

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3863

AN ORDINANCE of the City of Bellevue, Washington, relating to contracting indebtedness; providing for the issuance of \$4,000,000 par value Limited Tax General Obligation Bonds, 1988, of the City for general City purposes to provide funds with which to pay a part of the cost of constructing various improvements; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; establishing a bond redemption fund; and providing for the public sale of the bonds.

WHEREAS, the City of Bellevue, Washington (the "City"), is in need of constructing various capital improvements, the estimated cost of which is \$4,000,000, and the City does not have available sufficient funds to pay the cost; NOW, THEREFORE,

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

Section 1 The assessed valuation of the taxable property of the City as ascertained by the last preceding assessment for City purposes for the calendar year 1987 is \$5,620,304,517, and the City has outstanding general indebtedness evidenced by limited tax general obligation bonds and conditional sales contracts in the principal amount of \$23,835,320 incurred within the limit of up to 3/4 of 1% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein, unlimited tax general obligation bonds in the principal amount of \$13,021,168 incurred within the limit of up to 2-1/2% of the value of the taxable property within the City for capital purposes only, and unlimited tax general obligation bonds in the principal amount of \$8,823,832 incurred within the additional limit of up to 2-1/2% of the value of the taxable property within the City for parks and open space purposes issued pursuant to a vote of the qualified voters of the City, and the amount of indebtedness for which bonds are authorized herein to be issued is \$4,000,000.

Section 2. The City shall borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing that indebtedness in the amount of \$4,000,000 for general City purposes to provide the funds to pay a part of the cost of constructing various capital improvements (the

"Project") and to pay the costs of issuance and sale ("costs of issuance") of the bonds. The general indebtedness to be incurred shall be within the limit of up to 3/4 of 1% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

Section 3. The bonds shall be called Limited Tax General Obligation Bonds, 1988, of the City (the "Bonds"); shall be in the aggregate total principal amount of \$4,000,000; shall be dated January 1, 1988; shall mature January 1, 1991; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered separately 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 purposes of identification; and shall bear interest at the rate specified in the successful bid (computed on the basis of a 360-day year of twelve 30-day months), payable on January 1, 1989, and semi-annually thereafter on each succeeding July 1 and January 1. The life of the capital facilities to be acquired with the proceeds of the Bonds exceeds 3 years.

Section 4. 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 surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the fifteen days preceding any principal payment or redemption date.

Section 5. Both principal of and interest on the Bonds 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.

Section 6. The City reserves the right and option to redeem the Bonds prior to their stated maturity date, as a whole, or in part (and by lot in such manner as the Bond Registrar shall determine), on January 1, 1990, or on July 1, 1990, at par plus accrued interest to the date fixed for redemption.

Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds at the option of the registered owner) in any of the denominations authorized by this ordinance in the aggregate total principal amount remaining unredeemed.

The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at a price not in excess of par plus accrued interest to the date of purchase.

All Bonds purchased or redeemed under this section shall be cancelled.

Section 7. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 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. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to Moody's Investors Service, Inc., and Standard & Poor's Corporation at their offices in New York, New York, or their successors, to the successful bidder for the Bonds at its principal office and to such other persons and with such additional information as the City Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 8. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that

Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the bond redemption fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner of each of those unpaid bonds.

Section 9. For as long as any of the Bonds are outstanding, the City irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Bonds, and the full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Section 10. The Bonds shall be printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance and state law, shall be signed by the Mayor and City Clerk, either or both of whose signatures may 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 signed 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, Limited Tax General Obligation Bonds, 1988, 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 11. 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 be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged 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 City 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 Bond 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 12. 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, as amended (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 13. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 14. The City may issue advance refunding bonds pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire or refund all such then-outstanding Bonds (hereinafter collectively called the "defeased Bonds") and to pay the costs of the refunding or defeasance. If money and/or "government obligations" (as defined in Chapter 39.53 RCW, as now or hereafter amended) maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire or refund the defeased Bonds in accordance with their terms are set aside in a special trust fund irrevocably pledged to that redemption and retirement of defeased Bonds (hereinafter called the "trust account"), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. The owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. The defeased Bonds shall be deemed no longer outstanding, and the City may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine.

Section 15. There is created and established in the office of the City Finance Director a special fund designated as the Limited Tax General Obligation Bond Fund, 1988 (the "Bond Fund"). Accrued interest on the Bonds, if any, received from the sale and delivery of the Bonds shall be paid into the Bond Fund. There previously has been created and established in the office of the City Finance Director a special fund designated as the Capital Improvements Fund (the "Construction Fund"). The principal proceeds and premium, if any, received from the sale and delivery of the Bonds shall be paid into the Construction Fund and used for the purposes specified in Section 2 of this

ordinance. Until needed to pay the costs of the Project and costs of issuance of the Bonds, the City may invest principal proceeds temporarily in any legal investment, and the investment earnings may be retained in the Construction Fund and be spent for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement may be withdrawn from the Construction Fund and used for those tax or rebate purposes. All taxes collected for and allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund.

Section 16. The Bonds shall be sold for cash at public sale for not more than a 1% discount plus accrued interest to the date of delivery of and payment for the Bonds.

The City Clerk is authorized to give notice calling for bids to purchase the Bonds by publishing an abbreviated form of such notice once in the Seattle Daily Journal of Commerce in Seattle, Washington, at least ten days prior to the sale date. The notice shall specify that sealed bids for the purchase of the Bonds shall be received by the City Clerk in her office at the City Hall on January 11, 1988, up to 11:00 a.m., local time, at which time all bids will be publicly opened and read and an award made by the City Council at a regular meeting to be held in the City Council chambers commencing at 7:00 p.m., local time, on the same date.

The notice shall require each bidder to submit a bid specifying:

(a) The lowest rate or rates of interest together with premium or discount at which the bidder will purchase the Bonds; or

(b) The lowest rate or rates of interest at which the bidder will purchase the Bonds at par.

No bid will be considered for the Bonds for more than a 1% discount and accrued interest or for less than all of the Bonds of the issue. The purchaser must pay accrued interest to date of delivery of the Bonds.

The interest rate shall be in a multiple of 1/8 or 1/20 of 1%. No more than one rate of interest may be fixed for the Bonds. Bids providing for supplemental coupons will be rejected.

For the purpose of comparing the bids only, the interest rate bid being controlling, each bid shall state the total interest cost over the life of the Bonds and the true interest cost of the bid determined by doubling the semiannual interest

rate (compounded semiannually) necessary to discount the debt service payments from the payment dates to the date of the Bonds and to the price bid, without regard to accrued interest to the date of delivery of the Bonds.

The Bonds shall be sold to the bidder making the best bid, based on the lowest true interest cost, subject to the right of the City Council to reject any and all bids and to readvertise the Bonds for sale in the manner provided by law. The City further reserves the right to waive any irregularity in any bid or in the bidding process.

All bids shall be sealed and, except the bid of the State of Washington, if one is received, shall be accompanied by a deposit of \$200,000. The deposit shall be either in cash or by certified or cashier's check made payable to the City Finance Director and shall be returned promptly if the bid is not accepted. The City reserves the right to invest the good faith deposit of the successful bidder pending the payment for the Bonds, and the successful bidder shall not be credited for earnings from that investment. If the Bonds are ready for delivery and the successful bidder shall fail or neglect to complete the purchase of the Bonds within forty days following the acceptance of its bid, the amount of its deposit shall be forfeited to the City and, in that event, the City may accept the bid of the bidder making the next best bid. If there are two or more equal bids for not more than a 1% discount plus accrued interest and those bids are the best bids received, the City Council shall determine by lot which bid shall be accepted. The Bonds will be delivered to the successful bidder upon payment of the purchase price plus accrued interest to the date of delivery, less the amount of the good faith deposit, in Seattle, Washington, at the City's expense or, at the successful bidder's expense, at another place upon which the City and the successful bidder may mutually agree. Settlement shall be made at the time of delivery of the Bonds in federal funds immediately available. A no-litigation certificate in the usual form will be included in the closing papers.

CUSIP numbers will be printed on the Bonds if requested in the bid of the successful bidder, but neither failure to print CUSIP numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with its bid. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid by the City, but the fee of the CUSIP Service Bureau for the assignment of those numbers shall be the responsibility of and shall be paid by the successful bidder.

Any bid presented after the time specified for the receipt of bids will not be received, and any bid not accompanied by the required bid deposit at the time of opening will not be read or considered.

If, prior to the delivery of the Bonds, interest on the Bonds receivable by the owners thereof becomes includable in gross income for federal income tax purposes, or becomes subject to federal income tax except as described in the official statement, the successful bidder, at its option, may be relieved of its obligation to purchase the Bonds, and in such case the deposit accompanying its bid will be returned, without interest.

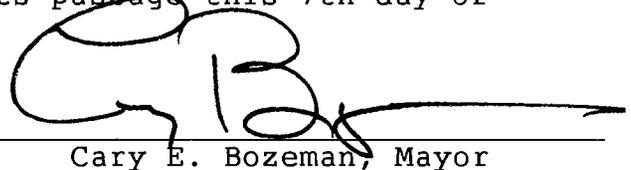
The notice of Bond sale shall provide that the City will cause the Bonds to be printed or lithographed and signed and will furnish the approving legal opinion of Roberts & Shefelman, bond counsel of Seattle, Washington, regarding the Bonds without cost to the purchaser, the opinion also being printed on each Bond. Bond counsel shall not be required to review and shall express no 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. Such notice also shall provide that further information regarding the details of the Bonds may be received upon request made to the City Clerk or to Seattle-Northwest Securities Corporation, 800 Fifth Avenue, Suite 3400, Seattle, Washington, the City's financial consultant.

Section 17. Pending the printing, execution and delivery to the purchaser of definitive Bonds, the City may cause to be executed and delivered to the purchaser a single temporary Bond in the total principal amount of the Bonds. The temporary Bond shall bear the same date of issuance, interest rate, principal payment date and terms and covenants as the definitive Bonds, shall be issued as a fully registered Bond in the name of the purchaser, and otherwise shall be in a form acceptable to the purchaser. The temporary Bond shall be exchanged for definitive Bonds as soon as they are printed, authenticated and available for delivery.

Section 18. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 7th day of December, 1987,

and signed in authentication of its passage this 7th day of  
December, 1987.



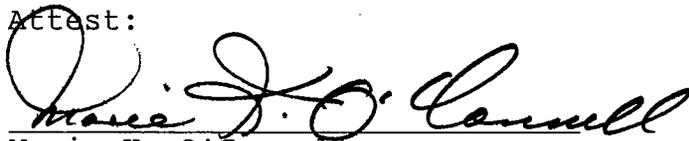
Cary E. Bozeman, Mayor

Approved as to form:



Richard L. Andrews  
City Attorney

Attest:



Marie K. O'Connell  
City Clerk

Published: *December 11, 1987*

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