ORDINANCE NO. 2361

AN ORDINANCE of the City of Kent, Washington, relating to deferred compensation plans, and recognizing and approving a plan and authorizing and directing the execution of necessary documents to implement such plan, and authorizing and directing the establishment of a fund therefor.

WHEREAS, in accordance with the requirements stated in said resolution, there has been presented to the Finance Committee of the City Council of the City of Kent a proposed deferred compensation plan for recognition and approval by the City Council for participation therein by qualified employees and/or independent contractors; and

WHEREAS, the City Council has reviewed said proposed deferred compensation plan, a copy of which is attached hereto, labeled Exhibit "A", and by this reference made a part of this ordinance; and

WHEREAS, a number of the City of Kent's qualified employees and/or independent contractors have indicated an interest in participating in said proposed deferred compensation plan, after having been given an opportunity to examine, discuss and consider all of the applicable terms, restrictions, conditions and other provisions thereof; and

WHEREAS, in order to implement and administer said deferred compensation plan, there must be executed the necessary documents, there must be a committee appointed, and there must be a fund established; now, therefore,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That "deferred compensation plan" attached hereto, labeled Exhibit "A", is hereby recognized and approved as a deferred compensation plan for the qualified employees and/or independent contractors of the City of Kent and
Section 2. The Mayor is hereby authorized and directed to execute the necessary documents for the establishment and implementation of such deferred compensation plan; and

Section 3. Upon such execution of such plan, establishment and implementation thereof, such plan shall be made available to qualified employees and/or independent contractors of the City of Kent upon their execution of appropriate applications and/or agreements for participation therein; and

Section 4. There is hereby established a "Deferred Compensation Plan Committee" which shall consist of three persons appointed by the City Administrator which committee members shall serve for such periods as shall be determined by the City Administrator and shall be subject to removal and replacement as shown in Article VI of the plan document. Said committee shall administer the deferred compensation plan, and the "Deferred Compensation Plan Investments" hereinafter created, and shall have the duties as defined in said plan; and

Section 5. There is hereby created a special fund which shall be designated as the "Deferred Compensation Plan Fund" into which shall be paid all sums deferred from the compensation of participants in the plan, and from which all authorized disbursements shall be made.

Section 6. Adoption of this ordinance does not constitute an endorsement of this Plan or any financial guarantees by the City of Kent.

Section 7. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ATTEST:

ISABEL HOGAN, MAYOR

MARIE JENSEN, CITY CLERK
APPROVED AS TO FORM:

[Signature]
BARBARA HEAVEY, ACTING CITY ATTORNEY

PASSED the 6 day of July, 1982.
APPROVED the 7 day of July, 1982.
PUBLISHED the 11 day of July, 1982.

I hereby certify that this is a true copy of Ordinance No. 2361, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
MARIE JENSEN, CITY CLERK (SEAL)
CITY OF KENT
PUBLIC EMPLOYEE NON-QUALIFIED DEFERRED COMPENSATION PLAN

WHEREAS, the Employer desires to establish a Deferred Compensation Plan ("Plan") pursuant to Section 457 of the Internal Revenue Code of 1954, as amended (the "Code") for the benefit of its employees or independent contractors who elect to become Participants under the Plan's provisions:

NOW, THEREFORE, by executing this Agreement, the Employer agrees to do the following:

ARTICLE I

Establishment of the Plan

1.01 Purpose of the Plan. The employer shall withhold the amount of compensation mutually agreed upon with each Participant for the purpose of providing periodic payments on retirement and death benefits in the event of death before or after retirement.

1.02 Separate Accounting. The Employer shall account separately or provide for separate accounting for the interest of each Participant (or of each Beneficiary) with respect to the deferred amounts and any gain or income from the investment thereof.

1.03 Deferred Amounts - Sole Property of the Employer. All amounts of compensation deferred under this Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall remain solely the property and rights of the Employer (without being restricted to the provisions of benefits under this Plan) subject only to the claims of the Employer's general creditors. The Employer is not obligated to purchase any property or rights to support the promises made under this Plan to each Participant.

1.04 Investments. The Employer may invest all amounts held under this Plan in MFS Funds Shares, a Great West Assurance group annuity contract, Executive Life Insurance policies or in any type of property without regard to state laws limiting permissible investments except to the extent otherwise provided by law. The employer agrees to promptly apply the deferred amounts, in the proportions specified in writing by each participant, as contributions for investment in MFS Funds Shares, Great West Annuities or Executive Life policies or any other type of property which the Employer agrees to make available for investment purposes. The Participant may from time to time, by written instructions to the Employer, change the investment instructions of deferred compensation amounts or request the Employer to transfer or exchange his account for another investment alternative as provided under rules or uniform application by the Employer. The Employer reserves the power and authority to make any investment changes which it deems necessary or appropriate in any Participant's account since it is the actual owner of the property held under this Plan.
ARTICLE II

Definitions

2.01 Beneficiary: The trust, individual or individuals currently designated by the Participant or, where applicable, by his surviving spouse as the beneficiary or beneficiaries on the form provided for this purpose by and filed with the Employer, or if no such beneficiary is alive or designation in effect at the time of distribution, the executor or other legal representative of the Participant or of his surviving spouse. If more than one designated beneficiary survives the Participant, payments shall be made equally to all such beneficiaries, unless otherwise provided in the beneficiary designation form. If no executor or administrator is appointed within six months after the death of the Participant or his surviving spouse, the Employer shall designate the Beneficiary from among the following persons surviving the Participant in the order of succession listed herein: (a) spouse; (b) children as a class; (c) parents; (d) other blood relatives.

2.02 Compensation: The total remuneration for services received by the Participant from the Employer during the Participant's taxable year. Compensation shall be taken into account at its present value.

2.03 Deferred Compensation: The amount of compensation not yet earned which the Participant and the Employer shall mutually agree to defer in accordance with the provisions of this Plan. The deferred amount shall be designated in the Participation Agreement.

2.04 Employee: Any individual who is employed by and who performs service for the Employer. Performance of service includes performance of service by an individual (not partnerships or corporations) as an independent contractor.

2.05 Employer: The City of Kent, Washington.

2.06 Includible Compensation: The remuneration for service performed for the Employer which is currently includible in gross income. The amount of Includible Compensation shall be determined without regard to any community property laws.

2.07 MFS Funds Shares: Shares of (i) Massachusetts Cash Management Trust; (ii) Massachusetts Financial Bond Fund, Inc.; (iii) Massachusetts Financial High Income Trust; (iv) Massachusetts Income Development Fund, Inc.; (v) Massachusetts Investors Trust; (vi) Massachusetts Financial Development, Inc.; (vii) Massachusetts Investors Growth Stock Fund, Inc.; (viii) Massachusetts Capital Development Fund, Inc.; and (ix) such other regulated investment company or companies within the meaning of Section 851 (a) of the Code as may be designated by Massachusetts Financial Services, Inc.

2.08 Great West Assurance Annuity contracts, Group annuity contracts distributed by Great West Assurance Company or its affiliates.

2.09 Executive Life Insurance Company: Any contract offered by Executive Life Insurance Company or its affiliates.

2.10 Participant: Any employee who elects to defer compensation under the provisions of the Plan.
2.11 Participation Agreement: The written agreement between the Employer and Participant which sets forth certain provisions and elections relative to this Plan, which incorporates the terms of this Plan and which establishes the Participant's deferral and participation in this Plan.

2.12 Retirement: Severance of the Participant's contract or employment with the Employer on or after the Participant's 70th birthday by reasons other than death.

2.13 Termination of Service: The severance of the Participant's contract or employment with the Employer prior to his 70th birthday by reasons other than death.

ARTICLE III

Participation

3.01 Participation. Each employee may become a participant in the Plan by agreeing to defer compensation not yet earned. The deferred amount shall be designated in the Participation Agreement. Such Participation Agreement must be executed prior to the beginning of the calendar month in which it is to become effective and further subject to a minimum deferment of not less than twenty-five dollars ($25.00) per month.

3.02 Suspension of Participation. A Participant may revoke his participation Agreement any time by notifying the Employer in writing 30 days prior to the effective date of the suspension. A Participant who revokes his Participation Agreement may again become a Participant as of the first day of any succeeding July 1st or January 1st by entering into a new Participation Agreement with the Employer.

3.03 Modification of Participation Agreement. A Participant who elects to defer compensation may modify such Participation Agreement but only with respect to compensation to the earned in the subsequent calendar month. Such modification may not occur more often than each January 1st or July 1st during any taxable year of the Participant.

3.04 Effect of Modification of Termination of Deferral Agreement. Any modification or termination of the Deferral Agreement under Section 3.02 or 3.03 shall not entitle the Participant to any amount by which his salary has heretofore been reduced. No distributions are permitted from the Plan except those specifically provided for in Article V.

3.05 Authorized Leave of Absence. If a Participant is on an authorized leave of absence from the employer, his participation in the Plan will continue. Payments will not be made until the Participant has actually terminated his employment, has retired, has died, or has become eligible for a partial distribution under Section 5.02.

ARTICLE IV

Limitations on Deferred Amounts

4.01 Maximum Annual Deferral. The maximum amount that may be deferred under this Plan for the taxable year (except as provided in Section 4.02) is the
lessor of: (1) $7,500 or (2) 33-1/3% of the Participant's includible compensation.

4.02 Catch Up Provision. For any one or more of the Participant's last three taxable years ending prior to his Retirement, as defined in Section 2.11, the limitations set forth in Section 4.01 shall be the lessor of: (1) $15,000 or (2) the sum of the limitation set forth in Section 4.01 and so much of that limitation which has not been used since January 1, 1979.

ARTICLE V

Distribution of Benefits

5.01 Distributions to Participants and their Beneficiaries. Subject to the provisions of Section 5.03, the balance credited to the account of a Participant shall be, or shall commence to be, distributed not later than the sixtieth day following the close of the calendar year in which he retires, dies, or terminates his employment with the Employer. If a Participant continues his employment beyond his retirement date but dies before actual retirement, he shall, unless he has otherwise elected in writing, have a survivor annuity payable on his death to his spouse in such amount as can be purchased with his account balance.

5.02 Partial Distributions. In the case of an unforeseeable emergency, a Participant may apply to the Employer for a withdrawal of amounts under the Plan prior to retirement or other termination of the Participant's service with the Employer. If such application for withdrawal is approved by the Employer, the withdrawal will be effective at the later of the dates specified in the participant's application or the date of approval by the Employer and will be payable within ninety days of such effective date in a single payment.

The term "unforeseeable emergency" shall, for the purposes of this Plan, be limited to unexpected and unreimbursed major expenses resulting from illness or death of a member of the Participant's family, or certain other events, if said unexpected and unreimbursed major expenses and said other events would result in great hardship to the employee if the withdrawal were not allowed and which may occur at any time independent of any control by the employee. Withdrawals for foreseeable expenditures normally budgetable, such as down payments on a home or purchase of an auto or college expenses, will not be permitted. This plan hereby incorporates by reference any regulations issued by the Secretary of the Treasury which further define what constitutes an unforeseeable emergency.

In the event of an unforeseeable emergency, the amount of withdrawal shall be limited to an amount sufficient to meet that emergency, and in no event shall it exceed the amount of benefits which would have been payable had the Participant terminated employment at the time of withdrawal. Notwithstanding any other provision of this Plan, if a Participant makes a withdrawal hereunder the amount of his benefits under the Plan shall be appropriately reduced to reflect such a withdrawal. The remainder of any payable benefits, if any, shall be payable according to the otherwise applicable provision of the Plan.

5.03 Optional Deferral of Distributions. Notwithstanding Section 5.01, the Employer may direct, under rules of uniform application, that payment of
benefits to any Participant who terminates employment prior to his retirement date will commence when such retirement date or a later date is attained. By written statement filed with the Employer, each Participant may elect that distribution be made, or commence, in a year subsequent to that determined under Section 5.01 but no later than the tax year in which he attains age 75. Any such election shall be subject to rules of uniform application prescribed by the Employer.

5.04 Joint and Survivor Annuity. Unless a married Participant elects in writing to receive a distribution of his benefits under one of the forms of distribution in Section 5.05, the distribution of his interest pursuant to Section 5.01 or 5.03 shall be in the form of a joint and survivor annuity.

5.05 Modes of Distribution. Distribution pursuant to Section 5.01 or Section 5.03 shall be made in any one of the following ways: (a) in a single payment in the year in which distribution is to be made or to commence; (b) in monthly, quarterly, semi-annual or annual payments commencing in such year and made either (i) over the life of the Participant or (ii) over a period selected by the Participant not extending beyond the Participant's life expectancy; or (c) in monthly, quarterly, semi-annual or annual payments commencing in such year and made either (i) over the joint lives of the Participant and his spouse or (ii) over a period selected by the Participant not extending beyond the joint life and last survivor expectancy of the Participant and his spouse. The Participant may elect one of the foregoing modes of distribution by written notice to the Employer at least 45 days prior to the date on which distribution is to be made or to commence, as provided in Section 5.01 and 5.03. Such election shall specify (i) a mode of distribution described in (a), (b) or (c) above; (ii) the period, if distribution is to be made under (b)(ii) or (c) (ii) above; and (3)(iii) a form of distribution permitted by Section 5.06. If the Participant fails to make an election, distribution shall be made to him in annual installments in the form selected by the Employer based on the Participant's life expectancy.

5.06 Form of Distribution. Distribution in a single payment under (a) of Section 5.05 shall, as specified in such election, be in cash or in kind. If any installment distribution is elected, distribution shall be in cash or in kind as specified by the Participant in such election, and if no such election is made distribution shall be made in the form selected by the Employer. The form of any distribution elected by a Participant is subject to the approval of the Employer.

5.07 Calculation of Installment Distributions. Any annual payment under (b)(i) or (c)(i) of Section 5.05 shall be determined by dividing the entire interest of the Participant in his account at the beginning of the year for which the payment is to be made by either (i) the then life expectancy of the Participant or of the Participant and his spouse, as the case may be; or (ii) if the Participant so specified, by the life expectancy of the Participant or of the Participant and his spouse in the year in which distribution commenced reduced by the number of whole years elapsed since the beginning of such year. Life expectancies shall be calculated for this purpose by use of the expected return multiples in Section 1.72-9 of the Income Tax Regulations. If distributions are to be made in annual installments over a fixed period, pursuant to Paragraph (b)(ii) or (c)(ii) of Section 5.05, the amount of any annual payment shall be the amount determined by dividing the Participant's interest in his account at the beginning of the year for which the payment is
made by the number of years remaining in the fixed period. Monthly, quarterly
or semi-annual payments pursuant to (b) or (c) of Section 5.05 will be
one-twelfth, one-half or one-quarter of the relevant annual payment.

5.08 Distribution at Death of a Participant or Surviving Spouse. If either
(a) a Participant dies before the entire balance credited to his account by
the Employer has been distributed and distribution is not then being made to
such Participant and his spouse as provided in (c) of Section 5.05, or (b)
distribution has commenced, as provided in (c) of Section 5.05, to the
surviving spouse of a Participant and such surviving spouse dies before the
entire balance has been distributed to such spouse, the entire amount credited
to the account of the Participant shall be either distributed to his spouse,
or if he has elected a Beneficiary other than his spouse, to such Beneficiary
pursuant to one of the modes of distribution provided in Section 5.05 above.
Distribution made on the death of the surviving spouse shall be made to the
Beneficiary in equal monthly installments over such Beneficiary's life or in a
single sum.

ARTICLE VI

Administration

6.01 The Employer is the Plan Administrator. This Plan shall be administered
by the Employer. The Employer may allocate all or any of the duties of Plan
Administrator to an individual (Plan Administrative Officer) or a committee.
If the Employer appoints a committee, it shall consist of not less than three
individuals. Committee members may participate in the Plan, but shall not be
entitled to participate in decisions which relate solely to their own
participation. A committee member or Plan Administrative Officer may resign
at any time or 30 days notice in writing to the Employer and may be removed by
the Employer at any time upon written notice. Upon such resignation or
removal, the Employer shall appoint a successor committee member or Plan
Administrative Officer.

6.02 Plan Administrator's Powers and Duties. The Plan Administrator shall
have the power and duty to:

a) Construe and interpret the provisions of the Plan;
b) Adopt, amend or revoke rules and regulations for the administration
   of the Plan, provided they are not inconsistent with the provisions of
   the Plan;
c) Provide appropriate parties with such returns, reports, provisions
   and statements as may be required by law, within the times prescribed
   by law and to make them available for examination by Participants and
   their Beneficiaries when required by law;
d) Take such other action as may be reasonably required to administer
   the Plan in accordance with its terms or as may be provided for or
   required by law;
e) Provide any Participant, whose claim for benefits has been denied, a
   reasonable opportunity for a full and fair review; and
f) Appoint and retain such persons as may be necessary to carry out the
   functions of the Plan Administrator.

6.03 Administrative Expenses. Administrative expenses of the Plan shall be
met on a pro-rata basis by each Participant account unless paid separately by the Employer.

ARTICLE VII

Amendment or Termination of the Plan

7.01 Amendment or Termination of the Plan. The Employer reserves the right to amend this Plan from time to time and to terminate the Plan at any time. All such amendments or terminations shall be in writing and shall be communicated to all Participants and other appropriate parties as may be required by law.

ARTICLE VIII

Miscellaneous

8.01 This Plan is Not an Employment Contract. Nothing contained in this Plan shall be deemed to constitute an employment contract between the Participant and the Employer, and no provision of this Plan shall restrict the right of the Employer to discharge a Participant or the right of a Participant to terminate his employment.

8.02 Non-Assignability Clause. Neither the Participant, nor his Beneficiary nor any other assignee, shall have any right to commute, sell, assign, transfer or otherwise convey the right to receive any payments provided under this Plan. Such payments and rights are expressly declared to be non-assignable and non-transferable. Nor shall any unpaid benefits be subject to attachment, garnishment or execution, or be transferable by operation of law in the event of bankruptcy or insolvency except to the extent otherwise required by law.

8.03 Construction. This Plan is established with the intent that it is a non-qualified deferred compensation plan under Section 457 of the Code. All terms and provisions contained in this Plan shall be interpreted, wherever possible, so as to be in compliance with the requirements of Section 457 of the Code.

8.04 Governing Law. This Plan shall be construed, administered and enforced according to the laws of the State of Washington, except to the extent superceded by any applicable provision of the Code.

8.05 Effective Date. This Plan shall be effective as of July 1, 1982.

IN WITNESS WHEREOF, the undersigned Employer has caused this Plan to be signed and attested to by its duly authorized officers on the _________ day of ________________, 1982.

ATTEST:

By: ___________________________                     By: ___________________________
                     The "Employer"

__________________________                     Authorized Officer

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