Ordinance No. 3817

(Amending or Repealing Ordinances)

CFN=1302 – LID 351/361
Passed – 10/17/06
LID 351/361 Final Assessment Roll
AN ORDINANCE of the city of Kent, Washington approving and confirming a Supplemental Assessment Roll for Local Improvement District (LID) No. 351, designated as LID No. 361, for the construction of the South 277th Street Corridor Improvements, as originally provided by Ordinance No. 3496; 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 Supplemental Assessment Roll.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Recitals.

1.1 On December 14, 1999, the city of Kent adopted Ordinance No. 3496 establishing Local Improvement District ("LID") No. 351. LID No. 351 provided for the construction of a new five lane arterial extending from Auburn Way North (East Valley Highway) eastward up the hill to Kent Kangley Road at 116th Avenue (and as more particularly described in Exhibit A to Ordinance 3496 - "277th Street Corridor Improvements").

1.2 On April 12, 2000, having given notice in accordance with applicable law, the city council Public Works Committee, sitting as a Board of Equalization ("Board"), heard any protests to the final assessment roll for LID No. 351. On May 1, 2000, the Board met and considered proposed findings of fact and conclusions of law ("Findings"). The Board entered its Findings and
forwarded them to the city council for consideration. On May 30, 2000, the 
Board revised its Findings and forwarded the revised Findings to the city council. 
The city council approved and confirmed the assessments and assessment roll for 
LID No. 351 by Ordinance No. 3513 (June 6, 2000).

1.3 Subsequent to the confirmation of the assessments and 
assessment roll for LID No. 351, it came to the attention of the city that ten (10) 
parcels of land were inadvertently omitted from properties included within LID 
No. 351. On August 17, 2004, the council authorized the process for inclusion of 
omitted properties and the creation of a supplemental assessment roll to LID No. 
351 ("Supplemental Roll"). On October 1, 2004, the Public Works Department 
mailed an informational letter to owners of property proposed to be included in 
the Supplemental Roll. That informational letter further advised of an informal 
property owners meeting. The informal property owners meeting was conducted on 

1.4 All of the properties included within LID No. 351, and all of the 
properties to be included within the Supplemental Roll for LID No. 351, are 
subject to environmental mitigation agreements (EMAs). EMAs require property 
owners to pay an established dollar amount not later than ten years from the 
date of the EMA if no LID is formed. Creation of the LID and payment of the 
amount assessed under the LID satisfies the requirements of the EMA. None of 
the properties would have been allowed to develop without either undertaking 
full traffic mitigation or committing to future financing of the 277th Street 
Corridor Improvements by execution of an EMA. Many properties have been 
subsequently subdivided, developed, and sold. The EMA obligation remains a 
covenant running with the land and binding on subsequent purchasers.

1.5 On March 9, 2006, the Public Works Department mailed notice to 
properties (123 lots) within the proposed Supplemental Roll, advising of the 
alternative for payment of EMA obligations in lieu of participation in an LID. 
Many other properties have directly paid mitigation for traffic impacts and for the 
277th Street Corridor Improvements.

1.6 By Resolution No. 1733 (September 5, 2006) the city council 
declared its intent to create a supplemental assessment roll for omitted 
properties to assess a part of the cost and expense of carrying out the 277th
Street Corridor Improvements. The Resolution designated the city council’s Public Works Committee to sit as a Board of Equalization to hear protests to the supplemental assessments for LID No. 351 and to set a hearing date for October 2, 2006, at 6:00 p.m. For purposes of administrative convenience, the city of Kent designated the supplemental roll to LID No. 351 as “LID No. 361.” The Supplemental Roll was prepared as authorized by law and was filed and opened to inspection at the office of the city clerk at City Hall.

1.7 RCW 35.44.360 provides that “if by reason of mistake, inadvertence, or for any cause,” property in a Local Improvement District which except for its submission would have been subject to assessment has been omitted from the assessment roll, the city council may proceed to assess the property so omitted in accordance with the benefits accruing to it by reasons of the improvement. In addition, RCW 35.44.290 states that the property found to be specially benefited may be assessed whether or not the property “abuts upon, is adjacent to, or proximate to the improvement.” Assessments are to be in proportion to the assessments levied upon other property in the Local Improvement District.

1.8 On October 2, 2006, the Public Works Committee of the council, sitting as a Board of Equalization (“Board”), conducted the hearing on the Supplemental Roll. The Board received evidence and considered four (4) written protests. No other protests were received and considered. While invited by the Board, no testimony from any person filing a written protest was offered. Following close of the hearing, the Board recessed to deliberate. Following deliberations, the Board determined to confirm the Supplemental Roll and to refer this Ordinance to the council. In doing so, the Board took notice of and received as evidence the record in LID No. 351, and the Findings of Fact and Conclusions approved by the city council in Ordinance No. 3513.

SECTION 2. - Confirmation of Supplemental Roll. The assessments and supplemental assessment roll of Local Improvement District No. 351 (as designated by the city as LID No. 361), as originally authorized by Ordinance No. 3496, shall be and the same are approved and confirmed in all things and respects in the total amount of $324,148.68.
**SECTION 3. - Special Benefits.** Each of the lots, tracts, parcels of land, and other properties shown upon the Supplemental Roll is determined and declared to be specially benefited by the 277th Street Corridor Improvements 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 LID No. 351 assessment roll and the Supplemental Roll. There is levied and assessed against each lot, tract, or parcel of land and other property appearing upon the Supplemental Roll the amount finally charged against the same thereon.

Consistent with RCW 35.44.380, the lots, tracts, land, and other properties included within the Supplemental Roll are considered “as though the property were included in the original roll for LID No. 351.”

**SECTION 4. - Findings.**

4.1 The recitals set forth in Section 1 above are incorporated by this reference and included as council’s findings as if fully set forth herein.

4.2 The Findings for LID No. 351, as entered by the Board of Equalization (May 1, 2000, as revised May 30, 2000) and attached as Exhibit 1 to Ordinance No. 3513 are ratified and incorporated herein by this reference.

4.3 The city has performed a special benefits analysis based upon the benefits to the property accruing through the use of EMAs and the later development of the 277th Street Corridor Improvements project. The special benefit analysis more fairly reflects the special benefits to the property within the LID than the zone and termini method. The properties on the Supplemental Roll are benefited specially by the 277th Street Corridor Improvements.

**SECTION 5. - Notice of Roll.** The Supplemental Roll as approved and confirmed shall be filed with the Finance Director of the city for collection and the Finance Director is authorized and directed to publish notice as required by law stating that the roll is in the Director’s hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at any time within thirty (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 fifteen (15) equal annual installments. The interest rate is five
and 63/100 percent (5.63%) per annum. The first installment of assessments on
the supplemental roll shall become due and payable during the thirty (30) day
period succeeding the date one year after the date of first publication by the
Finance Director of notice that the supplemental roll is in the Director's 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 thirty (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
thirty (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 nine percent (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 6. – Severability. If one or more sections, subsections, or
sentences of this ordinance are held to be unconstitutional or invalid, such
decision shall not affect the validity of the remaining portion of this ordinance
and the same shall remain in full force and effect.

SECTION 7. – Effective Date. 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:

BRENDA JACOBER, CITY CLERK

Suzette Cooke, Mayor

LID 351/361 Final Assessment Roll
I hereby certify that this is a true copy of Ordinance No. 3817 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, CITY CLERK

(SEAL)