ORDINANCE NO. 2994

AN ORDINANCE of the City of Kent, Washington, relating to the City of Kent Economic Development Corporation; amending Ordinance 2419, as amended by Ordinance 2433, and as last amended by Ordinance 2592, relating to the appointment and term of office of the directors of the City of Kent Economic Development Corporation.

WHEREAS, Ordinance 2419, adopted August 1, 1983, created the City of Kent Economic Development Corporation; and

WHEREAS, said Ordinance 2419 established a new Chapter 12.18 in the Kent City Code; and

WHEREAS, Ordinance 2419 was amended by Ordinance 2354 adopted November 7, 1983 renumbering Section 12.18 to 12.28 during an interim revision of the Kent City Code which has not been fully effectuated resulting in a conflict of numbering in provisions and;

WHEREAS, Ordinance 2419 was further amended by Ordinance 2592 adopted November 18, 1985 amending the provisions relating to the term of office of directors of the City of Kent Economic Development Corporation and;

WHEREAS, said appointment provisions are in conflict with an opinion of the State Attorney General's Office as it relates to councilmembers serving on a board of an Economic Development Corporation, NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES 
HEREBY ORDAIN AS FOLLOWS:

Section 1. Ordinance 2433, entitled:
"AN ORDINANCE of the City of Kent, 
Washington relating to the City of Kent 
Economic Development Corporation; renumbering 
Chapter 12.18 Kent City Code to Chapter 12.28 
Kent City Code."

is hereby repealed.

Section 2. Section 1 of Ordinance 2419 as amended by 
Ordinance 2592 is hereby amended and renumbered to Chapter 12.18 
as follows:

12.18.010. ECONOMIC DEVELOPMENT CORPORATION CREATED. 
For the purpose of facilitating economic development and 
employment opportunities within the city of Kent ("City"), there 
is created the City of Kent Economic Development Corporation (the 
"Corporation") to exist under the authority of and for the 
purposes authorized by Chapter 300, Laws of 1981, codified as 
Chapter 39.84 RCW, as the same may be amended from time to time 
("Chapter 39.84 RCW"). The Corporation shall operate under 
Chapter 39.84 RCW and under the provisions of the charter, on 
file with the City Clerk and by this reference incorporated 
herein, which the City is authorized to and does issue to the 
Corporation and by this ordinance is approved. The City reserves 
the right, by ordinance, in its discretion and at any time to 
alter or change the structure, organizational programs or 
activities of the Corporation including dissolving the 
Corporation if the contracts entered into by the Corporation are 
not impaired. Any net earnings of the Corporation beyond those
necessary for the retirement of the indebtedness incurred by it shall not inure to the benefit of any person other than the City. Upon dissolution of the Corporation, title to all property owned by the Corporation shall vest in the City.

12.18.020. BOARD OF DIRECTORS ESTABLISHED. There is established a Board of Directors ("Board") composed of five members to govern the affairs of the Corporation. The Board of Directors shall consist of three councilmembers serving ex-officio and two or more non-councilmembers whose appointments shall be as set forth below. The Board shall be subject to the Open Public Meetings Law of the State. A majority of the Board shall constitute a quorum for the purpose of conducting meetings, and all actions taken by the Board other than adjourning a meeting for lack of a quorum shall require an affirmative vote of a majority of members of the Board. The Board shall conduct the affairs of the Corporation but may delegate administrative and managerial duties to employees of the Corporation. The Board shall have authority to employ its own staff and independent professional consultants to carry out its duties, provide for their compensation and the compensation of members of the Board, designate one or more depositories, provide for reimbursement for expenses, provide for Board meetings, the principal office of the Corporation and other matters necessary for the operation of the Corporation. The powers and limitations of the Corporation shall be as set forth in Chapter 39.84 RCW and other applicable law.
12.18.030. DIRECTORS APPOINTED - VACANCIES.

A. The following persons are appointed as the original members of the Board of Directors of the Corporation:

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Type of Appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Tim Leahy</td>
<td>Councilmember</td>
</tr>
<tr>
<td>2.</td>
<td>Tom Bailey</td>
<td>Councilmember</td>
</tr>
<tr>
<td>3.</td>
<td>Bernie Biteman</td>
<td>Councilmember</td>
</tr>
<tr>
<td>4.</td>
<td>Michael Miller</td>
<td>Noncouncilmember</td>
</tr>
<tr>
<td>5.</td>
<td>Lee Powers</td>
<td>Noncouncilmember</td>
</tr>
</tbody>
</table>

Non-councilmember directors shall be appointed by the Mayor subject to confirmation by the City Council. The term of office for non-councilmember directors shall be for four years. (Except that director positions 2 and 4 shall be first appointed for two year terms, which may be less than twenty-four months, and the remaining positions shall be for four year terms. Thereafter) The (requisite number of) non-councilmember directors shall be appointed biennially as the terms of their predecessors expire (and shall serve for terms of four years). The anniversary date for non-councilmember directors for designation of terms shall be the end of the public corporation's fiscal year.

Councilmember directors serving on the Board shall be comprised of the three most senior councilmembers serving on the Kent City Council. (Subject to the right of the City Council to remove any member of the Board of Directors of the Corporation by resolution, the members) Councilmember directors of the Board serving by reason of the public office which they hold shall serve until they (resign from the Board or) no longer occupy that public office or are no longer the most senior councilmembers available to serve.
B. The Mayor City Council, subject to City Council confirmation, shall fill vacancies of non-councilmember seats in the Board of Directors for the remainder of the unexpired term by an appointing resolution. Should a councilmember director refuse to serve on the Board, then the next most senior councilmember who has not refused to serve, shall serve on the Board.

C. Notwithstanding ((KCC 12.28.030)) A. and B., above, members of the Board shall continue as members of the Board until their positions are filled ((by the City Council)) as set forth herein. This Section ((KCC-12.28.030-C.)) shall apply in the event of the expiration of a term of a non-councilmember director or in the event that a member of the Board ((appointed)) serving by reason of the public office which is held no longer occupies that public office. Nothing in this Section ((KCC-12.28.030-C.)) shall impair the right of the City Council to remove any non-councilmember of the Board.

12.18.040. FINANCIAL INTERESTS PROHIBITED. It shall be illegal for a director, officer, agent or employee of the Corporation to have directly or indirectly any financial interest in any property to be included in or any contract for property, services or materials to be furnished or used in connection with any industrial facility financed through the Corporation. Violation of any provision of this section is a gross misdemeanor under state law.

Section 3. CHARTER AMENDED. The charter of the City of Kent Economic Development Corporation is hereby amended consistent with the changes herein as set forth in Exhibit A attached hereto and incorporated by reference.
Section 4. RATIFICATION AND CONFIRMATION. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 5. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law.

ATTEST:

BRENDA JACOBER, DEPUTY CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 20 day of August, 1991.
APPROVED the 21 day of August, 1991.
PUBLISHED the 23 day of August, 1991.
I hereby certify that this is a true and correct copy of Ordinance No. 2494, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, DEPUTY CITY CLERK
CHARTER OF CITY OF KENT ECONOMIC DEVELOPMENT CORPORATION

ARTICLE 1

Name
The name of this public corporation is City of Kent Economic Development Corporation.

ARTICLE 2

Duration
The period of duration of this public corporation is perpetual.

ARTICLE 3

Purpose
The purposes of this public corporation are to facilitate local economic development and employment opportunities in the City of Kent (the "City") to the full extent and by any means permitted by Chapter 300, Laws of 1981, codified as Chapter 39.84 RCW, of the State of Washington ("Chapter 39.84 RCW"), and by Washington Constitution Article XXXII, Section 1, as now in effect and hereafter amended, both collectively referred to in this Charter as the "Local Economic Development Act of 1981," and to act on behalf of the City as an authority and an instrumentality thereof within the meaning of Section 103 of the United States Internal Revenue Code of 1954, as amended, and the Treasury regulations and Internal Revenue Service rulings issued pursuant thereto, for the specific public purposes authorized by the Local Economic Development Act of 1981.

ARTICLE 4

Powers
The public corporation shall have all of the powers granted to public corporations by the Local Economic Development
Act of 1981, as now in effect and hereafter amended, including all powers necessary or incidental to specific powers granted thereby, and subject to any limitations stated therein.

ARTICLE 5

Limitations on Authority

This public corporation shall be subject to all limitations set forth in Chapter 39.84 RCW of the State of Washington, including the following limitations on its authority:

5.1 General. It is not a municipal corporation or political subdivision within the meaning of the Constitution and laws of the State of Washington. It shall neither have nor be delegated any attributes of sovereignty, including but not limited to the power to tax, the power of eminent domain and the police power. It shall not receive or accept gifts or loans of any money or property from any municipality.

5.2 Prerequisites to the Issuance of Revenue Bonds. It shall not issue revenue bonds unless:

a. The issuance is approved by both the City and the public entity having jurisdiction in the territory in which the proposed industrial development facility lies; and

b. The board of directors has made a finding that in its opinion the interest paid on the bonds will be exempt from federal income taxation.

5.3 Nature and payment of Revenue Bonds. All revenue bonds issued by it:
a. Shall not be deemed (i) to constitute a debt of the State of Washington, of the City or of any other municipal corporation, quasi-municipal corporation, subdivision or agency of the State of Washington or (ii) to pledge any or all of the faith and credit of any of those entities;

b. Shall be payable solely from both revenues derived in any manner as a result of the industrial development facilities funded by the revenue bonds and money and other property received from private sources; and

c. Shall contain on the face of each bond statements to the effect that (i) neither the State of Washington, the City or any other municipal corporation, quasi-municipal corporation, subdivision or agency of the State of Washington is obligated to pay the principal or interest thereon; (ii) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (iii) neither any or all of the faith and credit nor the taxing power of the State of Washington, the City or any other municipal corporation, quasi-municipal corporation, subdivision or agency thereof is pledged to the payment of the principal of or the interest on the revenue bond.
5.4 Obligations Generally. It may incur only those financial obligations which will be paid from revenues received pursuant to financing documents providing funds to pay or secure debt service on revenue bonds, from fees or charges paid by users or prospective users of the industrial development facilities funded by the revenue bonds, or from the proceeds of revenue bonds.

ARTICLE 6

Board of Directors

6.1 Power. The affairs of the public corporation shall be governed by a board of directors.

6.2 Number and Qualifications. The entire board of directors shall consist of not less than five persons designated by the City as provided in section 6.3 of this article and who may be public officials of the City serving ex officio. No person having any interest prohibited by Article 7 hereof shall serve or be eligible to serve on the board of directors.

6.3 Designation and Term. The members of the initial board of directors shall be designated in the ordinance passed by the City to approve this Charter. The initial board of directors shall be divided into two classes, with one class designated to serve until the end of the public corporation's second fiscal year, which may be a term of less than twenty-four months, the second class designated to serve until the end of the public corporation's fourth fiscal
year. Thereafter, the City shall designate by resolution persons to succeed those directors whose terms of office are expiring and to serve for a term of four years. The board of directors shall consist of three councilmember directors and as many non-councilmember directors as may be appointed by the Mayor subject to City Council confirmation. Terms of office of non-councilmember directors shall be divided as equally as possible into two classes of four year terms with the terms of each class expiring biennially. The anniversary date for non-councilmember directors for designation of terms shall be the end of the public corporation's fiscal year. Each director shall serve for the term to which he/she is designated and until his/her successor is designated and qualified, except that no public official of the City serving ex officio shall serve for a term longer than his or her term of office as a public official. Any vacancy which occurs in the board of directors as a result of the expiration of the term of office of a public official serving ex officio shall be filled as provided in section 6.5 of this article.

Councilmember directors serving on the Board shall be comprised of the three most senior councilmembers serving on the Kent City Council. Councilmember directors of the Board serving by reason of the public office which they hold shall serve until they
no longer occupy that public office or are no longer the most senior councilmembers available to serve.

6.4 Removal. The City Council may remove from office any or all non-councilmembers of the board of directors for any reason by the adoption of a resolution providing for such removal, which shall be effective on the date of adoption, and designating a successor in office to each person removed, who shall serve for the unexpired term of his/her predecessor in office.

6.5 Vacancies. Any non-councilmember vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of non-councilmember directors of this public corporation shall be filled by mayoral appointment subject to confirmation by the City Council the person or persons designated in a resolution adopted by the City. A person designated to fill a vacancy shall serve for the unexpired term of his/her predecessor in office. A person designated to fill a new directorship shall serve for a term for as provided in the resolution by which he/she is designated. Should a councilmember director refuse to serve on the Board, then the next most senior councilmember who has not refused to serve shall serve on the Board.

6.6 Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business. The act of a majority of the directors present at a
meeting at which a quorum is present shall be the act of the board.

ARTICLE 7

Prohibition of Interest

No director, officer, agent or employee of this public corporation shall have, directly or indirectly, any financial interest in any property to be included in or any contract for property, services, or materials to be furnished or used in connection with any industrial development facility financed through this public corporation, and no person having any such interest shall be eligible to serve as a director, officer, agent or employee of this public corporation.

ARTICLE 8

Financial Statements, Books and Records

The financial statements, books and records of this public corporation shall be reviewed annually by the City, which shall have access thereto at all times.

ARTICLE 9

Bylaws

The board of directors shall adopt bylaws to govern the activities and internal affairs of this public corporation not inconsistent with this Charter.

ARTICLE 10

Amendments

The City in its discretion and at any time may by the passage of an ordinance amend or repeal the Charter and bylaws and change or terminate the programs and activities of the public
corporation if such action does not have the effect of impairing any contract with this public corporation.

ARTICLE 11

Dissolution

The net earnings, if any, of this public corporation beyond those necessary for retirement of indebtedness incurred by it shall not inure to the benefit of any person other than the City. The City may by the passage of an ordinance dissolve this public corporation if it has no funds or property to administer except those, if any that are to be paid or transferred to the City and all of its outstanding obligations have been satisfied. Upon dissolution of this public corporation, title to all property owned by it shall vest in the City.

ARTICLE 12

Designation of Initial Office and Agent for Service of Process

The address of the initial office of this public corporation is 220 Fourth Avenue South, Kent, Washington 98032-5895 and its agent for service of process at that address is the Secretary of the public corporation.

APPROVED by Ordinance No. 2419 adopted by the City on August 1, 1983 and by Ordinance 2994 adopted by the City on August 20, 1991.