

CITY OF KIRKLAND, WASHINGTON
ORDINANCE NO. 3215

AN ORDINANCE of the City of Kirkland, Washington, relating to contracting indebtedness; providing for the issuance, specifying the maturities, interest rates, terms and covenants of \$860,000 par value of Unlimited Tax General Obligation Bonds, 1990, as a second and final series of the \$5,760,000 unlimited tax general obligation bonds authorized by the qualified voters of the City at a special election held therein pursuant to Ordinance No. 3185; establishing a bond redemption fund; and providing for the sale of those bonds.

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

Section 1. Authorization of Bonds Pursuant to Election. The City of Kirkland, Washington (the "City"), shall issue and sell \$860,000 par value of negotiable general obligation bonds as a second and final series of the total \$5,760,000 par value negotiable general obligation bonds authorized by the qualified voters of the City at a special election held on November 7, 1989, in conjunction with the State general election held on the same date, pursuant to Ordinance No. 3185 passed and approved September 21, 1989, for the purpose of paying part of the cost of acquiring, developing, redeveloping and improving land for open space and park facilities, including improving existing parks (the "Project").

Section 2. Description of Bonds. The bonds shall be called Unlimited Tax General Obligation Bonds, 1990, of the City (the "Bonds"); shall be in the aggregate principal amount of \$860,000; shall be dated June 1, 1990; shall be in the denomination of \$1,000 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 December 1, 1990, and semiannually thereafter on each succeeding June 1 and December 1; and shall bear interest at the rates and mature on December 1 in years and amounts as follows:

<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rates</u>
1992	\$25,000	6.30%
1993	30,000	6.40
1994	30,000	6.50
1995	30,000	6.60
1996	30,000	6.70
1997	35,000	6.80
1998	40,000	6.90
1999	40,000	7.00
2000	45,000	7.10
2001	45,000	7.15
2002	50,000	7.20
2003	55,000	7.25
2004	55,000	7.30
2005	60,000	7.35
2006	65,000	7.40
2007	70,000	7.45
2008	75,000	7.45
2009	80,000	7.50

The life of the capital facilities to be acquired with the proceeds of the Bonds exceeds 20 years.

Section 3. 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 4. 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 5. Optional Redemption and Open Market Purchase of Bonds. Bonds maturing in the years 1992 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 December 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 December 1, 1999, or on any interest payment date thereafter, at par plus accrued interest to the date fixed for redemption.

Portions of the principal amount of any Bond, in installments of \$1,000 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 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 6. 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, and to such other person 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 7. 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 8. Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to levy taxes annually without limitation as to rate or amount 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 9. 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 City 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, Unlimited Tax General Obligation Bonds, 1990, 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 10. 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 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 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 11. 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 12. Small Governmental Issuer Arbitrage Rebate Exemption and Designation of Bonds as "Qualified Tax-Exempt Obligations." 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 Bond which is part of this issue of Bonds 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 Bonds 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 Bonds are issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Bonds, 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 Bonds are issued does not exceed \$10,000,000. The City therefore certifies that the Bonds are eligible for the arbitrage rebate exemption under Section 148(f)(4)(C) of the Code and designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

Section 13. Bonds Negotiable. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 14. Advance Refunding and 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 15. Bond Fund and Deposit of Bond Proceeds. There previously was created and established in the office of the City Director of Administration and Finance a special fund designated as the Unlimited 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 also previously has been created and established in the office of the City Director of Administration and Finance by Ordinance No. 3193 a special fund designated as the Park and Open Spaces Acquisition and Development Fund, 1989 (the "Acquisition and Development Fund"). The principal proceeds received from the sale and delivery of the Bonds shall be paid into the Acquisition and Development Fund and used for the purposes specified in Section 1 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 Acquisition and Development 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 16. Purchase and Sale of Bonds. The City will purchase all of the Bonds from funds on deposit in the Kirkland Investment Fund of the City at a price of par plus accrued interest from the date of the Bonds to the date of their transfer to the City, the City to furnish the printed Bonds and the approving legal opinion of Foster Pepper & Shefelman, municipal bond counsel of Seattle, Washington, at the City's expense. Bond counsel 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 the Bonds be purchased by the City from funds on deposit in the Kirkland Investment Fund which are in excess of the current needs of such fund and available for investment, authorizes such sale and purchase. The Bonds, therefore, immediately upon their authentication, shall be registered in the name of the Kirkland Investment Fund of the City, upon payment therefor as provided herein.

Thereafter the Director of Administration and Finance of the City is authorized and directed to sell and deliver any or all of the Bonds to purchasers submitting proposals at any price or prices deemed appropriate by him in light of then existing market conditions, and under the terms and conditions set forth in this ordinance and notices heretofore given by the City and to deposit the proceeds of such sale in the Kirkland Investment Fund of the City.

The City Council has been provided with copies of a preliminary official statement dated May 11, 1990 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. The City "deems final" that Preliminary Official Statement as of its date, except for the omission or confirmation of information as to offering prices, interest rates, principal amount per maturity, options of redemption, delivery dates and other terms of the Bonds dependent on such matters.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the

Bonds to the purchasers and for the proper application and use of the proceeds of the sale thereof.

Section 17. 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 purchased by each purchaser. 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 18. 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 regular open public meeting thereof, this 15th day of May, 1990.




Mayor Pro Tem

ATTEST:



City Clerk

APPROVED AS TO FORM:



Acting City Attorney

MLC-716*