

RESOLUTION R-4714

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SEWER FACILITY AGREEMENT WITH SINCLAIR THIMIGAN HOMES AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT ON BEHALF OF THE CITY OF KIRKLAND.

WHEREAS, the improvement of public health is furthered by adequate sanitary sewer systems; and

WHEREAS, the Washington State Legislature enacted the Municipal Water and Sewer Facilities Act (RCW 35.91.010 et seq.) in furtherance of this goal and authorizing municipalities to enter into agreements of this nature; and

WHEREAS, The City of Kirkland concludes entering into this agreement will promote this goal; and

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:


Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City the Sewer Facility Agreement between the City and Sinclair Thimigan . A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this 15th day of July, 2008.

Signed in authentication thereof this 15th day of July, 2008

  
MAYOR

Attest:

  
City Clerk



**SEWER FACILITIES AGREEMENT PURSUANT TO CHAPTER  
35.91 REVISED CODE OF WASHINGTON**

THIS AGREEMENT made and entered into this day, pursuant to RCW Chapter 35.91, between the City of Kirkland, a non-charter optional code city, hereinafter referred to as "City" and Sinclair Thinger Homes hereinafter referred to as "Developer":

WITNESSETH

Section 1. Developer does hereby agree to construct, at its sole expense, the SEWER FACILITIES described in EXHIBIT 1, attached hereto and by this reference incorporated herein, all in accordance with the specifications and standards of the City of Kirkland pertaining to sewer construction and installation.

Section 2. Upon completion of said sewer facilities to the satisfaction of the Kirkland Director of Public Works, and acceptance thereof by the City of Kirkland, said facility shall become the property of the City of Kirkland and a part of its sewer system with full power of the City of Kirkland to charge for its use such sewer connection and service rates and charges as the City of Kirkland may be authorized by law to establish, and all further maintenance operation costs of said facility shall be borne by the City of Kirkland.

Section 3. The benefit area to be served by said facility is described and designated on EXHIBIT 2 attached to this agreement and by this reference incorporated herein. Said Exhibit is a map showing the total benefit area and delineating thereon that portion of the benefit area owned by Developer. EXHIBIT 3 attached to this agreement and by this reference incorporated herein is a listing of each lot or parcel within the benefit area including the lot or parcel legal description and the lot of parcel's "pro rata share" of the cost of construction of the sewer facilities. EXHIBIT 3 identifies those lots or parcels owned by Developer and not subject to the provisions of Section 4 of this agreement.

Section 4. Any owner of any real property located within the benefit area (other than those properties designated in EXHIBIT 1 as Developer's properties) who shall hereafter tap into or use said sewer facility (including not only connecting directly into, but also to users connecting laterals or branches connected thereto) shall, prior to such tap in or use, pay to the City of Kirkland, in addition to any connection or other change required by the ordinances of the City of Kirkland to be paid upon connecting to a sewer facility, their fair pro rata share of the cost of construction of said facility.

Section 5. For the purposes of determining such "fair pro rata share" the cost of construction of said facility shall be considered to be \$98,419.01, provided, however, the City may adjust said cost to reflect the true and final cost of construction of said facility. The "FAIR PRO RATA SHARE" of the cost of construction as designated on EXHIBIT 2, and is hereby approved by the City of Kirkland.

**Section 6.** Within sixty (60) days after receipt by the City of any "fair pro rata share," the City shall disburse said sum, less fifteen (15) percent thereof to be retained by the City of Kirkland to cover costs of administering the provisions of this agreement, to Developer at 12360 NE 8th St #100 Bellevue WA until such time as Developer shall have received the total sum of \$49,508.56, or the expiration of fifteen (15) years from the date of this agreement, whichever event shall first occur. Thereafter, any amount of charge made or received by the City to tap into or use said facility shall be retained by the City. It shall be the duty of the Developer to advise the City of any change in the Developer's mailing address.

**Section 7.** The provisions of this agreement shall not be effective as to any owner of real property designated in EXHIBIT 2, other than Developer, until such time as this agreement shall have been recorded in the Office of the King County Department of Elections and Records and then only as to such real property owners as tap into or connect into said facility subsequent to such recording. City shall not be required to disburse any "fair pro rata share" to Developer which may not be lawfully collected from such real property owner at the time said real property taps into or connects to said facility.

**Section 8.** In the event the cost, or any part thereof, of a or sewer improvement, whether local or general, is or will be assessed against the owners of real property and such improvement will be connected into or will make use of the facility constructed pursuant to this agreement and the cost thereof was not contributed to by the owners of said real property, there shall be included in the Engineer's estimate for the hearing or any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided for in this agreement as a fair pro rata share due from such owners in accordance with the provisions of this agreement.

**Section 9.** No person, firm, or corporation, other than Developer's, as to the real property identified as owned by Developer in EXHIBIT 3 hereto, shall be granted a permit or authorized to tap into or use said facility or extensions thereof without first paying their fair pro rata share as herein provided.

DATED at Kirkland, Washington, this \_\_\_\_\_ day of \_\_\_\_\_.

CITY OF KIRKLAND:




DEVELOPER:

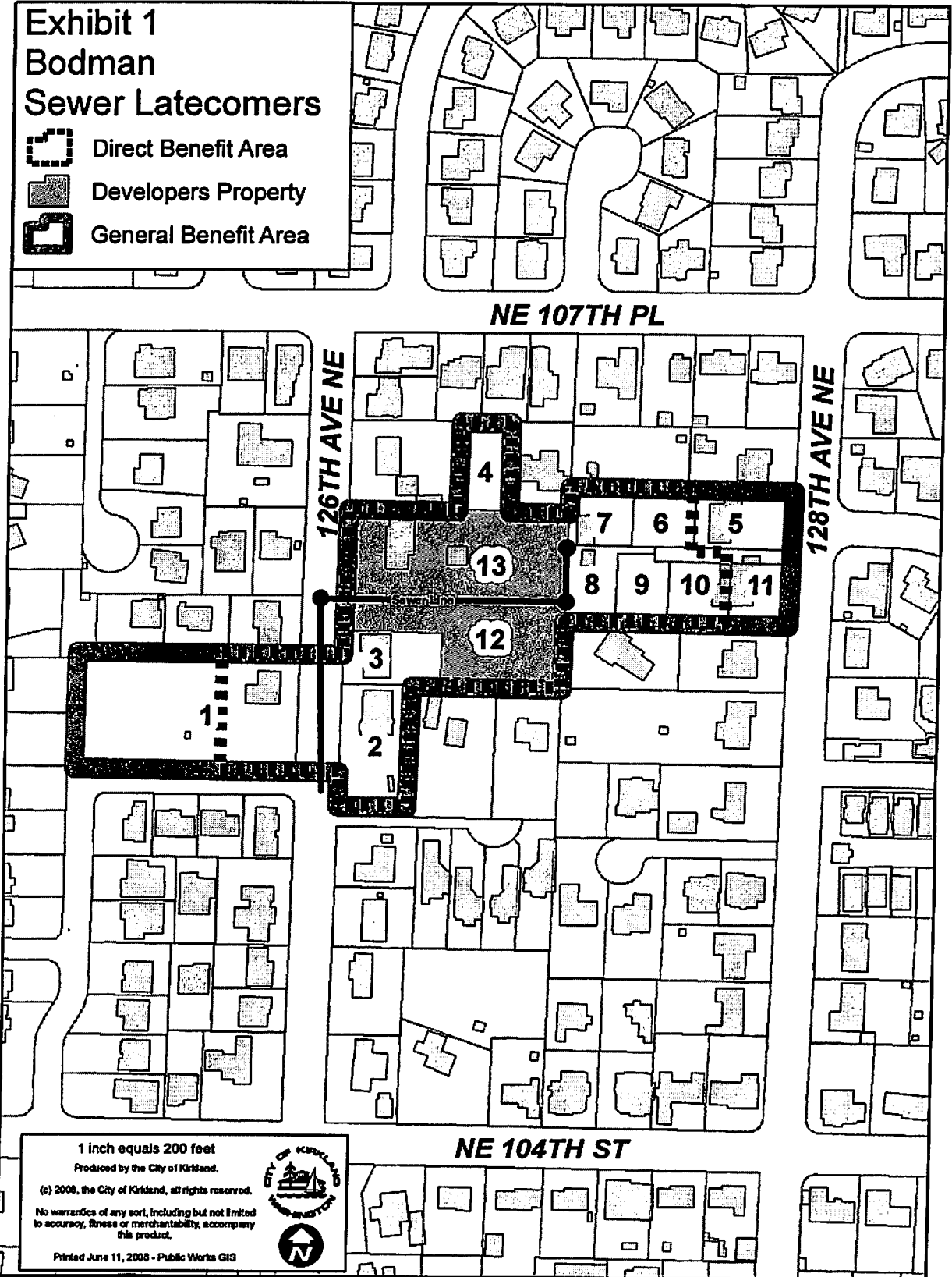
\_\_\_\_\_  
CITY MANAGER FOR THE City of Kirkland  
KIRKLAND WHO IS AUTHORIZED TO  
EXECUTE THIS AGREEMENT ON  
BEHALF OF SAID CITY BY VIRTUE  
OF RESOLUTION NO. \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

By: \_\_\_\_\_

**Exhibit 1  
Bodman  
Sewer Latecomers**

-  Direct Benefit Area
-  Developers Property
-  General Benefit Area



1 inch equals 200 feet  
Produced by the City of Kirksland.

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No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

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Bedman Short Plat Latecomer's Assessment Roll

EXHIBIT 2

Ref No.	Tax/Parcel No.	Owner/Address	Assessed Land Description	Total Area (SQ)	Direct Benefit Area (SQ)	General Benefit Area (SQ)	Direct Benefit Cost	General Benefit Cost	Old Cost	Replacement Cost	Percentage Crd @ 10%
1	674370-0070	Mable H Tamura 10601 128th Ave NE Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND 14 & S 43.83 FT OF 15	57,499	14,400	57,499	\$7,045.17	\$6,850.79	\$13,695.95	\$11,641.56	\$2,054.39
2	674370-0318	Ibro & Navzela Plavcic 10452 128th Ave NE Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND S & N 1/2 OF S LESS E 210 FT LESS S 15 FT TMOF	14,000	14,000	14,000	\$6,849.47	\$1,619.35	\$8,468.82	\$7,198.49	\$1,270.32
3	674370-0308	Karl & Amy Garlick 10604 128th Ave NE Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND S 75 FT OF W 140 FT	10,500	10,500	10,500	\$5,137.10	\$1,214.51	\$6,351.61	\$5,398.67	\$952.74
4	674370-0310	Charles W. Daiger 12631 NE 107th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 2 KG SP 678002 REC UNDER AF 7810160868	19,166	9,583	9,583	\$4,888.46	\$1,108.45	\$5,796.91	\$4,927.37	\$869.54
5	674370-0368	Brian & Donna Korpola 10623 128th Ave NE Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 7 KIRKLAND SP #SPLOS-00049 REC #20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	11,547	0	11,547	\$0.00	\$1,335.62	\$1,335.62	\$1,135.27	\$200.34
6	674370-0382	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 6 TGW UND INT IN TR X KIRKLAND SP#SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	7,200	7,200	7,200	\$3,522.58	\$832.81	\$4,355.39	\$3,702.08	\$653.31
7	674370-0361	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 5 TGW UND INT IN TR X KIRKLAND SP#SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	7,291	7,291	7,291	\$3,587.10	\$843.33	\$4,410.44	\$3,748.67	\$661.57
8	674370-0369	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 4 TGW UND INT IN TR X KIRKLAND SP#SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	7,748	7,748	7,748	\$3,769.71	\$895.96	\$4,665.68	\$3,982.82	\$702.85
9	674370-0368	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 3 TGW UND INT IN TR X KIRKLAND SP#SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	6,541	6,541	6,541	\$3,200.17	\$758.58	\$3,958.75	\$3,383.24	\$593.51
10	674370-0367	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 2 TGW UND INT IN TR X KIRKLAND SP#SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	7,200	7,200	7,200	\$3,522.58	\$832.81	\$4,355.39	\$3,702.08	\$653.31
11	674370-0385	Merit Homes 13023 NE 70th Place Kirkland, WA 98033	PETTITS H C ALDER GROVE KIRKLAND LOT 1 TGW UND INT IN TR X KIRKLAND SP #SPLOS-00049 REC# 20071205900013 SD SP BEING N 32.68 FT OF LOT 15 & ALL LOT 16 TGW S 31.68 FT LOT 17 SD BLK 4 SD PLAT	7,200	0	7,200	\$0.00	\$832.81	\$832.81	\$707.89	\$124.92

<b>TOTALS</b>	155,890	84,461	148,397	\$41,322.34	\$16,923.02	\$64,245.35	\$49,508.56	\$8,738.00
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Cost Per Square Foot of Sewer Construction		Calculation of the Cost Per Square Foot of Sewer Construction	
Survey	\$2,000.00	75% of Total Cost Shall be borne by the Total Direct Benefit Area (TDBA)	
Engineering Cost	\$1,500.00	25% of Total Cost Shall be borne by the Total General Benefit Area (TGBA)	
Construction Cost	\$70,982.21	Therefore the following are cost per square foot for each benefit area:	
Overlay Cost	\$13,828.00	$(75\%)(\$41,322.34) = .75 \times \$41,322.34 =$	0.489248
Permit Fees	\$10,130.80	$(25\%)(\$16,923.02) = .25 \times \$16,923.02 =$	0.115668
<b>Total</b>	<b>\$98,419.01</b>		

### EXHIBIT 3

**Bodman Short Plat Developers Assessment Roll**

Ref. No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Area (SF)	Direct Benefit Area (SF)	General Benefit Area (SF)	Direct Benefit Cost	General Benefit Cost	Total Cost	Reimburse Developer @ 85%	Reimburse City @ 15%
12	674370-0305	Sinclair Thimgan Homes Inc 12360 NE 8th St #100 Bellevue, WA 98005	PETTITS H C ALDER GROVE KIRKLAND LOT 6 KIRKLAND SP#SPLO6-00002 REC#20080125900014 SD SP DAF- ALL LOT 3 TGW LOT 4 LESS S 75 FT OF W 140 FT	27,956	27,956	27,956	\$13,677.41	\$3,233.61	\$16,911.02	\$14,374.36	\$2,536.65
13	674370-0304	Sinclair Thimgan Homes Inc 12360 NE 8th St #100 Bellevue, WA 98005	PETTITS H C ALDER GROVE KIRKLAND LOT 1 KIRKLAND SP#SPLO6-00002 REC#20080125900014 SD SP DAF- ALL LOT 3 TGW LOT 4 LESS S 75 FT OF W 140 FT	38,456	38,456	38,456	\$16,814.51	\$4,448.12	\$23,262.63	\$19,773.24	\$3,489.39
<b>TOTALS</b>				<b>66,412</b>	<b>66,412</b>	<b>66,412</b>	<b>\$32,491.91</b>	<b>\$7,681.73</b>	<b>\$40,173.65</b>	<b>\$34,147.60</b>	<b>\$6,026.05</b>