

RESOLUTION R- 4188

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SEWER FACILITY AGREEMENT WITH SEAWEST ASSOCIATES 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 and sanitary sewer 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

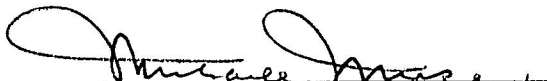
WHEREAS, the City of Kirkland concludes entering into this agreement will promote this goal,

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 Sewer Facility Agreement between the City and Seawest Associates. A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 1st day of June, 1999.

Signed in authentication thereof this 1st day of June, 1999.

  
MAYOR

Attest:

  
City Clerk

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## 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 **SeaWest Associates** hereinafter referred to as "Developer":

WITNESSETH:

Section 1. Developer does hereby agree to construct, at its sole expense, the SEWER 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 sewer construction and installation.

Section 2. Upon completion of said sewer 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 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 benefit area to be served by said facility is described and designated on EXHIBIT 2 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 3 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 or parcel's "pro rata share" of the cost of construction of the sewer facilities. EXHIBIT 4 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 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 change 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 **\$56,127.47** provided, however, the City may adjust said cost to reflect the true and final cost of construction of said facility. The "FAIR PRORATA SHARE" of the cost of construction is designated on EXHIBIT 3, and is hereby approved by the City of Kirkland.

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 Developers at **SeaWest Associates, 13120 NE 70<sup>th</sup> PL., Kirkland WA 98033**, until such time as Developers shall have received the total sum of **\$17,099.00**, 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. It shall be the duty of the Developers 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 3, other than Developers, 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 Developers 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 Developers, as to the real property identified as owned by Developers in Exhibit 4 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 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

CITY OF KIRKLAND:

DEVELOPER:

\_\_\_\_\_  
CITY MANAGER FOR THE CITY OF  
KIRKLAND WHO IS AUTHORIZED TO  
EXECUTE THIS AGREEMENT ON  
BEHALF OF SAID CITY BY VIRTUE  
OF RESOLUTION NO. \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

By: \_\_\_\_\_

Dated at Kirkland this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_\_\_\_.

*(Individuals Only)*

OWNER(S) OF REAL PROPERTY  
(INCLUDING SPOUSE)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Partnerships Only)*

OWNER(S) OF REAL PROPERTY

\_\_\_\_\_  
(Name of Partnership or Joint Venture)

By General Partner

By General Partner

By General Partner

*(Corporations Only)*

OWNER(S) OF REAL PROPERTY

\_\_\_\_\_  
(Name of Corporation)

By President

By Secretary

*(Individuals Only)*

STATE OF WASHINGTON )  
 ) SS.  
County of King )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me known to be the individual(s) described herein and who executed the Sewer Facilities Agreement, and acknowledged that \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary's Signature

\_\_\_\_\_  
Print Notary's Name  
Notary Public in and for the State of Washington, Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

*(Partnerships Only)*

STATE OF WASHINGTON )  
 ) SS.  
County of King )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me, known to be general partners of \_\_\_\_\_

the partnership that executed the Sewer Facilities Agreement, and acknowledged the said instrument to be the free and voluntary act and deed of each personally and of said partnership, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary's Signature

\_\_\_\_\_  
Print Notary's Name  
Notary Public in and for the State of Washington, Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

*(Corporations Only)*

STATE OF WASHINGTON )  
 ) SS.  
County of King )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me, known to be the President and Secretary, respectively, of \_\_\_\_\_

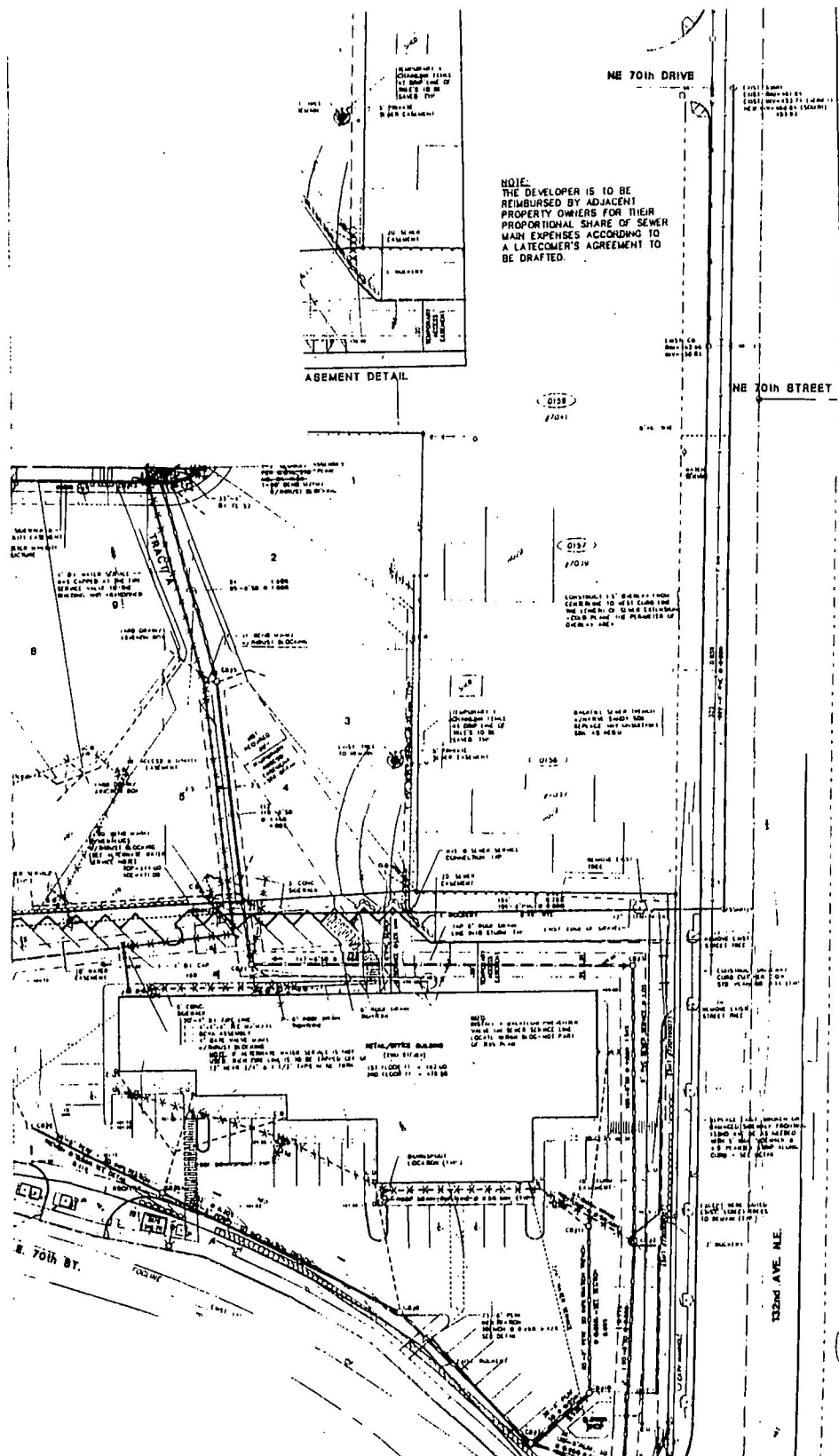
the corporation that executed the Sewer Facilities Agreement, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary's Signature

\_\_\_\_\_  
Print Notary's Name  
Notary Public in and for the State of Washington, Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

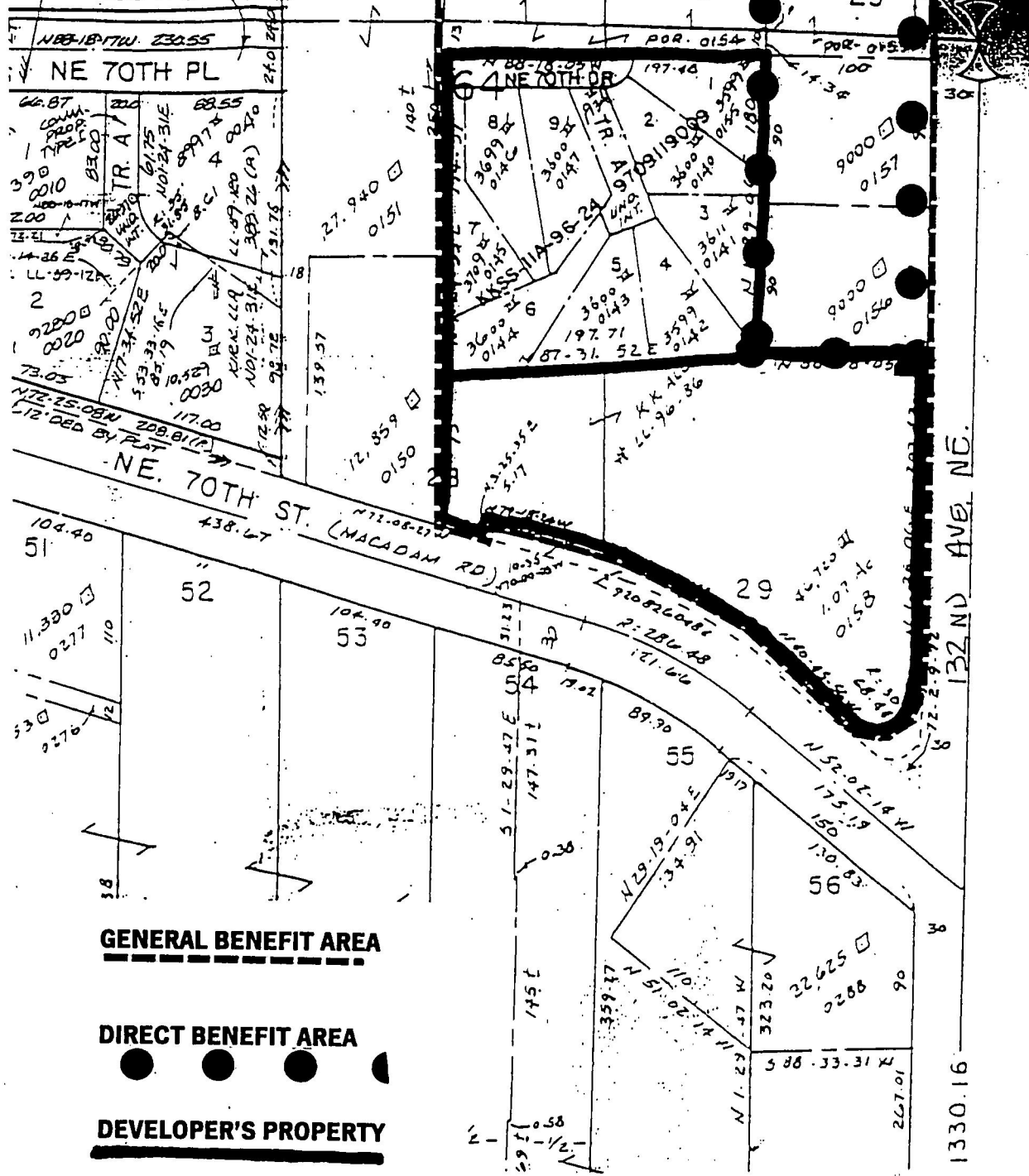
## EXHIBIT 1



# EXHIBIT 2

S VOL 138/52-53  
386470

SCALE:



**GENERAL BENEFIT AREA**

**DIRECT BENEFIT AREA**

**DEVELOPER'S PROPERTY**

## EXHIBIT 3

**Atcon Plaza & PUD**

**Latecomer's Assessment Role**

Name of Plat

REF NO.	TAX/PARCEL NO.	OWNER	LEGAL DESCRIPTION	TOTAL AREA SF	Dir. Ben. Area SF	Dir. Ben. Cost	Gen. Ben. Area SF	Gen. Ben. Cost	Total Cost	Reimburse @ 85%	City @ 15%
1	124150-0156-08	Lamont, PA & LJ 7037 132nd Avenue NE Kirkland, WA 98033	*the S 100' of the N 310' of the E 100' of lot 29	9000	9000	\$3,304.21	9000	\$894.25	\$4,198.46	\$3,568.69	\$629.77
2	124150-0157-07	Packbush, Vera A. 7039 132nd Avenue NE Kirkland, WA 98033	*the S 90' of the N 220' of the E 100' of lot 29	9000	9000	\$3,304.21	9000	\$894.25	\$4,198.46	\$3,568.69	\$629.77
3	124150-0159-05	Hogan, Wilber & Maxine 7041 132nd Avenue NE Kirkland, WA 98033	*the N 100' of the following, measured along E line: E 100' of lot 29, less N 30' for	10000	10000	\$3,671.34	10000	\$993.61	\$4,664.95	\$3,965.21	\$699.74
4	124150-0154-00	Hogan, Wilber & Maxine 7041 132nd Avenue NE Kirkland, WA 98033	*N 130' of following: E 1/2 of lot 28 and W 1/2 of lot 29, and N 30' of E 1/2 of lot 29	29,561	3000	\$1,101.40	29,561	\$2,937.21	\$4,038.61	\$3,432.82	\$605.79
<b>TOTALS</b>				<b>57561</b>	<b>31000</b>	<b>\$11,381.15</b>	<b>57561</b>	<b>\$5,719.32</b>	<b>\$17,100.47</b>	<b>\$14,535.40</b>	<b>\$2,565.07</b>

\*all of Block 64, Burke and Farrar's Kirkland Addition Div 20, as recorded in Vol. 21 of Plats, p. 43, records of King Co. Washington

## EXHIBIT 4

### Atcon Plaza & PUD

### Developer Owned Property

Name of Plat

REF NO.	TAX/PARCEL NO.	OWNER	LEGAL DESCRIPTION	TOTAL AREA	Dir. Ben. Area	Dir. Ben. Cost	Gen. Ben. Area	Gen. Ben. Cost	Total Cost
5	124150-0158	Seawest Associates Atcon Plaza	Burke-Farrars Div #20 E 1/2 of 28 & W 1/2 of 29 less N 130 ft. of less Rd.	46,720	46,720	\$17,152.50	46,720	\$4,642.15	\$21,794.65
6	124150-0140 thru 0147 & 124150-0155	Seawest Associates Seawest Short Plat	Lots 1-9 Seawest Short Plat (SSIIA '96-24, rec # 9709119009)	36,940	36,940	\$13,561.93	36,940	\$3,670.40	\$17,232.33

TOTALS	83,660	83,660	\$30,714.43	83660	\$8,312.54	\$	39,026.97
TOTAL BENEFIT AREA	141,221						

Circulation of the Cost Per Square Foot:	
BENEFIT AREA in square feet	141,221
TOTAL CONSTRUCTION COST	\$52,579
ENGINEERING COST	\$3,578
yields a TOTAL COST of	\$56,127
25% of Total Cost shall be borne by the Total General Benefit Area (TGBA)	
75% of Total Cost shall be borne by the Total Direct Benefit Area (TDFA)	
Therefore; the following are costs per square foot for each benefit area:	
[(25%) x (Total Cost)/(TGBA)] = .25 x 56,127/141,221 = .099361	
[(75%) x (Total Cost)/(TDFA)] = .75 x 56,127/114,660 = .367134	