

RESOLUTION R- 3966

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY A CERTAIN AGREEMENT ENTITLED "FIRST AMENDMENT TO SEWER SERVICE AGREEMENTS" BETWEEN THE CITY OF KIRKLAND NORTHSORE UTILITY DISTRICT.

Whereas, both the City of Kirkland and the Northshore Utility District are authorized by state law to enter into cooperative agreements; and

Whereas, the City and the District previously entered into an agreement dated March 3, 1978 (approved by Resolution No. R-2429) in which the District agreed to provide sewer service to the property within the City described on Exhibit A to the agreement, and that the City and the District entered into an additional agreement dated November 5, 1979 (approved by Resolution No. R-2655) in which District agreed to provide sewer service to the property within the City described on Exhibit A to the agreement, said agreements being collectively referred to as the "agreements" herein; and

Whereas, the agreements provided that the City shall pay to the District a monthly sewer trunkage charge of forty cents (\$.40) per month per residential customer or residential unit equivalent (ERU) as defined by the Metropolitan King County Council (METRO) actually connected to and served by the City's sewer system within the areas described on Exhibit A in the agreements (the sewer trunkage charge); and

Whereas, the District's operation and maintenance expenses have increased substantially since the parties entered into the agreements; and

Whereas, the "METRO" residential unit equivalent definition has changed; and

Whereas, the District has proposed the first amendment to the agreements in the form attached to this resolution and by reference incorporated herein, in order to reflect the increase in expenses; and

Whereas, the City of Kirkland has considered said proposed amendment and is agreeable to the changes therein proposed,

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 sign on behalf of the City of Kirkland that certain agreement, copy of which is attached to the original of this resolution and by this reference incorporated herein. Said agreement is titled

"First Amendment to Sewer Service Agreements", which agreements were previously approved by the City Council by Resolutions No. R-2429 and R-2655.

Section 2. This agreement shall become effective upon its being properly signed by both the City of Kirkland as herein authorized and by the Northshore Utility District.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 7th day of November, 1995.

Signed in authentication thereof this 7th day of November, 1995.


MAYOR

Attest:


City Clerk

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**FIRST AMENDMENT TO
SEWER SERVICE AGREEMENTS**

This First Amendment to Sewer Service Agreements ("First Amendment") is made and entered into this ____ day of _____, 1995, by and between the City of Kirkland, an optional code city ("City"), and the Northshore Utility District, a municipal corporation formerly known as Northeast Lake Washington Sewer District and Northeast Lake Washington Sewer and Water District ("District"), for the purposes set forth below.

R E C I T A L S:

WHEREAS, both City and District are authorized by state law to enter into cooperative agreements, and

WHEREAS, City and District previously entered into an Agreement dated March 3, 1978, copy attached, in which District agreed to provide sewer service to the property within the City described on Exhibit A to the Agreement, and City and District entered into an additional Agreement dated November 5, 1979, copy attached, in which District agreed to provide sewer service to the property within the City described on Exhibit A to the Agreement (such March 3, 1978 and November 5, 1979 agreements collectively referred to as the "Agreements" herein), and

WHEREAS, the Agreements provided that City shall pay District a monthly sewer trunkage charge of \$.40 per month for residential customer or residential unit equivalent ("ERU") as defined by the Metropolitan King County Council ("METRO") actually connected to and served by the City's sewer system within the areas described on Exhibit A in the Agreements (the "Sewer Trunkage Charge"), and

WHEREAS, the District's operation and maintenance expenses have increased substantially since the parties entered into the Agreements and District has requested that the Agreements be amended to (a) change the monthly Sewer Trunkage Charge to \$1.85 per ERU to reimburse District for its operation and maintenance expenses incurred relating to the sewer service provided under the Agreements, and (b) provide for the adjustment of such Sewer Trunkage Charges hereinafter for District operation and maintenance expenses incurred to provide sewer service under the Agreements, and

WHEREAS, City is agreeable to such amendment of the Agreements subject to the terms and conditions below,

NOW, THEREFORE, in consideration of the Agreements set forth herein, the parties agree to amend the Agreements as follows:

1. Equivalent Residential Unit. Commencing January 1, 1993, METRO's definition of an ERU was changed from 900 cu.ft. of water usage per month to 750 cu.ft. per month. For the purposes of computing Sewer Trunkage Charges under this First Amendment, the 750 cu.ft. per month definition shall be used; provided that if the METRO definition of an ERU changes in the future, the definition of an ERU for the purposes herein shall change accordingly effective the date of such change. The parties also acknowledge that METRO merged into King County on January 1, 1995 and that the King County Department of Metropolitan Services succeeded to Metro's duties and functions and that such King County department shall be considered METRO for the purposes of this First Amendment.

2. Sewer Trunkage Charges. Section 4 of the Agreements are amended to provide that the monthly Sewer Trunkage Charge shall be increased to \$1.85 per month per ERU commencing the ____ day of _____, 1995. In addition, such Sewer Trunkage

Charge shall be adjusted every two years thereafter. The adjustment shall be based on District's operation and maintenance expenses, as defined in the District's accounting records, including but not limited to, the District's general ledger and income statement ("Expenses"), but excluding Metro service charges. Effective every two (2) years from the date of this First Amendment, the monthly Sewer Trunkage Charge per ERU in the Agreements shall be determined as follows:

(a) The District's Expenses for the prior year shall be identified;

(b) The Total number of ERUs reported by the District to Metro for the final reporting period of the preceding year plus the total number of ERUs which are the subject of the Agreements reported by the City to Metro for the final reporting period of the preceding year shall be identified;

(c) The Expenses as determined in paragraph 2(a) herein shall be divided by the total number of ERUs as determined in paragraph 2(b) herein to determine the adjusted Sewer Trunkage Charge. City shall thereafter pay such adjusted Sewer Trunkage Charge per ERU in the Agreements to the District until such charge is adjusted further as provided herein.

3. No Other Changes. Except as expressly modified herein, the Agreements shall remain unchanged and in full force and effect.

4. Effective Date. This First Amendment shall take effect upon its approval by the District's Board of Commissioners and the City of Kirkland Council.

SIGNED this ____ day of _____, 1995.

CITY OF KIRKLAND

By: _____
Its: _____

Approved as to form:

OFFICE OF THE CITY ATTORNEY

By: _____

NORTHSHORE UTILITY DISTRICT

By: _____

Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the City of Kirkland to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated _____

NAME: _____

(Print Name)

Notary Public in and for the State of
Washington.

Commission Expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____
is the person who appeared before me, and said person acknowledged that he signed this
instrument, on oath stated that he was authorized to execute the instrument and acknowledged
it as the _____ of Northshore Utility District to be the free and voluntary
act of such corporation for the uses and purposes mentioned in the instrument.

Dated _____

NAME: _____
(Print Name)

Notary Public in and for the State of
Washington.

Commission Expires: _____