ORDINANCE NO. 3619

AN ORDINANCE of the City Council of the City of Kent, Washington, ordering the construction of the South 228th Street Extension, from 54th Avenue South to Military Road, with a bridge over the Green River, additional improvements to Military Road, sanitary sewer improvements between 42nd Avenue South and Military Road, improvements to South 228th Street between 54th Avenue South and 76th Avenue South, and sidewalk and street lighting on 76th Avenue South/4th Avenue North between South 220th Street and SR 167, all consistent with Resolution No. 1626 of the City Council; establishing Local Improvement District No. 353; ordering the carrying out of the proposed improvement; extending the period for payment on Environmental Mitigation Agreements to March 17, 2003; providing that payment for the improvement be made in part by special assessments upon the property in the District, payable by the mode of "payment by bonds"; and, providing for the issuance and sale of local improvement district warrants redeemable in cash or other short-term financing and local improvement district bonds.

WHEREAS, by Resolution No. 1626 adopted August 20, 2002, the City Council declared its intention to order the construction of South 228th Street Extension, from 54th Avenue South to Military Road, with a bridge over the Green River, additional improvements to Military Road, sanitary sewer improvements between 42nd Avenue South and Military Road and sidewalk and street lighting on 76th Avenue South/4th Avenue North between South 220th Street and SR 167, and fixed September 17, 2002, at 7:00 p.m., local time, in the Council chambers of the City hall as the time and place for hearing all matters relating to the proposed improvement and all comments thereon and objections thereto and for determining the method of payment for the improvement; and
WHEREAS, the City's director of public works caused an estimate to be made of the cost and expense of the proposed improvement and certified that estimate to the City Council, together with all papers and information in his possession touching the proposed improvement, a description of the boundaries of the proposed local improvement district and a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district; and

WHEREAS, that estimate is accompanied by a diagram of the proposed improvement showing thereon the lots, tracts, parcels of land, and other property which will be specially benefited by the proposed improvement and the estimated cost and expense thereof to be borne by each lot, tract and parcel of land or other property; and

WHEREAS, due notice of the above hearing was given in the manner provided by law, and the hearing was held by the City Council on the date and at the time above mentioned, and all persons appearing at such hearing and wishing to be heard were heard; and

WHEREAS, the improvements to be constructed should include additional street and related improvements to South 228th Street between 54th Avenue South and 76th Avenue South to provide a continuous arterial between Military Road and 84th Avenue South; and

WHEREAS, the City Council has determined it to be in the best interests of the City that the improvement as hereinafter described be carried out and that a local improvement district be created in connection therewith; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN as follows:

SECTION 1. The City Council of the City of Kent, Washington (the "City"), orders the construction of the South 228th Street Extension, from 54th Avenue South to Military Road, with a bridge over the Green River, additional improvements to Military Road, sanitary sewer improvements between 42nd Avenue South and Military Road, improvements to South 228th Street between 54th Avenue South and 76th Avenue
South, and sidewalk and street lighting on 76th Avenue South/4th Avenue North between South 220th Street and SR 167, as more fully described in Exhibit A, attached hereto and by this reference made incorporated herein.

All of the foregoing shall be in accordance with the plans and specifications therefor prepared by the director of public works of the City, and may be modified by the City Council as long as such modification does not affect the purpose of the improvement.

SECTION 2. There is created and established a local improvement district to be called Local Improvement District No. 353 of the City of Kent, Washington (the "District"), the boundaries or territorial extent of the District being more particularly described in Exhibit B attached hereto and by this reference incorporated herein.

SECTION 3. The total estimated cost and expense of the improvement is declared to be $30,000,000. Approximately $15,000,000 of the cost and expense shall be borne by and assessed against the property specially benefited by such improvement included in the District which embraces as nearly as practicable all property specially benefited by such improvement, and the balance of such cost and expense shall be paid by the City.

SECTION 4. In accordance with the provisions of RCW 35.44.047, the City may use any method or combination of methods to compute assessments which may be deemed to more fairly reflect the special benefits to the properties being assessed than the statutory method of assessing the properties.

SECTION 5. Local improvement district warrants may be issued in payment of the cost and expense of the improvement herein ordered to be assessed, such warrants to be paid out of the Local Improvement Fund, District No. 353, hereinafter created and referred to as the Local Improvement Fund, and, until the bonds referred to in this section are issued and delivered to the purchaser thereof, to bear interest from the date thereof at a rate to be established hereafter by the City’s finance department director, as issuing officer, and to be redeemed in cash and/or by local
improvement district bonds herein authorized to be issued, such interest-bearing warrants to be hereafter referred to as “revenue warrants.” In the alternative, the City hereafter may provide by ordinance for the issuance of other short-term obligations pursuant to chapter 39.50 RCW.

If the City shall authorize expenditures to be made for such improvement (other than for any cost or expense expected to be borne by the City) prior to the date that any short-term obligations or local improvement district bonds are issued to finance the improvement, from proceeds of interfund loans or other funds that are not, and are not reasonably expected to be, reserved, allocated on a long-term basis or otherwise set aside to pay the cost of the improvement herein ordered to be assessed against the property specially benefited thereby, the City declares its official intent that those expenditures, to the extent not reimbursed with prepaid special benefit assessments, are to be reimbursed from proceeds of short-term obligations or local improvement district bonds that are expected to be issued for the improvement in a principal amount not exceeding $15,000,000.

The City is authorized to issue local improvement district bonds for the District which shall bear interest at a rate and be payable on or before a date to be hereafter fixed by ordinance. The bonds shall be issued in exchange for and/or in redemption of any and all revenue warrants issued hereunder or other short-term obligations hereafter authorized and not redeemed in cash within twenty days after the expiration of the thirty-day period for the cash payment without interest of assessments on the assessment roll for the District. The bonds shall be paid and redeemed by the collection of special assessments to be levied and assessed against the property within the District, payable in annual installments, with interest at a rate to be hereafter fixed by ordinance under the mode of “payment by bonds,” as defined by law and the ordinances of the City. The exact form, amount, date, interest rate and denominations of such bonds hereafter shall be fixed by ordinance of the City Council. Such bonds shall be sold in such manner as the City Council hereafter shall determine.

SECTION 6. For the purpose of paying all or a part of the costs of carrying out the improvements within the District pending the receipt of the proceeds of the issuance and sale of the bonds or short-term obligations referred to in Section 5,
interfund loans from the General Fund and/or Street Fund to the Local Improvement Fund in the maximum aggregate amount of $15,950,000 are authorized and approved, those loans to be repaid on or before the issuance of such bonds or libations from the proceeds thereof. Each of the interfund loans shall bear interest at a variable rate, adjusted the 15th and last day of each month, equal to the interest rate of the State of Washington Local Government Investment Pool on the 15th and last day of each month. The initial interest rate on the date of each interfund loan shall be determined as of the last preceding interest payment adjustment date.

**SECTION 7.** Certain properties located within the boundaries of the District, as described in Exhibit B, are subject to Environmental Mitigation Agreements ("EMAs"). EMAs provide, in part, for payment of a proportionate share of the cost of the proposed improvements or by participating in the District. Properties that have paid pursuant to EMAs may have no further obligations for the proposed improvements. To provide additional time to properties to pay under EMAs, and to minimize City cost and expense, the time to pay under EMAs is hereby extended to March 17, 2003. After March 17, 2003, properties shall pay consistent with chapter 35.49 RCW or other applicable law.

**SECTION 8.** In all cases where the work necessary to be done in connection with the making of such improvement is carried out pursuant to contract upon competitive bids (and the City shall have and reserves the right to reject any and all bids), the call for bids shall include a statement that payment for such work will be made in cash warrants drawn upon the Local Improvement Fund.

**SECTION 9.** The Local Improvement Fund for the District is created and established in the office of the finance department director of the City. The proceeds from the sale of revenue warrants or other short-term obligations drawn against the fund which may be issued and sold by the City and the collections of special assessments, interest and penalties thereon shall be deposited in the Local Improvement Fund. Cash warrants to the contractor or contractors in payment for the work to be done by them in connection with the improvement and cash warrants in payment for all other items of expense in connection with the improvement shall be issued against the Local Improvement Fund.
SECTION 10. Within 15 days of the passage of this ordinance there shall be filed with the finance department director of the City the title of the improvement and District number, a copy of the diagram or print showing the boundaries of the District and the preliminary assessment roll or abstract of such roll showing thereon the lots, tracts and parcels of land that will be specially benefited thereby and the estimated cost and expense of such improvement to be borne by each lot, tract or parcel of land. The finance department director of the City immediately shall post the proposed assessment roll upon her index of local improvement assessments against the properties affected by the local improvement.

SECTION 11. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as required by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

P. STEPHEN DiJULIO,
FOSTER PEPPER & SHEFELMAN PLLC

Passed the ___ day of October, 2002.
Approved the ___ day of October, 2002.
Published the ___ day of October, 2002.
CERTIFICATION

I, the undersigned, city clerk of the City of Kent, Washington (the “City”), hereby certify as follows:

1. The attached copy of Ordinance No. 3619 (the “Ordinance”) is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on October 1, 2002, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City’s official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of October, 2002.

CITY OF KENT, WASHINGTON

[Signature]

BRENDA JACOBER, City Clerk
PROPOSED S. 228TH STREET EXTENSION

The proposed L.I.D. will construct the South 228th Street Extension, from 54th Avenue South to Military Road, with a bridge over the Green River, and additional improvements to Military Road to accommodate the new roadway. The new roadway will be 5 lanes (4 lanes on bridge) with turning lanes at major intersections. Sidewalks will be placed along both sides of the roadway with street lighting and street trees where practical. Storm drainage will be constructed as necessary. 42nd Avenue South will be constructed from its existing terminus in the Riverview Community to South 228th Street.

PROPOSED SANITARY SEWER EXTENSION

The proposed L.I.D. will also include a sanitary sewer in the S. 228th Street extension between 42nd Avenue South and Military Road to serve properties on the west hill.

PROPOSED 76TH AVENUE SOUTH/4TH AVENUE NORTH IMPROVEMENTS

The proposed L.I.D. will also include sidewalks and street lighting on 76th Avenue South/4th Avenue North between S. 220th Street and SR 167 along properties that currently do not have these improvements.

PROPOSED 72ND AVENUE LEFT-TURN LANE

Construct an eastbound-to-northbound left-turn lane on S. 228th Street to accommodate turning traffic.

PROPOSED S. 228TH HALF-STREET AND FRONTAGE IMPROVEMENTS

Complete half-street and frontage improvements between 54th Avenue S and 64th Avenue S to provide a continuous arterial between 84th Avenue S and Military Road, including widening, sidewalks, street lighting, drainage and other improvements.

Complete frontage and lane improvements between SR-181 and the Burlington Northern railroad tracks, including sidewalks and street lighting.
EXHIBIT "B"

LID 353

S. 228th STREET EXTENSION
(54TH AVENUE S TO KENT-DES MOINES ROAD [SR-516])

BOUNDARY LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON, EXCEPT ANY PORTIONS LYING WITHIN THE PLAT OF PACIFIC GATEWAY BUSINESS PARK, VOLUME 197 OF PLATS PAGES 62 THROUGH 71, RECORDS OF KING COUNTY, WASHINGTON;

AND THAT PORTION OF THE SOUTHWEST QUARTER IN SAID SECTION 2, LYING EAST OF 59th PLACE SOUTH, EXCEPT ANY PORTION LYING WITHIN SAID PLAT;

AND ALSO, THAT PORTION OF THE NORTHEAST QUARTER OF SAID SECTION 2, LYING SOUTH OF SOUTH 199th PLACE AND EAST OF SAID PLAT;

AND ALSO, THAT PORTION OF SECTION 12, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON, LYING SOUTH OF SOUTH 212th STREET AND WEST OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY;

AND ALSO, ALL OF SECTION 11, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON; EXCEPT ANY PORTIONS LYING WITHIN THE PLAT OF PACIFIC GATEWAY BUSINESS PARK, VOLUME 197, OF PLATS PAGES 62
THROUGH 71, AND EXCEPT ANY PORTION OF SAID SECTION 11 LYING WEST OF RUSSELL ROAD SOUTH AND NORTH OF SOUTH 212TH STREET;

AND ALSO, ALL OF SECTION 14, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON, EXCEPT THAT PORTION OF THE SOUTHWEST QUARTER OF SAID SECTION 14 LYING SOUTHERLY OF THE GREEN RIVER;

AND ALSO, THAT PORTION OF SECTION 13, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON, LYING NORTH OF JAMES STREET AND NORTHWESTERLY OF SR 167; AND WEST OF THE BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY;

AND ALSO, LOTS 1, 2, AND 3 OF WILDFLOWER SHORT PLAT #SP-95-5 RECORDED UNDER KING COUNTY RECORDING NO. 9506280862 LOCATED IN A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON;

AND ALSO, LEXINGTON PARK CONDOMINIUM RECORDED IN VOLUME 130 OF CONDOMINIUMS, PAGES 19 THROUGH 23, IN KING COUNTY, WASHINGTON;

AND ALSO, LOTS 1, 2, 3 AND 4 OF KMDB SHORT PLAT #SP-96-34 RECORDED UNDER KING COUNTY RECORDING NO. 9707289008, BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M. IN KING COUNTY, WASHINGTON;
AND ALSO, THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING SOUTH OF SOUTH 212TH STREET; AND LYING EAST OF 42ND AVENUE SOUTH;

AND ALSO, THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 10, LYING SOUTHWESTERLY OF 37TH PLACE SOUTH AND SOUTHEASTERLY OF 40TH PLACE SOUTH;

AND ALSO, THE SOUTHEAST QUARTER OF SAID SECTION 10;

AND ALSO, SKYLINE PARK CONDOMINIUM RECORDED IN VOLUME 75 OF CONDOMINIUMS, PAGES 21 THROUGH 24; IN KING COUNTY, WASHINGTON;

AND ALSO, LOTS 13 AND 25 IN RICHARDS GRANDVIEW TRACTS (UNRECORDED);

AND ALSO, THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 15 TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY AND NORTHEASTERLY OF STATE ROUTE 516, EXCEPT THE SOUTH 408.00 FEET THEREOF;

AND ALSO, THE NORTHEAST QUARTER OF SAID SECTION 15; AND ALSO THAT PORTION OF THE SOUTHWEST QUARTER OF SAID SECTION 15, LYING NORTHERLY OF STATE ROUTE 516 AND EASTERLY OF INTERSTATE HIGHWAY NUMBER 5 (AKA) PRIMARY STATE HIGHWAY NUMBER 5;
AND ALSO, THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15, LYING SOUTH OF THE FOLLOWING DESCRIBED LINE:


THENCE WEST A DISTANCE OF 190 FEET;

THENCE NORTH PARALLEL WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15 A DISTANCE OF 57 FEET;

THENCE WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15, TO A POINT WHICH LIES 18 FEET SOUTH AND 200 FEET EAST OF THE CENTERLINE OF SAID OLD MILITARY ROAD;

THENCE NORTH PARALLEL WITH THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 18 FEET;

THENCE WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15, TO A POINT OF INTERSECTION WITH THE WESTERLY MARGIN OF SAID OLD MILITARY ROAD;
THENCE NORTHERLY ALONG SAID WESTERLY MARGIN TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE NORTH 460.00 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15;
THENCE WEST PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15, TO THE EASTERLY LINE OF SAID INTERSTATE HIGHWAY NUMBER 5, BEING THE TERMINUS OF LINE HEREIN DESCRIBED;

AND ALSO, THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 15;
THENCE SOUTH TO THE SOUTHWEST CORNER THEREOF;
THENCE EAST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 275.00 FEET;
THENCE SOUTH PARALLEL WITH THE EAST LINE OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15, TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER IN SAID SECTION 15;
THENCE WEST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 45.26 FEET;
THENCE SOUTH 40°21'00" WEST A DISTANCE OF 203.85 FEET;
THENCE SOUTH 00°57'00" EAST A DISTANCE OF 93.00 FEET;
THENCE SOUTH 75°00'00" WEST A DISTANCE OF 167.4 FEET;
THENCE SOUTH 20°00'00" EAST A DISTANCE OF 32.72 FEET;
THENCE SOUTH 88°28'00" WEST TO A POINT ON THE WEST LINE OF THE EAST
HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15;
THENCE SOUTH ALONG THE WEST LINE THEREOF TO THE SOUTHWEST
CORNER OF SAID EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION
15;
THENCE EAST ALONG THE SOUTH LINE THEREOF TO THE SOUTHEAST CORNER
OF SAID EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 15;
THENCE NORTH ALONG THE EAST LINE OF SAID EAST HALF OF THE
NORTHWEST QUARTER OF SAID SECTION 15, TO THE NORTHEAST CORNER
THEREOF;

AND ALSO, LOTS 1 AND 2 OF WESTERN ESTATES SHORT PLAT #SP-80-9
RECORDING #8009100829, AND CORRECTED BY RECORDING #8010080590;

EXCEPT ANY PORTIONS OF ALL THE PROPERTY DESCRIBED HEREIN LYING
WITHIN PUBLIC RIGHT-OF-WAYS, WATERWAYS, AND KING COUNTY DRAINAGE
DISTRICT RIGHT-OF-WAYS.