

RESOLUTION R- 4368

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SEWER FACILITY AGREEMENT WITH JAN-WES HOMES, INC. 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 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; and

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

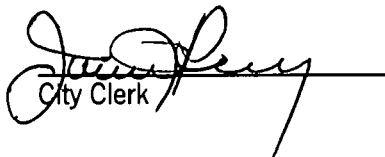
Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City the Sewer Facility Agreement between the City and Jan-Wes Homes, Inc. A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this 17th day of December, 2002.

Signed in authentication thereof this 17th day of December, 2002.

  
\_\_\_\_\_  
MAYOR

Attest:

  
\_\_\_\_\_  
City Clerk



## **SEWER & WATER 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 Jan-Wes Homes, Inc. hereinafter referred to as "Developer":

WITNESSETH

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

Section 2. Upon completion of said sewer and water 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 and water system with full power of the City of Kirkland to charge for its use such sewer connection and service rates and charges and water 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 and water 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 4 as Developer's properties) who shall hereafter tap into or use said sewer or water 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 or water facility, their fair pro rata share of the cost of construction of said facility.

Section 5. For the purposes of determining such "fair pro rata share" the cost of construction of said facility shall be considered to be \$55,534 provided, however, the City may adjust said cost to reflect the true and final cost of construction of said facility. The "FAIR PRO RATA SHARE" of the cost of construction as 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 pro rata 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 Developer at 2009 NE 28<sup>th</sup> PL, RENTON, WA, 98056 until such time as Developer shall have received the total sum of \$5446.60 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 Developer 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 Developer, 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 pro rata share" to Developer 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 or water 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 or any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided for in this agreement as a fair pro rata share due from such owners in accordance with the provisions of this agreement.

Section 9. No person, firm, or corporation, other than Developer's, as to the real property identified as owned by Developer 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 pro rata share as herein provided.

DATED at Kirkland, Washington, this 21 day of NOV, 02.

CITY OF KIRKLAND:

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

DEVELOPER:

Jan ~ Wes Homes INC

By: John C Schaefer Pres

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

**(Sign in blue ink)**

***(Individuals Only)***

OWNER(S) OF REAL PROPERTY (INCLUDING SPOUSE)

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***(Individuals Only)***

STATE OF WASHINGTON                 )  
County of King                         ) SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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 & Water 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)**

OWNER(S) OF REAL PROPERTY

\_\_\_\_\_  
(Name of Partnership or Joint Venture)\_\_\_\_\_  
By General Partner\_\_\_\_\_  
By General Partner\_\_\_\_\_  
By General Partner**(Partnerships Only)**

STATE OF WASHINGTON )

) SS.

County of King )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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 & Water 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)**

OWNER(S) OF REAL PROPERTY

Jan - Wes Homes INC  
(Name of Corporation)John C. Schaefer  
By President

By Secretary

**(Corporations Only)**

STATE OF WASHINGTON

) SS.

County of King

On this 21<sup>st</sup> day of November, 2002, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, John C. Schaefer personally appeared

and to me, known to be the President and Secretary, respectively, of Jan - Wes Homes, Inc, the corporation that executed the Sewer & Water 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.

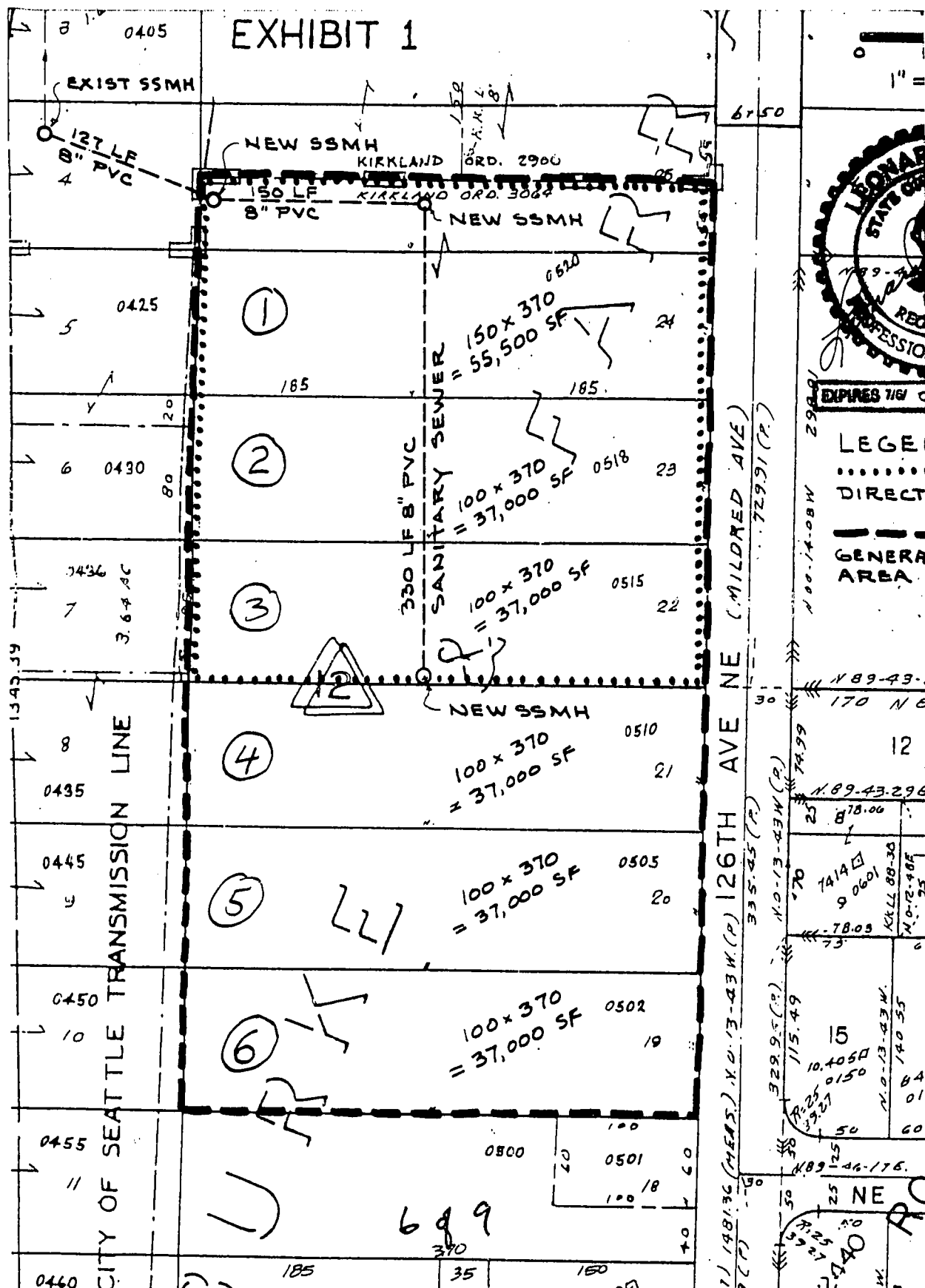
WITNESS my hand and official seal hereto affixed the day and year first above written.

Theresa Ann Stricker  
Notary's SignatureTheresa Ann Stricker  
Print Notary's Name

Notary Public in and for the State of Washington, Residing at:

King Co.  
My commission expires: 11/15/06

EXHIBIT 1







Latecomer's Assessment Roll

EXHIBIT 3

Ref No.	Tax/Parcel No.	Owner/Address	Legal Description	Total Area (SF)	Direct Benefit Area (SF)	Direct Benefit Cost	General Benefit Area (SF)	General Benefit Cost	Total Cost	Reimburse Developer @ 85%	Reimburse City @ 15%
4	123310-0510	Mrs. Joseph Bianchi	Lot 21 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records of King County, WA	37,000	0	\$0	37,000	\$2,135.92	\$2,135.92	\$1,815.53	\$320.39
5	123310-0505	Timothy & Mary Evans	Lot 20 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records of King County, WA	37,000	0	\$0	37,000	\$2,135.92	\$2,135.92	\$1,815.53	\$320.39
6	123310-0502	Mark and Michelle Kissinger	Lot 19 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records of King County, WA	37,000	0	\$0	37,000	\$2,135.92	\$2,135.92	\$1,815.53	\$320.39

<b>TOTALS</b>	<b>111,000</b>	<b>0</b>	<b>\$0</b>	<b>111,000</b>	<b>\$6,407.77</b>	<b>\$6,407.77</b>	<b>\$5,446.60</b>	<b>\$961.17</b>
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Cost Per Square Foot of Sewer Construction

Survey Cost	\$3,013.00
Engineering Cost	\$3,030.00
Easement Cost	\$22,724.00
Construction Cost	\$26,767.00
<b>Total</b>	<b>\$55,534.00</b>

Calculation of the cost per square foot

25% of Total Cost Shall be borne by the Total General Benefit Area (TGBA)  
 75% of the Total Cost shall be borne by the Total Direct Benefit Area (TDBA)  
 Therefore the following are costs per square foot for each benefit area:

$$((25\%) \times (\text{Total Cost})) / (\text{TGBA}) = .25 \times \$55,534 / 240,500 = .06$$

$$((75\%) \times (\text{Total Cost})) / (\text{TDBA}) = .75 \times \$55,534 / 129,500 = .32$$

## Developer Assessment Roll

## EXHIBIT 4

Ref No	Tax/Parcel No	Owner	Legal Description	Total Area (SF)	Direct Benefit Area (SF)	Direct Benefit Cost	General Benefit Area (SF)	General Benefit Cost	Total Cost
1	123310-0520	Jan-Wes Homes, Inc.	S. 1/2 of Lot 25 & Lot 24 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records for King County, WA	55,500	55,500	\$17,850.21	55,500	\$3,203.88	\$21,054.10
2	123310-0518	Jan-Wes Homes, Inc.	Lot 23 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records for King County, WA	37,000	37,000	\$11,900.14	37,000	\$2,135.92	\$14,036.07
3	124150-0046	Timothy Cowin Enterprises, Inc.	Lot 22 of Block 12, Burke & Farrar's Kirkland Addition to Seattle, as recorded in Vol. 19 of Plats, Page 68 inclusive, records for King County, WA	37,000	37,000	\$11,900.14	37,000	\$2,135.92	\$14,036.07
TOTALS				129,500	129,500	\$41,650.50	129,500	\$7,475.73	\$49,126.23

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