installment payment of the principal of and interest on assessments levied within the original local improvement districts shall be deposited in a consolidated local improvement district bond redemption fund to be used to redeem outstanding consolidated local improvement district bonds; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DO ORDAIN as follows:

Section 1. For the purpose of issuing bonds only, the 30-day period for making cash payment of assessments without interest in each of the following local improvement districts having expired in the case of the assessments for each local improvement district, those local improvement districts of the City of Bellevue, Washington (the "City"), established by the following ordinances, respectively, are consolidated into a consolidated local improvement district to be known and designated as Consolidated Local Improvement District No. 255/273:

| <u>Local Improvement District No.</u> | <u>Created by Ordinance No.</u> |
|---|-------------------------------------|
| 255 | 3112 |
| 273 | 3528 |

Section 2. There is created and established in the office of the City Finance Director for Consolidated Local Improvement District No. 255/273 a special consolidated local improvement district fund to be known and designated as Consolidated Local Improvement Fund, District No. 255/273 (the "Bond Fund"). All money presently on hand representing collections pertaining to installments of assessments and interest thereon in each of the local improvement districts listed in Section 1 shall be transferred to and deposited in the Bond Fund, and all collections pertaining to assessments on the assessment rolls of those local improvement districts when hereafter received shall be deposited in the Bond Fund to redeem outstanding Consolidated Local Improvement District No. 255/273 bonds.

Section 3. The 30-day interest-free prepayment period having expired in Local Improvement Districts Nos. 255 and 273, Consolidated Local Improvement District No. 255/273 bonds (the "Bonds") shall be issued in the total principal amount of \$873,750 being the total amount on the assessment rolls of Local Improvement Districts Nos. 255 and 273 remaining uncollected. The Bonds shall be dated November 1, 1987, shall mature on November 1, 1999, and shall be numbered from 1 to 174, inclusive, in the manner and with any additional designation as the Bond Registrar (collectively, the fiscal agencies of the State of Washington located in Seattle, Washington, and New York, New York) deems necessary for the purpose of identification. Bond No. 1 shall be in the denomination of \$8,750 and Bonds Nos. 2 to 174, inclusive, shall be in the denomination of \$5,000.00 each. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Bonds shall bear interest at the rate of 8.00% per annum, payable annually beginning November 1, 1988.

The Bonds shall be issued only in registered form as to both principal and interest and be recorded on books or records maintained by the Bond Registrar (the "Bond Register"). The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner.

Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. The new certificate shall bear the same Bond number as the transferred Bond but may have a different inventory reference number or control number. Any transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to transfer any Bond during the fifteen days preceding any principal payment or redemption date.

Both principal of and interest on the Bonds shall be payable solely out of the Bond Fund and from the Local Improvement

Guaranty Fund of the City and shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners at either of the principal offices of the Bond Registrar at the option of the owners.

The City reserves the right and option to redeem the Bonds prior to their stated maturity date on any interest payment date, in numerical order, lowest numbers first, at par plus accrued interest, whenever there shall be sufficient money in the Bond Fund to pay the Bonds so called and all earlier numbered Bonds over and above the amount required for the payment of the interest on all unpaid Bonds. The City shall cause notice of any intended redemption of Bonds to be given not less than 15 nor more than 30 days prior to the date fixed for redemption, by first class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided whether or not it is actually received by the owner of any Bond. The interest on the Bonds so called for redemption shall cease on the date fixed for redemption unless such Bond or Bonds so called are not redeemed upon presentation made pursuant to such call.

Section 4. The Bonds shall be printed, lithographed or typed on good bond paper in a form consistent with the provisions of this ordinance and State law, shall be signed by the Mayor and the City Clerk, either or both of whose signatures shall be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in the following form, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This bond is one of the fully registered City of Bellevue, Washington, Consolidated Local Improvement

District No. 255/273 Bonds described in the Bond Ordinance.

Washington State Fiscal Agency
Bond Registrar

By _____
Authorized Officer

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered and are entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 5. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and Ordinance No. 3324 establishing a system of registration for the City's bonds and obligations.

The Bond Registrar shall be responsible for its representations contained in the Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of Bonds with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Bond owners.

Section 6. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 7. The City covenants that it will take all actions necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that, if all gross proceeds of the Bonds have not been spent within six months after the date of issuance of the Bonds, it will calculate, or cause to be calculated, and rebate to the United States all earnings from the investment of gross proceeds of the Bonds that are in excess of the amount that would have been earned had the yield on those investments been equal to the yield on the Bonds, plus all income derived from those excess earnings, to the extent and in the manner required by Section 148 of the United States Internal Revenue Code of 1986 (the "Code") and applicable regulations. If the City fails to meet rebate requirements applicable to the Bonds under Section 148 of the Code, the City covenants that, to the extent permitted by that Section, it will pay the penalty provided in Subsection 148(f)(7)(C) if required to prevent interest on the Bonds from being included in gross income for federal income tax purposes. The City certifies that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

Section 8. Up to and including November 1, 1992, the Bonds may be redeemed only from special assessment payments. In the event that on or after November 1, 1993, money and/or government obligations, as defined in Chapter 39.53 RCW as now or hereafter amended, maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to pay and retire the Bonds in accordance with their terms, are set aside in or for the account of the Bond Fund for the Bonds to effect such payment and retirement, and such money and the principal of and interest on such government obligations are set aside in a special fund and pledged irrevocably for such purpose, then no further payments need to be made into the Bond Fund for the payment of the principal of and interest on the Bonds, and the Bonds shall cease to be entitled to any lien, claim, benefit or security of this ordinance or of the Local Improvement Guaranty Fund except the right to receive the money so set aside and pledged, and thereafter the Bonds shall be deemed not to be outstanding hereunder.

Section 9. Shearson Lehman Brothers Inc., Foster & Marshall Division, in Seattle, Washington, has submitted an offer to purchase all of the Bonds at a price of par, plus accrued interest from the date of the Bonds to the date of their

delivery to the purchaser, the City to furnish the printed Bonds and the approving legal opinion of Roberts & Shefelman, municipal bond counsel of Seattle, Washington, at the City's expense. Bond counsel shall not be required to review or express any opinion concerning the completeness or accuracy of any official statement, offering circular or other sales material issued or used in connection with the Bonds, and bond counsel's opinion shall so state. The City Council, deeming that it is in the best interest of the City that such offer be accepted, accepts the same. The Bonds, therefore, immediately upon their execution shall be delivered to Shearson Lehman Brothers Inc., Foster & Marshall Division, Seattle, Washington, upon payment therefor in accordance with such offer.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to the purchaser, including without limitation the execution of the Official Statement on behalf of the City, and for the proper application and use of the proceeds of the sale thereof.

Section 10. The interest rates on the installments and delinquent payments of the special assessments in Local Improvement Districts Nos. 255 and 273 are revised and fixed at the rate of 8.25% per annum.

Section 11 This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 26th day of October, 1987, and signed in authentication of its passage this 26th day of October, 1987.



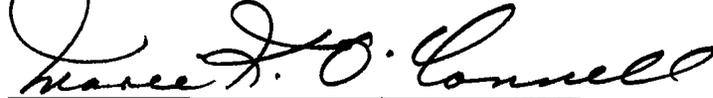
Cary E. Bozeman, Mayor

Approved as to form:



Richard L. Andrews
City Attorney

Attest:



Marie K. O'Connell
City Clerk

Published: *October 30, 1987*