

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3716

AN ORDINANCE of the City of Bellevue, Washington, relating to Local Improvement District No. 261; fixing the amount, form, date, interest rates, maturity and denominations of the Local Improvement District No. 261 Bonds; providing for the sale and delivery thereof to Campbell Waterman Inc. in Seattle, Washington; and fixing the interest rate on Local Improvement District No. 261 assessment installments.

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

Section 1. The total amount of the assessment roll in Local Improvement District No. 261 in the City of Bellevue, Washington (the "City"), created under Ordinance No. 3247, as amended, was \$1,591,328.34. The 30-day period for making cash payments of assessments without interest in the District expired on September 15, 1986, and the total amount of assessments paid in cash was \$118,444.50, leaving a balance of assessments unpaid on the assessment roll in the sum of \$1,472,883.84. Local Improvement District No. 261 Bonds (the "Bonds") shall, therefore, be issued in the total principal sum of \$1,472,883.84. The Bonds shall be dated February 1, 1987, shall mature on February 1, 1999, and shall be numbered from 1 to 294, 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 \$7,883.84 and Bonds Nos. 2 to 294, 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, payable annually beginning February 1, 1988, at the rates set forth as follows:

<u>Bond Numbers</u> <u>(Inclusive)</u>	<u>Amounts</u>	<u>Interest</u> <u>Rates</u>
1 to 33	\$167,883.84	8.00%
34 to 120	435,000.00	6.75%
121 to 236	580,000.00	7.00%
237 to 294	290,000.00	7.30%

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

Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. The transfer of a Bond shall be by the Bond Registrar's receiving the Bond to be transferred, cancelling it and issuing a new certificate in the form of the Bonds to the transferee after registering the name and address of the transferee on the Bond Register. The new certificate shall bear the same Bond number as the transferred Bond but may have a different inventory reference number or control number. Such exchange or transfer shall be without cost to the owner or transferee.

Both principal of and interest on the Bonds shall be payable solely out of the Local Improvement Fund, District No. 261 (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 check or draft mailed to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners at the principal offices of either of the fiscal agencies of the State of Washington in Seattle, Washington, and New York, New York, at the option of such owners.

The City reserves the right to redeem the Bonds prior to their stated maturity on any interest payment date, through February 1, 1992, only with money from assessments and interest and penalties thereon collected and thereafter with money from any source, 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, by mailing, not less than 15 nor more than 30 days prior to the date fixed for redemption, notice of such 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. The requirements of this section shall be deemed to be complied with when notice is mailed as herein 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 2. 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, both of whose signatures shall be in facsimile, and shall have a facsimile reproduction of the seal of the City printed thereon.

Only such Bonds as shall bear thereon 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, Local Improvement District No. 261 Bonds described in the Bond Ordinance.

Washington State Fiscal Agency  
Bond Registrar

By \_\_\_\_\_  
Authorized Officer

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

In case either or both of the officers who shall have executed the Bonds shall cease to be such officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond also may be signed on behalf of the City by such persons as at the actual date of execution of such Bond shall be proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Section 3. 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 or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance and Ordinance No. 3324 of the City.

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

Section 5. The City covenants that it will neither make nor permit any use of proceeds of the Bonds or other funds of the City at any time during the term of the Bonds which will cause the Bonds to be arbitrage bonds within the meaning of Section 148 of the United States Internal Revenue Code of 1986 (the "Code") and applicable regulations promulgated thereunder. Further, the City covenants that, if all proceeds of the Bonds have not been spent within six months from 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 Bond proceeds that are in excess of the amount that would have been earned had the yield on such investments been equal to the yield on the Bonds, plus all income derived from such excess earnings, to the extent and in the manner required by Section 148 of the Code and such applicable regulations. In the event the City shall fail 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 shall pay the penalty provided in Subsection 148(f)(7)(C) if required to prevent a loss of the tax exemption for interest on the Bonds.

The City further covenants 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 6. The City covenants that in the event that existing or future litigation results in the reduction of the amount of the final assessment roll of Local Improvement

District No. 261, the City will pay into the Bond Fund, as a part of the City's contribution to the cost of the improvements in Local Improvement District No. 261, an amount equal to the amount of such reduction plus interest on such assessment amount at the interest rate thereon fixed by this ordinance to the date of such payment.

Section 7. Pending the printing, execution and delivery to the purchaser of the definitive Bonds, the City may cause to be executed and delivered to such purchaser a single temporary Bond in the principal amount of \$1,472,883.84. Such temporary Bond shall bear the same date of issuance, interest rates, principal payment date and terms and covenants as the definitive Bonds, and shall be issued as a fully registered Bond in the name of such purchaser, and shall be in such form as acceptable to such purchaser. Such temporary Bond shall be exchanged for the definitive Bonds as soon as the same are printed, authenticated and available for delivery.

Section 8. Campbell Waterman Inc. in Seattle, Washington, has submitted an offer to purchase all of the Bonds at the price set forth in its offer on file with the City. The City shall furnish to that purchaser the printed Bonds and the approving legal opinion of Roberts & Shefelman, municipal bond counsel of Seattle, Washington, at the City's expense. Bond counsel has not been retained and 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 shall, therefore, immediately upon their execution, be delivered to Campbell Waterman Inc. in 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 and for the proper application and use of the proceeds of the sale thereof.

Section 9. The interest rate on the installments and delinquent payments of the special assessments in Local Improvement District No. 261 is revised and fixed at the rate of 7.334% per annum.

Section 10. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 20th day of January, 1987, and signed in authentication of its passage this 20<sup>th</sup> day of January, 1987.

  
Cary E. Bozeman, Mayor

Approved as to Form:

  
Richard L. Andrews, City Attorney

Attest:

  
Marie K. O'Connell, City Clerk

Published: January 27, 1987

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