

ORDINANCE NO. 1508

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, PROVIDING FOR THE ISSUANCE OF ITS LOCAL IMPROVEMENT DISTRICT NO. 88-ST-52 BOND ANTICIPATION NOTES, 1989, PENDING THE RECEIPT OF THE PROCEEDS OF THE LOCAL IMPROVEMENT DISTRICT BONDS AUTHORIZED TO BE ISSUED BY ORDINANCE NO. 1421; FIXING THE FORM, AMOUNT, DATE, DENOMINATIONS, TERM, REDEMPTION AND REGISTRATION PRIVILEGES, MATURITY AND COVENANTS OF THE NOTES; AND PROVIDING FOR THE PUBLIC SALE OF SUCH BOND ANTICIPATION NOTES.

WHEREAS, by Ordinance No. 1421, passed by the City Council on May 3, 1988, and approved by the Mayor on May 4, 1988, after a public hearing thereon, the City ordered the improvement of a portion of 156th Avenue N.E. by the construction of street and utility improvements, traffic signal upgrades to the intersections of 156th Avenue N.E. and Bellevue-Redmond Road and 156th Avenue N.E. and N.E. 24th Street, and the installation of new traffic signals at the intersections of 156th Avenue N.E. and N.E. 31st Street and 156th Avenue N.E. and N.E. 36th Street, together with related improvements, all pursuant to property owners' petition therefor; established Local Improvement District No. 88-ST-52 (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, the City Council deems it to be in the best interest of the City that the City borrow money and issue and sell its short-term obligations in the form of one or more local improvement district bond anticipation notes for the purpose of providing the funds with which to pay a part of the cost of carrying out the improvements ordered in the District; NOW THEREFORE,

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

Section 1. For the purpose of paying a part of the cost of carrying out the improvements ordered in the District, the City authorizes the issuance of its Local Improvement District No. 88-ST-52 Bond Anticipation Notes, 1989 (the "Notes"), in the aggregate principal amount of \$2,245,000. The Notes shall be dated September 1, 1989; shall be in the denomination of \$5,000 each or any integral multiple thereof; shall be numbered separately, 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; shall mature on November 1, 1990; and shall bear interest from their date at the rate bid by the successful bidder at public sale and fixed thereafter by the City as hereinafter provided (computed on the basis of a 360-day year of twelve 30-day months), payable at maturity or upon the earlier redemption of the Notes as provided herein, with full obligation on the part of the City to pay interest at the same rate from and after maturity until the Notes with interest are paid in full.

Both the principal of and the interest on the Notes shall be payable solely out of the Local Improvement Fund, District No. 88-ST-52 (the "Note Fund") created by Ordinance No. 1421, to be funded from the proceeds of local improvement district bonds authorized to be issued by Ordinance No. 1421 or other short-term obligations, which the City covenants to use its best efforts to issue, and/or prepaid special benefit assessments, and out of the Local Improvement Guaranty Fund of the City (the "Guaranty Fund"). Principal of and interest on the Notes shall be payable in lawful money of the United States of America, on or after the maturity or earlier redemption thereof, to the persons who are named as the registered owners of the Notes (the "Owners") on the registration books for the Notes (the "Note Register") maintained by the Registrar, upon presentation and surrender of the Notes at either

of the principal offices of the Registrar. The City declares and finds that the fixing of the above interest rate is in the best interest of the City.

The City reserves the right to redeem the Notes prior to maturity, in whole or in part (and by lot as determined by the Registrar), on September 1, 1990, or on the first day of any month thereafter, at par plus accrued interest to the redemption date.

Notice of any such intended 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 Owner of each Note to be redeemed at the address appearing on the Note 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 Note. 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 Notes.

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 Notes called for redemption, the Notes so called shall cease to accrue interest after such redemption date, and all such Notes 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 Notes redeemed under this Section shall be cancelled by the Registrar.

Section 2. The Notes shall be printed on lithographed or good bond paper or may be typewritten or multicopied in a form consistent with this ordinance and state law. The Notes shall be

signed by the facsimile or manual signature of the Mayor and the manual signature of the City Clerk and shall have a facsimile reproduction of the seal of the City printed thereon or the seal of the City impressed thereon.

In case either or both of the officers who shall have executed the Notes shall cease to be such officer or officers of the City before the Notes so signed shall have been authenticated or delivered by the Registrar or issued by the City, such Notes 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 Note also may be signed and attested on behalf of the City by such persons as at the actual date of execution of such Note shall be the proper officers of the City although at the original date of such Note such persons were not such officers of the City.

Section 3. The Registrar is authorized and directed, on behalf of the City, to authenticate and deliver Notes initially issued or transferred or exchanged in accordance with the provisions of such Notes and this ordinance.

Only such Notes 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 Notes 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 Notes.

Section 4. The Registrar shall keep, or cause to be kept, at its principal corporate trust offices, the Note 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 Note 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 Note shall be made only as described in Section 1 hereof, but such registration may be transferred as herein provided, all such payments made as provided in Section 1 hereof shall be valid and shall satisfy and discharge the liability of the City upon such Note to the extent of the amount or amounts so paid.

The registered ownership of any Note may be transferred, but no transfer of any Note shall be valid unless it is surrendered to the Registrar, with the assignment form appearing on such Note 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 Note and shall authenticate and deliver without charge to the Owner or transferee therefor (other than any governmental fees or taxes payable on account of such transfer), a new Note of the same number and interest rate and for the same principal amount, naming as Owner the person or persons designated as the assignee or transferee, in exchange for such surrendered and cancelled Note. The Registrar shall not be obligated to transfer any Note during the 15 days preceding any applicable interest payment, principal payment or redemption date.

The Registrar may become the Owner of any Notes 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 Notes.

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

Section 5. If any Note becomes mutilated, lost, stolen or destroyed, the Registrar may authenticate and deliver a new Note 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 Note 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 Note and the ownership thereof, and such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute Note shall be furnished unless the applicant shall reimburse the City and the Registrar for their respective expenses in the furnishing thereof. Any such substitute Note so furnished shall be equally and proportionately entitled to the security of this ordinance with all other Notes issued hereunder.

Section 6. 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 Notes, 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 (hereinafter called 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 Note Fund for the payment of the principal of and interest on such Notes, the Owners thereon shall cease to be entitled to any lien, claim, benefit or security of this ordinance, the Note Fund or the 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 Notes shall no longer be deemed to be outstanding hereunder.

Section 7. The principal proceeds received from the sale of the Notes shall be paid into the Note Fund and used to pay a part of the cost of carrying out the improvements ordered in the District.

Section 8. The City covenants that it will not take or permit to be taken on its behalf any action which would adversely affect the exclusion of the interest on the Notes 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 reasonably within its ability and as may be required from time to time under applicable law to continue the exclusion of the interest on the Notes 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 other use of the proceeds of the Notes or of its other money at any time during the term of the Notes, which will cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code and applicable regulations thereunder.

The City covenants that, if both (a) the City has issued more than \$5,000,000 of tax-exempt bonds (including the Notes) during calendar year 1989, and (b) all the proceeds of the Notes have not been spent within six months from the date of issuance of the Notes, the City shall calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of Note 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 Notes, plus income derived from such excess earnings, to the extent and in the manner required by Section 148 of the Code.

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.

The City will take no actions and will make no use of the proceeds of the Notes or any other funds held under this ordinance which would cause any Note 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 Notes 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 1989.

Section 9. The City Finance Director is authorized and directed to fix a date and time of public sale of the Notes, and to advertise and offer the Notes for sale.

The City Finance Director is authorized to give notice calling for bids to purchase the Notes by publishing an abbreviated form of such notice once in the Daily Journal of Commerce in Seattle, Washington, and the Bond Buyer in New York, New York, prior to the sale date. The notice shall specify that sealed bids for the purchase of the Notes shall be received by the City in care of its bond counsel, Riddell, Williams, Bullitt & Walkinshaw, Suite 4400,



1001 Fourth Avenue Plaza, Conference Room 44A, Seattle, Washington 98154, on the date of the sale, up to the time of sale, at which time all bids will be publicly opened and read by the City Finance Director. The notice shall also specify that an award shall be made and the interest rate on the Notes fixed by the City Council at a meeting to be held in the City Council chambers commencing on the same date. The notice of Note sale shall provide that the City will cause the Notes to be typed, printed or lithographed and signed and will furnish the approving legal opinion of the City's bond counsel, Riddell, Williams, Bullitt & Walkinshaw, Seattle, Washington, all at the expense of the City. 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 Notes, and bond counsel's opinion shall so state. Such notice also shall provide that the successful bidder shall certify to such information on the resale prices of the Notes for federal income tax arbitrage rebate purposes. The notice shall also provide that further information regarding the details of the Notes may be received upon request made to the City's financial advisor.

The notice shall require each bidder to submit a bid specifying the lowest rate of interest at which the bidder will purchase the Notes at a price not lower than 99% of par. The notice shall state that the successful bidder will be required to purchase all of the Notes in immediately available funds at such price, plus accrued interest to the date of delivery. The interest rate bid shall be stated in a multiple of 1/8 or 1/20 of 1%.

All bids shall be sealed and shall be accompanied by a good faith deposit of \$50,000 in the form of a certified or cashier's check made payable to the City, which shall be returned promptly if the bid is not accepted. The good faith deposit of the successful bidder shall be retained by the City, shall be applied to the purchase price for the Notes upon the delivery of the Notes to the

successful bidder and, pending delivery of the Notes, may be cashed and invested by the City for its sole benefit. If the Notes are ready for delivery and the successful bidder shall fail or neglect to complete the purchase of the Notes on or before October 5, 1989, the amount of its deposit shall be forfeited to the City and, in that event, the City may accept the next best bid.

The Notes shall be sold to the bidder making a bid conforming to the terms of the offering and which, on the basis of the lowest net interest cost, is the best bid. If there are two or more equal bids and those bids are the best bids received, the City shall determine by lot which bid shall be accepted. The City reserves the right to reject any or all bids and to readvertise the Notes for sale in the manner provided by law. The City further reserves the right to waive any irregularity in any bid or in the bidding process. Any bid presented after the time specified for the receipt of bids will not be received, and any bid not accompanied by the required good faith deposit at the time of opening will not be read or considered.

Section 10. The Notes will be delivered to the successful bidder upon payment of the purchase price plus accrued interest to the date of delivery, on or before October 5, 1989, in Seattle, Washington. Settlement shall be made at the time of delivery of the Notes in immediately available funds. A no-litigation certificate in the usual form will be included in the closing papers.

Section 11. 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. Schaible*  
CITY CLERK, DORIS A. SCHAIBLE

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By *John C. [Signature]*

FILED WITH THE CITY CLERK: 8-10-89  
PASSED BY THE CITY COUNCIL: 8-15-89  
SIGNED BY THE MAYOR: 8-15-89  
PUBLISHED: 8-20-89  
EFFECTIVE DATE: 8-25-89  
ORDINANCE No.: 1508

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8/7/89