

RESOLUTION NO. R- 2727

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY OF KIRKLAND A SEWER FACILITIES AGREEMENT PURSUANT TO CHAPTER 35.91 RCW, AND APPROVING SAID AGREEMENT BETWEEN THE CITY OF KIRKLAND AND KIRKLAND DEVELOPMENT COMPANY.

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 sign on behalf of the City of Kirkland an agreement with Kirkland Development Company, pursuant to Chapter 35.91 RCW, in the form attached to the original of this resolution and by this reference incorporated herein.


Section 2. The City Clerk is hereby directed to record with the King County Department of Elections & Records a certified copy of said facilities agreement, including Exhibits 1 through 3 inclusive, with the cost of such recording to be borne by Kirkland Development Company.

PASSED by majority vote of the Kirkland City Council in regular meeting on the 2nd day of June, 1980.

SIGNED IN AUTHENTICATION THEREOF on the 2nd day of June, 1980.


MAYOR

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

CITY OF KIRKLAND 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 Kirkland Development Company, a Corporation, hereinafter referred to as "Company":

WITNESSETH:

Section 1. Company does hereby agree to construct, at its sole expense, the sewer facility described in Exhibit 2, 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 facility to the satisfaction of the Kirkland Director of Public Services, 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 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 designates the real property owned by Company as specifically described in Exhibit 3, attached hereto, which shall not be subject to the provisions of paragraph 4 of this agreement. The balance of the service area as designated on Exhibit 1 and described in Exhibit 3, attached hereto, is divided into two benefit areas; a general benefit area and a direct benefit area. The real property within the general benefit area or within the direct benefit area shall be subject to the provisions of paragraph 4 of this agreement and to the payment of a fair prorata share of the cost of construction of said facility.

Section 4. Any owner of any real property located within the areas designated general benefit area and direct benefit area (other than those properties designated in Exhibit 3 as Company'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 charge required by the ordinances of the City of Kirkland to be paid upon connecting to a sewer facility, their fair prorata share of the cost of construction of said facility.

Section 5. For the purposes of determining such "fair prorata share", the cost of construction of said facility shall be considered to be \$60,577.00, provided, however, the City shall adjust said cost to reflect the true and final cost of construction of said facility. The City of Kirkland shall determine each such fair prorata share by any method or formula authorized for the use in determination of assessments under Local Improvement District statutes for cities, provided, however, that if such determination has not been made by the City prior to its acceptance of the constructed facility, then said fair prorata share shall be determined: upon a square footage basis at the rate of 2.0¢ per square foot as to those areas designated and described in Exhibits 1 and 3 as lying within the "general benefit area"; and upon a square footage basis at the rate of 7.5¢ per square foot as to those properties designated on Exhibit 1 and described in Exhibit 3 as being within the "direct benefit area".

Section 6. Within sixty (60) days after receipt by the City of any "fair prorata 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 Company at P.O. Box 596, Redmond, Washington

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until such time as Company shall have received the total sum of \$48,925.00, 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.

Section 7. The provisions of this agreement shall not be effective as to any owner of real property designated in Exhibit 1, other than Company, 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 prorata share" to Company 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 sewer improvement, whether local or general, is or will be assessed against the owners of real property and such sewer 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 on any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided for in this agreement as a fair prorata share due from such owners in accordance with the provisions of this agreement.

Section 9. No person, firm or corporation, other than Company, as to the real property identified as owned by Company in Exhibit 1 hereto, shall be granted a permit or authorized to tap into or use said facility or extensions thereof without first paying their fair prorata share as herein provided.

DATED at Kirkland, Washington, this 10th day of June, 1980.

.....
By: [Signature]

By: [Signature]

By: [Signature]

Signed and acknowledged in presence of:

By: [Signature]

State of Washington

..... County

DATE: June 11, 1980

CITY OF KIRKLAND

By: [Signature]
CITY MANAGER FOR THE CITY OF KIRKLAND
WHO IS AUTHORIZED TO EXECUTE THIS
AGREEMENT ON BEHALF OF SAID CITY BY
VIRTUE OF RESOLUTION NO. R-2727

STATE OF WASHINGTON

County of King ss.

On this day personally appeared before me Edward Hecht, Karen Wixey and Peter Wood Jr. and no others to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 10th day of June, 1980

[Signature]
Notary Public in and for the State of Washington,
residing at

BELLEVUE