

ORDINANCE NO. 1605

ORIGINAL

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT NO. 87-ST-50 GUARANTY FUND BONDS, 1991; FIXING THE FORM, AMOUNT, DATE, INTEREST RATES, DENOMINATIONS, TERMS, REDEMPTION AND REGISTRATION PRIVILEGES, MATURITIES, INTEREST RATES AND OTHER TERMS AND COVENANTS OF THE BONDS; PROVIDING FOR THE SALE AND DELIVERY OF SUCH BONDS TO SEATTLE-FIRST NATIONAL BANK, SEATTLE, WASHINGTON; AND ESTABLISHING THE INTEREST RATE ON INSTALLMENTS AND DELINQUENT PAYMENTS OF SPECIAL ASSESSMENTS IN SAID DISTRICT.

WHEREAS, pursuant to Ordinance No. 1470, the City ordered the improvement of 148th Avenue N.E. within the City by the construction and installation of street and utility improvements, as requested pursuant to a property owners' petition therefor; established Local Improvement District No. 87-ST-50 (the "District") of the City; provided that payment for the improvements be made by special assessments upon the property in the District, payable through the issuance of local improvement district bonds; and provided for the issuance and sale of local improvement district warrants or other short-term obligations redeemable in cash and/or by local improvement district bonds; and

WHEREAS, pursuant to Ordinance No. 1495, as amended by Ordinance No. 1531, the City approved and confirmed the final assessments and assessment roll of the District in the total amount of \$1,484,200, and authorized and directed the City Finance Director to publish notice that the assessment roll has been placed in his hands for collection without penalty, interest or costs for a period of 30 days from the date of the first publication of such notice; and

WHEREAS, none of the assessments were paid during the 30-day period for making cash payments of assessments without penalty, interest or costs; and

WHEREAS, at least twenty days having now passed since the expiration of the 30-day period for making cash payments of assessments without interest, the City Council deems it to be in the best interests of the City that the City issue its local improvement bonds for the District, as authorized by Ordinance No. 1470; and

WHEREAS, Seattle-First National Bank, Seattle, Washington, has submitted an offer to purchase such bonds; NOW, THEREFORE,

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

SECTION 1. Purpose and Description of Bonds. For the purpose of financing part of the costs and expenses of the improvement ordered in the District pursuant to Ordinance No. 1470, the City hereby provides for the sale and issuance of its "Local Improvement District No. 87-ST-50 Guaranty Fund Bonds, 1991" (the "Bonds"), as previously authorized by Ordinance No. 1470. The Bonds shall be issued in the total principal amount of \$1,484,200, being the total amount on the assessment rolls of the District remaining uncollected after the expiration of the 30-day period for making cash payments without penalty, interest or costs. The Bonds shall be issued in fully registered form as to both principal and interest, shall be dated February 1, 1991, and shall mature on February 1, 2003. The Bonds shall be numbered from 1-296,

inclusive, in the manner and with such additional designation as the fiscal agencies of the State of Washington located in Seattle, Washington and New York, New York (collectively, the "Registrar"), may deem necessary for the purpose of identification. The Bonds shall be in the denomination of \$5,000 each, except for the lowest numbered Bond, which shall be in the denomination of \$9,200. The Bonds shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from their date or from the most recent interest payment date to which interest has been paid, whichever is later, payable on February 1, 1992, and on February 1 of each year thereafter to the maturity or earlier redemption of the Bonds, at the interest rates per annum set forth below:

<u>Bond Nos.</u> <u>(Inclusive)</u>	<u>Interest</u> <u>Rate</u>
1 - 37	6.00%
38 - 74	6.25
75 - 108	6.40
109 - 140	6.50
141 - 171	6.60
172 - 199	6.70
200 - 226	6.80
227 - 251	6.90
252 - 275	7.00
276 - 296	7.10

If any Bond is not paid upon proper presentment at its maturity or earlier redemption, the City shall be obligated to pay interest at the same rate for such Bond until such Bond, both principal and interest, is paid in full.

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

SECTION 2. Place, Manner and Medium of Payment. Both principal of and interest on the Bonds shall be payable solely out of the City's Local Improvement Fund, District No. 87-ST-50 (the "Local Improvement Fund"), and from the City's Local Improvement Guaranty Fund (the "Guaranty Fund"), and shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by check or draft mailed on each interest payment date to the persons who are named as the registered owners of the Bonds (the "Owners") on the registration books for the Bonds (the "Bond Register") maintained by the Registrar, at the addresses for such Owners appearing on the Bond Register on the January 15th immediately preceding such interest payment date. The principal of the Bonds shall be paid to each Owner only upon presentation and surrender of such Owner's Bonds upon maturity or earlier redemption, at either of the principal offices of the Registrar, at the option of the Owner.

SECTION 3. Redemption; Notice; Cancellation. The City reserves the right and option to redeem the Bonds prior to their stated maturity date, in whole or in part, on any interest payment date commencing February 1, 1992, inclusive, in ascending numerical order, lowest numbers first, at par plus accrued interest due to the date of redemption, whenever there is sufficient money in the Local Improvement Fund to pay the Bonds so called and all earlier numbered Bonds over and above the amount required for the payment of interest due on all unpaid Bonds.

Notice of any such redemption shall be given not less than 15 nor more than 30 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Owners of each Bond to be redeemed at their respective addresses appearing on the Bond Register on the day notice is mailed. The requirements of this Section shall be deemed to be complied with when notice is mailed as herein provided, whether or not it is actually received by the Owner of any Bond. In addition, such redemption notice shall be mailed within the same period, postage prepaid, to such other persons, including registered securities depositories, and with such additional information as the City Finance Director shall deem appropriate, but such mailings shall not be a condition precedent to the redemption of such Bonds.

If such notice shall have been given and the City shall have set aside, on the date fixed for redemption, sufficient money for the payment of all Bonds called for redemption, the Bonds so called shall cease to accrue interest after such redemption date, and all such Bonds shall be deemed not to be outstanding hereunder for any purposes, except that the Owners thereof shall be entitled to receive payment of the redemption price and accrued interest to the redemption date from the money set aside for such purpose.

All Bonds redeemed under this Section shall be cancelled by the Registrar.

SECTION 4. Form and Execution of the Bonds. The Bonds shall be printed, lithographed or typed on good bond paper in a form consistent with the provisions of this ordinance and Washington

law, and shall be signed on behalf of the City with the facsimile or manual signatures of the Mayor and City Clerk, and shall have the seal of the City impressed or a facsimile thereof imprinted thereon.

In case either or both of the officers who shall have executed the Bonds shall cease to be such officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Registrar or issued by the City, such Bonds nevertheless may be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond also may be signed and attested on behalf of the City by such persons as at the actual date of execution of such Bond shall be the proper officers of the City although at the original date of such Bond such persons were not such officers of the City.

SECTION 5. Authentication and Delivery of Bonds by Registrar.

The Registrar is authorized and directed, on behalf of the City, to authenticate and deliver Bonds initially issued or transferred or exchanged in accordance with the provisions of such Bonds and this ordinance.

Only such Bonds as shall bear thereon a "Certificate of Authentication" manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed,

authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bonds.

SECTION 6. Registration. The Registrar shall keep, or cause to be kept, at its principal corporate trust offices, the Bond Register, which shall at all times be open to inspection by the City. The Registrar is authorized to carry out all of the Registrar's powers and duties under this ordinance.

The City and the Registrar, each in its discretion, may deem and treat the Owner of each Bond as the absolute owner thereof for all purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 2 hereof, but such registration may be transferred as herein provided, all such payments made as provided in Section 2 hereof shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

The registered ownership of any Bond may be transferred, but no transfer of any Bond shall be valid unless it is surrendered to the Registrar, with the assignment form appearing on such Bond duly executed by, or accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by, the Owner or such Owner's duly authorized agent. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver without charge to the new Owner or transferee therefor

(other than any governmental fees or taxes payable on account of such transfer), a new Bond of the same number and interest rate and for the same principal amount, naming as Owner the person(s) designated as the assignee(s) or transferee(s), in exchange for such surrendered and cancelled Bond. The Registrar shall not be obligated to transfer any Bond during the 15 days preceding any applicable interest payment, principal payment or redemption date.

The Registrar may become the Owner of any Bonds with the same rights it would have if it were not the 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 the Owners of the Bonds.

The City covenants that, until all Bonds shall have been surrendered and cancelled, it will maintain a system of recording the ownership of each Bond that complies with the provisions of the Internal Revenue Code of 1986, as amended (the "Code").

SECTION 7. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond of the same number and interest rate, for the same principal amount, and of like tenor and effect in substitution therefor, all in accordance with law. If such mutilated, lost, stolen or destroyed Bond has matured, the City at its option, may pay the same without the surrender thereof. However, no such substitution or payment shall be made unless and until the applicant shall furnish evidence satisfactory to the

Registrar of the destruction or loss of the original Bond and the ownership thereof, and such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute Bond shall be furnished unless the applicant shall reimburse the City and the Registrar for their respective expenses in the furnishing thereof. Any such substitute Bond so furnished shall be equally and proportionately entitled to the security of this ordinance with all other Bonds issued hereunder.

SECTION 8. Defeasance. If money and/or "Government Obligations" (as such obligations are defined in Chapter 39.53 RCW, as now in existence or hereafter amended) maturing at such time(s) and bearing such interest to be earned thereon (without any reinvestment thereof) as will provide a series of payments which shall be sufficient, together with any money initially deposited, to provide for the payment of all of the principal of and interest on all or a portion of the Bonds (the "Defeased Bonds"), when due in accordance with their terms or upon the earlier redemption thereof in accordance with a refunding plan adopted by the City, are set aside in a special fund (the "Trust Account") to effect such payment or redemption and are pledged irrevocably for the purpose of effecting such payment or redemption, then no further payments need be made into the Local Improvement Fund for the payment of the principal of and interest on such Defeased Bonds, the Owners thereon shall cease to be entitled to any lien, claim, benefit or security of this ordinance, the Local Improvement Fund or the Local Improvement Guaranty Fund except the right to receive

the money and the principal and interest proceeds on the obligations set aside in the Trust Account, and such Defeased Bonds shall no longer be deemed to be outstanding hereunder.

SECTION 9. Preliminary Official Statement Declaration. The City has been provided with copies of a preliminary official statement dated January 8, 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 the offering prices, interest rates, selling compensation, delivery dates, ratings and other terms of the Bonds dependent on such matters.

SECTION 10. Sale of the Bonds; Delivery; Temporary Bonds. Seattle-First National Bank of Seattle, Washington, has submitted a written purchase offer (the "Purchase Offer") to the City whereunder Seattle-First National Bank has offered to purchase the Bonds under the terms and conditions provided in the Purchase Offer, which Purchase Offer is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that accepting the Purchase Offer is in the City's best interest and therefore accepts the Purchase Offer and authorizes the execution thereof to evidence such acceptance by the appropriate City officials.

The Bonds will be printed at City expense and will be delivered to the purchaser in accordance with the Purchase Offer with the

approving legal opinion of Riddell, Williams, Bullitt & Walkinshaw, bond counsel of Seattle, Washington, relative to the issuance of the Bonds, printed on each Bond. 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.

Bond counsel has not been retained to monitor, and shall not be responsible for monitoring, the City's compliance with any federal law or regulations to maintain the tax-exempt status of the interest on the Bonds.

The appropriate 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.

Pending the printing, execution and delivery to the purchaser of the definitive Bonds, the City may cause to be executed and delivered to such purchaser a single temporary Bond in the total amount of the Bonds. Such temporary Bond shall bear the same date of issuance, interest rates, options of redemption, terms and covenants as the definitive Bonds and shall be issued as a fully registered Bond in the name of such purchaser, and shall be in such form as is acceptable to such purchaser. Such temporary Bond shall be exchangeable without cost to the Owner thereof for definitive Bonds when the latter are ready for delivery.

SECTION 11. Application of Bond Proceeds. The accrued interest on the Bonds, if any, received upon the sale of the Bonds shall be deposited into the Local Improvement Fund and shall be applied to the payment of interest coming due on the Bonds. The principal proceeds received upon the sale of the Bonds shall be deposited into the Local Improvement Fund and applied to pay costs of carrying out the improvements ordered in the District.

SECTION 12. Tax-Exemption Findings and Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion of the interest on the Bonds from the gross income of the recipients thereof for purposes of federal income taxation, and will take or require to be taken such acts as may be permitted by Washington law and as may from time to time be required under applicable law to continue the exclusion of the interest on the Bonds from the gross income of the recipients thereof for purposes of federal income taxation. Without limiting the generality of the foregoing, the City will not invest or make or permit any use of the proceeds of the Bonds or of its other money at any time during the term of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

The City hereby finds that at least 75% of the "available construction proceeds" (as defined for purposes of Section 148(f) of the Code) of the Bonds are to be used for construction expenditures with respect to property which is to be owned by the City and none of the Bonds are "private activity bonds" (as defined

in the Code). The City covenants that, if both (a) the City has issued more than \$5,000,000 of tax-exempt obligations (including the Bonds) during calendar year 1991, and (b) the available construction proceeds have not been spent as provided in Sections 148(f)(4)(C)(ii) and 148(f)(4)(C)(iii) of the Code, then the City shall calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of Bond proceeds that are in excess of the amount that would have been earned had the yield on such investments been equal to the yield on the Bonds, plus income derived from such excess earnings, to the extent and in the manner required by Section 148.

The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond issuer the arbitrage certifications of which may not be relied upon.

The City will take no actions and will make no use of the proceeds of the Bonds or any other funds held under this ordinance which would cause any Bond to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in Section 103(a) of the Code, unless the tax exemption thereof is not affected.

The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265 of the Code (relating to the deduction by financial institutions of the interest incurred to carry tax-exempt debt), and authorizes and directs the proper City


officials to execute and deliver all documents necessary to evidence such designation to any and all interested parties. The City further covenants not to issue more than \$10,000,000 of such "qualified tax-exempt obligations" during 1991.

SECTION 13. Contract; Severability. The covenants contained in Sections 1 through 12, inclusive, of this ordinance shall constitute a contract between the City and the Owners of each and every Bond. The City unconditionally covenants that it will keep and perform all of the covenants of the Bonds and this ordinance. If any one or more of the provisions of this ordinance shall be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining provisions of this ordinance or the Bonds, and this ordinance and the Bonds shall be construed and enforced as if such unconstitutional or invalid provision had not been contained herein.

SECTION 14. Interest Rate on Installments and Delinquent Payments. The interest rate on the installments and delinquent payments of special assessments in the District is established at the rate of 7.5423% per annum, which rate does not exceed the net effective interest on the Bonds plus one-half of one percent.

SECTION 15. Effective Date. This ordinance shall take effect from and after its passage and five days following its publication as required by law.

CITY OF REDMOND, WASHINGTON



MAYOR, DOREEN MARCHIONE

ATTEST/AUTHENTICATED:

Doris A. Schauble
CITY CLERK, DORIS A. SCHAIBLE

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

BY [Signature]

FILED WITH THE CITY CLERK:	01-10-91
PASSED BY THE CITY COUNCIL:	01-15-91
SIGNED BY THE MAYOR:	01-15-91
PUBLISHED:	01-20-91
EFFECTIVE DATE:	01-25-91
ORDINANCE NO. <u>1605</u>	

JLA:mps(sll)
1/15/91