Ordinance No. 3821

(Amending or Repealing Ordinances)

CFN=1292 – LID 358
Passed – 11/21/06
LID 358 – Financing Ordinance
ORDINANCE NO. 3821

AN ORDINANCE of the city of Kent, Washington, relating to Local Improvement District No. 358, fixing the amount, form, date, interest rate, and maturity of Local Improvement District No. 358 Installment Note; providing for the purchase of such note by the city from funds on deposit in the Water Fund; and fixing the interest rate on Local Improvement District No. 358 assessment installments.

RECITALS

A. Pursuant to RCW 35.45.150, the city council of the city of Kent, Washington, has determined to issue its Local Improvement District No. 358 Installment Note in the aggregate principal amount of $468,892 and finds it is in the best interest of the city that such note be purchased by the city from funds on deposit in the Water Fund of the city and available for investment.

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

ORDINANCE

SECTION 1. – Authorization and Description of Note. The total amount of the assessment roll in Local Improvement District No. 358 in the city of Kent, Washington, created under Ordinance No. 3731, passed February 15, 2005, was $572,598. The 30-day period for making cash payments of assessments without interest in the District expired on April 13, 2005, and the total amount of assessments paid in cash was $103,706, leaving a balance of assessments unpaid on the assessment roll in the sum of $468,892. The Local Improvement District No. 358 Installment Note (the “Note”) shall, therefore, be issued pursuant to RCW 35.45.150 as a single installment note in the total
principal sum of $468,892. The Note shall be dated November 1, 2006; shall mature on November 1, 2015; shall be in fully registered form; and shall be numbered R06-01. The Note shall bear interest at the rate of 4.50% per annum (computed on the basis of a 360-day year of twelve 30-day months), payable annually beginning November 1, 2007.

SECTION 2. - Appointment of Note Registrar; Registration and Transfer of Note. The Finance Director of the city is appointed Note Registrar for the Note. The Note shall be issued to the city's Water Fund (the "Registered Owner") only in registered form as to both principal and interest and shall be recorded on books or records maintained by the Note Registrar (the "Note Register"). The Note Register shall contain the name and mailing address of the Registered Owner. The Note may not be assigned or transferred by the Registered Owner. When the Note has been paid in full, both principal and interest, it shall be surrendered by the Registered Owner to the Note Registrar, who shall cancel the Note.

The Note Registrar shall keep, or cause to be kept, at his/her office sufficient books for the registration of the Note. The Note Registrar is authorized, on behalf of the city, to authenticate and deliver the Note in accordance with the provisions of the Note and this ordinance, to serve as the city's paying agent for the Note and to carry out all of the Note Registrar's powers and duties under this ordinance and city Ordinance No. 2418 establishing a system of registration for the city's bonds and obligations. The Note Registrar shall be responsible for the representations contained in the Note Registrar's Certificate of Authentication on the Note.

SECTION 3. - Payment of Note. Both Principal of and interest on the Note shall be payable solely out of the Local Improvement Fund, District No. 358 (the "Note Fund"), and from the Local Improvement Guaranty Fund of the city, and shall be payable in lawful money of the United States of America. Interest on the Note and any prepaid principal thereon, shall be paid by check, draft, or interfund transfer on the interest payment date to the Registered Owner at the address appearing on the Note Register. The final installment of principal and interest on the Note at maturity or prior repayment is payable at
the office of the Note Registrar in Kent, Washington, upon presentation and surrender of the Note.

**SECTION 4.** - Prepayment Provisions. The city reserves the right to prepay principal of the Note prior to its stated maturity on any interest payment date, at par plus accrued interest to the date fixed for prepayment, whenever there shall be sufficient money in the Note Fund to prepay the principal of the Note over and above the amount required for the payment of the interest then due on the Note. No notice of prepayment to the Registered Owner is required. Interest on the principal of the Note so prepaid shall cease to accrue on the date of such prepayment.

**SECTION 5.** - Failure to Redeem Note. If the Note is not redeemed when properly presented at its maturity date, the city shall be obligated to pay interest on the Note at the same rate provided therein from and after its maturity date until the Note, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Note Fund and the Note has been called for payment by giving notice of that call to the Registered Owner.

**SECTION 6.** - Form and Execution of Note. The Note shall be printed, lithographed, or typed on good bond paper in a form consistent with the provisions of this ordinance and state law, shall be signed by the mayor and the city clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the city or a facsimile reproduction thereof shall be impressed or printed thereon.

Only the Note bearing a Certificate of Authentication in the following form, manually signed by the Note Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:
CERTIFICATE OF AUTHENTICATION

This Note is the fully registered city of Kent, Washington, Local Improvement District No. 358 Installment Note described in the Note Ordinance.

Finance Director
Note Registrar

The authorized signing of the Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated, and delivered and is entitled to the benefits of this ordinance.

SECTION 7. - Purchase and Sale of Note. The city will purchase the Note from funds available for investment on deposit in the Water Fund of the city at a price of par plus accrued interest from the date of the Note to the date of its transfer to the city. The proper city officials are authorized and directed to do everything necessary for the prompt delivery of the Note and for the proper application and use of the proceeds of the sale thereof.

SECTION 8. - Fixing Interest Rate on Assessments. The interest rate on the installments and delinquent payments of the special assessments in Local Improvement District No. 358 is fixed at a rate of 4.50% per annum.

SECTION 9. - Effective Date of Ordinance. This ordinance shall take effect and be in force five (5) dates from and after its passage and publication as required by law.

SUZETTE COOKE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

LID 358 - Financing Ordinance
I hereby certify that this is a true copy of Ordinance No. 358 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

APPROVED AS TO FORM:

[Signature]

FOSTER PEPPER PLLC
Special Counsel and Bond Counsel

PASSED: 21 day of November, 2006
APPROVED: 22 day of November, 2006
PUBLISHED: 25 day of November, 2006

LID 358 – Financing Ordinance
UNITED STATES OF AMERICA

STATE OF WASHINGTON

CITY OF KENT

LOCAL IMPROVEMENT DISTRICT NO. 358 INSTALLMENT NOTE

Interest Rate: 4 50%  Maturity Date: November 1, 2015

Registered Owner: CITY OF KENT WATER FUND

Principal Amount: FOUR HUNDRED SIXTY-EIGHT THOUSAND EIGHT HUNDRED NINETY-TWO DOLLARS ($468,892 00)

N B The laws of the State of Washington under which this Note is issued contain the following section (RCW 35.45.070):

Neither the holder nor owner of any bond, interest coupon, or warrant issued against a local improvement fund shall have any claim therefore against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the bond or warrant was issued and except also for payment from the local improvement guaranty fund of the city or town as to bonds issued after the creation of a local improvement guaranty fund of that city or town. The city or town shall not be liable to the holder or owner of any bond, interest coupon, or warrant for any loss to the local improvement guaranty fund occurring in the lawful operation thereof. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond.

The CITY OF KENT, WASHINGTON (the "City"), a municipal corporation of the State of Washington, promises to pay to the Registered Owner identified above, on the Maturity Date identified above, the Principal Amount identified above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) thereon from the date of this Note or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum identified above, payable annually beginning November 1, 2006, to the maturity or earlier prepayment of this Note. If this Note is not redeemed when properly presented at its maturity date, then interest shall continue to accrue at the Interest Rate identified above until this Note, both principal and interest, is paid in full or until sufficient money for its payment in full has been deposited in Local Improvement Fund, District No 358 (the "Note Fund"), and this Note has been called for payment.
This Note, designated the Local Improvement District No. 358 Installment Note, is issued by the City in fully registered form pursuant to and in full compliance with the Constitution and laws of the State of Washington and ordinances of the City, including Ordinance No. ____ (the "Note Ordinance"). This Note is issued for the purpose of providing the funds necessary to pay the costs of constructing the improvements within Local Improvement District No. 358 of the City as ordered to be carried out by Ordinance No. 3731 of the City.

The City has reserved the right to prepay principal of this Note prior to its stated maturity date on any interest payment date, at par plus accrued interest to the date fixed for prepayment, whenever there is sufficient money in the Note Fund to prepay the principal of the Note over and above the amount required for the payment of the interest then due on the unpaid Note. No notice of prepayment to the Registered Owner is required. Interest on the principal of this Note so prepaid shall cease to accrue on the date of such prepayment.

Both principal of and interest on this Note are payable in lawful money of the United States of America. Interest on this Note, and any prepaid principal thereon, shall be paid by check, draft or interfund transfer on the interest payment date to the Registered Owner at the address appearing on the registration books of the City (the "Note Register") maintained by the Finance Director of the City (the "Note Registrar"). The final installment of principal and interest on the Note at maturity or prior repayment is payable at the office of the Note Registrar in Kent, Washington, upon presentation and surrender of the Note.

The funds deposited in the Note Fund and the Local Improvement Guaranty Fund of the City have been and are pledged irrevocably to the payment of principal of and interest on this Note. This Note is not a general obligation of the City.

This Note shall not be valid or become obligatory for any purpose until the Certificate of Authentication hereon has been signed by the Note Registrar.

The principal of and interest on this Note shall be paid only to the Registered Owner and to no other person or entity, and this Note may not be assigned or transferred.

The City and the Note Registrar may deem and treat the Registered Owner of this Note as its absolute owner for the purpose of receiving payment of principal and interest and for all other purposes, and neither the City nor the Note Registrar shall be affected by any notice to the contrary. As used herein, Registered Owner means the person or entity named as Registered Owner of this Note on the first page hereof and on the Note Register.

It is certified, recited and declared that all acts, conditions and things required to be done precedent to and in the levying of any assessments and the issuance of this Note have been done properly, have happened and have been performed in regular and due
form, as required by law, and that this Note has not been issued in an amount in excess of the cost of the improvements in Local Improvement District No. 358.

IN WITNESS WHEREOF, the City has caused this Note to be executed on behalf of the City by its Mayor and City Clerk, and the seal of the City to be impressed hereon, this ___ day of _____________________, 2006.

CITY OF KENT, WASHINGTON

By: ______________________
   Mayor

By: ______________________
   City Clerk

Date of Authentication: ______________________

CERTIFICATE OF AUTHENTICATION

This Note is fully registered City of Kent, Washington, Local Improvement District No. 358 Installment Note described in the Note Ordinance.

By: ______________________
   Finance Director, Note Registrar