ORDINANCE NO. 2198

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, APPROVING A GROUND LEASE OF CERTAIN REAL PROPERTY FROM THE CITY TO REDMOND COMMUNITY PROPERTIES AND A LEASE BY REDMOND COMMUNITY PROPERTIES BACK TO THE CITY OF A NEW CITY HALL BUILDING AND RELATED PARKING FACILITIES TO BE CONSTRUCTED ON SUCH PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE FINAL FORMS OF THE GROUND LEASE AND LEASE; APPROVING CERTAIN PROVISIONS OF THE DEVELOPMENT AND FINANCING PLAN OF REDMOND COMMUNITY PROPERTIES; AGREEING TO TAKE UNENCUMBERED TITLE TO THE CITY HALL BUILDING AND RELATED PARKING FACILITIES WHEN BONDS ISSUED BY REDMOND COMMUNITY PROPERTIES ARE RETIRED; AND APPROVING CERTAIN OTHER PROVISIONS OF THE LEASE-LEASE BACK TRANSACTION.

WHEREAS, pursuant to RCW 35.42.070-.080 (the "Municipal Leasing Act") the City has heretofore sought bids for a lease and lease back agreement for construction on the City campus of a new city hall building and related parking facilities and has chosen Redmond Community Properties, a nonprofit corporation ("RCP"), and Wright Runstad Associates Limited Partnership ("Wright Runstad") to develop the project; and

WHEREAS, terms of the ground lease, lease and development agreement have been negotiated, and the City wishes to approve the ground lease and lease and to approve RCP's plan for developing and financing the project, including the issuance of tax-exempt bonds to be secured by a pledge of the City's payments under the lease; NOW, THEREFORE,

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

Section 1. Findings. The City Council hereby finds that the public interest, welfare and benefit require the City to acquire a new city hall building and related parking facilities (the "Project") to be built on the City campus by means of a ground lease and lease back, pursuant to the Municipal Leasing Act and in accordance with the procurement process and design competition heretofore authorized by the City Council. As a result of this process, Wright Runstad and RCP have been chosen to develop and manage construction of the Project. Unless otherwise defined in this ordinance, capitalized terms used in this ordinance have the meanings given such terms in the Lease (as hereinafter defined).

In accordance with RCW 35.42.070(2), the City Council further finds that prevailing rental rates under a 30-year lease for space comparable to the Project currently average approximately $25.01 per year per square foot of rentable space.

Section 2. Approval of Ground Lease and Lease. The City Council hereby approves the Ground Lease Agreement by and between the City, as lessor, and RCP, as lessee, in substantially the form set forth as Exhibit A to this ordinance (the "Ground Lease"). The City Council hereby also approves the Lease Agreement by and between RCP, as lessor, and the City, as lessee, in substantially the form set forth as Exhibit B to this ordinance (the "Lease"). The Mayor is hereby authorized to sign the Ground Lease and Lease in substantially the forms set forth in Exhibits A and B to this ordinance, subject to such changes as may be required by the underwriter or trustee for lease revenue bonds to be issued by RCP, as described in Section 5 of this ordinance, the insurer (if any) of such bonds, or counsel to the City; provided, however, that (i) the term of the Ground Lease shall commence no earlier than the effective date of this ordinance and shall expire no later than December 31, 2040, nor shall the rent due thereunder exceed $100, and (ii) the term of the Lease shall commence no earlier than the effective date of

this ordinance and shall expire no later than December 31, 2035, nor shall the amount of Monthly Rent payable thereunder exceed an average rental rate of $25.01 per year per square foot. When fully executed, copies of the Ground Lease and Lease shall be filed with the City Clerk.

Section 3. Pledge of Taxation and Credit. The City's obligation to pay rent under the Lease constitutes a limited tax general obligation of the City. The City hereby irrevocably covenants and agrees that it will include in its annual budget and levy taxes annually on all taxable property within the City, within and as a part of the tax levy permitted to the City without a vote of the electors, in amounts sufficient, together with all other money legally available and to be used therefor, to pay the Monthly Rent and any Additional Rent due under the Lease as the same shall become due. The full faith, credit and resources of the City are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such amounts.

Section 4. Approval of RCP. For the sole purpose of complying with the requirements of Revenue Ruling 63-20 of the U.S. Department of Treasury (as compiled and supplemented by Revenue Procedure 82-26 of the U.S. Department of Treasury) (together, the "Ruling"), the City hereby approves RCP and the purposes and activities of RCP as described in its articles of incorporation, subject to the following terms and conditions:

(a) RCP shall remain a Washington nonprofit corporation and shall at all times operate on a nonprofit basis;

(b) None of the income of RCP shall inure to the benefit of any private person; and

(c) Upon discharge of the Bonds, RCP shall convey legal and unencumbered title and exclusive possession and use of the Project to the City.

Section 5. Approval of Plan for Development and Financing. The City Council hereby acknowledges the intent of RCP to enter into a development agreement for the Project

with Wright Runstad in substantially the form set forth as Exhibit C to this ordinance. For the purpose of complying with requirements of the Ruling, the City hereby acknowledges and approves the plan of RCP to develop the Project by entering into such development agreement with Wright Runstad and to finance the Project by issuing its tax-exempt lease revenue bonds in the aggregate principal amount of not to exceed $41,000,000 (the "Bonds"). The City hereby acknowledges and approves the pledge to be made by RCP of revenues it will receive from the City under the Lease to secure payment of the Bonds in accordance with an indenture of trust to be entered into by RCP with a trustee for the Bonds. The City agrees that upon discharge of the Bonds, the City shall accept delivery of full legal and unencumbered title to the Project and exclusive possession and use of the Project for no additional consideration.

The City further acknowledges that, as lessee under the Lease, it will be an "obligated person" with respect to the Bonds under Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). To permit the underwriter of the Bonds to comply with the Rule, the City Council hereby approves the Undertaking for Ongoing Disclosure, relating to information about the City, the Ground Lease, the Lease and the leased premises, in substantially the form set forth as Exhibit D to this ordinance (the "Undertaking"). The City's Finance Director is hereby authorized to sign the Undertaking in substantially the form set forth in Exhibit D, with such additions or deletions as are necessary or desirable to sell the Bonds. The City's Finance Director or her designee is also hereby authorized to "deem final" pursuant to the Rule information in any preliminary official statement for the Bonds about the City, the Ground Lease, the Lease and the leased premises.

Section 6. General Authorization. The appropriate City officials, agents, attorneys and representatives are hereby authorized and directed to do everything necessary and

desirable to accomplish the lease-lease back plan of acquiring a new city hall and related parking facilities authorized by this ordinance and to do all things necessary or desirable to permit RCP to issue, sell and deliver the Bonds, including but not limited to the execution and delivery of such certificates and opinions relating thereto and to the Ground Lease and Lease as may be approved by counsel to the City.

Section 7. Severability. If any one or more of the provisions of this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision or provisions shall be null and void and shall be deemed separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other provisions of this ordinance, the Ground Lease, the Lease or the Undertaking.

Section 8. Effective Date. This ordinance shall become effective five days after its passage and publication of an approved summary, consisting of the title.

CITY OF REDMOND

By _____
MAYOR, ROSEMARIE IVES

ATTEST/AUTHENTICATED:

_____
CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By _____

FILED WITH THE CITY CLERK: February 12, 2004
PASSED BY THE CITY COUNCIL: February 17, 2004
SIGNED BY THE MAYOR: February 17, 2004
PUBLISHED: February 23, 2004
EFFECTIVE DATE: February 28, 2004
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