

ORDINANCE NO. 896

AN ORDINANCE of the City of Lacey, Washington, authorizing the issuance of its water and sewer revenue bonds and its water and sewer revenue bond anticipation notes for Utility Local Improvement District Nos. 11 and 14 in the principal amount of \$3,565,000; establishing the terms, date, maturities and redemption provisions therefor; creating a special redemption fund; providing for the security and source of payment for such notes; and providing for the sale thereof.

WHEREAS, by Ordinance No. 858, passed by the City Council of the City of Lacey, Washington, (the "City") on May 25, 1989, Utility Local Improvement District No. 11 was formed, the sanitary sewer system improvements including the construction and installation of a sewage collection main, interceptor connecting such main to the City's sewer system, and related facilities ("ULID No. 11 Improvements"), were ordered and provision for payment of part of the costs of the improvements by special assessment against the property specially benefited was made; and

WHEREAS, by Ordinance No. 891, passed by the City Council of the City on August 9, 1990, Utility Local Improvement District No. 14 was formed, water system and sanitary sewer system improvements, including the construction and installation of water distribution lines, fire hydrants, a sewage collection main, interceptor connecting such main to the City's sewer system, and related facilities ("ULID No. 14 Improvements") were ordered and provision for payment of all or a portion of the costs of the improvements by special assessment against the property specially benefited was made; and

WHEREAS, the City needs to provide funds for paying costs of the ULID No. 11 Improvements and the ULID No. 14 Improvements (together the "Improvements") prior to issuance of water and sewer revenue bonds therefor; and

WHEREAS, it is now deemed to be in the best interest of the City to borrow money and to issue bond anticipation notes pursuant to Chapter 39.50 RCW in anticipation of the issuance of water and

sewer revenue bonds for the purpose of providing part of the funds necessary to pay the cost of carrying out the Improvements; and

WHEREAS, it is further deemed to be in the best interest of the City to issue and sell such notes simultaneously with certain local improvement district bond anticipation notes to minimize the costs of financing the improvements in certain special assessment districts; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Authorization of the Bonds. For the purpose of paying part of the cost and expense of the Improvements, the City shall issue and sell water and sewer utility revenue bonds in one or more series in such principal amount and with such dates, interest rates, maturities, provisions for redemption and other terms and conditions as shall hereafter be determined by the City Council after completion of the Improvements and confirmation of the assessment rolls in the manner provided by law or at such other time or times as the City Council shall determine. So much of the proceeds of such bonds as shall be necessary, in addition to other money legally available therefor, to pay the principal of and interest on the bond anticipation notes authorized by Section 2 of this ordinance shall be deposited in the Note Redemption Fund created by Section 5 of this ordinance and the balance of such proceeds, if any, shall be paid into the "City of Lacey Water and Sewer Construction Fund" (the "Construction Fund") heretofore created in the office of the City Treasurer by Ordinance No. 102 and shall be applied, together with other available money therein, to pay costs of the Improvements and costs of issuance of such bonds.

Section 2. Authorization of the Notes. The total costs of the ULID No. 11 Improvements and ULID No. 14 Improvements are estimated to be in excess of \$5,560,000 and \$415,000, respectively, of which approximately \$3,200,000 of the ULID No. 11 Improvements and all of the ULID No. 14 Improvements are expected to be assessed against the property specially benefited by such Improvements and

the balance is expected to be paid by the City from water and sewer utility revenue bond proceeds and/or revenue of the water and sewer utility. For the purpose of paying part of the cost and expense of the Improvements including costs of issuing the notes authorized herein, the City will issue its Water and Sewer Utility Revenue Bond Anticipation Notes, 1990, (the "Notes") in the aggregate principal amount of \$3,565,000. The Notes shall be in bearer form, shall be in denominations of \$5,000 or any integral multiple of \$5,000, shall be dated the date of delivery, shall bear interest from their date at the rate or rates hereafter established by resolution of the City Council, computed on the basis of a 30-day month and a 360-day year, payable at maturity, with full obligation of the City to pay interest until maturity and thereafter until such Notes, both principal and interest, are paid in full or funds are available in the Note Redemption Fund created by Section 5 of this ordinance, and shall mature on the following dates and in the following amounts:

<u>Maturity Date</u>	<u>Maturity Amount</u>
June 1, 1991	\$ 415,000
December 1, 1991	\$3,150,000

The Notes shall be payable in lawful money of the United States of America. Both principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at the office of either of the fiscal agencies of the State of Washington in the cities of Seattle, Washington, and New York, New York (the "Bond Registrar").

Section 3. Redemption. The City has not reserved the right to redeem any of the Notes prior to maturity.

Section 4. Source of Payment of and Security for the Notes. Both principal of and interest on the Notes shall be payable solely from the Note Redemption Fund created by Section 5 of this ordinance, from special assessments collected in Utility Local Improvement District Nos. 11 and 14 prior to issuance of the water and sewer utility revenue bonds hereafter to be issued, in whole

or in part, to pay costs of the Improvements and from the proceeds of such bonds and/or additional short-term obligations.

The City covenants that it will, in good faith, make every reasonable effort to sell a sufficient amount of water and sewer utility revenue bonds or additional bond anticipation notes or other short-term obligations so that, on or before the maturity date of the Notes, money will be accumulated in the Note Redemption Fund in an amount sufficient to pay, on such maturity date, the principal of and interest on the Notes.

Section 5. Note Redemption Fund. There is hereby created and established in the office of the City Treasurer a special fund of the City known as the "City of Lacey Water and Sewer Utility Bond Anticipation Note Redemption Fund, 1990" (the "Note Redemption Fund") solely for the purpose of payment of the principal of and interest on the Notes and any additional short-term obligations hereafter issued to pay costs of the Improvements or to pay and redeem any of the Notes. The City hereby covenants to deposit in the Note Redemption Fund on or before the maturity date of the Notes amounts sufficient, together with other money otherwise available therein for such purpose, to pay the principal of and interest on the Notes when due.

Section 6. Tax Code Covenant. The City covenants that it will apply the principal proceeds of the Notes to pay costs of the Improvements and that it will make no use of the proceeds of the Notes at any time during the term of the Notes or of any notes or bonds hereafter issued to refund the Notes nor take any action or refrain from any action as may be necessary to comply with the United States Internal Revenue Code of 1986 (the "Code") and applicable regulations promulgated thereunder which would cause the interest on the Notes or any such refunding notes or bonds to become taxable under Section 103, 141, 148 and 149 of said Code.

Section 7. Findings and Designation of Bank Eligibility. The City has not issued, nor does it expect to issue, any obligations in 1990 other than the Notes and the Local Improvement District No. 13 Bond Anticipation Notes being issued simultaneously with the

Notes and, therefore, does not expect to issue more than \$5,000,000 of obligations in 1990; and the City Council hereby finds and determines that the Notes qualify for the exemption from rebate under the Code and further that the Notes are, and are hereby designated to be, qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code relating to financial institutions.

Section 8. Form and Execution of the Notes. The Notes shall be typewritten, printed or lithographed on good bond paper. At least one Note shall be issued for each maturity and the Notes shall be in form and substance consistent with this ordinance and approved by the City Manager at the recommendation of the Finance Director. The Notes shall be signed by the facsimile or manual signature of the Mayor, attested by the facsimile or manual signature of the City Clerk and shall have the seal of the City impressed or a facsimile thereof imprinted thereon.

Section 9. Lost or Destroyed Notes. In case any Note shall be lost, stolen or destroyed, the City may deliver a new note of like date, principal amount, maturity, interest rate, tenor and effect to the owner thereof upon payment to the City for the expenses and charges in connection therewith and upon its filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such Note was actually lost, stolen or destroyed and of its ownership thereof, and upon furnishing indemnity satisfactory to the Bond Registrar and the City.

Section 10. Application and Use of Note Proceeds. All of the principal proceeds of the Notes shall be deposited in the Construction Fund and applied to pay costs of the Improvements and/or to repay interfund loans heretofore made to such Fund, including a pro rata portion of the costs of issuing all of the notes issued simultaneously with, and including, the Notes pursuant to Section 11 of this ordinance. The accrued interest, if any, received upon delivery of the Notes shall be deposited in the Note Redemption Fund and applied to payment of interest on the Notes when due.

Pending the expenditure of the proceeds of the Notes, the City may temporarily invest such proceeds in any investments permitted by laws of the State of Washington. The investment earnings shall be retained in the respective funds into which the Note proceeds were originally deposited and expended for the purposes of such fund, provided, however, that any Note principal or investment earnings thereon remaining in the Construction Fund upon completion of the Improvements shall be deposited in the Note Redemption Fund and applied to payment of the Notes or any other obligations payable from said Fund and shall be expended within twelve months after completion of the Improvements.

Section 11. Sale of the Notes. The Finance Director of the City is hereby directed to publish a notice of sale of the Notes, substantially in such form or forms as he deems appropriate consistent with this ordinance and the terms set forth in Exhibit A attached hereto and by this reference incorporated herein, in such newspapers and at such times as he deems appropriate, calling for bids for the purchase thereof to be received at the office of Lehman Brothers, 999 Third Avenue, Suite 4000, Seattle, Washington, until 10:00 a.m. (PST) on November 29, 1990. The bids will be acted upon by the City Council at a meeting thereof to be held November 29, 1990.

Section 12. Authorization to City Officials. The proper City officials are hereby authorized to enter into such agreements, to execute such instruments, to print notes, to approve an official statement or other disclosure document, to provide certifications and to take all actions they deem reasonable, necessary and proper to carry out the Improvements and the issuance of the Notes in conformity with the provisions of this ordinance.

Section 13. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements shall be null and void and shall be deemed separable from the remaining covenants and agreements of

this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Notes.

Section 14. Ratification. All actions taken and things done on behalf of the City in connection with the issuance of the Notes consistent with this ordinance but prior to its effective date are in all respects hereby ratified and confirmed.

Section 15. Effective Date. This ordinance shall be effective five days from and after its passage and publication as provided by law.

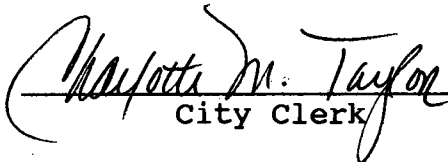
PASSED by the Council of the City of Lacey at a regular meeting held this 15th day of November, 1990.

CITY OF LACEY, WASHINGTON



Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

Published Nov. 20, 1990

TERMS TO BE INCORPORATED INTO

NOTICE OF SALE FOR

WATER AND SEWER REVENUE BOND ANTICIPATION NOTES, 1990

AND

LOCAL IMPROVEMENT DISTRICT NO. 13

BOND ANTICIPATION NOTES

1. Offers may be made for either or both issues of Notes.
2. Bids may be accepted at office of the City's Financial Advisor.
3. Notes shall be in denominations of \$5,000 or any integral multiple of \$5,000.
4. Bids shall be submitted on official bid form.
5. Minimum price for either issue of Notes is \$99.50 per \$100 par amount of Notes. Interest rates shall be multiples of 1/8th or 1/20th of 1%, with a single rate for each maturity date.
6. No good faith deposit shall be required, but bidders must agree to purchase the Notes within 20 days after acceptance of offer or the City shall be free to reoffer such Notes.
7. Award will be made by resolution of the City Council at a regular or special meeting to be held on the date on which bids are submitted.
8. Unless all bids for an issue are rejected, the City shall award the Notes of an issue to the bidder who offers the lowest net effective interest cost for such issue. The City reserves the right to accept offers from two different bidders; and to accept offers for one issue and reject all bids for the other. However, the City will award all of the Water and Sewer Revenue Bond Anticipation Notes, 1990 to a single bidder (or syndicate of bidders) and will award all of the Local Improvement District No. 13 Bond Anticipation Notes to a single bidder (or syndicate of bidders).