

CITY OF KIRKLAND, WASHINGTON

ORDINANCE NO. 3171

AN ORDINANCE of the City of Kirkland, Washington, relating to contracting indebtedness; providing for the issuance of \$3,500,000 par value Limited Tax General Obligation Bonds, 1989, of the City for general City purposes to provide funds with which to pay a part of the cost of paying and redeeming the City's outstanding \$3,500,000 par value Limited Tax General Obligation Bond Anticipation Notes, 1987, issued to provide the 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; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; establishing a bond redemption fund; and approving the sale and providing for the delivery of the bonds to Boettcher & Company, Inc., of Denver, Colorado.

WHEREAS, by Ordinance No. 3050, the City of Kirkland, Washington (the "City"), authorized the issuance of \$4,100,000 principal amount of limited tax general obligation bonds for the purpose of paying 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, and, pending the receipt of the proceeds of the issuance and sale of those bonds, authorized and provided for the issuance and sale of its \$3,500,000 Limited Tax General Obligation Bond Anticipation Notes, 1987 (the "Outstanding Notes"), for the purpose of paying the cost of carrying out those improvements; and

WHEREAS, the Outstanding Notes mature on September 15, 1989, and the City does not have available sufficient money to pay and redeem those notes; and

WHEREAS, the City Council has determined it is in the best interests of the City to issue and sell \$3,500,000 principal amount of the limited tax general obligation bonds authorized by Ordinance No. 3050 for the purpose of paying part of the cost of paying and redeeming the

Outstanding Notes, and Boettcher & Company, Inc., of Denver, Colorado, has submitted an offer to purchase those bonds under the terms and conditions hereinafter set forth, NOW, THEREFORE,

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

Section 1. Debt Capacity. The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 1989 is \$1,864,873,071, and the City has outstanding general indebtedness evidenced by limited tax general obligation bonds, notes and leases in the principal amount of \$5,100,000, of which \$3,500,000 will be paid and redeemed from the proceeds of the issuance and sale of the bonds as provided herein, 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 \$994,000 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 \$2,541,000 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 \$3,500,000.

Section 2. Authorization of Bonds. 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 \$3,500,000 for general City purposes to provide the funds to pay part of the cost of paying and redeeming the Outstanding Notes on September 15, 1989, and to pay the costs of issuance and sale of the bonds (the "costs of issuance"). 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. Description of Bonds. The bonds shall be called Limited Tax General Obligation Bonds, 1989, of the City (the "Bonds"); shall be in the aggregate principal

amount of \$3,500,000; shall be dated June 15, 1989; 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 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; shall bear interest at the rates set forth below (computed on the basis of a 360-day year of twelve 30-day months), payable on January 1, 1990, and semiannually thereafter on each succeeding July 1 and January 1; and shall bear interest at the rates and mature on July 1 in years and amounts as follows:

<u>Maturity</u> <u>Years</u>	<u>Amounts</u>	<u>Interest</u> <u>Rates</u>
1991	\$ 90,000	8.00%
1992	100,000	8.00
1993	100,000	8.00
1994	110,000	8.00
1995	120,000	8.00
1996	130,000	8.00
1997	140,000	8.00
1998	150,000	8.00
1999	160,000	6.90
2000	170,000	6.95
2001	185,000	6.95
2002	200,000	7.00
2003	215,000	7.00
**	**	**
2009	1,630,000	7.15

Section 4. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and 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 and of the same interest rate and maturity. 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. Payment of Bonds. 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. Optional and Mandatory Redemption and Open Market Purchase of Bonds. Bonds maturing in the years 1991 through 1999, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right and option to redeem the Bonds maturing on or after July 1, 2000, prior to their stated maturity dates, as a whole, or in part in inverse order of maturity (and by lot within a maturity in such manner as the Bond Registrar shall determine), on July 1, 1999, or on any interest payment date thereafter, at par plus accrued interest to the date fixed for redemption.

Bonds maturing on July 1, 2009, are Term Bonds and, if not purchased in the open market or redeemed under the optional redemption provisions set forth above, shall be called for redemption by lot (in such manner as the Bond Registrar shall determine) at par plus accrued interest on the following dates and in the following amount:

<u>Mandatory Redemption Dates (July 1)</u>	<u>Mandatory Redemption Amounts</u>
2004	\$225,000
2005	245,000
2006	260,000
2007	280,000
2008	300,000
2009	320,000

Term Bonds previously redeemed by optional call or open market purchase shall be credited to the principal amount of those Term Bonds to be called on their latest scheduled mandatory redemption date.

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) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate 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. Notice of Redemption. 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 Boettcher & Company, Inc., at its principal office in Denver, Colorado, or its successor, and to such other persons and with such additional information as the City Director of Administration and Finance shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 8. Failure to Redeem Bonds. 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. Pledge of Taxes. 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. Form and Execution of Bonds. 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 Director of Administration and Finance, 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 Kirkland, Washington, Limited Tax General Obligation Bonds, 1989, 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. Bond Registrar. 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. 2758 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. Preservation of Tax Exemption for Interest on Bonds. 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 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. Bonds Not Subject to Rebate Requirements and Are Qualified Tax Exempt Obligations. The City finds and declares that (a) the Bonds are being issued for the purpose of effecting a current refunding of the Outstanding Notes, which had an average maturity of less than three years; (b) the aggregate face amount of the Bonds does not exceed \$5,000,000, and also does not exceed the outstanding principal amount of the Outstanding Notes; (c) the Outstanding Notes were issued as an issue that met the qualifications for the exemption from arbitrage rebate requirements in Section 148(f)(4)(C) of the Internal Revenue Code of 1986, as amended (the "Code"); (d) the Bonds have a final maturity date which is not more than thirty years from the date of issue of the Outstanding Notes; and (e) the Outstanding Notes were designated as qualified tax-exempt obligations when issued in 1987. Therefore, (1) the Bonds are treated as qualified tax-exempt obligations for the purposes of Section 265(b)(3) of the Code and are not to be taken into account for the purpose of determining the amount of other tax-exempt obligations that may be issued by the City as qualified tax-exempt obligations during the calendar year 1989, and (2) the Bonds are not subject to arbitrage rebate requirements and are not to be taken into account for the purpose of determining the eligibility of other tax-exempt obligations of the City for the arbitrage rebate exemption under Section 148(f)(4)(C) of the Code during calendar year 1989.

Section 14. Bonds Negotiable. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 15. Advance Refunding or Defeasance of the Bonds. 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, refund or defease 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, refund or defease 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 16. Bond Fund and Application of Bond Proceeds. There is created and established in the office of the City Director of Administration and Finance a special fund designated as the Limited Tax General Obligation Bond Fund, 1989 (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 has been created and established in the office of the City Director of Administration and Finance a special fund designated as the Limited Tax General Obligation Bond Anticipation Note Fund, 1989 (the "Note Fund"). The principal proceeds received from the sale and delivery of the Bonds shall be paid into the Note Fund and used for the purposes specified in Section 2 of this ordinance. Until needed to pay the costs of the redemption of the Outstanding Notes and costs of issuance, the City may invest principal proceeds temporarily in any legal investment, and the investment earnings may be retained in the Note Fund and be spent for the purposes of that fund. 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 17. Approval of Bond Purchase Contract. Boettcher & Company, Inc. of Denver, Colorado, has presented a purchase contract (the "Purchase Contract"), to the City offering to purchase the Bonds 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 Bonds 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 Foster Pepper & Shefelman, municipal bond counsel of Seattle, Washington, regarding the Bonds 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.

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 18. Temporary Bond. 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 rates, principal payment dates 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, executed and available for delivery.

Section 19. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five (5) days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor  
of the City of Kirkland, Washington, at a duly noticed  
special open public meeting thereof, this 23rd day of May,  
1989.

*Loris Cooper*  
Mayor

ATTEST:

*James Lewis*  
City Clerk

APPROVED AS TO FORM:

*Raymond*  
City Attorney

4249k