

CITY OF KIRKLAND, WASHINGTON

ORDINANCE NO. 3261

AN ORDINANCE of the City of Kirkland, Washington, relating to contracting indebtedness; providing for the issuance of \$1,745,000 par value of Unlimited Tax General Obligation Refunding Bonds, 1991, of the City to provide funds with which to pay the cost of refunding, paying and redeeming a portion of the City's outstanding Unlimited Tax General Obligation Refunding Bonds, 1985; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with Seattle-First National Bank, as refunding trustee; fixing the date, form, maturities, interest rates, terms and covenants of the bonds; and approving the sale and providing for the delivery of the bonds to Piper, Jaffray & Hopwood Inc. of Seattle, Washington.

WHEREAS, pursuant to Ordinance No. 2870, as amended by Ordinance No. 2871, the City of Kirkland, Washington (the "City"), issued \$2,885,000 of its Unlimited Tax General Obligation Refunding Bonds, 1985 (the "1985 Bonds"); and

WHEREAS, by Ordinance No. 2870, as amended, the City reserved the right to redeem the 1985 Bonds on June 1, 1995, and on any interest payment date thereafter, at par plus accrued interest to the date fixed for redemption; and

WHEREAS, there are presently outstanding \$1,540,000 par value 1985 Bonds maturing on June 1 of each of the years 1996 through 2001, inclusive, and bearing interest at various interest rates ranging from 8.85% to 9.25% (the "1985 Refunded Bonds"); and

WHEREAS, after due consideration, it appears to the City Council that the outstanding 1985 Refunded Bonds may be refunded by the issuance and sale of the unlimited tax general obligation refunding bonds authorized herein (the "Bonds") so that a substantial saving will be effected by the difference between the principal and interest costs over the life of the Bonds and the principal and interest costs over the life of the outstanding 1985 Refunded Bonds but for such refunding which, refunding will be effected by:

- (a) The issuance of the Bonds; and
- (b) The payment of the interest on the 1985 Refunded Bonds when due up to and including June 1, 1995, and the call, payment and redemption on June 1, 1995, of all the outstanding 1985 Refunded Bonds at a price of par;

and

WHEREAS, in order to effect that refunding in the manner that will be most advantageous to the City and its taxpayers, the City Council finds it necessary and advisable that certain acquired obligations (hereinafter defined) bearing interest and maturing at the time or times necessary to accomplish the refunding as aforesaid be purchased out of the proceeds of the sale of the bonds authorized herein; and

WHEREAS, Piper, Jaffray & Hopwood Inc. has offered to purchase the bonds under the terms and conditions hereinafter set forth in the form of a purchase contract; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Authorization of Bonds. The City shall borrow money on the credit of the City and issue negotiable unlimited tax general obligation bonds evidencing that indebtedness in the amount of \$1,745,000 to provide the funds required to pay the interest on the 1985 Refunded Bonds when due up to and including June 1, 1995, and, on June 1, 1995, to call, pay and redeem all of the outstanding 1985 Refunded Bonds at a price of par (the "Refunding Plan") and to pay the costs of issuance and sale of the bonds (the "costs of issuance").

Section 2. Description of Bonds. The bonds shall be called Unlimited Tax General Obligation Refunding Bonds, 1991, of the City (the "Bonds"); shall be in the aggregate principal amount of \$1,745,000; shall be dated June 1, 1991; 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 December 1, 1991, and semiannually thereafter on each succeeding June 1 and December 1; and shall bear interest at the rates and mature on June 1 in years and amounts as follows:

<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rates</u>
1993	\$ 10,000	5.40 %
1994	30,000	5.55 %
1995	35,000	5.70 %
1996	260,000	5.85 %
1997	275,000	6.00 %
1998	290,000	6.15 %
1999	310,000	6.30 %
2000	260,000	6.40 %
2001	275,000	6.50 %

All of the principal amount of the Bonds maturing in 1993 through 1995, inclusive, and \$130,000 principal amount of the Bonds maturing in 1996 shall constitute non-voted debt of the City.

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 1993 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 Bonds maturing on or after June 1, 2000, prior to their stated maturity dates on or after June 1, 1999, as a whole at any time, or in part on any interest payment date within one or more maturities selected by the City (and by lot within a maturity in such manner as the Bond Registrar shall determine), 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) 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 acceptable to the City 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, to Piper, Jaffray & Hopwood Inc., at its principal office in Seattle, Washington, or its successor, and to such other persons and with such additional information as the 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. Refunding of the 1985 Refunded Bonds.

(a) Acquisition and Substitution of Acquired Obligations. The proceeds of the sale of the Bonds, exclusive of the accrued interest thereon, shall be deposited immediately upon the receipt thereof with Seattle-First National Bank, which is appointed the Refunding Trustee, to discharge the obligations of the City relating to the outstanding 1985 Refunded Bonds under Ordinance No. 2870, as amended by Ordinance No. 2871, by providing for the payment of the amounts required to be paid by the Refunding Plan. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of United States

Treasury Certificates of Indebtedness and/or Notes - State and Local Government Series or other direct, noncallable obligations of the United States of America (the "Acquired Obligations"), bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide for the payment of the amounts required to be paid by the Refunding Plan. The Acquired Obligations are listed and more particularly described in Schedule A attached to the Refunding Trust Agreement between the City and the Refunding Trustee, but are subject to substitution as set forth below.

Prior to the purchase of any such Acquired Obligations, the City reserves the right to substitute other direct, noncallable obligations of the United States of America ("Government Obligations") for any of the Acquired Obligations and to use any savings created thereby for any lawful City purpose if, (a) in the opinion of Foster Pepper & Shefelman, the City's bond counsel, the interest on the Bonds will remain excluded from gross income for federal income tax purposes under Sections 103, 148 and 149(d) of the Code, and (b) such substitution shall not impair the timely payment of the amounts required to be paid by the Refunding Plan, as verified by an independent nationally recognized firm of certified public accountants.

After the purchase of the Acquired Obligations by the Refunding Trustee, the City reserves the right to substitute therefor cash or Government Obligations subject to the conditions that such money or securities held by the Refunding Trustee shall be sufficient to carry out the Refunding Plan, that such substitution will not cause the Bonds to be arbitrage bonds within the meaning of Section 148 of the Code and regulations thereunder in effect on the date of such substitution and applicable to obligations issued on the issue date of the Bonds and obtains, at its expense: (1) verification by an independent nationally recognized firm of certified public accountants acceptable to the Refunding Trustee confirming that the payments of principal of and interest on the substitute Acquired Obligations, if paid when due, and any other money held by the Refunding Trustee will be sufficient to carry out the Refunding Plan; and (2) an opinion from Foster Pepper & Shefelman, bond counsel to the City, its successor, or other nationally recognized bond counsel to the City, to the effect that the disposition and substitution or purchase of such securities, under the statutes, rules and regulations then in force and applicable to the Bonds, will not cause the

interest on the Bonds or the 1985 Refunded Bonds to be included in gross income for federal income tax purposes and that such disposition and substitution or purchase is in compliance with the statutes and regulations applicable to the Bonds. Any surplus money resulting from the sale, transfer, other disposition or redemption of the Acquired Obligations and the substitutions therefor shall be released from the trust estate and transferred to the City to be used for any lawful City purpose.

(b) Administration of Refunding Plan. The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or substitute obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or substitute obligations) and money deposited with the Refunding Trustee pursuant to this resolution. All Acquired Obligations (or substitute obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of Ordinance No. 2870, as amended by Ordinance No. 2871, this ordinance, Chapter 39.53 RCW and other applicable statutes of the State of Washington and the Refunding Trust Agreement. All necessary and proper fees, compensation and expenses of the Refunding Trustee for the Bonds and all other costs incidental to the setting up of the escrow to accomplish the refunding of the outstanding 1985 Refunded Bonds and costs related to the issuance and delivery of the Bonds, including bond printing, rating service fees, verification fees, bond counsel's fees and other related expenses, shall be paid out of the proceeds of the Bonds.

(c) Authorization for Refunding Trust Agreement. In order to carry out the Refunding Plan provided for by this ordinance, the Mayor is authorized and directed to execute and deliver to the Refunding Trustee a Refunding Trust Agreement substantially in the form on file with the City Director of Administration and Finance and by this reference made a part hereof setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the payment, redemption and retirement of the outstanding 1985 Refunded Bonds as provided herein and stating that the provisions for payment of the fees, compensation and expenses of such Refunding Trustee set forth therein are satisfactory to it. Prior to executing the Refunding Trust Agreement, the Mayor is authorized to make such changes therein which do not change the substance and purpose thereof or which assure that the escrow provided therein and the Bonds are in compliance

with the requirements of federal law governing the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 10. Call for Redemption of the Outstanding 1985 Bonds. The City calls for redemption on June 1, 1995, all of the outstanding 1985 Refunded Bonds at par plus accrued interest.

Such call for redemption shall be irrevocable after the delivery of the Bonds to the initial purchaser thereof. The date on which the 1985 Refunded Bonds are herein called for redemption is the next date on which those bonds may be called at a premium of 3% or less.

The proper City officials are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to Ordinance No. 2870, as amended by Ordinance No. 2871, in order to effect the redemption prior to their maturity of the 1985 Refunded Bonds.

Section 11. City Council Findings with Respect to Refunding. The City Council finds and determines that the issuance and sale of the Bonds at this time will effect a saving to the City and its taxpayers and is in the best interest of the City and in the public interest. In making such finding and determination, the City Council has given consideration to the fixed maturities of the Bonds and the 1985 Refunded Bonds, the costs of issuance of the Bonds and the known earned income from the investment of the proceeds of the issuance and sale of the Bonds and other money of the City used in the Refunding Plan pending payment and redemption of the 1985 Bonds.

The City Council further finds and determines that the money to be deposited with the Refunding Trustee for the 1985 Refunded Bonds in accordance with Section 9 of this ordinance will discharge and satisfy the obligations of the City under Ordinance No. 2870, as amended by Ordinance No. 2871, with respect to the 1985 Refunded Bonds, and the pledges, charges, trusts, covenants and agreements of the City therein made or provided for as to the 1985 Refunded Bonds and that the 1985 Refunded Bonds shall no longer be deemed to be outstanding under such ordinance immediately upon the deposit of such money with the Refunding Trustee.

Section 12. 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 the Director of Administration and Finance of the City, 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 Refunding Bonds, 1991, 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 13. 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 14. 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 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 15. 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)(D) of the Code and designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

Section 16. Bonds Negotiable. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 17. 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 18. Bond Fund and Deposit of Accrued Interest. There is created and established in the office of the Director of Administration and Finance a special fund designated as the Unlimited Tax General Obligation Refunding Bond Fund, 1991 (the "Bond Fund"), into which the accrued interest on the Bonds, if any, received from the sale and delivery of the Bonds shall be paid. All taxes collected for and allocated to the payment of the Bonds shall be deposited in the Bond Fund.

Section 19. Approval of Bond Purchase Contract. Piper, Jaffray & Hopwood Inc., of Seattle, Washington, has presented a purchase contract (the "Bond Purchase Contract") to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the Director of Administration and Finance and is incorporated herein by this reference. The City Council finds that entering into the Bond 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 Bond 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.

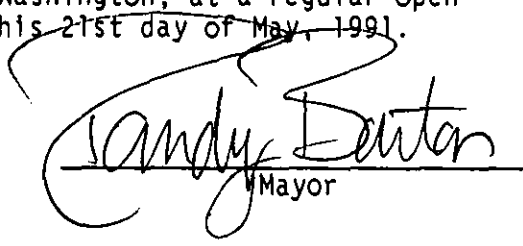
The City Council has been provided with copies of a preliminary official statement dated May 10, 1991 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. For the sole purpose of the purchaser's compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City "deems final" that Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings 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 purchaser and for the proper application and use of the proceeds of the sale thereof.

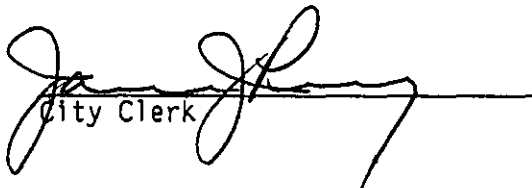
Section 20. Temporary Bond. Pending the printing, execution and delivery to the purchaser of definitive Bonds, the City may cause to be executed and delivered to the purchaser a single temporary Bond in the total principal amount of the Bonds. The temporary Bond shall bear the same date of issuance, 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 21. 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.

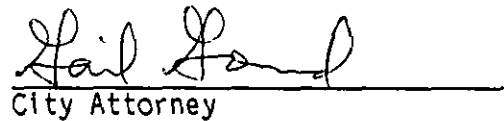
PASSED by the City Council and APPROVED by the Mayor of the City of Kirkland, Washington, at a regular open public meeting thereof, this 21st day of May, 1991.


Mayor

ATTEST:


City Clerk

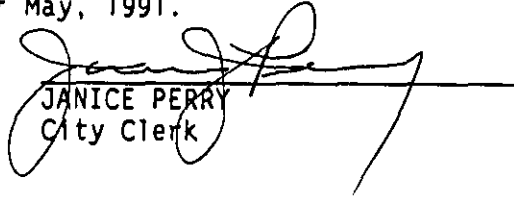
APPROVED AS TO FORM:


City Attorney

MLC-1701*

I, JANICE PERRY, City Clerk of the City of Kirkland, Washington, certify that the attached copy of Ordinance No. 3261 is a true and correct copy of the original ordinance passed on the 21st day of May, 1991, as such ordinance appears on the Minute Book of the City.

DATED this 21st day of May, 1991.



JANICE PERRY
City Clerk