CITY OF KENT, WASHINGTON

ORDINANCE NO. 3403

AN ORDINANCE of the City of Kent, Washington, approving and confirming the assessments and assessment roll of Local Improvement District No. 348 for the construction of 64th Avenue South from approximately 200 feet north of South 226th Street to South 216th Street, including miscellaneous intersection improvements at the intersection of 64th Avenue South and West Meeker Street and a water main line extension to complete water main loop on 64th Avenue South and water and sewer stub extensions to unserviced property, as provided by Ordinance No. 3347, and levying and assessing a part of the cost and expense thereof against the several lots, tracts, parcels of land and other property as shown on the assessment roll.

WHEREAS, the assessment roll levying the special assessments against the property located in Local Improvement District No. 348 in the City of Kent, Washington (the “City”), has been filed with the City Clerk as provided by law; and

WHEREAS, notice of the time and place of hearing thereon and making objections and protests to the roll was published at and for the time and in the manner provided by law fixing the time and place of hearing thereon for the 5th day of May, 1998, at the hour of 7:00 p.m., local time, in the Council Chambers in the City Hall, Kent, Washington, and further notice thereof was mailed by the City Clerk to each property owner shown on the roll; and

WHEREAS, at the time and place fixed and designated in the notice the hearing was held, all written protests received were considered and all persons appearing at the hearing who wished to be heard were heard, and the City Council, sitting and acting as a Board of Equalization for the purpose of considering the roll and the special benefits to be received by each lot, parcel and tract of land shown upon such roll, including the increase and enhancement of the fair market value of each such parcel of land by reason of the improvement, overruled all such protests; NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO ORDAIN as follows:

Section 1. Roll Confirmation. The assessments and assessment roll of Local Improvement District No. 348, which has been created and established for the purpose of constructing 64th Avenue South from approximately 200 feet north of South 226th Street to South 216th Street, including miscellaneous intersection improvements at the intersection of 64th Avenue South and West Meeker Street and a water main line extension to complete water main loop on 64th Avenue South and water and sewer stub extensions to unserviced property, as provided by Ordinance No. 3347, as the same now stand shall be and the same are approved and confirmed in all things and respects in the total amount of $1,743,701.30.

Section 2. Parcel No. 6 Objection.

(a) By letter dated May 1, 1998, the City Council received a document from Jennifer D. Cobb, attorney at law, that was characterized as a "formal objection" to the proposed assessment for K&W Holdings, Inc. (Assessment Parcel No. 6, Tax Lot No. 112204-9059-08) ("Objection"). This document asserted that the proposed City improvements did not provide a special benefit to the subject property because (1) the improvements would not increase the property's value and (2) there would be no access to the property from the proposed roadway improvement.

(b) At the hearing, the uncontested evidence demonstrated that the Objection was based on an inconclusive wetland designation of Parcel No. 6. However, there was no wetland survey or delineation to either confirm or deny the existence of wetland on Parcel No. 6. Additionally, the evidence showed that the City had written the owner requesting to enter the
property to conduct a wetland survey or delineation at City expense in order to verify the existence or nonexistence of wetlands on Parcel No. 6, but K&W had refused.

(c) The evidence demonstrates clearly that a number of similarly situated properties that appeared to be encumbered by wetlands had recently been developed in the City. According to the evidence, at the time of development application, such property had been subject to more detailed surveys and mitigation measures that allowed the sites to be developed. Accordingly, in the absence of convincing evidence to the contrary, Parcel No. 6 was properly assessed as if it were fully developable.

(d) With respect to access, the evidence is persuasive that Parcel No. 6 abuts the roadway that is the subject of this LID, and will be allowed driveway access at the time Parcel No. 6 is developed. Consistent with Public Works Department policies, the City does not construct driveway aprons onto undeveloped land as part of a street widening project. The reason for these policies is that, historically, actual development proposals typically require relocation of any existing driveway aprons.

(e) The evidence presented in the Objection is not persuasive, and insufficient to rebut the presumption of correctness. Even if sufficient to overcome the presumption of correctness, the uncontested evidence at the hearing supports the finding of special benefit in at least the amount shown on the roll.

Section 3. Special Benefit. Each of the lots, tracts, parcels of land and other property shown upon the assessment roll is determined and declared to be specially benefited by this improvement in at least the amount charged against the same, and the assessment appearing against the same is in proportion to the several assessments appearing upon the roll. There is
levied and assessed against each lot, tract or parcel of land and other property appearing upon the roll the amount finally charged against the same thereon.

Section 4. Notice of Roll. The assessment roll as approved and confirmed shall be filed with the Finance Division Director of the City for collection and the Finance Division Director is authorized and directed to publish notice as required by law stating that the roll is in her hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at any time within 30 days from the date of first publication of such notice without penalty, interest or cost, and that thereafter the sum remaining unpaid may be paid in 15 equal annual installments. The estimated interest rate is stated to be 5.9% per annum, with the exact interest rate to be fixed in the ordinance authorizing the issuance and sale of the local improvement bonds for Local Improvement District No. 348. The first installment of assessments on the assessment roll shall become due and payable during the 30-day period succeeding the date one year after the date of first publication by the Finance Division Director of notice that the assessment roll is in her hands for collection and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of the assessment remains unpaid after the first 30-day period, interest upon the whole unpaid sum shall be charged at the rate as determined above, and each year thereafter one of the installments, together with interest due on the unpaid balance, shall be collected. Any installment not paid prior to expiration of the 30-day period during which such installment is due and payable shall thereupon become delinquent. Each delinquent installment shall be subject, at the time of delinquency, to a charge of 9% penalty levied on both principal and interest due upon that installment, and all delinquent installments also shall be charged interest at the rate as
determined above. The collection of such delinquent installments shall be enforced in the manner provided by law.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage and five (5) days following its publication as required by law.

By

HM WHITE, Mayor

ATTEST:

BRENDA JACODER, City Clerk, ACTING DONNA SWAW

APPROVED AS TO FORM:

Special Counsel and Bond Counsel for the City

Passed the 19th day of May, 1998.
Approved the 19th day of May, 1998.
Published the 23rd day of May, 1998
ORDINANCE NO. 3403

Grantor(s): City of Kent
Grantee(s):

Legal Description: (abbreviated)

Additional Legal is on page _____ of document(s).

Assessor's Property Tax Parcel/Account Number(s):

THIS DOCUMENT CONTAINS THIS COVERSHEET AND 5 ADDITIONAL PAGES.