

CITY OF KIRKLAND, WASHINGTON  
ORDINANCE NO. 3050

AN ORDINANCE of the City of Kirkland, Washington, relating to contracting indebtedness; authorizing the issuance of limited tax general obligation bonds of the City for general City purposes to provide funds with which to pay the cost of acquiring a site for and constructing and maintaining a centralized maintenance garage and shop facility for the City's vehicles and other utility and public works purposes; authorizing the issuance of bond anticipation notes pending the issuance of those bonds; creating a construction fund and a note redemption fund; and providing for the sale and delivery of those notes to Boettcher & Company, Inc. of Seattle, Washington.

WHEREAS, the City of Kirkland, Washington (the "City"), is in need of acquiring a site for and constructing and maintaining a centralized maintenance garage and shop facility for City vehicles and other utility and public works purposes, the estimated cost of which is \$4,100,000, and the City does not have available sufficient funds to pay the cost; and

WHEREAS the City Council deems it to be in the best interests of the City that the City borrow money by the issuance of limited tax general obligation bonds and, pending the issuance of such bonds, issue short-term obligations in accordance with the provisions of Chapter 39.50 RCW for the purpose of providing a part of the funds with which to pay the costs of carrying out the improvements herein described; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KIRKLAND, 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 \$1,129,412,234, and the City has outstanding general indebtedness evidenced by limited tax general obligation bonds in the principal amount of \$1,775,000 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 \$980,000 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 \$2,835,000 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 \$4,100,000.

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 \$4,100,000 for general City purposes to provide the funds to pay the cost of acquiring a site for and constructing and maintaining a centralized maintenance garage and shop facility for City vehicles and other utility and public works purposes (the "Project"). 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. There is created in the office of the Director of Administration and Finance of the City a special fund called the Limited Tax General Obligation Bond Anticipation Note Fund, 1987 (the "Note Fund").

For the purpose of providing part of the funds with which to pay the costs of the Project pending the receipt of the proceeds of the issuance of the limited tax general obligation bonds authorized herein, the City shall issue and sell its Limited Tax General Obligation Bond Anticipation Notes, 1987 (the "Notes"), in the principal amount of \$3,500,000. The Notes shall be in fully registered form; shall be dated September 15, 1987; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the Note 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; shall bear interest at the rate of 5.875% per annum (computed on the basis of a 360-day year of twelve 30-day months), payable on March 15, 1988, and semiannually thereafter on each succeeding September 15 and March 15; and shall mature on September 15, 1989. The Notes shall not be subject to redemption prior to their stated maturity date.

The City Council finds and declares that the fixing of the above interest rate is in the best interests of the City.

Section 4. The Notes shall be issued only in registered form as to both principal and interest and be recorded on books or records maintained by the Note Registrar (the "Note Register"). The Note Register shall contain the name and mailing address of the owner of each Note and the principal amount and number of each of the Notes held by each owner.

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

Section 5. Both principal of and interest on the Notes shall be payable in lawful money of the United States of America. Interest on the Notes shall be paid by check or draft mailed on the interest payment date to the registered owners at the addresses appearing on the Note Register on the last business day of the month preceding the interest payment date. Principal of the Notes shall be payable upon presentation and surrender of the Notes by the registered owners at either of the principal offices of the Note Registrar at the option of the owners.

Section 6. If any Note is not redeemed when properly presented at its maturity date, the City shall be obligated to pay interest on that Note at the same rate provided in the Note from and after its maturity date until that Note, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Note Fund and the Note has been called for payment by giving notice of that call to the registered owner of each of those unpaid Notes.

Section 7. The City irrevocably pledges to redeem the Notes on September 15, 1989, from the proceeds of a sufficient amount of limited tax general obligation bonds authorized by this ordinance, from the proceeds of additional short-term obligations or other money of the City legally available for such purpose and 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 those bond or short-term obligation proceeds and other money legally available and to be used therefor, to pay when due the

principal of and interest on the Notes and those 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 8. The Notes 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 Director of Administration and Finance, both of whose signatures shall be in facsimile, and a facsimile reproduction of the seal of the City shall be printed thereon.

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

CERTIFICATE OF AUTHENTICATION

This Note is one of the fully registered City of Kirkland, Washington, Limited Tax General Obligation Bond Anticipation Notes, 1987, described in the Note Ordinance.

WASHINGTON STATE FISCAL  
AGENCY  
Bond Registrar

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

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Notes 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 Notes ceases to be an officer of the City authorized to sign Notes before the Notes bearing his or her facsimile signature are authenticated or delivered by the Note Registrar or issued by the City, those Notes 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 notes. Any Note also may be signed on behalf of the City by any person who, on the actual date of signing of the Note, is an officer of the City authorized to sign notes, although he or she did not hold the required office on the date of issuance of the Notes.

Section 9. The Note Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Notes which shall at all times be open to inspection by the City. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver Notes transferred or exchanged in accordance with the provisions of the Notes and this ordinance, to serve as the City's paying agent for the Notes and to carry out all of the Note Registrar's powers and duties under this ordinance and City Ordinance No. 2758 establishing a system of registration for the City's bonds and obligations.

The Note Registrar shall be responsible for its representations contained in the Note Registrar's Certificate of Authentication on the Notes. The Note Registrar may become the owner of Notes with the same rights it would have if it were not the Note 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 Note owners.

Section 10. The City covenants that it will take all actions necessary to prevent interest on the Notes 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 Notes or other funds of the City treated as proceeds of the Notes at any time during the term of the Notes which will cause interest on the Notes to be 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 11. The City finds and declares that (a) it is a duly organized and existing governmental unit of the State of Washington and has general taxing power; (b) no Note which is part of this issue of Notes is a "private activity bond" within the meaning of Section 141 of the United States Internal Revenue Code of 1986, as amended (the "Code"); (c) at least 95% of the net proceeds of the Notes will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (d) the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by the City and all entities subordinate to the City (including any entity which the City controls, which derives its authority to issue tax-exempt

obligations from the City or which issues tax-exempt obligations on behalf of the City) during the calendar year in which the Notes are issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Notes, designated by the City as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Notes are issued does not exceed \$10,000,000. The City therefore certifies that the Notes are eligible for the arbitrage rebate exemption under Section 148(f)(4)(C) of the Code and designates the Notes as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

Section 12. The Notes shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 13. There is created and established in the office of the Director of Administration and Finance of the City a special fund designated as the Service Center Construction Fund, 1987 (the "Construction Fund"). The principal proceeds received from the sale and delivery of the Notes 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 Notes, 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. Accrued interest received shall be deposited in the Note Fund. All taxes collected for and allocated to the payment of the principal of and interest on the Notes shall be deposited in the Note Fund.

Section 14. Boettcher & Company, Inc., of Seattle, Washington, has presented a purchase contract dated September 8, 1987 (the "Purchase Contract"), to the City offering to purchase the Notes under the terms and conditions provided in the Purchase Contract, which written Purchase Contract is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that entering into the Purchase Contract is in the City's best interest and therefore accepts the offer contained therein and authorizes its execution by City officials.

The Notes will be printed at City expense and will be delivered to the purchaser in accordance with the Purchase Contract, with the approving legal opinion of Roberts & Shefelman, municipal bond counsel of Seattle, Washington, regarding the Notes printed on each Note. 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 Notes, and bond counsel's opinion shall so state.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Notes to the purchaser and for the proper application and use of the proceeds of the sale thereof.

Section 15. Temporary Note. Pending the printing, execution and delivery to the purchaser of definitive Notes, the City may cause to be executed and delivered to the purchaser a single temporary Note in the total principal amount of the Notes. The temporary Note shall bear the same date of issuance, interest rate, principal payment date and terms and covenants as the definitive Notes, shall be issued as a fully registered Note in the name of the purchaser, and otherwise shall be in a form acceptable to the purchaser. The temporary Note shall be exchanged for definitive Notes as soon as they are printed, executed and available for delivery.

Section 16. Effective Date of Ordinance. This ordinance shall take effect from and after its passage and five (5) days following its publication as required by law.

PASSED by the City Council and SIGNED by the Mayor of the City of Kirkland, Washington, at a regular open public meeting thereof, this 8th day of September, 1987.

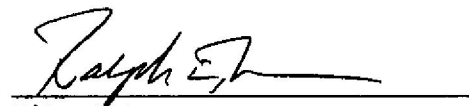
CITY OF KIRKLAND, WASHINGTON

  
 \_\_\_\_\_  
 Mayor

ATTEST:

  
 \_\_\_\_\_  
 City Clerk

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 City Attorney

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