

RESOLUTION NO. R -2267

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING A MUNICIPAL FACILITIES AGREEMENT, PURSUANT TO RCW CHAPTER 35.91 BETWEEN THE CITY OF KIRKLAND AND THE DEVELOPERS OF LAKE VUE NO. 2, A PROPOSED SUBDIVISION.

WHEREAS, no sanitary sewer system or portion thereof may be constructed within the City except in conformance with the sanitary sewerage system comprehensive plan, and

WHEREAS, in pursuance of said plan, the City did, by Ordinance No. 2250 create Local Improvement District No. 113 for the construction of sewers within the area therein described, and

WHEREAS, thereafter bids were called by the City of Kirkland for the construction of the sewer system within said local improvement district, which bids received substantially exceeded the engineer's estimate and on that basis were rejected, and

WHEREAS, construction of the Local Improvement District No. 113 sanitary sewer system has, as a result thereof, been delayed by the City, and

WHEREAS, a portion of said area is owned by developer and is in the process of being platted, subdivided and developed for single family residences, and

WHEREAS, a requirement for such subdivision and development is the construction and installation of sanitary sewers, and

WHEREAS, the developer of said area known informally as Lake Vue No. 2 and hereinafter specifically described, has requested from the City permission to immediately construct so much of the L.I.D. No. 113 sanitary sewer system as is necessary to provide sanitary sewer service for the Lake Vue No. 2 subdivision, and

WHEREAS, RCW Chapter 35.91 authorizes the City to enter into a contract for the private construction of utility facilities, including sanitary sewers which, upon completion of construction, become a part of the City's sewerage system, and

WHEREAS, provision may be made in such municipal facilities agreement for the reimbursement or partial reimbursement of the expenditures made by the private developer in the construction of such facility or sewerage system, and

WHEREAS, a portion of said proposed contract provides that "in no event shall developer receive, by way of "fair prorata share" reimbursement, credit for assessment or any combination thereof an amount in excess of the greater of:

A. 85% of his actual cost of construction as determined by the accounting required to be filed with the City pursuant to Section 3 [of said contract], or

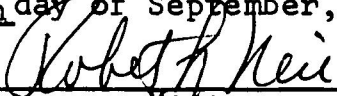
B. The total appearing on the final assessment roll for L.I.D. No. 113 for assessments levied against the property described in Exhibit B [that portion of Lake Vue No. 2 lying within the boundaries of L.I.D. No. 113].

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The mayor is hereby authorized to sign on behalf of the City, a contract between the City and the owners and developers of Lake Vue No. 2 substantially in the form attached to the original of this Resolution and by this reference incorporated herein.

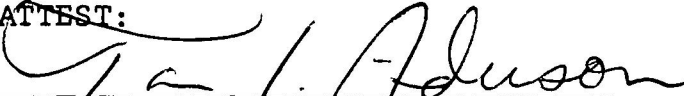
Section 2. The Director of Administration and Finance is directed to record a copy of said contract when signed by both parties with the King County Department of Elections and Records.

ADOPTED by a majority vote of the Kirkland City Council in regular meeting on the 16th day of September, 1974.



 Mayor

ATTEST:



 Director of Administration and Finance
 (ex officio City Clerk)

E X H I B I T "B"

TO

**Municipal Facilities Agreement for Developer Construction
of a Portion of the Sanitary Sewer System - Plat of Lake
Vue No. 2.**

**The legal description of the above portion is as
follows:**

**Lots 1-6 inclusive Block 4 and Lots 1-6
inclusive Block 5 of Burke & Farrar's
Kirkland Addition No. 7, according to Plat
thereof of Records of King County, Washington**

MUNICIPAL FACILITIES AGREEMENT FOR DEVELOPER CONSTRUCTION OF A PORTION OF THE SANITARY SEWER SYSTEM AUTHORIZED BY ORDINANCE NO. 2250, CREATING LOCAL IMPROVEMENT DISTRICT NO. 113.

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THIS AGREEMENT MADE and entered into the day and year below written by and between the City of Kirkland, a municipal corporation hereinafter referred to as "City" and WOODLAND INVESTMENT & DEVELOPMENT CO. hereinafter referred to as "Developer" and who are the owners of the property hereinafter described and by reference referred to as "Lake Vue No. 2"

WITNESSETH:

WHEREAS, no sanitary sewer system or portion thereof may be constructed within the City except in conformance with the sanitary sewerage system comprehensive plan, and

WHEREAS, in pursuance of said plan, the City did, by Ordinance No. 2250 create Local Improvement District No. 113 for the construction of sewers within the area therein described, and

WHEREAS, thereafter bids were called by the City of Kirkland for the construction of the sewer system within said local improvement district, which bids received substantially exceeded the engineer's estimate and on that basis were rejected, and

WHEREAS, construction of the Local Improvement District No. 113 sanitary sewer system has, as a result thereof, been delayed by the City, and

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WHEREAS, a portion of said area is owned by developer and is in the process of being platted, subdivided and developed for single family residences, and

WHEREAS, a requirement for such subdivision and development is the construction and installation of sanitary sewers, and

WHEREAS, the developer of said area known informally as Lake Vue No. 2 and hereinafter specifically described, has requested from the City permission to immediately construct so much of the L.I.D. No. 113 sanitary sewer system as is necessary to provide sanitary sewer service for the Lake Vue No. 2 subdivision, and

WHEREAS, RCW 35.91, authorizes the City to enter into a contract for the private construction of utility facilities, including sanitary sewers which, upon completion of construction, become a part of the City's sewerage system, and

WHEREAS, provision may be made in such municipal facilities agreement for the reimbursement or partial reimbursement of the expenditures made by the private developer in the construction of such facility or sewerage system,

NOW, THEREFORE, it is hereby agreed by and between the City and Developer, as follows:

1. Developer shall, at his sole expense, construct and install sanitary sewer lines, including collector lines within Lake Vue No. 2 and trunk line in 106th Avenue N.E. extending from its connection with an existing sewer trunk line in N.E. 60th Street south to a point north of N.E. 56th Street as set forth on Exhibit A attached hereto and by this reference incorporated herein.

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2. Said sewers shall be constructed in accordance with the plans and specifications prepared for City by City's consulting engineers for Local Improvement District No. 113. Upon completion thereof, approval of said sewer lines by the Seattle-King County Health Department, and their acceptance by the City of Kirkland, they shall become a part of the City sewerage system.

3. Upon completion of the sewer lines and prior to their acceptance by the City, developer shall file with the City an "as built plan" showing location of all lines constructed and installed, together with an accurate accounting of cost of said construction.

4. In the event the City may hereafter determine to proceed with the balance of the system as ordered in Ordinance No. 2250 for Local Improvement District No. 113, the cost of construction of said portion thereof constructed privately by developer in accordance with this agreement shall be included in the total cost of construction of the system ordered by said Ordinance for the purposes of determination of the final assessment roll. Said final assessment roll shall be prepared in accordance with the provisions heretofore established in Ordinance No. 2250. Developer shall be entitled to a credit against the amount of the final assessment established and confirmed in said final assessment roll against the property hereinafter described, which credit shall be in an amount equal to the lesser of the following:

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A. His actual cost of construction.

B. An amount equal to the estimated cost of the portion of the improvement constructed by developer pursuant to this agreement as determined by the City's consulting engineers by using a ratio between their total estimated costs for the entire improvement and that portion of the improvement to be done by the developer.

C. An amount equal to proportionate cost of the portion of the improvement constructed by the developer as determined by the city's consulting engineers based upon the actual cost of construction of that portion of the L.I.D. No. 113 system not built by developer, or

D. The sum of the assessments appearing on the final assessment roll for L.I.D. No.113 as to the property hereinafter described.

Provided however, that such assessment credit shall be reduced by the amount or amounts of reimbursement monies which developer may have received pursuant to paragaraph 5 herein prior to the time of claiming such assessment credit.

5. Subject to the provisions of paragraph 7, set forth below, in the event the City does not proceed with the work directed by Ordinance No. 2250, creating Local Improvement District No. 113, or during the time between the completion of the facilities herein authorized to be constructed by developer and completion of the balance of the system pursuant to Ordinance No. 2250:

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The owner of any real property (other than developer or his grantees) of any real property lying within the boundaries of Local Improvement District No. 113 as established by Ordinance No. 2250 who shall tap onto, connect into or use, (including not only connecting thereto, but also users connecting to laterals or branches connected thereto) any portion of the system authorized to be constructed by developer, shall prior to such tap on, connection, or use, pay to the City of Kirkland their fair prorata share of the cost of the construction of said system, or facility, provided however, that the City shall retain the right to transfer any existing service within said described area now served by any existing sewer lines from said sewer lines to the facility, the subject of this agreement, without any reimbursement to developer.

The "fair prorata share" shall be determined on the same basis as the apportioning of the special benefits set forth in Section 3 of Ordinance No. 2250, subject to the following adjustments:

A. The sum of the fair prorata share shall be increased or decreased in the same proportion as the actual cost of construction of the facility (in accordance with the accounting hereinabove required to be filed with the City) bears to the engineer's estimated cost of construction as determined by the City's consulting engineers for the purposes of the creation of Local Improvement District No. 113.

B. Said sum shall be further reduced by the actual cost of the construction, if any, by said property owner of sewer lines

from the point of connection with the facility to the boundary of the property of the property owner to be served (exclusive of the stub-in service as that phrase is defined in the Ordinances of the City of Kirkland relating to sewers and sewer connections).

Any property owner paying to the City the amount in this paragraph prescribed shall, in the event that the City subsequently determines to proceed with Local Improvement District No. 113, be entitled to a credit against the assessment to be levied against the property so served in the same manner and under the same method of calculation as provided for developer in paragraph 4 above.

Within sixty days after receipt by the City of Kirkland of any fair prorata share, the City shall disburse said sum, less 15% thereof to be retained by the City to cover cost of administering the provisions of this agreement, to developer provided however, that in the event of a tap-on or connection made five years or more after the date of acceptance by the City of Kirkland of said facility, the entire amount of such fair prorata share shall be retained by the City of Kirkland.

6. The developer and property owner and property under this contract is as follows:

Name: WOODLAND INVEST. & DEV. CO.

21004 BOTHELL WAY, BOTHELL, WASH.

Property: Property legally described in Exhibit B attached hereto and by this reference incorporated herein.

7. No person, firm or corporation other than those named in paragraph 6 and their direct grantees, as to all or any portion of the property described in paragraph 6, (and subject to the

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proviso contained in paragraph 5, relating to reconnections by the City of Kirkland) shall be granted a permit or authorized to tap onto, use or connect into the sewer system constructed by developer as identified on Exhibit A, or extensions thereto without first paying their fair prorata share as herein provided, and provided further that so long as developer may, pursuant to the terms of this agreement be entitled to receive the fair prorata share reimbursement funds, the provisions contained in RCW 35.91.050 relating to future Local Improvement Districts shall be a part of this contract and are hereby incorporated by reference.

8. In no event shall developer receive, by way of "fair prorata share" reimbursement, credit for assessment or any combination thereof an amount in excess of the greater of:

A. 85% of his actual cost of construction as determined by the accounting required to be filed with the City pursuant to Section 3, or

B. The total appearing on the final assessment roll for L.I.D. No. 113 for assessments levied against the property described in Exhibit B.

IN WITNESS WHEREOF, we have hereunto set our hands this 16th day of September, 1974.

CITY OF KIRKLAND

Robert A. Klein

by

WOODLAND INVEST. & DEV. CO. (A PARTNERSHIP)

FREYLAND INC.

EASTWOOD CORP.

D. O. King Pres.

Albert P. Chaffey, Pres.

EXHIBIT

L10 113 FACILITIES TO BE
CONSTRUCTED BY DEPARTMENT
OF STATE HIGHWAY AND ACCORDING
TO MINIMUM FACILITIES AGREEMENT

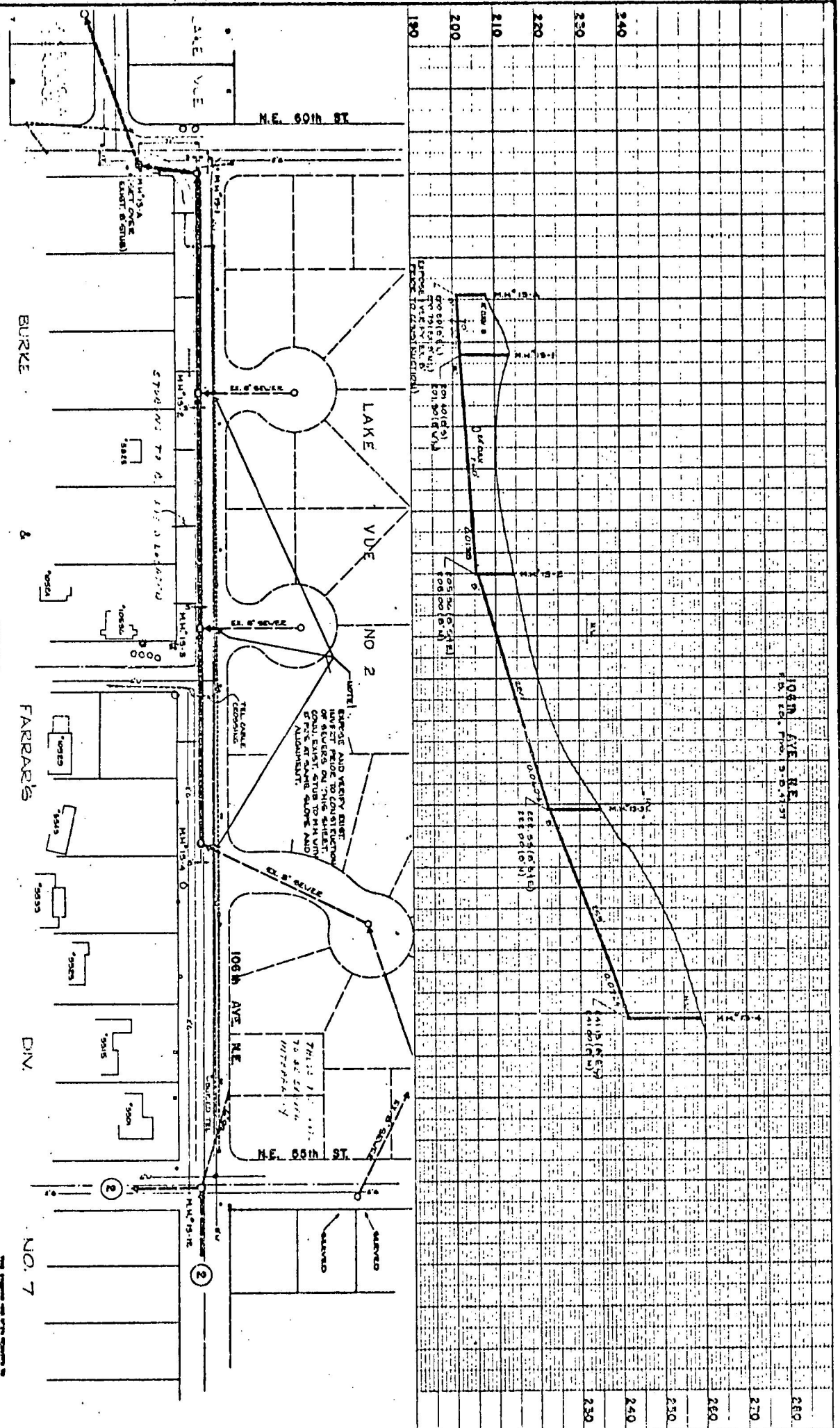
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DATE	1/24/57
BY	W. J. KIRKLAND
CHECKED	W. J. KIRKLAND
APPROVED	W. J. KIRKLAND

SEWER PLAN & PROFILE

CITY OF KIRKLAND
E. HART, MAYOR & EDITH L. ...



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E X H I B I T "B"

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Kirkland Addition No. 7, according to Plat
thereof of Records of King County, Washington

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FILED for Record at Request of

Name City of Kingstons

Address 210 Main St

Kingstons, N.Y. 48033
ATTN: A. Jensen

DIRECTOR
RECORDS & ELECTIONS
KING COUNTY, WASH.

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RECORDED
OF
REQUEST OF