

ORDINANCE NO. 897

AN ORDINANCE of the City of Lacey, Washington, authorizing the issuance of its Local Improvement District No. 13 bonds and bond anticipation notes in the principal amount of \$1,300,000; establishing the terms, date, maturity date and redemption provisions therefor; creating a special construction and redemption fund; providing for the security and source of payment therefor; and providing for the sale thereof.

WHEREAS, by Ordinance No. 887, passed by the City Council of the City of Lacey, Washington, (the "City") on June 28, 1990, Local Improvement District No. 13 was formed, the improvements comprised of construction and installation of streets and street improvements, traffic signals, drainage, water distribution facilities and sanitary sewer collection facilities 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, 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 Local Improvement District No. 13 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 water and sewer revenue 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 LID No. 13 improvements (the "Improvements"), the City shall issue and sell LID NO. 13

bonds in such principal amount and with such date, 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 roll in the manner provided by law. The proceeds of such bonds shall be deposited in the LID Fund created by Section 6 of this ordinance, so much of such proceeds 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 applied to the payment of such principal and interest, and the balance of such proceeds 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 LID 13 Notes. The estimated cost and expense of the Improvements ordered by Ordinance No. 887 of the City and costs of issuing the notes authorized herein is estimated to be at least \$5,200,000, of which approximately \$2,560,000 is expected to be assessed against the property specially benefited by such improvements and the balance is expected to be paid from a grant from the Washington State Department of Transportation. For the purpose of paying part of the cost and expense of the Improvements, the City will issue its Local Improvement District No. 13 Bond Anticipation Notes in the principal amount of \$1,300,000 (the "LID 13 Notes"). The LID 13 Notes shall be dated the date of delivery, shall be in fully registered form, shall be in denominations of \$5,000 or any integral multiple of \$5,000, shall mature on December 1, 1993, and shall bear interest from their date at the rate hereafter established by resolution of the City Council, computed on the basis of a 30-day month and a 360-day year, payable semiannually on each June 1 and December 1, with full obligation of the City to pay interest until maturity and thereafter until such LID 13 Notes, both principal and interest, are paid in full or funds are available in the LID Fund created by Section 6 of this ordinance.

The Notes shall be payable in lawful money of the United States of America. Principal of the LID 13 Notes shall be payable upon presentation and surrender of the LID 13 Notes by the registered owner or nominee of such owner 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"). Interest on the LID 13 Notes shall be paid by check or draft mailed to the owner thereof or nominee of such owner at the address appearing on the registry books of the Bond Registrar on the 15th day of the month preceding the interest payment date.

Section 3. Redemption. The City has reserved the right to redeem the LID 13 Notes on June 1, 1993, and on the first day of each month thereafter, at a price of par, plus accrued interest to the date of redemption, upon written notice mailed to the registered owners of the LID 13 Notes at the address shown on the note register not more than 60 nor less than 30 days prior to the date of redemption. 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 LID 13 Note. Interest on any LID 13 Notes so called for redemption shall cease on such redemption date unless the same shall not be redeemed upon presentation made pursuant to such call.

Section 4. Additional Notes. The City expects to issue additional notes in 1991 and/or 1992 to pay part of that cost of the Improvements expected to be assessed against the property specially benefitted thereby (the "Additional Notes").

Section 5. Source of Payment of and Security for the LID 13 Notes. Both principal of and interest on the LID 13 Notes and any Additional Notes shall be payable solely from the LID Fund created by in Section 6 of this ordinance, from special assessments deposited in the LID Fund, and from the proceeds of Local Improvement District No. 13 bonds or installment notes and/or additional short-term obligations of the City.

The City covenants that it will, in good faith, make every reasonable effort to sell a sufficient amount of Local Improvement District No. 13 bonds or installment notes, or additional bond anticipation notes or other short-term obligations so that, on or before the maturity date of the LID 13 Notes, money will be accumulated in the LID Fund in an amount sufficient to pay, on such maturity date, the principal of and interest on the LID 13 Notes.

Section 6. LID Fund. There is hereby created and established in the office of the City Treasurer a special fund known as the "Local Improvement District No. 13 Fund" (the "LID Fund") solely for the purposes of paying costs of the Improvements and of paying the principal of and interest on any obligations issued to pay costs of the Improvements. The LID Fund shall constitute the construction fund for the Improvements and the redemption fund for the LID 13 Notes, any Additional Notes, any refunding notes or other short term obligations and the LID 13 bonds hereafter issued. The City hereby covenants to deposit in the LID Fund on or before the maturity date of the LID 13 Notes amounts sufficient, together with other money otherwise available therein, to pay the principal of and interest on the LID 13 Notes and any Additional Notes when due.

Section 7. Guaranty Fund Statement. The LID 13 Notes shall include the following statement:

The laws of the State of Washington require disclosure of the following part of RCW 35.45.070:

Neither the holder nor the owner of any [obligation] issued against a local improvement fund shall have any claim therefor against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the [obligation] was issued and except also for payment from the local improvement guaranty fund of the city or town. The city or town shall not be liable to the holder or owner of any [obligation] for any loss to the local improvement guaranty fund occurring in the lawful operation thereof.

Section 8. 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 any Additional 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, any Additional Notes, or any such refunding notes or bonds to become taxable under Section 103, 141, 148 and 149 of said Code.

Section 9. Findings and Designation of Bank Eligibility. The City has not issued, nor does it expect to issue, any obligations in 1990 other than the LID 13 Notes and the Water and Sewer Revenue Bond Anticipation Notes being issued simultaneously with the LID 13 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 10. Form and Execution of the Notes. The Notes shall be typewritten, printed or lithographed on good bond paper. The LID 13 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 11. Lost or Destroyed Notes. In case any LID 13 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 LID 13 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 12. Application and Use of Note Proceeds. The principal proceeds of the LID 13 Notes shall be deposited in the LID Fund and applied to pay costs of the Improvements and/or to repay any interfund loans heretofore made to pay any of such costs, including a pro rata portion of the costs of issuing all of the notes issued simultaneously with, and including, the LID 13 Notes pursuant to Section 13 of this ordinance. The accrued interest, if any, received upon delivery of the LID 13 Notes shall be deposited in the LID Fund and applied to payment of the interest on the LID 13 Notes when due.

Pending the expenditure of the proceeds of the LID 13 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 LID Fund and expended for the purposes of such fund, provided, however, that any LID 13 Note principal or investment proceeds thereon remaining in the LID Fund upon completion of the Improvements shall be applied to payment of the LID 13 Notes, or any Additional Notes, or to payment of any loans, bonds or refunding notes the proceeds of which are applied to pay any of such Notes and shall be expended within twelve months after completion of the Improvements.

Section 13. 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 offices 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 14. 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 15. 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 LID 13 Notes.

Section 16. Ratification. All actions taken and things done on behalf of the City in connection with the issuance of the Bonds consistent with this ordinance but prior to its effective date are in all respects hereby ratified and confirmed.

Section 17. 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

Kay M. Boyd  
Mayor

ATTEST:

Chapita M. Taylor  
City Clerk

APPROVED AS TO FORM:

[Signature]  
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).