

RESOLUTION R-4818

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A WATER FACILITY AGREEMENT WITH LUNA SOL 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 Luna Sol. 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 June, 2010.

Signed in authentication thereof this 15th day of June, 2010.


MAYOR

Attest:


City Clerk

EXHIBIT A



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 _____ 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 1 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 2 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 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 3 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 \$191,318.74, 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 _____ until such time as Developer shall have received the total sum of \$162,620.93, 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 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 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:

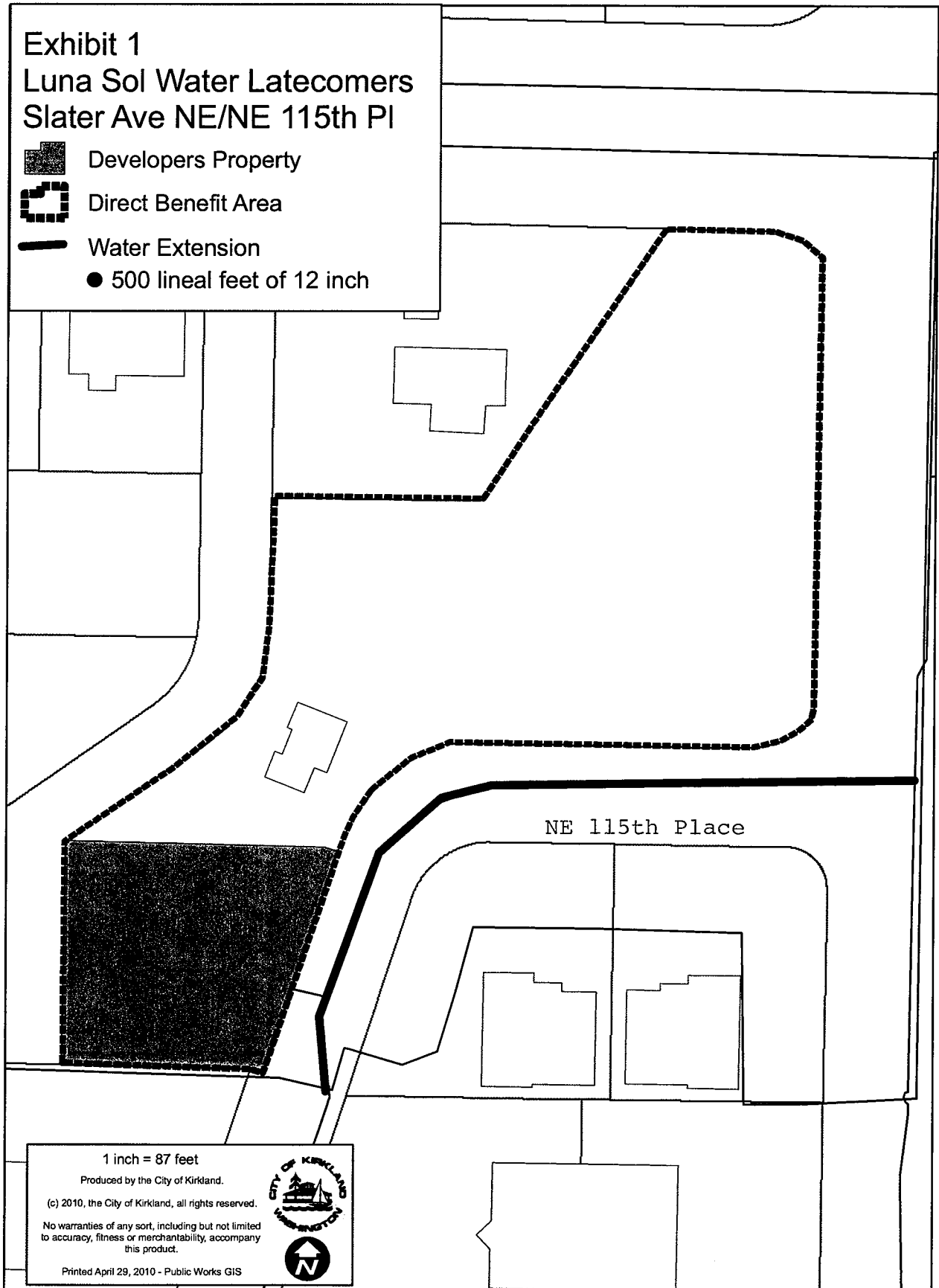
CITY MANAGER FOR THE City of Kirkland
KIRKLAND WHO IS AUTHORIZED TO
EXECUTE THIS AGREEMENT ON
BEHALF OF SAID CITY BY VIRTUE
OF RESOLUTION NO. _____

By: _____

By: _____

Exhibit 1 Luna Sol Water Latecomers Slater Ave NE/NE 115th Pl

-  Developers Property
-  Direct Benefit Area
-  Water Extension
- 500 lineal feet of 12 inch



1 inch = 87 feet

Produced by the City of Kirkland.

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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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Luna Sol Water Main Latecomers Assessments

EXHIBIT 2

Ref No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Lot Square Footage	Cost per Square Foot	Total Cost	Reimburse Developer @ 85%	Reimburse City @ 15%
1	332605-9069	Luna Sol LLC C/O Base Capital 11415 Slater Avenue NE, Suite 100 Kirkland, WA 98033	LOT 1 KCSP #778140 AF # 7912100778 SD PLAT DAF - S 266 FT OF N 577.5 FT OF E 944.625 FT OF NE 1/4 OF NW 1/4 LY W OF CO RD #970 LESS N 115 FT LY WITHIN E 544.625 FT OF SD SUBD LESS POR LY W OF E MGN PSH NO 1; TGW WEST 8 FT OF PORTION OF SLATER AVE NE AS VACATED UNDER CITY OF KIRKLAND ORD NO 3684A	19,883	\$1.85	\$36,850.73	\$31,323.12	\$5,527.61
2	332605-9092	Michael R. Mastro 510 Rainier Avenue S Seattle, WA 98144	LOT 1 KIRKLAND LLA #LL-00-68 REC #20020314002030 TGW POR VAC SLATER RD PER VAC ORD #8370 & #4094 LESS POR FOR 124TH AV NE PER REC #20040115000414 SD LLA LY IN NE COR OF NW 33-26-5 TGW UND INT IN POR SD NW 1/4 DAF - BEG SD N 1/4 COR TH N 88-36-29 W ALG N LN THOF 384.64 FT TH S 0-51-09 W PLW N-S C/L 60 FT TO POB TH CONT S0-51-09W 251.51 TO BEG CRV TO R RAD 78 FT ARC DIST 73.67 FT TH S 54-58-04 W 112 FT TH S 0-51-09 W 136 FT TH N 88-36-29 W 43 FT TH N 0-51-09 W 135.6 FT TO BEG CRV TO R RAD 43 FT ARC DIST 40.61 FT TH N 54-58-04 E 112 FT TO BEG CRV TO L RAD 35 FT ARC DIST 33.06 FT TH N 0-51-09 E 251.91 FT TO SLY LN SR 405 TH S 88-36-29 E TO POB	83,344	\$1.85	\$154,468.01	\$131,297.81	\$23,170.20
TOTALS				103,227	\$1.85	\$191,318.74	\$162,620.93	\$28,697.81

Cost of Sewer Construction		Calculation of the Cost Per Square Foot	
Paving	\$32,726.04	100% of Total Cost Shall be borne by the total SF of the lot areas benefitted	
Engineering	\$3,077.20		
Construction Cost	\$132,000.00	Therefore the following is the cost per Square Foot:	
10% construction mgmt	\$13,200.00	(Total Cost/Total SF) = \$191,318.74/ 103,227 SF =	\$1.85
Permit Fees	\$10,315.50		
Total	<u>\$191,318.74</u>		

Luna Sol Developers Assessment Roll**Exhibit 3**

Ref No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Lots	Total Cost
1	332605-9069	Luna Sol LLC C/O Base Capital 11415 Slater Avenue NE, Suite 100 Kirkland, WA 98033	LOT 1 KCSP #778140 AF # 7912100778 SD PLAT DAF - S 266 FT OF N 577.5 FT OF E 944.625 FT OF NE 1/4 OF NW 1/4 LY W OF CO RD #970 LESS N 115 FT LY WITHIN E 544.625 FT OF SD SUBD LESS POR LY W OF E MGN PSH NO 1; TGW WEST 8 FT OF PORTION OF SLATER AVE NE AS VACATED UNDER CITY OF KIRKLAND ORD NO 3684A	19,883	\$36,850.73