

ORDINANCE NO. 2029

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, PROVIDING FOR THE ISSUANCE OF ITS LOCAL IMPROVEMENT DISTRICT NO. 91-OW-55 GUARANTY FUND BONDS, 1999; FIXING THE DATE, AGGREGATE PRINCIPAL AMOUNT, INTEREST RATES, MATURITIES, DENOMINATIONS, REDEMPTION AND REGISTRATION PRIVILEGES, TERMS, COVENANTS AND FORM OF THE BONDS; PROVIDING FOR THE SALE OF SUCH BONDS TO BANC OF AMERICA SECURITIES LLC, SEATTLE, WASHINGTON; AND ESTABLISHING THE INTEREST RATE ON INSTALLMENTS AND DELINQUENT PAYMENTS OF SPECIAL ASSESSMENTS IN SAID DISTRICT.

WHEREAS, by Ordinance No. 1705 (the "LID Ordinance"), after a public hearing thereon, the City ordered the construction of the project commonly known as the Southeast Redmond Storage Tank, together with related improvements, as set forth in Exhibit A to the LID Ordinance (the "Improvements"); established Local Improvement District No. 91-OW-55 (the "District") of the City; provided that payment for the improvements be made by special assessments upon the property in the District payable by the mode of "payment by bonds"; and provided for the issuance and sale of local improvement district warrants or other short-term obligations pursuant to chapter 216, Laws of 1982 (Chapter 39.50 RCW), redeemable by cash and/or by local improvement district bonds; and

WHEREAS, on August 4, 1998, the City Council authorized an extension of the interim loan (the "Interfund Loan") from the Water/Wastewater General Construction Funds to the Local Improvement Fund, District No. 91-OW-55 (the "Local Improvement Fund"), which provided

funds to pay part of the costs for preliminary planning, design work, land acquisition and construction costs for the Improvements; and

WHEREAS, by Ordinance No. 1971, the City issued its \$2,345,000 Local Improvement District No. 91-OW-55 Bond Anticipation Notes, 1998, dated March 17, 1998, and maturing on March 15, 2000 (the "Outstanding Notes"), to redeem and pay the City's Local Improvement District No. 91-OW-55 Bond Anticipation Note, 1997, dated November 1, 1997; and

WHEREAS, pursuant to Ordinance No. 1974, the City approved and confirmed the final assessments and assessment roll of the District in the total amount of \$3,771,623.00, and authorized and directed the City Finance Director to publish notice that the assessment roll has been placed in her 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, pursuant to the Settlement Agreement and Release, between the City and certain property owners in the District, dated March 31, 1999, the assessment roll was reduced by the amount of \$430,604.02; and

WHEREAS, assessments in the amount of \$985,608.82 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 the LID Ordinance; and

WHEREAS, Banc of America Securities LLC, Seattle, Washington, has submitted an offer to purchase such bonds on the terms and conditions hereinafter set forth; 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 providing part of the funds necessary to pay and retire the remaining portion of the Interfund Loan, together with the interest thereon to the date of such repayment, to redeem the Outstanding Notes, together with the interest thereon to the date of such repayment, and to pay the costs incidental thereto and the costs related to the sale and issuance of the Bonds, the City hereby provides for the sale and issuance of its "Local Improvement District No. 91-OW-55 Guaranty Fund Bonds, 1999" (the "Bonds"), as previously authorized by the LID Ordinance. The Bonds shall be issued in the total principal amount of \$2,355,410.16, being the total amount on the assessment roll 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 July 15, 1999, and shall mature on July 15, 2011. The Bonds shall be numbered from 1 - 471, 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 issued in the denomination of \$5,410.16. 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 July 15, 2000, and on July 15 of each year thereafter to the maturity or earlier redemption of the Bonds, at the interest rates per annum set forth below:

Bond Nos. <u>(Inclusive)</u>	<u>Interest Rate</u>
1-48	4.100%
49-95	4.300%
96-142	4.600%
143-189	4.900%
190-236	5.000%
237-283	5.100%
284-330	5.200%
331-377	5.300%
378-424	5.400%
425-471	5.500%

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 in lawful money of the United States of America. Interest on the Bonds shall be paid by check or draft mailed by the Registrar 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 1st day of the month of 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 the principal corporate trust office of either Registrar, at the option of the Owner.

Section 3. Special Obligation of the City. The Bonds are special fund obligations of the City, payable solely out of the Local Improvement Fund, to be funded from collections from special benefit assessments within the District, which, whenever received, shall be deposited in the Local Improvement Fund to redeem outstanding Bonds; or, if necessary, from the City's Local Improvement Guaranty Fund (the "Guaranty Fund"). The Bonds are not general obligations of the City.

Section 4. 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 July 15, 2000, 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 30 nor more than 60 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, funds sufficient to pay the full redemption price 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 5. 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 6. 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 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 an authorized signatory of 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 7. Registration and Transfer. The Registrar shall keep, or cause to be kept, at the principal corporate trust office of either or both of them, 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 each Registrar, 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 at any principal corporate trust office of 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, in a manner satisfactory to the Registrar. 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 or persons listed as the assignee on the assignment form appearing on the surrendered Bond, 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.

Either 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 8. 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 9. 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 Guaranty Fund except for 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 10. Preliminary Official Statement Declaration. The City has been provided with copies of a preliminary official statement dated June 23, 1999 (the "Preliminary Official Statement"), prepared by Banc of America Securities LLC (the "Purchaser") 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 11. Sale of the Bonds; Delivery; Temporary Bonds. The Purchaser has submitted a written purchase offer (the "Purchase Offer") to the City in which it 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 Gottlieb, Fisher & Andrews,

PLLC, bond counsel of Seattle, Washington, relative to the issuance of the Bonds, printed on each Bond. Bond counsel has not been engaged to participate in the preparation or review of, or express any opinion concerning the completeness or accuracy of, the official statement or other disclosure documentation prepared or used by any person in connection with the offer or sale of 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 approve and/or execute all documents, including, but not limited to, the final official statement pertaining to the Bonds, and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the Bonds, and the printing, execution and delivery of definitive 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 the 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 the Purchaser, and shall be in such form as is acceptable to the Purchaser. Such temporary Bond shall be exchangeable without cost to the Owner thereof for definitive Bonds when the latter are ready for delivery.

Section 12. 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, together with other moneys of the City, to repay and retire the Outstanding Notes, together with the interest thereon to the date of repayment, to repay and retire the remaining portion of the Interfund Loan, together with the interest thereon to the date of repayment, and to pay the costs related to the issuance of the Bonds.

Section 13. 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 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 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 covenants that it 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 covenants that it will not issue more than \$10,000,000 of “qualified tax-exempt obligations,” as defined in Section 265 of the Code (relating to the partial interest expense deduction authorized for banks, thrift institutions and certain other financial institutions) during calendar year 1999. The City hereby designates the Bonds as “qualified tax-exempt obligations” for such purposes 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.

Section 14. Undertaking to Provide Continuing Disclosure. This section constitutes the City’s written undertaking for the benefit of the Owners of the Bonds required by subsection (b)(5)(i) of Rule 15c2-12 (the “Rule”) of the United States Securities and Exchange Commission (the “SEC”).

The City hereby agrees to provide or cause to be provided to each then existing nationally recognized municipal securities information repository designated by the SEC ("NRMSIR") and to the state information depository ("SID"), if one is created, the following annual financial information and operating data (collectively, the "Annual Financial Information") for each prior fiscal year, commencing with the fiscal year ending December 31, 1999, on or before the last day of the seventh month following the end of such prior fiscal year:

(a) Annual financial statements prepared in accordance with the generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by state law; which statements will not be audited, except that if and when audited financial statements are otherwise prepared and available to the City, they will be provided (the "Annual Financial Statements");

(b) The outstanding balance of obligations secured by the Guaranty Fund at the end of such fiscal year;

(c) The balance of money and investments (based upon fair market value) in the Guaranty Fund at the end of such fiscal year; and

(d) A narrative explanation of the reasons for any amendments to this Section 14 made during the previous fiscal year and the impact of such amendments on the Annual Financial Information being provided.

In its provision of such financial information and operating data, the City may cross-reference to any "final official statement" (as defined in the Rule) available from the Municipal

Securities Rulemaking Board (the "MSRB") or any other documents theretofore provided to each then existing NRMSIR or the SID, if one is created.

If not submitted as part of the Annual Financial Information, then when and if available, the City shall provide its Annual Financial Statements, which shall have been audited by such auditor as shall be then required or permitted by the State law, to each then existing NRMSIR and to the SID, if one is created.

The City further agrees to provide or cause to be provided, in a timely manner, to the SID, if one is created, and to either the MSRB or each then existing NRMSIR, notice of any of the following events with respect to the Bonds, if material:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of the Owners of the Bonds;
8. Optional redemptions of the Bonds;
9. Defeasances of the Bonds;
10. Release, substitution or sale of property securing repayment of the Bonds; and
11. Rating changes.

The City also agrees to provide or cause to be provided, in a timely manner, to the SID, if one is created, and to either the MSRB or each then existing NRMSIR, notice of its failure to provide the Annual Financial Information for the prior fiscal year on or before the last day of the seventh month following the end of such prior fiscal year.

After the issuance of the Bonds, so long as the interests of the Owners of the Bonds will not be materially impaired thereby, as determined by a party unaffiliated with the city (including, without limitation, a trustee for the Owners, nationally recognized bond counsel or other counsel familiar with the federal securities law), or pursuant to a favorable “no-action letter” issued by the SEC, this Section 14 may only be amended in connection with any change in legal requirements, change in law, or change in the identity, nature or status of the obligated person, or type of business conducted, and only in such a manner that the undertaking of the City, as so amended, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances.

The City’s obligations to provide Annual Financial Information and notices of certain events shall terminate without amendment upon the defeasance, prior redemption or payment in full of all of the then outstanding Bonds. This Section 14 or any provision hereof, shall be null and void if the City (i) obtains an opinion of nationally recognized bond counsel or other counsel familiar with the federal securities laws to the effect that those portions of the Rule which require this Section 14 or any such provision are invalid, have been repealed retroactively or otherwise do

not apply to the Bonds; and (ii) notifies and provides the SID, if any, and either the MSRB or each then existing NRMSIR with copies of such opinion.

The right of each Owner of Bonds to enforce the provisions of this Section 14 shall be limited to the right to obtain specific enforcement of the City's obligations under this Section 14, and any failure by the City to comply with the provisions of this undertaking shall not be a default with respect to the Bonds under this ordinance.

The City Finance Director is authorized and directed to take such further action on behalf of the City as may be necessary, appropriate or convenient to carry out the requirements of this Section 14.

Section 15. Contract; Severability. The covenants contained in Sections 1 through 14, 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 16. 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 5.792521% per annum, which rate does not exceed the net effective interest on the Bonds plus one-half of one percent.

Section 17. Year 2000. The City has conducted a comprehensive review and assessment of the City's computer applications and made inquiry of the City's key suppliers, vendors, and customers with respect to the "year 2000 problem" (that is, the risk that computer applications may not be able to properly perform date-sensitive functions after December 31, 1999) and, based on that review and inquiry, the City does not believe the year 2000 problem will result in a material adverse change in the City's business conditions (financial or otherwise), operations, properties or prospects, or ability to repay the credit..

Section 18. Effective Date. This ordinance shall take effect from and after its passage and five days following its publication as required by law.

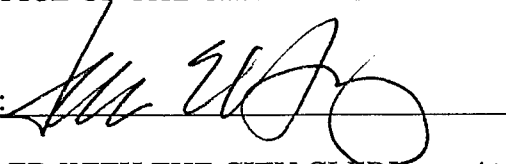
CITY OF REDMOND, WASHINGTON


MAYOR, ROSEMARIE IVES

ATTEST/AUTHENTICATED:


CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK: 7/6/99
PASSED BY THE CITY COUNCIL: 7/6/99
PUBLISHED: 7/10/99

EFFECTIVE DATE:
ORDINANCE NO. 2029

July 15, 1999