

RESOLUTION R- 4540

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SEWER FACILITY AGREEMENT WITH DANIELSON GROVE LLC 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 the development of adequate sanitary sewer systems; and

WHEREAS, the Washington State Legislature enacted the Municipal Water and Sewer Facilities Act, (Chapter 35.91 RCW,) in furtherance of this goal and authorized municipalities to enter into agreements with property owners for the construction of sanitary sewer facilities and the reimbursement of such owners by "latecomers"; and

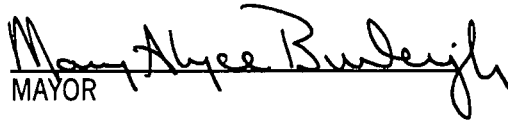
WHEREAS, The City of Kirkland concludes entering into this agreement will promote the goal of the improvement of public health;

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 Danielson Grove LLC. A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this 13th day of December, 2005.

Signed in authentication thereof this 13th day of December, 2005.

  
MAYOR

Attest:

  
City Clerk

**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 Danielson Grove LLC 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 of 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 2 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 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 \$143,971.05, 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 \_\_\_\_\_ until such time as Developer shall have received the total sum of \$65109.62, 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 or sewer improvement, whether local or general, is or will be assessed against the owners of real property and such 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 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF KIRKLAND:

DEVELOPER:

\_\_\_\_\_  
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. \_\_\_\_\_

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

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

# Exhibit 1

NE 105th Pl and 128th Ave NE Sewer Extension

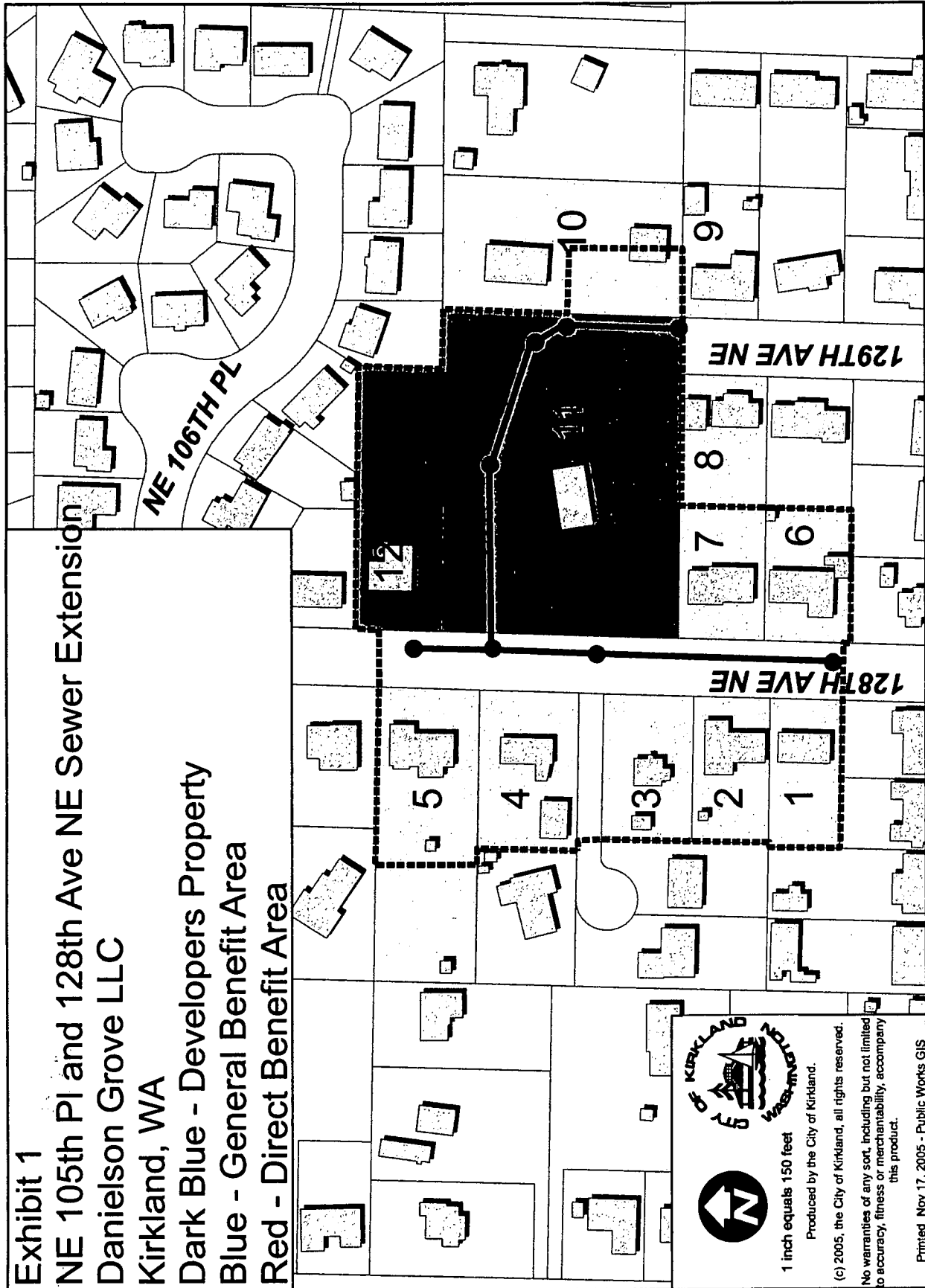
Danielson Grove LLC

Kirkland, WA

Dark Blue - Developers Property

Blue - General Benefit Area

Red - Direct Benefit Area



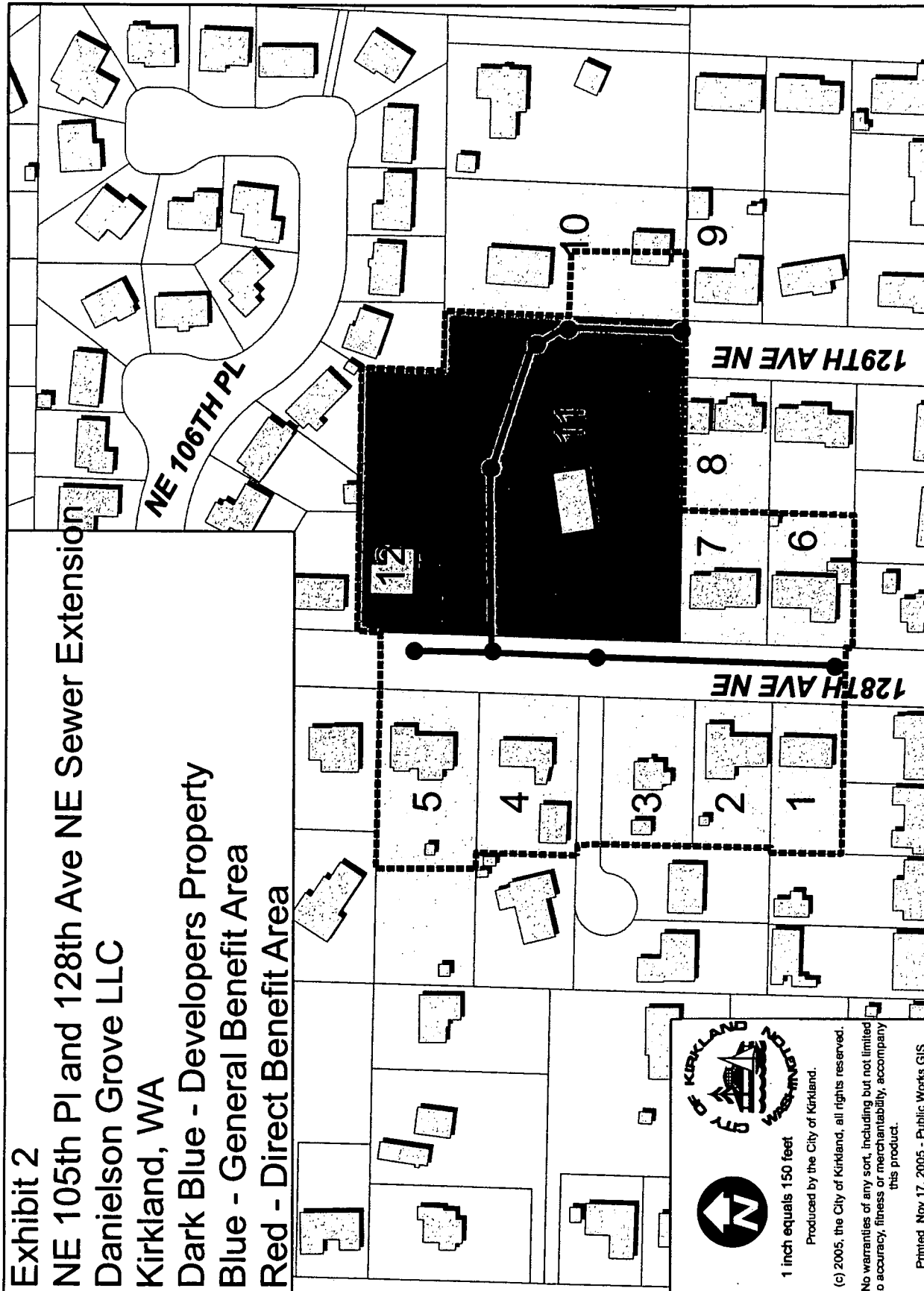
1 inch equals 150 feet

Produced by the City of Kirkland.

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No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

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## EXHIBIT 3

## Danielson Grove Latecomer's Assessment Roll

Ref No.	Tract/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Area (SF)	Direct Benefit Area (SF)	General Benefit Area (SF)	Direct Benefit Cost	General Benefit Cost	Total Cost	Reimburse Developer @ 85%	Reimburse City @ 15%
1	3913000-0030	Debbi I Stewart 10417 128th Ave NE Kirkland, WA 98033	3 Knektik Replat #1	12,000	12,000	12,000	\$5,882.55	\$1,539.26	\$7,421.81	\$6,308.54	\$1,113.27
2	674370-0346	Sarah F Kwok 10425 128th Ave NE Kirkland, WA 98033	11 & 12.4 Petitts H C Alder Grove Kirkland N 39.32 Ft of E 155.41 Ft of Lot 11 & S 40.66 Ft of E 155.41 Ft of Lot 12	12,400	12,400	12,400	\$6,078.64	\$1,590.57	\$7,669.21	\$6,518.82	\$1,150.38
3	674370-0347	Lee Street Development 522 Alder St #301 Edmonds, WA 98020	12 & 13.4 Petitts H C Alder Grove Kirkland E 155.41 of Lot 12 Less S 40.66 Ft Thereof & E 155.41 Ft of S 9.32 Ft of Lot 13	14,260	14,260	14,260	\$6,990.43	\$1,829.15	\$8,819.59	\$7,496.65	\$1,322.94
4	674370-0356	R G Daniels 10515 128th Ave NE Kirkland, WA 98033	13 & 14.4 Petitts H C Alder Grove Kirkland Lot 13 Less W 140 Ft & Less S 39.32 Ft Thereof TGV S 19.66 Ft of Lot 14 Less W 140 Ft of said Lot 14	17,640	17,640	17,640	\$8,647.35	\$2,262.71	\$10,910.06	\$9,273.55	\$1,636.51
5	674370-0360	James & Marlene Campbell 10527 128th Ave NE Kirkland, WA 98033	14.4 Petitts H C Alder Grove Kirkland Less S 19.66 Ft	32,235	21,490	32,235	\$10,534.67	\$4,134.84	\$14,669.51	\$12,469.08	\$2,200.43
6	445870-0110	Terry Landa 10416 128th Ave NE Kirkland, WA 98033	11 Lu-Gene Add Div #1	12,420	12,420	12,420	\$8,088.44	\$1,593.13	\$7,681.58	\$6,529.34	\$1,152.24
7	445870-0120	Chasun Han 10424 128th Ave NE Kirkland, WA 98033	12 Lu-Gene Add Div #1	12,420	12,420	12,420	\$8,088.44	\$1,593.13	\$7,681.58	\$6,529.34	\$1,152.24
8	445870-0130	Thomas & Jean Hodgson 10421 128th Ave NE Kirkland, WA 98033	13 Lu-Gene Add Div #1	12,420	0	12,420	\$0.00	\$1,593.13	\$1,593.13	\$1,354.16	\$238.97
9	445870-0060	Robert D Severson 10428 128th Ave NE Kirkland, WA 98033	6 Lu-Gene Add Div #1	11,040	0	11,040	\$0.00	\$1,416.12	\$1,416.12	\$1,203.70	\$212.42
10	332605-9126	Albert & Helen Owen 10450 129th Ave NE Kirkland, WA 98033	332605 128 S 250 Ft of W 1/2 of NE 1/4 of SW 1/4 of NE 1/4 of SE 1/4 Less W 30 Ft	34,833	8,708	34,833	\$4,268.89	\$4,468.09	\$8,736.98	\$7,426.43	\$1,310.55
<b>TOTALS</b>				<b>171,668</b>	<b>111,338</b>	<b>171,668</b>	<b>\$64,579.42</b>	<b>\$22,020.13</b>	<b>\$76,599.56</b>	<b>\$65,109.62</b>	<b>\$11,489.93</b>

Cost Per Square Foot of Sewer Construction		Calculation of the Cost Per Square Foot of Sewer Construction	
Survey Cost	\$2,000.00	75% of Total Cost Shall be borne by the Total Direct Benefit Area (TDBA)	
Engineering Cost	\$6,030.00	25% of Total Cost Shall be borne by the Total General Benefit Area (TGBA)	
Construction Cost	\$120,784.65	Therefore the following are cost per square foot for each benefit area:	
Off-site Overlay Cost	\$15,156.40	((75%)x(Total Cost/TDBA)) = 75 x \$143,971.05 / 220,268 =	0.490213
Total	\$143,971.05	((25%)x(Total Cost/TGBA)) = 25 x \$143,971.05 / 280,598 =	0.128272

## EXHIBIT 4

## Danielson Grove Developer's Assessment Roll

Ref No.	Tax/Parcel No.	Owner/Address	Abbreviated Legal Description	Total Area (SF)	Direct Benefit Area (SF)	General Benefit Area (SF)	Total Costs
11	332605-9019	Danielson Grove, LLC 8215 41st Ave NE Seattle, WA 98115	332605 10 POR SW 1/4 of NE 1/4 of SE 1/4 DAF - BEG NW COR SD SUBD TH S 89-25-34 E 152.3 ft to POB TH S 89-25-34 E 155.34 ft TH S 2-20-56 W 87.04 ft TH S 89-25-34 E 61.73 ft TH S 2-06-29 W 251.26 ft TH N 89-15-19 W 337.9 ft TH N 1-55-35 E 250.05 ft TH S 89-15-19 E 139.2 ft TH N 1-59-02 E 10.2 ft TH N 43-00-58 W 24.04 ft TH 1-59-02 E 60 ft to POB AKA Lot 19 Kirkland LLA #LL-03-29 REC #20030409000077	97,929	97,929	97,929	\$60,567.55
12	332605-9177	Kiyo & Margaret Danielson 10415 130th Ave NE Kirkland, WA 98033	332605 177 POR SW 1/4 of NE 1/4 of SE 1/4 DAF - BEG NW Cor SD SUBD TH S 89-25-34 E 30.01 ft to POB TH S 89-25-34 W 122.29 ft TH S 1-59-02 W 60 ft TH S 43-00-58 E 24.04 ft TH S 1-59-02 W 10.2 ft TH N 89-15-19 W 139.2 ft TH N 1-55-35 E 87.2 ft to POB AKA Lot 177 Kirkland LLA #LL-03-29 REC #20030409000077	11,001	11,001	11,001	\$6,803.95

<b>TOTALS</b>	<b>108,930</b>	<b>108,930</b>	<b>108,930</b>	<b>\$67,371.49</b>
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