CITY OF KENT, WASHINGTON

ORDINANCE NO. 1086

AN ORDINANCE amending Ordinance No. 1049; specifying and adopting a system or plan of additions to and betterments and extensions of the water supply and distribution system of the City of Kent, Washington; declaring the estimated cost thereof as near as may be; providing for the issuance and sale of not to exceed $110,000.00 par value of water revenue bonds in one or more series to obtain funds with which to pay a part of the cost of said system or plan; creating a special fund to provide for the payment of said bonds; authorizing and directing the City officials to proceed with the improvement; authorizing the connection with and commencement of service to a territory recently annexed to the City that lies within the boundaries of Water District No. 75, King County, Washington, in accordance with Sections 2 and 3, Chapter 248, Laws of 1951 of the State of Washington; and declaring an emergency.

WHEREAS, on May 19, 1958, pursuant to Chapter 128, Laws of 1945 of the State of Washington, as amended, the City of Kent enacted Ordinance No. 984, annexing the following-described territory:

In Meekers Supplemental Plat of First Addition to Kent, Blocks 9 and 10, Blocks 25 through 39, inclusive, and Highway adjacent on East, and Block 43 with shore lands adjacent;

Also: That portion of SW 1/4, Sec. 24-22-4 lying West of existing city limits and South of the South boundary of the G. G. Thompson D.L.C.;

Also: That portion of NE 1/4, Sec. 23-22-4 lying West of Meeker's Supplemental plat to Kent;

Also: That portion of N 1/2 of NW 1/4, Sec. 23-22-4 lying South and East of the Green River;

Also: S 1/2, NW 1/4, Sec. 23-22-4;

Also: That portion of NE 1/4 of SW 1/4 of Sec. 23-22-4 lying North of the Green River, including County Road;

Also: the NW 1/4 of the SW 1/4 of Sec. 23-22-4;

Also: the S 1/2, NE 1/4, Sec. 22-22-4;
Also: the SE 1/4, Sec. 22-22-4;
Also: that portion of NE 1/4, NW 1/4, Sec. 22-22-4 not included in Valley Vista Plat;
Also: SE 1/4, NW 1/4, Sec. 22-22-4;
Also: SW 1/4, Sec. 22-22-4, except the SW 1/4 thereof;
Also: that portion of the NW 1/4, NE 1/4, Sec. 27-22-4 lying westerly of the center line of the Reith Road;
Also: SW 1/4, NE 1/4, Sec. 27-22-4;
Also: that portion of the NW 1/4, Sec. 27-22-4 lying easterly of the center line of the Military Road;
Also: the South 660 ft. of the SE 1/4, NE 1/4, Sec. 21-22-4;
Also: NE 1/4, SE 1/4, Sec. 21-22-4;
Also: Blocks 19, 20, 21, and 22, Interurban Heights, not including Birch Street and Fern Avenue;
Also: the Saltair Hills Plat, not including S. 252nd, 20th Avenue South, and S. 268th in NE 1/4, SW 1/4, Sec. 21-22-4;
Also: NW 1/4, SE 1/4, Sec. 21-22-4, except portion included in Saltair Hills Plat;
Also: NE 1/4, SW 1/4, Sec. 21-22-4, except portion included in Saltair Hills Plat;
Also: North 400 ft. of SW 1/4, SE 1/4, Sec. 21-22-4,
which territory was annexed to and became a part of the City of Kent on June 1, 1958; and

WHEREAS, all of that territory annexed was, on the date of its annexation, within the corporate limits of Water District No. 75, King County, Washington, and was being served by that Water District; and

WHEREAS, immediately prior to that annexation, said Water District owned or possessed real estate, facilities, installations or equipment within the annexed territory, which were exclusively used for or by the annexed territory, and the Water District owned, possessed or furnished facilities or services used by both the annexed territory and other territories of the Water District; and

2.
WHEREAS, the laws of the State of Washington, 1951, Chapter 246, Sections 2 and 3 (RCW 35.13.230 and 35.13.240) provide as follows:

"Sec. 2. If only a portion of the territory of any such district is annexed to the city, all real estate, facilities, installations or equipment belonging to the district within the annexed territory which are exclusively used for or by the annexed territory, together with a portion of the assets or funds of the district equal to the proportion which the assessed valuation of the real estate of the district located inside the city bears to the total assessed valuation of the real estate of the district, shall belong to the city, subject to the debts and obligations of the district for which such real estate, facilities, installations or equipment, assets or funds would have been liable if no annexation had been made; and, in such case, the real estate annexed, and the owners and occupants thereof, shall continue liable for payments of its and their proportionate share of any unpaid indebtedness, bonded or otherwise, with the right on the part of the district officials to make tax levies and collect charges on such property or owners or occupants, and to enforce such collections as if the annexation had not been made. The city shall have power to manage and control the facilities and fix and collect charges for service for such territory located within the city. If only a portion of any such district is annexed, and there shall be located in the territory annexed any real estate, facilities, installations or equipment which are used exclusively for service to real estate not annexed to the city, the district shall have the right to continue to use such real estate, facilities, installations or equipment for service of the territory of the district not annexed, in the same manner as if the annexation had not been made.

"Sec. 3. If a portion of the district is located outside the city and a portion inside, with no facilities or services used exclusively for territory outside or exclusively for territory inside the city, the real and personal property, water or sewer mains, facilities or equipment located within the annexed territory, and all assets and funds of the district in proportion to the assessed valuation of the real estate located inside and outside shall belong to the city; and the city shall have power to manage, control, maintain and operate the same, and fix and collect charges for the use of such facilities for territory located inside the city: Provided, That no action of the city shall prejudice or impair the rights or privileges of any creditor under any contract with the district existing at the time the annexation takes effect nor shall the operation of the city affect the right to service of
any owner of real estate or any person within the district but outside the city who has paid or contributed towards the cost of installation of any improvements located in the territory annexed: Provided, The city shall be under no obligation to maintain, replace or repair any facilities located outside the city but may enter into agreements with the district covering the terms under which such outside service, maintenance and replacement may be made. All funds taken over by a city so far as practicable shall be used for the purpose for which the same were collected and accumulated."; and

WHEREAS, subsequent annexations by the City of territory within the Water District pursuant to Ordinances Nos. 1014 and 1026 have been ruled to be invalid by decision of the Superior Court of King County; and

WHEREAS, it is the intention of the City Council of the City of Kent to exercise the City's rights under the statutory language quoted above and assume ownership, possession and control over, and to connect the City's water system to all real and personal property, water mains, installations, facilities and equipment located within the annexed territory and belonging to the Water District at the time of its annexation, and upon assuming ownership, possession and control over such properties, the City shall manage, control, maintain and operate the same, and fix and collect charges for the use of such facilities for the territory located inside the City, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 1 of Ordinance No. 1049 is amended to read as follows:

"Section 1. The City of Kent hereby specifies and adopts a system or plan for making additions to and betterments and extensions of the existing water supply and distribution system of the City, which shall consist of the following:

"a. There shall be acquired, constructed and installed
the water lines and other facilities described in "Exhibit A," attached hereto and hereby incorporated as a part of this Ordinance, said lines and facilities to be constructed and installed in accordance with plans and specifications therefor prepared by the City Engineer.

"There shall be included in the foregoing the acquisition and installation of all necessary valves, fittings, couplings, connections, hydrants or future hydrant connections, equipment and appurtenances and the acquisition of any easements, rights-of-way, water rights, and land that may be required; and there shall be included the performance of such work as may be incidental and necessary to the foregoing construction and installation.

"b. Pursuant to the authority granted to cities in Sections 2 and 3, Chapter 248, Laws of 1951 of the State of Washington (RCW 35.13.230 and 35.13.240), the City of Kent shall assume ownership and possession and manage, control, maintain and operate all real and personal property, water mains, installations, facilities and equipment located within the territory annexed to the City by Ordinance No. 984 and now possessed, controlled or operated by Water District No. 75, King County, Washington.

"c. The above-described additions to and extensions of the water supply and distribution system of the City, together with the Water District No. 75 facilities acquired, shall be connected to the existing water supply and distribution system of the City, and service through and use of said water mains by said Water District shall be terminated. Such extensions and connections shall be made in a careful and safe manner, so as not to jeopardize the safe water supply of the City, the Water District, or properties of the Water District outside the City."

Section 2. Section 3 of Ordinance No. 1049 is amended to read as follows:

"Section 3. The estimated cost of the acquisition,
construction and installation of the above-described additions and betterments to the water supply and distribution system of the City is hereby fixed, as nearly as may be, at the sum of $115,000.00."

Section 3. Section 4 of Ordinance No. 1049 is amended to read as follows:

"Section 4. The cost of acquiring, constructing and making the foregoing additions to and betterments and extensions of said water supply and distribution system shall be paid from the following sources:

"a. From moneys presently on hand in the Water Fund of the City, in an amount of not to exceed $5,000.00.

"b. From the proceeds received from the issuance and sale of water revenue bonds in an amount of not to exceed $110,000.00 par value.

"The bonds shall be issued in one or more series at such times as the City Council shall deem advisable. The bonds shall be entitled 'Water Revenue Bonds, 1961,' with series designation following if issued in series. The bonds shall bear interest at a rate or rates not to exceed 6% per annum, payable semianually, and shall be numbered from 'one' upward, consecutively, within each series as issued. The bonds shall be issued in such series; shall be in such denominations and form; shall bear such date or dates and interest rate or rates; shall be payable at such place or places; shall mature serially in accordance with such schedule, beginning not earlier than one year after date of issuance and ending not later than thirty years thereafter or shall be term bonds; shall have such option of payment prior to maturity; shall guarantee such coverage and collection of rates; shall provide for such additional funds and accounts; and shall contain and be subject to such provisions or covenants as shall be hereafter provided by ordinance."
Section 4. Section 7 of Ordinance No. 1049 is amended to read as follows:

"Section 7. In the event that the bonds herein authorized shall not be issued as parity bonds as referred to in Section 6, above, there shall be and hereby is created and established in the office of the Treasurer of the City of Kent a special fund to be known as 'Water Revenue Bond Fund, 1961,' which fund is to be drawn upon for the sole purpose of paying the principal of and interest on the bonds. From and after the date of issuance of said bonds and so long thereafter as bonds are outstanding against said 'Kent, 1958, Water Revenue Bond Redemption Fund' or said 'Water Revenue Bond Fund, 1961,' as the case may be, the City Treasurer shall set aside and pay into the appropriate fund out of the gross revenues of the water supply and distribution system now belonging to or which may hereafter belong to the City, including all additions, extensions and betterments thereof at any time made, a fixed amount without regard to any fixed proportion, namely, an amount sufficient to pay the principal of and interest on all bonds payable out of said special appropriate fund as they respectively become due and to create such surplus and reserve, if any, that may hereafter be prescribed by ordinance. The gross revenues from the said system are hereby pledged to such payment and the bonds herein authorized shall constitute a charge or lien upon such revenues prior and superior to any other charges whatsoever, excluding charges for maintenance and operation, PROVIDED, HOWEVER, that if the conditions required to be met for issuance of parity bonds as set forth in Section 10 of Ordinance No. 982, passed May 19, 1958, shall be met at the time of the issuance of the bonds herein authorized, the charge or lien upon such gross revenues for the bonds herein authorized shall be on a parity with the charge or lien upon such gross revenues for the outstanding 'Water Revenue Bonds, 1958,' dated June 1, 1958, and the outstanding 'Water
Revenue Bonds, 1959,' dated June 1, 1959, but shall be junior and inferior to the prior charge or lien upon such gross revenues for the outstanding 'Water Revenue Bonds, 1948,' dated November 1, 1948, and the outstanding 'Water Revenue Bonds, 1957,' dated July 1, 1957. If said parity conditions shall not be met, the charge or lien upon such gross revenues for the bonds herein authorized shall be subordinate and inferior to the prior charge or lien upon such gross revenues for the presently outstanding 'Water Revenue Bonds, 1948,' 'Water Revenue Bonds, 1957,' 'Water Revenue Bonds, 1958,' and 'Water Revenue Bonds, 1959.'"

Section 5. Section 8 of Ordinance No. 1049 is amended to read as follows:

"Section 8. The City Council and corporate authorities of the City of Kent hereby declare that in fixing the amounts to be paid into said 'Kent, 1958, Water Revenue Bond Redemption Fund' or said 'Water Revenue Bond Fund, 1961,' as the case may be, as set forth herein they have exercised due regard to the cost of operation and maintenance of the water supply and distribution system of the City and the debt service requirements of the outstanding 'Water Revenue Bonds, 1948,' dated November 1, 1948, 'Water Revenue Bonds, 1957,' dated July 1, 1957, 'Water Revenue Bonds, 1958,' dated June 1, 1958, and 'Water Revenue Bonds, 1959,' dated June 1, 1959, and the City of Kent has not bound and obligated itself and will not bind and obligate itself to set aside and pay into such special funds a greater amount or proportion of the revenues of the water supply and distribution system than in the judgment of the City Council will be available over and above such costs of maintenance and operation and debt service requirements of the outstanding 'Water Revenue Bonds, 1948,' 'Water Revenue Bonds, 1957,' 'Water Revenue Bonds, 1958,' and 'Water Revenue Bonds, 1959,' and that no portion of the revenues of the
water supply and distribution system has been previously pledged for any indebtedness other than the said outstanding 'Water Revenue Bonds, 1948,' 'Water Revenue Bonds, 1957,' 'Water Revenue Bonds, 1958,' and 'Water Revenue Bonds, 1959.'

Section 6. Section 10 of Ordinance No. 1049 is amended to read as follows:

"Section 10. Upon the connection and commencement of service to the territory annexed to the City now served by the Water District, the City shall fix and collect water charges for the use of the water facilities and for water service in that territory on the same basis and pursuant to the same standards and authority that now apply to the existing water supply and distribution system of the City, except no charge shall be levied against water users in that territory for the connection of the City's water system to the facilities serving that territory, and except that the water charges in that territory may differ from those in other areas of the City, taking into consideration, among other things, the level of charges presently paid by water users in the territory serviced by Water District No. 75, maintenance and operation costs of facilities in that territory, and the obligation assumed in this Ordinance by the City to service the debt incurred because of the issuance of water revenue bonds by Water District No. 75."

Section 7. Section 11 of Ordinance No. 1049 is amended to read as follows:

"Section 11. Upon the connection and commencement of service to the territory within the City now served by Water District No. 75, the City hereby covenants and agrees, and the City Treasurer is hereby authorized, to pay from the Water Fund of the City to Water District No. 75 each year such moneys equal to an amount determined by the following formula:

"There shall be determined what percentage of the total
revenues of Water District No. 75 derived from charges for water service during the 12-month periods preceding the date of annexation is represented by the revenues of Water District No. 75 derived from charges for water service within the territory so annexed during the 12-month periods preceding the date of annexation. The percentage amount so determined shall be multiplied by the debt service requirements for each year of all then outstanding water revenue bonds of Water District No. 75, which bonds were also outstanding on the date of annexation to the City of the territory within Water District No. 75, as calculated and ascertained on or before the 15th day of January of each year. The product so determined shall be deemed the City's share of the annual debt service requirements of the Water District due from the territory annexed to the City, and the City hereby covenants and agrees to pay Water District No. 75 one-twelfth of that annual share on the last day of each calendar month of each respective year."

Section 8. Section 12 of Ordinance No. 1049 is amended to read as follows:

"Section 12. Any delinquent charges for service by the Water District existing at the time of the City's connection and commencement of service to the territory annexed shall not be discharged, but the water users and, if applicable, the properties served, shall remain liable for these delinquent charges to the Water District."

Section 9. Section 13 of Ordinance No. 1049 is amended to read as follows:

"Section 13. The City Treasurer is authorized to receive and place in the Water Fund from the Water District No. 75 Maintenance Fund such moneys equal to an amount determined by the following formula:

"The total balance of moneys contained in the Water District No. 75 Maintenance Fund on the date of annexation to the
City of the territory within Water District No. 75 times the total assessed valuation of real property within the territory so annexed on the date of annexation, divided by the total assessed valuation of the real property of Water District No. 75 on the date of annexation, provided, however, that any amounts expended by the Water District from the Water District No. 75 Maintenance Fund within the territory annexed since the date of annexation and until the District facilities within such territory are taken over by the City shall be deducted from the amounts to be paid to the City in accordance with the above formula."

Section 10. Section 14 of Ordinance No. 1049 is amended to read as follows:

"Section 14. No operation of the City shall affect the right to service of any owner of real estate or any person, within Water District No. 75 but outside the City, who has paid or contributed toward the cost of installation of any improvements located in the territory annexed, except the City shall be under no obligation to maintain, replace, or repair any facilities located outside the City."

Section 11. Section 15 of Ordinance No. 1049 is amended to read as follows:

"Section 15. If there shall be located in the territory annexed any real estate, facilities, installations or equipment which are used exclusively for service to real estate not annexed to the City, the Water District shall have the right to continue to use such real estate, facilities, installations or equipment for service of the territory of the District not annexed, in the same manner as if the annexation had not been made."

Section 12. This Ordinance is declared to be one necessary for the immediate preservation of the public peace, property, health and safety of the people of the City of Kent,
Washington. An emergency is hereby declared to exist, and this Ordinance is hereby declared to be in full force and effect from and after its passage, approval and publication, as provided by law.

PASSED by the City Council of the City of Kent, Washington, and approved by its Mayor at a regular meeting held on the 20th day of February, 1961.

[Signature]
MAYOR

ATTEST:

[Signature]
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY
Exhibit "A" to Accompany Ord. No. 1088

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