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ORDINANCE NO. 3956

AN ORDINANCE of the City of Bellevue, Washington, relating to Local Improvement District NO. 266; authorizing the issuance and sale of local improvement district bond anticipation notes pending the receipt of the proceeds of the local improvement district bonds authorized to be issued by Ordinance No. 3832; and providing for the sale and delivery of the notes to Rainier National Bank of Seattle, Washington.

WHEREAS, by Ordinance No. 3832 passed by the City Council on October 5, 1987, the City ordered roadway improvements on Northup Way between 124th Avenue N.E. and the 130th Avenue N.E. and at the intersections thereof pursuant to Resolution No. 4882 and, after a public hearing thereon, established Local Improvement District No. 266 ("LID No. 266") and provided for the issuance and sale of bond anticipation notes or other short-term obligations; and

WHEREAS, the City Council deems it to be in the best interest of the City that the City issue short-term obligations pursuant to Chapter 39.50 RCW in the form of local improvement district bond anticipation notes for the purpose of providing the funds with which to pay part of the cost of constructing the improvements in LID No. 266 pending the receipt of the proceeds of the issuance and sale of the bonds authorized by Ordinance No. 3832; NOW, THEREFORE,

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

Section 1. Authorization of the Notes. In anticipation of the issuance of the bonds authorized by Ordinance No. 3832 (the "Bonds") the City shall, for the purpose of paying the costs of the improvements ordered by Ordinance No. 3832, issue short-term obligations in the principal amount of $742,000, which amount is not in excess of the costs and expenses of the improvements to be paid from special assessments to be levied on properties within LID No. 266 and incurred prior to the confirmation of the assessment roll for LID No. 266. Said short-term obligations shall be designated "Local Improvement District No. 266 Bond Anticipation Notes, 1988," shall be dated October 27, 1988, and shall be in fully registered form.

The Notes shall be in the denomination of $25,000 or any integral multiple thereof, except for one note in the amount of $17,000, shall mature on May 1, 1990, and shall bear interest at a rate per annum equal to 6.60%, calculated on the basis of a 360-day year with twelve 30-day months, payable on November 1, 1989 and May 1, 1990, unless redeemed prior to maturity.

The fiscal agencies of the State of Washington in the cities of Seattle, Washington and New York, New York, shall act as registrar for the Notes (the "Registrar"). The Registrar shall keep, or cause to be kept, at its principal corporate trust office sufficient books for the registration and transfer of the Notes

(the "Note Register") which shall at all times be open to inspection by the City. Both the principal of and interest on the Notes shall be payable in lawful money of the United States of America. Principal shall be paid at the office of the fiscal agent of the State of Washington in Seattle, Washington, upon presentation of the Notes. Interest shall be paid by check mailed by the fiscal agent to the registered owner at the address shown on the Note Register 15 days prior to an interest payment date. The Notes shall be obligations only of the LID No. 266 Fund created by Ordinance No. 3832 ("LID Fund").

Section 2. Redemption of the Notes. Both the principal of and interest on the Notes are payable solely from the proceeds of the sale of the Bonds or refunding bond anticipation notes to be issued by the City from assessments and interest thereon levied in LID No. 266 and from the Local Improvement Guaranty Fund of the City. The City hereby covenants with the owner(s) of the Notes that it will issue the Bonds, refunding bond anticipation notes, or a combination of the foregoing in an amount sufficient, with any prepayments of assessments, to pay when due the principal of and interest on the Notes and will thereupon redeem the Notes. The Notes are not a general obligation of the City and are not payable otherwise than as stated herein.

Section 3. Right of Prior Redemption. The City reserves the right to call and redeem the Notes prior to their maturity on or after October 1, 1989 at par plus accrued interest to the date of redemption.

Notice of any such intended redemption shall be given not less than 30 days prior to the date fixed for redemption by first class mail, postage prepaid, to the registered owner of any Note to be redeemed at the address appearing on the Note Register. The requirements of this section shall be deemed to be complied with when notice is mailed as herein provided, regardless of whether it is actually received. The interest on the Notes so called for redemption shall cease to accrue on the date fixed for redemption unless such Note or Notes so called are not redeemed upon presentation pursuant to such call.

Portions of any Note, in installments of $25,000 principal amount, may be redeemed. If less than all of the principal amount of any Note is redeemed, upon surrender of such Note at the principal office of the Registrar, there shall be issued to the registered owner, without charge therefor, for the then unredeemed balance of the principal amount thereof, a new Note or Notes in any of the denominations authorized by this ordinance.

Section 4. Form of the Notes. The Notes shall be in substantially the following form:

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UNITED STATES OF AMERICA

NO. _____ $_____

STATE OF WASHINGTON
CITY OF BELLEVUE
LOCAL IMPROVEMENT DISTRICT NO. 266
BOND ANTICIPATION NOTE, 1988

REGISTERED OWNER:

MATURITY DATE: May 1, 1990 PRINCIPAL AMOUNT:

The City of Bellevue, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "City"), hereby acknowledges itself indebted and for value received promises to pay to the Registered Owner identified above on the maturity Date indicated above the Principal Amount specified above, together with interest thereon from the date hereof at a rate equal to 6.60% per annum, payable on November 1, 1989 and May 1, 1990 or on the date of prepayment, or until such principal sum shall have been paid or payment duly provided for. Interest shall be calculated on the basis of a 360-day year with twelve 30-day months.

Both principal of and interest on this note are payable solely from the proceeds of Local Improvement District No. 266 Bonds or refunding bond anticipation notes to be issued by the City, from assessments and interest thereon levied in Local Improvement District No. 266 to pay the total costs and expenses of the improvements therein, or from the Local Improvement Guaranty Fund of the City. Payment shall be made to the registered owner hereof at the office of the fiscal agent of the State of Washington in Seattle, Washington, out of the Local Improvement District No. 266 Fund of the City created by Ordinance No. 3832. Reference is made to Ordinance No. 3956 of the City (the "Note Ordinance") for the definitions of other defined terms used herein.

The City has reserved the right to call and redeem the notes of this issue prior to their scheduled maturity on and after October 1, 1989, at par plus accrued interest to the date of redemption. Notice of any such redemption shall be given not less than 30 days prior to the date fixed for redemption by first class mail, postage prepaid, to the registered owner of this note at the address appearing on the Note Register. Interest on this note so called for redemption shall cease to accrue on the date fixed for redemption unless this note is not redeemed upon presentation made pursuant to such call.

The City hereby covenants with the owner of this note that it will issue bonds of Local improvement District No. 266 or refunding bond anticipation notes in an amount sufficient, with

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any prepayment of assessments, to pay the principal of and interest on this note when due and will thereupon redeem this note. This note in not a general obligation of the City and is not payable otherwise than as stated herein.

Notes are interchangeable for notes of any authorized denomination of equal aggregate principal amount upon presentation and surrender to the Registrar.

This note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Registrar.

It is hereby certified and declared that this note is issued pursuant to and in strict compliance with the Constitution and laws of the State of Washington and duly adopted ordinances of the City, and that all acts, conditions and things required to have happened, been done, and performed precedent to and in the issuance of this note have happened, been done, and performed.

IN WITNESS WHEREOF, the City of Bellevue, Washington, has caused this note to be executed on behalf of the City by the Mayor, to be attested by the Clerk of the City, and the official seal of the City to be impressed hereon this 27th day of October, 1988.

CITY OF BELLEVUE, WASHINGTON

By Nan Campbell
Mayor

ATTEST:

Marie J. O. Connell
City Clerk

(S E A L)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes described in the within mentioned Note Ordinance and is one of the Local Improvement

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District No. 266 Bond Anticipation Notes, 1988 of the City of Bellevue, Washington, dated October 27, 1988.

WASHINGTON STATE FISCAL AGENCY
Note Registrar

By _____
Authorized Officer

The following abbreviations, when used in the inscription on the face of the within note, shall be construed at though they were written out in full according to applicable laws or regulations.

TEN COM	-	as tenants in common
TEN ENT	-	as tenants by the entireties
JT TEN	-	as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT (TRANSFERS) MIN ACT - _____ Custodian_____
(Cust) (Minor)

under Uniform Gifts (Transfers) to Minors Act

_____
(State)

Additional abbreviations may also be used though not in list above.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____

_____
PLEASE INSERT SOCIAL SECURITY OR TAXPAYER IDENTIFICATION NUMBER OF TRANSFEREE /_____/

_____
(Please print or typewrite name and address, including zip code, of Transferee)

_____
the within note and does hereby irrevocably constitute and appoint _____, attorney in fact to transfer said note on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____

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SIGNATURE GUARANTEED:

_____

Section 5. Execution of the Notes. The Notes shall be signed on behalf of the City by the Mayor, shall be attested by the Clerk of the City, and shall have the official seal of the City impressed thereon.

Only such Notes as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Note Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Notes so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

Section 6. Application of Proceeds of Sale of the Notes. The principal proceeds of the sale of the Notes shall be deposited into the LID Fund and applied to payment of the costs of the improvements ordered by Ordinance No. 3832 and the costs of issuing the Notes.

Section 7. Sale of the Notes. The City hereby accepts the offer of Rainier National Bank, Seattle, Washington, dated October 17, 1988, to purchase the Notes in accordance with the terms contained in this ordinance and said offer. The appropriate City officials are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Notes and for the proper application and use of the proceeds thereof.

Section 8. Lost or Destroyed Notes. In case the Notes shall be lost, stolen or destroyed, the City may execute and the Treasurer of the City may deliver a new note of like amount, date, and tenor to the owner thereof upon the owner's paying the expenses and charges of the City in connection therewith, and upon his filing with the Treasurer of the City evidence satisfactory to said Treasurer that the Note was actually lost, stolen or destroyed and of his ownership thereof, and upon furnishing the City with indemnity satisfactory to the Treasurer.

Section 9. Notes Not Arbitrage Bonds; Not Private Activity Bonds. The City covenants and agrees that throughout the term of the Notes no part of the proceeds of the Notes or any other moneys or obligations held under this ordinance shall at any time be used for any purpose or invested in such a manner, nor shall the City take any other action, which would cause the Notes to be (i) "arbitrage bonds" under the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) "private activity bonds" under the Code.

Section 10. Excess Earnings Rebate. The City covenants and agrees to calculate the Rebate Amount and to pay the Rebate Amount to the Internal Revenue Service in the manner and at the times required in this subsection unless a nationally recognized bond counsel delivers to the City its opinion that the Rebate Amount must be calculated in another manner, in which case the City covenants and agrees to calculate and pay the Rebate Amount in the manner required by law.

(a) A special account of the City to be known as the "Excess Earnings Account" (the "Excess Earnings Account") is hereby authorized and created in the LID Fund. The City shall make deposits into and withdrawals from the Excess Earnings Account at such times and in such manner as provided herein.

(b) The City shall calculate the Rebate Amount for each one-year period beginning on the date of issue of the Notes and ending on the day prior to the first anniversary thereof, and each subsequent one-year period ("Bond Year") and shall maintain the Rebate Amount in the Excess Earnings Account for the next succeeding Bond Year, less the amounts, if any, previously paid to the United States as provided herein. The Rebate Amount shall be calculated as follows:

(i) The aggregate amount earned on the amounts allocable to the Notes deposited in the LID Fund for the period from the date of issue of the Notes through the date as of which the Rebate Amount is determined (the "Computation Period"), minus

(ii) The aggregate amount that would have been earned on the amounts allocable to the Notes deposited in the LID Fund for the Computation Period if such amounts had been invested at a yield equal to the actuarial yield on the Notes for the Computation Period, plus

(iii) Any income (whether or not that income exceeds the yield on the Notes) attributable to the excess of the amount computed under subparagraph (i) above over the amount computed under subparagraph (ii) above.

If the gross earnings on the amounts in the LID Fund allocable to debt service on the Notes for any Bond Year during the Computation Period are less than $100,000, the amount of earnings on such Fund allocable to debt service for each Bond Year must be subtracted from the amounts used in computing subparagraph (i) above and such amount shall not be taken into account in making the computations under subparagraph (ii) above.

(c) The City shall make deposits into the Excess Earnings Account to maintain it at the Rebate Amount, less the amounts, if any, previously paid to the United States as provided herein. Such deposits shall be made from the LID Fund, or from

other available money of the City. Any amounts that are withdrawn from the Excess Earnings Account as a result of a decrease in the Rebate Amount may be deposited in the LID Fund. Earnings on amounts in the Excess Earnings Account must remain therein and may not be taken into account in determining a decrease in the Rebate Amount.

(d) The City shall make installment payments from the Excess Earnings Account to the United States. The first payment shall be made not later than thirty days after the end of the fifth Bond Year. Each subsequent installment payment shall be made not later than five years after the preceding payment was due. Each installment payment shall be such that at least ninety percent of the Rebate Amount for the Computation Period ending immediately prior to such installment payment will have been paid to the United States. Not later than sixty days after retirement of the last obligation of the Notes, the final installment payment shall be made such that 100% of the Rebate Amount for the final Computation Period is paid to the United States.

(e) The Rebate Amount shall be calculated within thirty days of the end of the first Bond Year, within thirty days of the end of each subsequent Bond Year, and within sixty days of the retirement of the last obligation of the Notes. Any required deposits into the Excess Earnings Account shall be made within the thirty- or sixty-day period as the case may be.

(f) If, during any Computation Period, the Rebate Amount is less than the amounts previously paid to the United States, such a deficit may not be recovered from amounts previously paid to the United States.

(g) The aggregate amount earned on the LID Fund must include all income realized under federal income tax accounting principles (whether or not the City is subject to federal income taxation) with respect to an obligation and with respect to the reinvestment of investment receipts from such obligations. Transaction costs incurred in acquiring, carrying, selling or redeeming such obligations may not be offset in determining the aggregate amount earned. If any investments are retained after retirement of the last obligation of the Notes, any unrealized gain or loss as of such retirement date must be taken into account in determining aggregate earnings. Gain or loss must be computed with reference to the fair market value of an obligation or security on the date that it is deposited into any fund or account created herewith.

In the event that all of the Note proceeds are spent within six months of the date of issuance or the City obtains an opinion from nationally-recognized bond counsel stating that the City is not subject to the provisions of the Internal Revenue Code of 1986, as it may hereafter be amended, relating to the rebate of arbitrage profits, then the City need not establish or maintain

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the Excess Earnings Account or keep any of the covenants in this section.

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

PASSED by the City Council this 17th day of October 1988, and signed in authentication of its passage this 17th day of October, 1988.

By Nan P. Campbell
Nan P. Campbell, Mayor

Approved as to form:

Richard Gidley
Deputy City Attorney

Attest:

Marie K. O'Connell
City Clerk

Published:
October 22, 1988