



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587-3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: John A. Burkhalter, P.E., Senior Development Engineer
Rob Jammerman, Development Engineering Manager
Daryl Grigsby Public Works Director

Date: February 10, 2006

Subject: CITY COUNCIL RESOLUTION APPROVING A SEWER FACILITY AGREEMENT WITH CONTINENTAL DIVIDE LLC.

RECOMMENDATION:

It is recommended that the City Council approve the attached resolution authorizing the City Manager to execute a Sewer Facility Agreement with Continental Divide LLC.

POLICY IMPLICATIONS:

The City of Kirkland is authorized pursuant to Chapter 35.91 RCW to enter into a Sewer Facility Agreement (also known as a Sewer Latecomers' Agreement) allowing developers to receive compensation for the installation of public sewer main line extensions, i.e. persons connecting to the extensions are required to pay a portion of the construction costs as a condition of connection. These latecomers' fees are calculated based on the area of the property being served: dividing the benefit area into the total cost of the sewer extensions yields the latecomers' charge. Fifteen percent (15%) of the sewer latecomers' fee is retained by the City of Kirkland for administering the agreement and eighty-five percent (85%) of the fee is returned to the developer. The agreement is valid for 15 years and is administered by the Department of Public Works.

BACKGROUND DISCUSSION:

Continental Divide LLC installed approximately 130 lineal feet of sewer main line extension along 126th Ave. NE. This public sewer main extension provides sewer service to various parcels. A Sewer Facility Agreement has been filed with the Department of Public Works to receive reimbursement for the sewer. Any property owner applying for connection to the sewer main will be required to pay approximately \$.573 per square foot for the direct benefit area and approximately \$.137 per square foot for the general benefit area plus normal City of Kirkland sewer connection fees.

Upon Approval of the resolution and subsequent signing by the City Manager, the agreement will be sent to King County for recording. Finally, notice of latecomers' connection charges will be sent to each property owner included in the agreement.

CC: City Attorney

Exhibit 1
126th Ave NE
Greg Griffis
Kirkland, WA
Dark Blue - General Benefit
Red - Direct Benefit

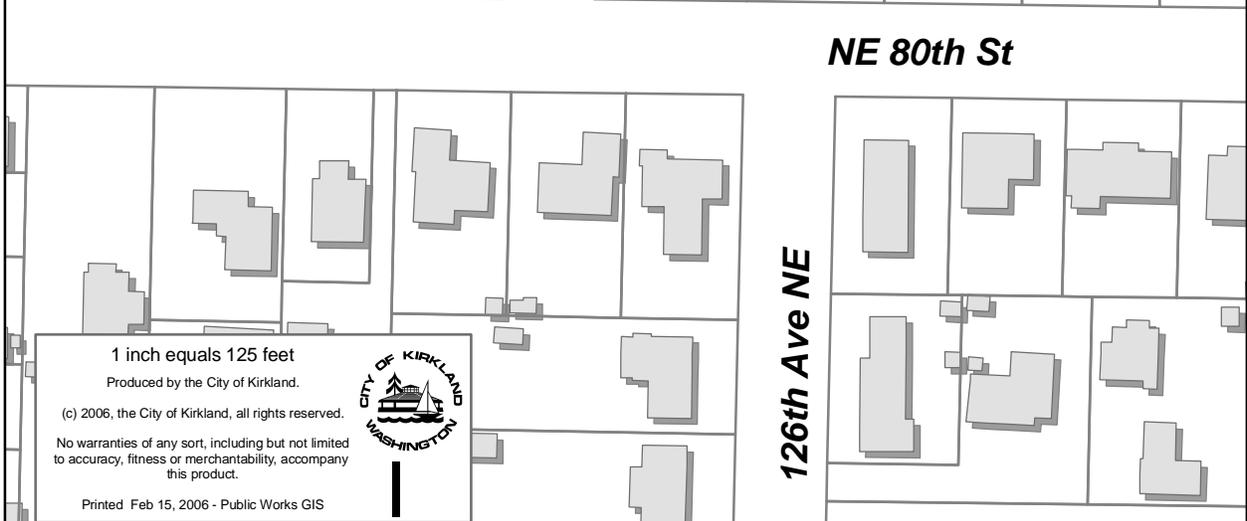
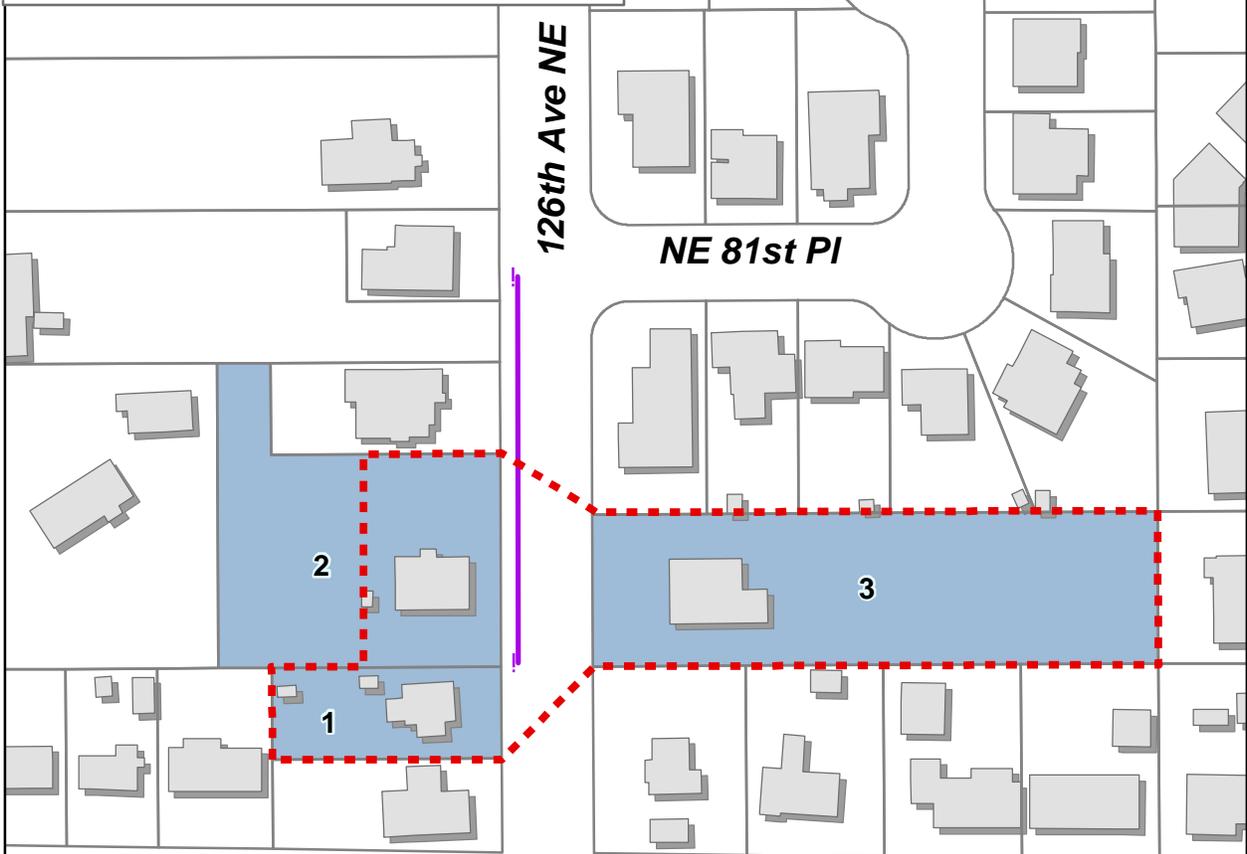
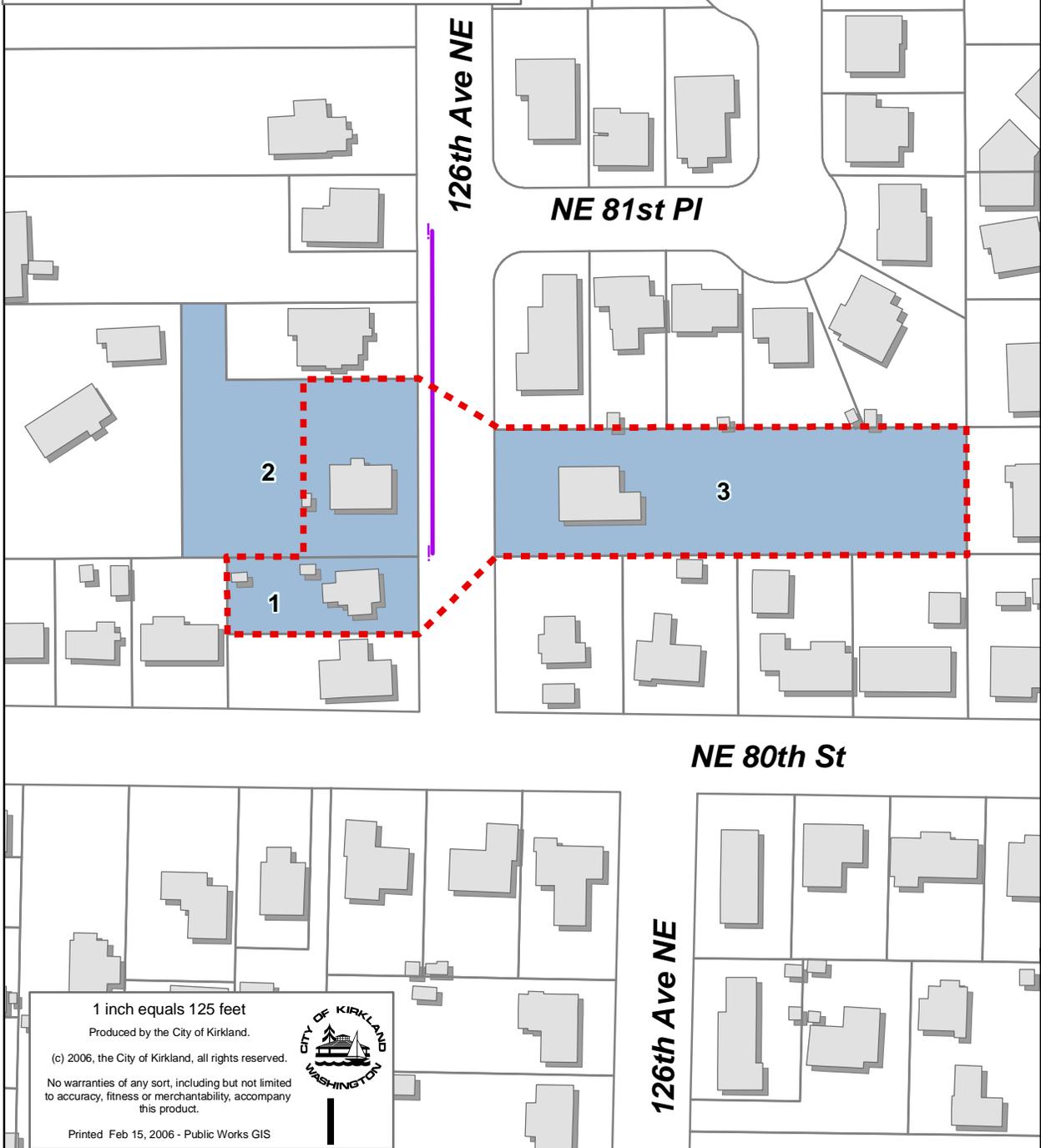


Exhibit 2
126th Ave NE
Greg Griffis
Kirkland, WA
Dark Blue - General Benefit
Red - Direct Benefit



Queen Anneli Latecomer's Assessment Roll

EXHIBIT 3

| Ref No. | Tax/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 | 123310-0476 | Kristie L Lodolce 13804 Redmond Way Redmond, WA 98052 | 15 12 Burke-Farrars Kirkland Div#6 E 150 ft Less S 60.90 ft. | 9,000 | 9,000 | 9,000 | \$5,156.70 | \$1,235.68 | \$6,392.37 | \$5,433.52 | \$958.86 |
| 2 | 123310-0491 | James Johnston 8017 126th Ave NE Kirkland, WA 98033 | 16-17 12 Burke-Farrars Kirkland Div #6 E 185 ft Lots 16-17 less N 60 ft of E 150 ft SD lot 17 aka por KC LLA #8603015 approved 5/786 & 8/27/86 | 28,000 | 7,200 | 28,000 | \$4,125.36 | \$3,844.33 | \$7,969.68 | \$6,774.23 | \$1,195.45 |
| TOTALS | | | | 37,000 | 16,200 | 37,000 | \$9,282.05 | \$5,080.01 | \$14,362.06 | \$12,207.75 | \$2,154.31 |

| Cost Per Square Foot of Sewer Construction | | Calculation of the Cost Per Square Foot of Sewer Construction | |
|--|-------------|---|----------|
| Survey Cost | \$464.00 | 75% of Total Cost Shall be borne by the Total Direct Benefit Area (TDBA) | |
| Engineering Cost | \$1,305.00 | 25% of Total Cost Shall be borne by the Total General Benefit Area (TGBA) | |
| Construction Cost | \$35,171.00 | Therefore the following are cost per squeste foot for each bendfit area: | |
| Project Management (10%) | \$3,694.00 | ((75%)x(Total Cost/TDBA)) = .75 x \$40,634 / 53,189 = | 0.572966 |
| Total | \$40,634.00 | ((25%)x(Total Cost/TGBA)) = .25 x \$40,634 / 73,989 = | 0.137297 |

Queen Anneli Developer's Assessment Roll

EXHIBIT 4

| Ref No. | Tax/Parcel No. | Owner/Address | Abbreviated Legal Description | Total Area (SF) | Direct Benefit Area (SF) | General Benefit Area (SF) | Total Cost |
|---------|----------------|--|---|-----------------|--------------------------|---------------------------|-------------|
| 3 | 123310-0620 | Continental Divide, LLC 7545 126th Ave NE Kirkland, WA 98033 | Short Plat recording number 20040407900019 creating 4 lots; parcel numbers 123310-0620, 123310-0621, 123310-0622 and 123310-0622. | 36,989 | 36,989 | 36,989 | \$26,271.94 |

| | | | | |
|---------------|---------------|---------------|---------------|--------------------|
| TOTALS | 36,989 | 36,989 | 36,989 | \$26,271.94 |
|---------------|---------------|---------------|---------------|--------------------|

RESOLUTION R- 4553

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A SEWER FACILITY AGREEMENT WITH CONTINENTAL DIVIDE 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 Continental Divide LLC. A copy of this Agreement is attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2006.

Signed in authentication thereof this ____ day of _____, 2006.

MAYOR

Attest:

City Clerk

EXHIBIT A



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 Continental Divide 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 \$40,634.00, 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 7545 126th AVE NE Kirkland WA until such time as Developer shall have received the total sum of \$13,646.80, 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: _____

(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 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

(Name of Corporation)

By President

By Secretary

(Corporations 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 the President and Secretary, respectively, of the _____, 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: _____