

RESOLUTION R-4774

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A WATER FACILITY AGREEMENT WITH WONG KIRKLAND LLC 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 water 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 Water Facility Agreement between the City and Wong Kirkland LLC. A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this 1st day of September, 2009.

Signed in authentication thereof this 1st day of September, 2009


MAYOR

Attest:


City Clerk

ATTACHMENT 1



WATER 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 Wong Kirkland LLC hereinafter referred to as "Developer":

WITNESSETH

Section 1. Developer does hereby agree to construct, at its sole expense, the WATER 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 water construction and installation.

Section 2. Upon completion of said water 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 water system with full power of the City of Kirkland to charge for its use such water 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 water facilities. EXHIBIT 4 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 2 as Developer's properties) who shall hereafter tap into or use said water 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 water 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 \$5928.72, 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 3, 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 16541 Redmond Wy #273 until such time as Developer shall have received the total sum of \$20,157.64, 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 3, 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 water 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 4 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:

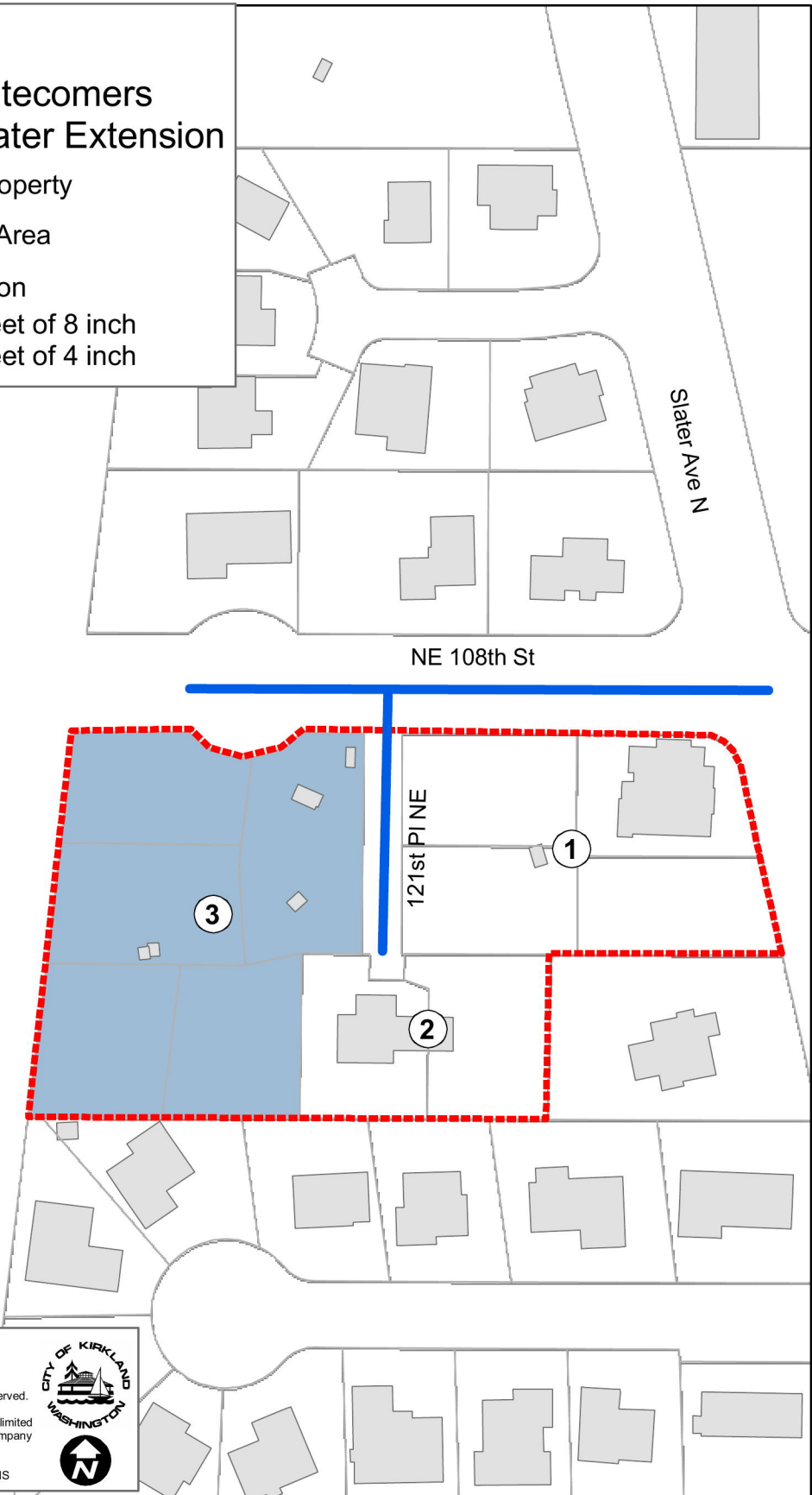
DEVELOPER:

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
Wong Water Latecomers
NE 108th St Water Extension

-  Developers Property
-  Direct Benefit Area
-  Water Extension
 - 370 lineal feet of 8 inch
 - 157 lineal feet of 4 inch



1 inch = 100 feet
Produced by the City of Kirkland.
(c) 2009, the City of Kirkland, all rights reserved.
No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.
Printed July 24, 2009 - Public Works GIS






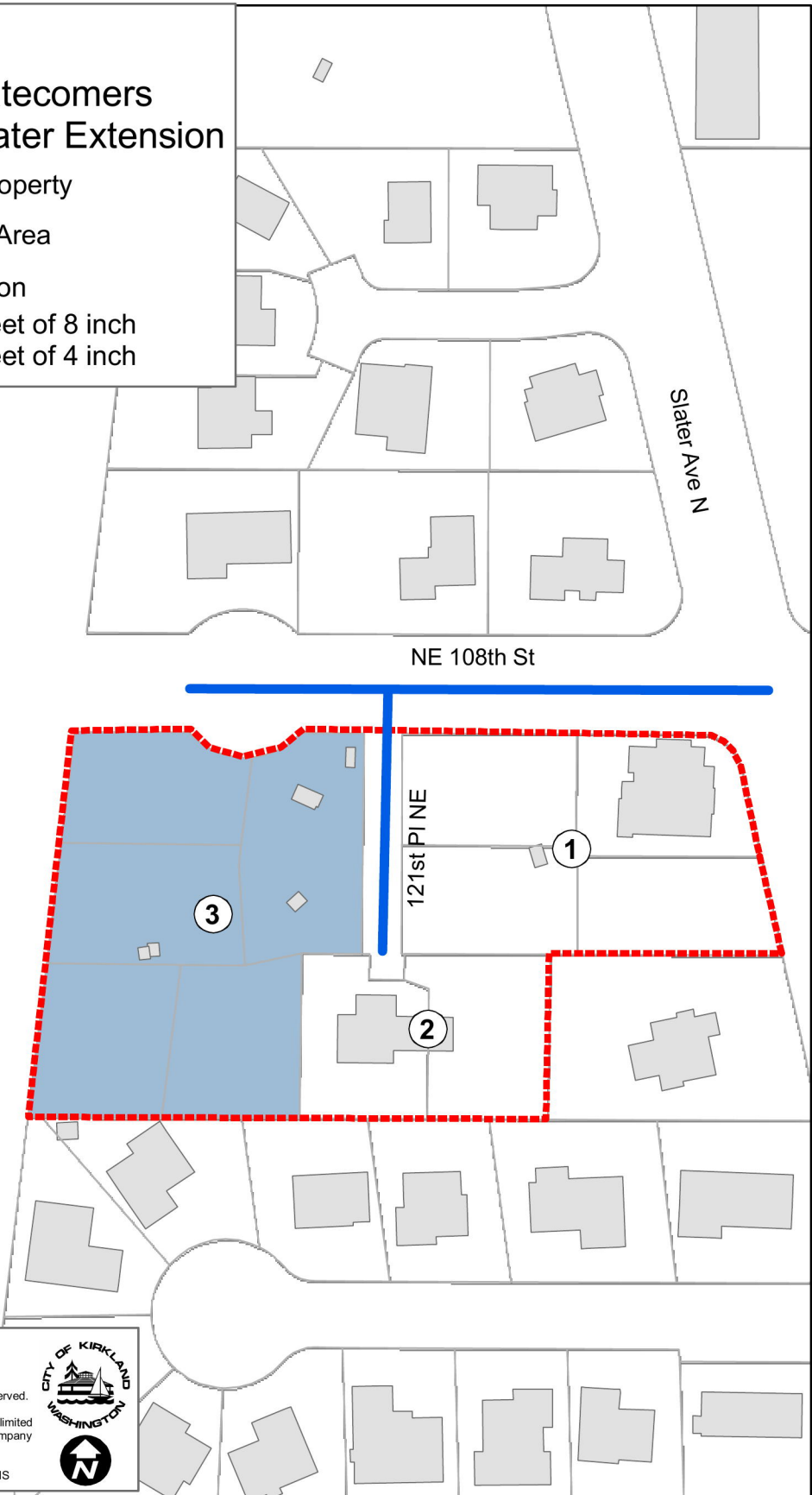




Exhibit 2
Wong Water Latecomers
NE 108th St Water Extension

-  Developers Property
-  Direct Benefit Area
-  Water Extension
 - 370 lineal feet of 8 inch
 - 157 lineal feet of 4 inch



1 inch = 100 feet
Produced by the City of Kirkland.
(c) 2009, the City of Kirkland, all rights reserved.
No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.
Printed July 24, 2009 - Public Works GIS



Wong Water Latecomers

EXHIBIT 3

Ref No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Connections	Cost per Connection	Total Cost	Reimburse Developer @ 85%	Reimburse City @ 15%
1	663990-0010	Samira Samimi 12209 NE 108th St Kirkland, WA 98033	Parishs Garden TRS Unrec Lot 1 of KCSP #1079023 Rec #8010020683 SD Plat DAF - Beg N 88-06-00 E 30 ft & S 01-23-45 E 30 ft of NW Cor of NE 1/4 of SW 1/4 of Sec 33-26-05 TH S 01-23-45 E 232.5 FT TH N 88-06-00 E 781.82 ft to W MGN of Blvd TH Nly Alg SD W MGN 233.46 ft to PT N 88-06-00 E from Beg TH S 88-06-00 W 727.21 ft to Beg Less POR Conv to State of Washington for hwy under AF #4597190 AKA TR 1 Parishs Garden TRS Unrec	4	\$5,928.72	\$23,714.87	\$20,157.64	\$3,557.23

TOTALS	4.0	\$5,928.72	\$23,714.87	\$20,157.64	\$3,557.23
---------------	------------	-------------------	--------------------	--------------------	-------------------

Cost of Water Construction		Calculation of the Cost Per Connection	
		100% of Total Cost Shall be borne by the Total Number of Connections (TNC)	
		Therefore the following is the cost per connection:	
Construction Cost	\$61,236.89	(Total Cost/TNC)) = \$65,215.89/ 11 =	\$5,928.72
Permit Fees	\$3,979.00		
Total	\$65,215.89		

Wong Developer's Assessment Roll

Exhibit 4

Ref No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Connections	Cost per Connection	Total Cost
2	663990-0012	Merit Homes Inc. 7545 126th Ave NE Kirkland, WA 98033	Parishs Garden TRS Unrec PP Act 39954532 Mobile Home Lot 3 of KCSP #1079023 Rec #8010020683 SD Plat DAF - Beg N 88-06-00 E 30 ft & S 01-23-45 E 30 ft of NW Cor of NE 1/4 of SW 1/4 of Sec 33-26-05 TH S 01-23-45 E 232.5 FT TH N 88-06-00 E 781-82 ft to W MGN of Blvd TH Nly Alg SD W MGN 233.46 ft to PT N 88-06-00 E from Beg TH S 88-06-00 W 727.21 ft to Beg Less POR Conv to State of Washington for hwy under AF #4597190 AKA TR 1 Parishs Garden TRS Unrec	2	\$5,928.72	\$11,857.43
3	663990-0014	Wong Kirkland LLC 21012 108th Ave SE Kent, WA 98051	Parishs Garden TRS Unrec Lots 1 - 5 Kirkland SPL05-00006 Rec# 20070109900008 SD SP Lying Ely of SR 405 Sly of NE 108th St & Nly of Slater manor Plat in NE 1/4 of SW 33-26-05 AKA Lot 4 KC SP 1079023 Rec# 8010020683	5	\$5,928.72	\$29,643.59
TOTALS				7	\$11,857.43	\$41,501.02