

RESOLUTION R - 3596

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AMENDMENTS TO THE EXISTING SEWAGE DISPOSAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND THE MUNICIPALITY OF METROPOLITAN SEATTLE (METRO) AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AMENDMENT AGREEMENT ON BEHALF OF THE CITY OF KIRKLAND.

Whereas, the City of Kirkland and the Municipality of Metropolitan Seattle (METRO) have heretofore entered into a long term agreement for sewage disposal, and

Whereas, an advisory committee composed of elected and appointed officials in the Metropolitan area was appointed by the Metro Council to examine the structure of METRO's charges to its participants, and

Whereas, said advisory committee has recommended certain changes in the structure of METRO's charges and implementation of said changes requires amendment to the basic agreement, and

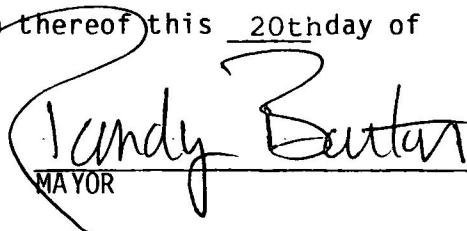
Whereas, the parties have determined that the recommendations are in the best public interest and therefore desire to amend said basic agreement in order to implement said recommendations, now, therefore

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. That certain amendment to the existing sewage disposal agreement between the City of Kirkland and the Municipality of Metropolitan Seattle as attached to the original of this Resolution as Exhibit A and by this reference incorporated herein is hereby approved. The City Manager for the City of Kirkland is hereby authorized and directed to sign said agreement amendment as set forth in Exhibit A on behalf of the City of Kirkland.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 20th day of March, 1990.

Signed in authentication thereof this 20th day of March, 1990.

  
MAYOR

ATTEST:

  
City Clerk

CITY OF KIRKLAND  
MUNICIPALITY OF METROPOLITAN SEATTLE  
AMENDMENT TO AGREEMENT  
FOR SEWAGE DISPOSAL

THIS AMENDMENT made as of the \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_ between the City of  
Kirkland, a municipal corporation of the State of Washington  
(hereinafter referred to as the "City") and the Municipality  
of Metropolitan Seattle, a metropolitan municipal  
corporation of the State of Washington (hereinafter referred  
to as "Metro");

WITNESSETH:

WHEREAS, the parties have entered into a long term  
Agreement for Sewage Disposal dated May 5, 1961, as amended  
(hereinafter referred to as the "Basic Agreement"); and

WHEREAS, an advisory committee composed of elected  
and appointed officials in the metropolitan area was  
appointed by the Metropolitan Council to examine the  
structure of Metro's charges to its participants; and

WHEREAS, said advisory committee, following  
extensive research, study and deliberations, has recommended  
certain changes in the structure of Metro's charges to its  
participants and implementation of said changes requires  
amendment of the Basic Agreement; and

WHEREAS, the parties have determined that the  
recommendations are in the best public interest and  
therefore desire to amend said Basic Agreement to implement  
said recommendations;

NOW, THEREFORE, it is hereby agreed as follows:

Section 1. Amendment of Section 5 of the Basic Agreement. Section 5 of the Basic Agreement is hereby amended to read as follows:

"Section 5. Payment for Sewage Disposal. For the disposal of sewage hereafter collected by the City and delivered to Metro the City shall pay to Metro on or before the last day of each month during the term of this Agreement, a sewage disposal charge determined as provided in this Section 5.

1. For the quarterly periods ending March 31, June 30, September 30 and December 31 of each year every Participant shall submit a written report to Metro setting forth:

(a) the number of Residential Customers billed by such Participant for local sewerage charges as of the last day of the quarter,

(b) the total number of all customers billed for local sewerage charges by such Participant as of such day, and

(c) the total water consumption during such quarter for all customers billed for local sewerage charges by such Participant other than Residential Customers.

The quarterly water consumption report shall be taken from water meter records and may be adjusted to exclude water which does not enter the sanitary facilities of the customer. Where actual sewage flow from an individual customer is metered, the metered sewage flows shall be reported in lieu of adjusted water consumption. The total quarterly water consumption report in cubic feet shall be divided by 2,250 to determine the number of Residential Customer equivalents represented by each Participant's customers other than single family residences.

Metro shall maintain a permanent record of the quarterly customer reports from each Participant.

The City's first quarterly report shall cover the first quarterly period following the date when sewage is first delivered to Metro and shall be submitted within thirty days following the end of the quarter. Succeeding reports shall be made for each quarterly period thereafter and shall be submitted within thirty (30) days following the end of the quarter.

2. (a) To form a basis for determining the monthly sewage disposal charge to be paid by each Participant during any particular quarterly period, Metro shall ascertain the number of Residential Customers and Residential Customer equivalents of each Participant. This determination shall be made by taking the sum of the actual number of Residential customers reported as of the last day of the next to the last preceding quarter and the average number of Residential Customer Equivalents per quarter reported for the four quarters ending with said next to the last preceding quarter, adjusted for each Participant to eliminate any Residential Customers or Residential Customer equivalents whose sewage is delivered to a governmental agency other than Metro or other than a Participant for disposal outside of the Metropolitan Area.

(b) For the initial period until the City shall have submitted six consecutive quarterly reports, the reported number of Residential Customers and Residential Customer equivalents of the City shall be determined as provided in this subparagraph (b). On or before the tenth day of each month beginning with the month prior to the month in which sewage from the City is first delivered to Metro, the City shall submit a written statement of the number of Residential Customers and Residential Customer equivalents estimated to be billed by the City during the

next succeeding month. For the purpose of determining the basic reported number of Residential Customers and Residential Customer equivalents of the City for such next succeeding month, Metro may at its discretion adopt either such estimate or the actual number of Residential Customers and Residential Customer equivalents reported by the City as of the last day of the next to the last preceding reported quarter. After the City shall have furnished six consecutive quarterly reports the reported number of Residential Customers and Residential Customer equivalents of the City shall be determined as provided in the immediately preceding subparagraph (a).

(c) If the City shall fail to submit the required monthly and/or quarterly reports when due, Metro may make its own estimate of the number of Residential Customers and Residential Customer equivalents of the City and such estimate shall constitute the reported number for the purpose of determining sewage disposal charges.

3. The monthly sewage disposal charge payable to Metro shall be determined as follows:

(a) Prior to July 1st of each year Metro shall determine its total monetary requirements for the disposal of sewage during the next succeeding calendar year. Such requirements shall include the cost of administration, operation, maintenance, repair and replacement of the Metropolitan Sewerage System, establishment and maintenance of necessary working capital and reserves, the requirements of any resolution providing for the issuance of revenue bonds of Metro to finance the acquisition, construction or use of sewerage facilities, plus not to exceed 1% of the foregoing requirements for general administrative overhead costs.

(b) To determine the monthly rate per Residential Customer or Residential Customer equivalent to be used

during said next succeeding calendar year, the total monetary requirements for disposal of sewage as determined in subparagraph 3(a) of this section shall be divided by twelve and the resulting quotient shall be divided by the total number of Residential Customers and Residential Customer equivalents of all Participants for the October-December quarter preceding said July 1st; provided, however, that the monthly rate shall not be less than Two Dollars (\$2.00) per month per Residential Customer or Residential Customer equivalent at any time during the period ending July 31, 1972.

(c) The monthly sewage disposal charge paid by each Participant to Metro shall be obtained by multiplying the monthly rate by the number of Residential Customers and Residential Customer equivalents of the Participant. An additional charge may be made for sewage or wastes of unusual quality or composition requiring special treatment, or Metro may require pretreatment of such sewage or wastes.

4. The parties acknowledge that, by resolution of the Metropolitan Council, Metro may impose a charge or charges directly on the future customers of a Participant for purposes of paying for capacity in Metropolitan Sewage Facilities and that such charges shall not constitute a breach of this agreement or any part thereof. The proceeds of said charge or charges, if imposed, shall be used only for capital expenditures or defeasance of outstanding revenue bonds prior to maturity.

In the event such a charge or charges are imposed, the City shall, at Metro's request, provide such information regarding new residential customers and residential customer equivalents as may be reasonable and appropriate for purposes of implementing such a charge or charges.

5. A statement of the amount of the monthly sewage disposal charge shall be submitted by Metro to each

Participant on or before the first day of each month and payment of such charge shall be due on the last day of such month. If any charge or portion thereof due to Metro shall remain unpaid for fifteen days following its due date, the Participant shall be charged with and pay to Metro interest on the amount unpaid from its due date until paid at the rate of 6% per annum, and Metro may, upon failure to pay such amount, enforce payment by any remedy available at law or equity.

6. The City irrevocably obligates and binds itself to pay its sewage disposal charge out of the gross revenues of the sewer system of the City. The City further binds itself to establish, maintain and collect charges for sewer service which will at all times be sufficient to pay all costs of maintenance and operation of the sewer system of the City, including the sewage disposal charge payable to Metro hereunder and sufficient to pay the principal of and interest on any revenue bonds of the City which shall constitute a charge upon such gross revenues. It is recognized by Metro and the City that the sewage disposal charge paid by the City to Metro shall constitute an expense of the maintenance and operation of the sewer system of the City. The City shall provide in the issuance of future sewer revenue bonds of the City that expenses of maintenance and operations of the sewer system of the City shall be paid before payment of principal and interest of such bonds. The City shall have the right to fix its own schedule of rates and charges for sewer service provided that same shall produce revenue sufficient to meet the covenants contained in this Agreement.

Section 2. Amendment of Section 6 of the Basic Agreement. Section 6 of the Basic Agreement is hereby amended to read as follows:

"Section 6. Responsibility of the City. The City shall be responsible for the delivery to the Metropolitan Sewerage System of sewage collected by the City, for construction, maintenance and operation of Local Sewerage Facilities, and for the payment of all costs incident to the collection of such sewage and its delivery to the Metropolitan Sewerage System.

In addition, the City will undertake continual rehabilitation and replacement of its local sewage facilities for purposes of preventing, reducing and eliminating the entry of extraneous water into such facilities and will expend annually, averaged over five (5) years, an amount equal to two (2) cents per inch of diameter per foot of its local sewage facilities, excluding combined sewers and force mains, for said rehabilitation and replacement. The amount of this expenditure requirement may be increased from time to time by the Metropolitan Council to reflect general inflation. Rehabilitation and replacement projects undertaken pursuant to this section shall be constructed in accordance with criteria adopted by the Metropolitan Council and included in Metro's Rules and Regulations. In the event the City fails to comply with the rehabilitation and replacement expenditure requirements described in this section, the City shall pay such charge as may be determined by Metro for quantities of storm or ground water entering its Local Sewerage Facilities in excess of the minimum standard established by the general Rules and Regulations of Metro.

Section 3. Amendment of Basic Agreement to Add a New Section. A new Section 18 shall be added to the Basic Agreement to read as follows:

"Section 18. Future Amendments. The City agrees to amend and hereby concurs in any amendment to this agreement which incorporates any changes in the terms for



sewage disposal and/or payment therefore as may be proposed by Metro and agreed to by those Participants that shall represent, in total, not less than 90% of the Residential Customers and Residential Customer Equivalents then served by the Metropolitan Sewerage System."

Section 4. Effective Date of Amendment. This amendment shall take effect at the beginning of the first quarter following the date first written above with quarters beginning January 1, April 1, July 1, and October 1.

Section 5. Basic Agreement Unchanged. Except as otherwise provided in this amendment, all provisions of the basic agreement shall remain in full force and effect as written therein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

CITY OF KIRKLAND

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ATTEST:

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MUNICIPALITY OF  
METROPOLITAN SEATTLE

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Gary Zimmerman  
Chair of the Council

ATTEST:

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