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KING COUNTY, WA

COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

GRANTOR: BD LAWSON PARTNERS, LP
BD VILLAGE PARTNERS, LP

GRANTEE: CITY OF BLACK DIAMOND
ENUMCLAW SCHOOL DISTRICT

Legal Description; Abbreviated forms: PCL 14 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01; LOT B OF KCLLA #L09L0029 REC #20090924900013; LOT C OF KCLLA #L09L0029 REC #20090924900013; PCLS 15, 12, 13 & 14 OF KC SUBD EXEMPTION FILE #L96M0029 (RE-APPROVAL) DATED 2-2-2001; E1/2 OF NE1/4 OF SW1/4 SEC 22-21-06; S1/2 OF NW1/4 OF SE1/4 SEC 22-21-06; W1/2 OF SW1/4 OF SE1/4 SEC 22-21-06; E1/2 OF SE1/4 OF SW1/4 SEC 22-21-06; POR SE1/4 OF SW1/4 STR 12-21-06; N 1/2 OF FOLG-BEG 472.70 FT S & 807.97 FT E OF NW COR OF SEC TH N 00-33-00 E 469.94 FT TH N 36-49-00 E 311.26 FT TH S 89-48-42 E 725.85 FT TH S 00-33-00 W 719.72 FT TH N 89-48-42 W 910.01 FT TO BEG; BEG 192.15 FT S & 810.57 FT E OF NW COR OF SEC 13 TH N 00-32-00 E 189.47 FT TH N 89-48-42 W 37.73 FT TH S 37-11-00 W 237.34 FT TH S 89-51-00 E 174.10 FT TO BEG; BEG AT PT 211.84 FT S & 690.70 FT E OF NW COR OF SEC TH S 89-51-00 E 119.68 FT TH S 00-32-00 W 439.59 FT TH N 89-28-00 W 116.74 FT TH N 00-09-00 E 438.74 FT TO BEG; BEG AT PT 211.84 FT S & 690.70 FT E OF NW COR OF SEC TH S 89-51-00 E 119.68 FT TH S 00-32-00 W 439.59 FT TH N 89-28-00 W 116.74 FT TH N 00-09-00 E 438.74 FT TO BEG; PCL 21 & 20 OF CD SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01; PCL 1 & 2 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001; POR LOTS U, W, X, Y, Z KC BLA #L05L0097 REC #20051209900003; POR SW1/4 OF NW1/4 STR 13-21-06; POR NW1/4 STR 13-21-06; N1/2 OF NE1/4 OF SW1/4 STR 13-21-06; POR W1/2 OF S1/2 OF SW1/4 STR 13-21-06; POR NW1/4 OF SE1/4 STR 13-21-06; LOT B KC BLA #L09L0056 REC #20100608900003; POR NW1/4 STR 13-21-06; POR NW1/4 OF NW1/4 STR 13-21-06; N1/2 OF N1/2 OF NE1/4 OF NW1/4 STR 13-21-06; POR SE1/4 OF NW1/4 STR 13-21-06; SE1/4 OF NW1/4 STR 13-21-06; PCL A BLACK DIAMOND BLA #LLA 07-001 REC #20080610900012; LOT B BLACK DIAMOND BLA # LLA 07-001 REC #20080610900012; LOT C BLACK DIAMOND BLA # LLA 07-001 REC #20080610900012; LOT 3 BLACK DIAMOND BLA #PLN-10-0010 REC #20100713900006; SECS 11 & 12, TWP 21N, R6E; NW1/4 OF NE1/4 STR 14-21-06; POR PACIFIC COAST RR CO ROW NW1/4 OF NE1/4 STR 14-21-06; POR NE1/4 NE1/4 STR 14-21-06; POR OF LOT 1 BLACK DIAMOND SP #01-08-83 REV REC #8308299001; REVISED REC #8808039001; LOT 1 BLACK DIAMOND SP #03-SP-01 REC #20030224900001; POR NW1/4 OF NW1/4 STR 13-21-06; POR NW1/4 STR 13-21-06; STR 21-21-06 Additional legal on pages 77; 85; 89; 93; 97; 101; 105; 109-121; 152

Assessor's Tax Parcel ID Nos.: 2321069058; 2321069063; 2321069062; 1521069106; 1521069103; 1521069104; 1521069105; 2221069051; 2221069037; 2221069036; 2221069044; 1221069012; 1321069021; 1321069029; 1321069023; 1321069033; 2321069065; 2321069064; 1521069005; 1521069097; 0221069024; 0321069076; 0321069014; 0321069015; 0321069001; 1321069048; 1321069007; 1321069034; 1321069063; 1321069066; 1321069067; 1221069011; 1321069014; 1321069013; 1321069057; 1321069062; 1321069003; 1321069024; 1321069037; 1321069040; 1321069046; 1321069053; 1321069008; 1321069010; 1321069011; 1321069009; 1121069122; 1121069044; 1121069110; 1121069111; 1121069112; 1121069113; 1121069114; 1121069020; 1221069049; 1421069002; 1421069063; 1421069001; 1421069186; 1321069054; 1321069036; 1321069038; 1231069022; 1321069047; 2121069001
Reference number(s) of Related Document(s): N/A
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EXHIBIT 21

COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

This COMPREHENSIVE SCHOOL MITIGATION AGREEMENT (the "Agreement") is made this 24 day of January, 2011, between the CITY OF BLACK DIAMOND, a Washington municipal corporation (the "City"), the ENUMCLAW SCHOOL DISTRICT, a Washington municipal corporation (the "District"), BD LAWSON PARTNERS, LP, a Washington limited partnership ("BDLP"), and BD VILLAGE PARTNERS, LP, a Washington limited partnership ("BDVP").

1. Background Information and Agreement Purposes.

1.1 The City, by entering into the BDUGAA, started a process where it would expand its boundaries and use innovative development techniques, such as MPDs and transferable development rights, to create a walkable, sustainable community interconnected by a series of trails, sensitive areas, wildlife corridors, parks and other spaces.

1.2 The Developer desires to create vibrant, sustainable master planned communities that foster a strong sense of community and promote quality of life. The Developer intends to develop the Projects in various phases, consistent with the Comprehensive Plan, as it may be amended from time to time.

1.3 The approved Units in each Project are projected to generate school-age children.

1.4 The District does not have the facilities available to accommodate the additional students who will be generated from the Projects.

1.5 Pursuant to RCW 58.17.110 and City Municipal Code Title 17 and Chapter 18.98, as a part of Master Plan Development and subdivision approval, the City is required to ensure that appropriate provisions are made for schools and school facilities necessary to serve the residential subdivisions that will be part of the Projects.

1.6 Pursuant to Chapter 43.21C RCW and its implementing regulations, the City is required to consider and may require mitigation for probable adverse environmental impacts of the Projects on the built environment.

1.7 The Parties agree that adequate school facilities to serve the Projects will be necessary to preserve the existing quality of life in the City, to ensure the appropriate provision of schools and school programs through the District, and to create viable and livable communities within the Projects.

1.8 The Parties agree that schools should be an integral part of the community they serve and that neighborhood schools are preferred in order to permit

students to walk or bike to school, to reduce school transportation needs, and to create a community focus.

1.9 The Developer is willing to go above and beyond simply paying Mitigation Fees to the District to mitigate the impacts of the Projects. The Developer is willing to convey real property to the District in exchange for Mitigation Fee Credits in order to achieve the goals of the Parties in a manner coordinated with the development of the Projects and to help ensure that Agreed School Sites are available so that the District may effectively serve the residents of the Projects. The Developer desires certainty regarding mitigating the impacts of the Projects on School Facilities and this Agreement reflects the Parties' agreement with respect to that mitigation.

1.10 The Parties agree that, if appropriate and subject to the District's priority use rights, and subject to the District's and the City's exercise of their reasonable discretion and other conditions all as set forth in Section 8 below, open space areas at certain Identified School Sites may be used, through a joint use agreement, to satisfy the City's open space and park lands requirements related to the Projects.

1.11 The Parties agree that the District will not be required to pay any amount, other than the issuance of Mitigation Fee Credits or the reimbursement of Mitigation Fees, to the Developer for the conveyance of the Agreed School Sites, subject to this Agreement.

1.12 A material and substantial consideration for the Parties entering into this Agreement at this time is to support and encourage the passage of school construction bond issues in the near and long-term for the financing of schools in the City and on the Agreed School Sites.

1.13 The Parties have the authority to enter into a voluntary agreement to mitigate the impact of the development on the District and to agree that performance of the terms of this Agreement constitute adequate mitigation of the environmental impacts on school facilities and appropriate provision of schools and school grounds.

1.14 The Parties intend this Agreement to provide a mechanism to achieve the vision of the Parties as articulated above.

2. Definitions. The words used in this document shall be given their common, ordinary meaning, unless otherwise indicated herein, or, unless a specific definition is given in this section. If a word or phrase is to have a specialized definition for use in this document, then the word, or, if a phrase then each word in a phrase, shall be capitalized.

2.1 "Actual Joint Use Land Values" shall mean the actual market value, as adjusted to recognize any open space limitation imposed on the property, whether by code, comprehensive plan, land use approval, or as acknowledged by the Parties in this

Agreement, of the District's rights to use for the District's intended school purposes any Joint Use Land conveyed to the City pursuant to this Agreement.

2.2 "Actual School Site Value" shall mean the market value of an Identified School Site determined pursuant to Section 10.4.

2.3 "Agreed Acreage" shall mean ten (10) Usable Acres for each of the Elementary School Sites, fifteen (15) Usable Acres for each of the two Middle School Sites, and forty (40) Usable Acres for the High School Site.

2.4 "Agreed School Sites" shall mean the Elementary School Sites, the Middle School Sites, and the High School Site, all with the Agreed Acreage.

2.5 "Agreed Student Capacity" shall mean 450 students per elementary school, 550 students per middle school, and 1,200 students per high school, all as set forth in Section 4.

2.6 "Agreement" shall mean this document, which is entitled Comprehensive School Mitigation Agreement, and all attachments to this document which are referenced within the body of the document, and which are by this referenced incorporated herein.

2.7 "Agreement Effective Date" shall mean the date of full execution of the Agreement, which shall be consistent with the date of execution by the last of the Parties, as provided in the signature blocks at the end of this Agreement.

2.8 "Agreement Term" shall mean the period of time that the Agreement remains in full force and effect, as further described in Section 30.

2.9 "Alternative Elementary School Site" shall mean the site depicted on Exhibit A, which is a portion of the property legally described in Exhibit A.1.

2.10 "Alternative High School Site" shall mean a high school site of no less than forty (40) Usable Acres, except that the Parties agree that such site may be less than 40 Usable Acres, if: (1) a portion of the school facilities can be separately located on property located no more than 1.5 miles from the Alternative High School Site; and (2) the District, in its sole and exclusive discretion, determines that such site and the off-site facilities location are acceptable for the District's purposes. The Alternative High School Site must be located within the City of Black Diamond and in the general area identified by the hash marked area on Exhibit B.

2.11 "Appraised Value" shall mean the market value of an Agreed School Site determined by an appraiser based on the factors described in Section 10.4.3.

2.12 "Approval Work" shall mean work that is necessary to be performed on an Identified School Site after the Agreement Effective Date in order to meet the Land Use Approval conditions associated with the Project or to facilitate development or site planning of the Projects consistent with the Land Use Approval conditions.

2.13 "Approved Exceptions" shall mean Permitted Exceptions and other title exceptions approved by the District in writing or deemed approved as provided in Section 12.

2.14 "BDLP" shall mean BD Lawson Partners, LP, a Washington limited partnership.

2.15 "BDLP's Actual Knowledge" shall mean the actual knowledge of Brian Ross, David MacDuff, Colin Lund and Ryan Kohlmann, without additional inquiry or investigation.

2.16 "BDVP" shall mean BD Village Partners, LP, a Washington limited partnership.

2.17 "BDVP's Actual Knowledge" shall mean the current actual knowledge of Brian Ross, David MacDuff, Colin Lund and Ryan Kohlmann, without additional inquiry or investigation.

2.18 "BDUGAA" shall mean the document entitled Black Diamond Urban Growth Area Agreement that is dated December 31, 1996, and was entered into between King County, the City, Palmer Coking Coal Company and Plum Creek Timber Company, Limited Partnership.

2.19 "CCRs" shall mean the Covenants, Conditions and Restrictions that will be recorded against certain Identified School Sites in connection with the development of the Projects.

2.20 "City Municipal Code" shall mean the municipal code adopted by the City as well as any amendments to the code adopted during the Agreement Term.

2.21 "Closing" shall mean the process of recording the deed to convey title to a particular Agreed School Site from the Developer to the District.

2.22 "Community Development Director" shall mean the City's designee responsible for planning and development functions.

2.23 "Community Recreational Facility" shall mean an improvement on Joint Use Lands that is above and beyond what may be required to meet the City park and recreational facilities requirements and the MPD permit condition.

2.24 "Comprehensive Off-Site Improvements" shall mean the General Off-Site Improvements and the School-Specific Off-Site Improvements.

2.25 "Comprehensive Off-Site Utilities" shall mean the General Off-Site Utilities and the School-Specific Off-Site Utilities.

2.26 "Comprehensive Plan" shall mean that certain Comprehensive Land Use Plan adopted by the City of Black Diamond on June 18, 2009.

2.27 "Contingency Period" shall mean the period ending one hundred eighty (180) days from the date the boundaries of the Identified School Sites are delineated as set forth in Section 6.1.1.

2.28 "Deed" shall mean each statutory warranty deed conveying any Identified School Site to the District pursuant to this Agreement.

2.29 "Deed Restriction" shall mean that certain use restriction recorded at Closing for the Elementary School Sites A-C, a form of which is attached hereto as Exhibit C.

2.30 "Developer" shall mean BDLP with respect to the Lawson Hills Project and BDVP with respect to the Village Project, collectively or individually as the context requires, and subject to Section 32.

2.31 "Development Encumbrances" shall mean the title encumbrances described in Section 13.1, and the CCRs after approval or deemed approval by the District pursuant to Section 13.2.

2.32 "Development Use" shall mean the placement of temporary structures, temporary storage or stock piling of equipment, soil, gravel, vehicles, supplies and materials used in the development of the Projects.

2.33 "District" shall mean the Enumclaw School District No. 216.

2.34 "District's Capital Facilities Plan" shall mean the Enumclaw School District's 2008-2013 Capital Facilities Plan dated May, 2008, and adopted by the District's Board of Directors on July 28, 2008.

2.35 "EISes" shall mean the Environmental Impact Statements for the Projects.

2.36 "Elementary School Site" shall mean Elementary School Site A, Elementary School Site B, Elementary School Site C, and Elementary School Site D, collectively, or individually as the context requires.

2.37 "Elementary School Site A" shall mean the site depicted on Exhibit D, which is a portion of the property legally described in Exhibit D.1.

2.38 "Elementary School Site B" shall mean the site depicted on Exhibit E, which is a portion of the property legally described in Exhibit E.1.

2.39 "Elementary School Site C" shall mean the site depicted on Exhibit F, which is a portion of the property legally described in Exhibit F.1.

2.40 "Elementary School Site D" shall mean the site depicted on Exhibit G, which is a portion of the property legally described in Exhibit G.1.

2.41 "Environmental Laws" shall mean federal, state or local law, ordinance, code, regulation, rule, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any environmental conditions, health or industrial hygiene, including without limitation, (i) chlorinated solvents, (ii) petroleum products or by-products, (iii) asbestos, (iv) polychlorinated biphenyls, and (v) anything that would be a hazardous waste, material or substance, toxic substance or pollutant, as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et. seq.; Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq., the Clean Water Act, 42 U.S.C. § 1251 et. seq., the Washington Environmental Policy Act, RCW Ch. 43.21, the Washington Water Pollution Control Act, RCW Ch. 90.48.010 et seq., the Washington Hazardous Waste Management Act, RCW Ch. 70.105, the Washington Model Toxics Control Act, RCW Ch. 70.105D, and the regulations promulgated thereunder.

2.42 "Escrow Agent" shall mean Chicago Title Insurance Company, located at 701 Fifth Avenue, Suite 2300 in Seattle, Washington 98104, or the then-current address, or, in the event the aforementioned Chicago Title Insurance Company is no longer in existence, an escrow agent mutually agreeable to the District and the Developer.

2.43 "Estimated School Site Value" shall mean the estimated market value of an Identified School Site as determined pursuant to Section 10.7.

2.44 "Estimated Student Population" means the number of students estimated to be generated by the Projects calculated by using the District's student generation ratios set forth in Section 5.1.1 and the Projected Units in the Projects.

2.45 "First Middle School Site" shall mean shall mean the site depicted on Exhibit H, which is a portion of the property legally described in Exhibit H.1.

2.46 "General Off-Site Improvements" shall mean roads, sidewalks, curbs, and gutters within the public right-of-way serving as the point of access for each

Identified School Site and located outside the Identified School Sites, in whole or in part within the Project boundaries, which improvements may be required by applicable City or County standards, or MPD requirements to provide General Off-Site Improvements to the relevant Identified School Site, but shall not include School-Specific Off-Site Improvements to the extent such School-Specific Off-Site Improvements require oversizing or otherwise increase the cost of the General Off-Site Improvements.

2.47 "General Off-Site Utilities" shall mean stormwater, sewer, water, natural gas, electricity, and communication lines, all as based upon applicable City or County standards and set forth in the approved engineering plans for the Lawson Hills Project and the Village Project and/or that are a part of the MPD requirements, but shall not include the School-Specific Off-Site Utilities to the extent such School-Specific Off-Site Utilities require oversizing or otherwise increase the cost of the General Off-Site Utilities.

2.48 "Hazardous Substance" shall mean any hazardous or toxic substance, material or waste, pollutants or contaminants, as defined, listed or regulated now or in the future by any Environmental Laws.

2.49 "High School Site" shall mean the site consisting of forty (40) Usable Acres depicted on Exhibit I, which is a portion of the property legally described in Exhibit I.1.

2.50 [RESERVED]

2.51 "Identified High School Site" shall mean the Developer's selection pursuant to Section 7.2 between the High School Site, the Alternative High School Site, and the Rural High School Site, as applicable.

2.52 "Identified School Sites" or "Identified School Site" shall mean the four (4) Elementary School Sites including, unless and until the District waives receipt of the Maximum Acreage pursuant to Section 5.2.3, the Maximum Acreage for Elementary School Sites A, B, and C, two (2) Middle School Sites, or any one of the foregoing as the context so requires, and the High School Site or the Identified High School Site.

2.53 "Included Costs" shall mean the closing costs described in Section 19 and the cost of any Surveys (as described in Section 12).

2.54 "Indemnified Parties" shall mean agents, members, partners, officers, directors, contractors, subcontractors, employees, and invitees.

2.55 "Joint Use Agreement" shall mean an agreement, as further described in Section 8, which will govern the use of Joint Use Land.

2.56 "Joint Use Land" shall mean that certain real property located in the City on an Identified School Site in one of the Projects that is conveyed either to the City or the District to be used jointly by the District and the City for District programmatic, open space, and playfield facilities and City outdoor recreation purposes and for which the Developer receives credit toward the City's park requirements under the City Municipal Code, all as further described in Section 8.

2.57 "Land Use Approvals" shall mean those certain Comprehensive Plan Amendments necessary for the Projects, Code amendments (if any) necessary for the Projects, MPD approvals, development agreement approvals, segregation and related approvals (whether by boundary line adjustment, subdivision, binding site plan or alternate mechanism), site development and construction permits, utility and road permits, including permits for off-site infrastructure, and similar land use and construction approvals necessary to complete the Projects or necessary to segregate or subdivide an Identified School Site from the rest of the Projects or other property or other approvals necessary to complete the Projects.

2.58 "Lawson Hills Project" shall mean that certain MPD project on certain real property as described in Exhibit K attached hereto and consisting of no more than 930 single family Units and no more than 320 multi-family Units.

2.59 "Maximum Acreage" shall mean twelve and one-half acres for each of the Elementary School Sites.

2.60 "Middle School Sites" shall mean the First Middle School Site and the Second Middle School Site.

2.61 "Mitigation Fee" or "Mitigation Fees" shall mean the mitigation fees per Unit described in Section 9.

2.62 "Mitigation Fee Account" shall mean the segregated interest bearing account maintained by the District that is used solely for Mitigation Fees collected pursuant to this Agreement.

2.63 "Mitigation Fee Credits" shall mean the credits against Mitigation Fees issued by the District to the Developer pursuant to Section 10 that are evidenced by Mitigation Fee Credit Certificates.

2.64 "Mitigation Fee Credit Certificates" shall mean the certificate in the form attached hereto as Exhibit L that the District issues as evidence of Mitigation Fee Credits.

2.65 "MPD" shall mean a Master Planned Development designation under the City Municipal Code.

2.66 "MPD Service Area" shall mean any portion of the District located north of the Green River.

2.67 "Notices" shall mean all notices or other communications required or desired to be given by any Party pursuant to this Agreement.

2.68 "Option to Purchase" shall mean the right of the Developer to purchase certain Identified School Sites that are not used for or ceased to be used for a School Facility or as otherwise described in this Agreement, upon the terms and conditions set forth in the option agreement attached as Exhibit M (also referred to as the "Developer's Option Agreement").

2.69 "Other Property" shall mean real property that: (1) is not currently within the Lawson Hills Project or the Village Project; (2) is either currently owned or to be acquired by the Developer during the Agreement Term; (3) is subsequently included in one of the Projects by an amendment to the Project's MPD permit approval; and (4) does not cause an increase in the total number of estimated students at each grade level as contemplated herein by multiplying the student generation rate set forth in Section 5.1.1 by the Projected Units.

2.70 "Other Work" shall mean any work or activities that do not constitute Approval Work or Development Use.

2.71 "Parties" or "Party" shall mean the City, the District, BDLP and BDVP, collectively, or individually, as the context requires.

2.72 "Permitted Exceptions" shall mean the following certain title encumbrances as recorded on certain Identified School Sites: mineral reservations in favor of Meridian Minerals and/or PCTC, Inc., as reserved under King County Recording Nos. 8907070390, 9112301747, 9206230401, and 9301152402, mineral reservations in favor of Weyerhaeuser Company as reserved under King County Recording No. 8501040307, mineral reservations in favor of Palmer Coking Coal Company LP substantially in the same form as set forth in the deed recorded under King County Recording No. 20090722000916, and that certain Interim Conservation Easement in favor of King County recorded under King County Recording No. 9708110711.

2.73 "Project" or "Projects" shall mean the Lawson Hills Project and the Village Project, individually, or collectively, as the context so requires.

2.74 "Projected Lawson Hills Units" shall mean a projected 930 single family Units and 320 multi-family Units resulting from the full build out of the Lawson Hills Project.

2.75 "Projected Units" shall mean the Projected Lawson Hills Units and the Projected Village Units, collectively.

2.76 "Projected Village Units" shall mean a projected 3,600 single family Units and 1,200 multi-family Units resulting from the full build out of the Village Project.

2.77 "Remaining Elementary School Sites" shall mean the second, third and fourth Elementary School Sites to be conveyed to the District.

2.78 "Rural High School Site" shall mean a high school site of no less than forty (40) Usable Acres located in the MPD Service Area and within the District's boundary.

2.79 "School Facility" or "School Facilities" shall mean the school building and related facilities, including but not limited to vehicle parking areas, school bus parking areas, internal site access areas, portable facilities, other related impervious surfaces, walkways, landscaping, playfields, and open spaces.

2.80 "School Financing Approval" shall mean the approval of financing to construct a new School Facility, whether that approval is the District's issuance of non-voted debt, the District voter's approval of a school construction bond, or any other documented action that allocates sufficient school construction dollars to construct a School Facility on an Agreed School Site.

2.81 "School-Specific Off-Site Improvements" shall mean any necessary added capacity or over sizing of General Off-Site Improvements solely to accommodate additional demand from the Identified School Sites or which exceed the base cost of the General Off-Site Improvements.

2.82 "School-Specific Off-Site Utilities" shall mean any necessary added capacity or over sizing of General Off-Site Utilities that are needed solely to serve the Identified School Sites or which exceed the base cost of the General Off-Site Utilities.

2.83 "Second Middle School Site" shall mean the site depicted on Exhibit N, which is a portion of the property legally described in Exhibit N.1.

2.84 "Title Binder" shall mean the preliminary commitment therefore as in the case of the due diligence title review referenced in Section 12, issued by the Title Company, and the Title Documents, collectively.

2.85 "Title Company" shall mean Chicago Title Insurance Company, located at 701 Fifth Avenue, Suite 2300 in Seattle, Washington, or the then-current address, or, in the event the aforementioned Chicago Title Insurance Company is no longer in existence, a title company mutually agreeable to the District and the Developer.

2.86 "Title Documents" shall mean the true, correct and legible copies of all documents referred to in the title insurance policy, or the preliminary commitment for title insurance as the case may be, that is included with the Title Binder that are the basis for the listed exceptions to title to the School Site.

2.87 "Unit" or "Units" shall mean the single family units and multi-family units from the Projects for which the City issues development approvals or building permits, collectively, or individually, as the context requires, with the exception of age restricted units or accessory dwelling units.

2.88 "Usable Acres" shall mean acreage that can be fully utilized for School Facilities or other improvements to serve the School Facilities and devoid of wetlands, wetland buffers, steep slopes, and any other environmentally sensitive areas.

2.89 "Valuation Conditions" shall mean the conditions described in Section 10 to be satisfied prior to determining a particular Actual School Site Value.

2.90 "Valuation Notice" shall mean the written notice from the District informing the Developer that the Valuation Conditions are satisfied with respect to a particular Identified School Site and the District desires to commence the process to determine the Actual School Site Value for such Identified School Site.

2.91 "Village Project" shall mean a MPD project on certain real property as described in Exhibit O attached hereto and consisting of no more than 3,600 single family Units and no more than 1,200 multi-family Units.

2.92 "Water Supply and Facilities Funding Agreement" shall mean that certain agreement originally between the City the following Developer's predecessors in interest, Plum Creek Land Company and Palmer Coking Coal Co. dated August 11, 2003.

3. Mitigation.

3.1 Complete Mitigation. The Parties agree that: (a) BDLP's performance of its obligations in this Agreement with respect to the Lawson Hills Project, shall constitute full, total, complete and sufficient mitigation of the impact of full build out of the Lawson Hills Project on school facilities in the District; and (b) BDVP's performance of its obligations in this Agreement with respect to the Village Project, shall constitute full, total, complete and sufficient mitigation of the impact of full build out of the Village Project on school facilities in the District. The District and City hereby covenant and agree that neither entity will seek or impose any mitigation measures or impact fees to mitigate the Projects' impacts upon school facilities, other than the Mitigation Fees and land conveyances described herein. The Parties acknowledge and agree that this Section 3 is not intended to address or preempt any requirements that may be subsequently imposed on the Projects pursuant to RCW 58.17.110 and BDMC Title 18

to provide for safe walking conditions for students who walk to and from schools, to provide mitigation for impacts other than impacts to school facilities, or to provide for utility related improvements including but not limited to roads, stormwater, sanitary sewer, public water, etc. The Parties further acknowledge and agree that, for purposes of RCW 58.17.110 and BDMC Title 18, the City shall treat the Identified School Sites and the existing Black Diamond Elementary School as the sites relevant for purposes of determining safe walking conditions.

3.2 Land Use Approvals. This Agreement shall be incorporated into the record for all appropriate Land Use Approvals issued subsequent to the Agreement Effective Date.

3.2.1 The City agrees that this Agreement, if fully implemented, will fully and adequately mitigate the probable significant environmental impacts of the Projects on schools facilities and the City will find that appropriate provision will be made for school and school grounds to serve the MPDs. The Parties agree that the City shall include, and the other Parties will support, the inclusion of this Agreement within the Projects' Land Use Approvals as the mitigation for school impacts that could have been mitigated by the use of impact fees or land conveyance, and none of the Parties shall appeal the Land Use Approvals as to this mitigation measure. This Agreement shall be so included in all relevant Land Use Approvals issued subsequent to the Agreement Effective Date

3.2.2 In the event of an appeal of the EISes or any Land Use Approvals brought by a third party seeking additional mitigation for school impacts, all Parties agree to cooperate in the defense of that appeal and the District, if requested by the City or Developer to do so, shall present either oral or written testimony indicating that, in the District's perspective, the Agreement provides for the mitigation of impacts to schools and that adequate provision has been made for schools and school grounds. In the event that such an appeal is successful and additional mitigation is imposed, the Developer shall have the rights outlined in Section 25.

4. Agreed School Sites and Agreed Capacity.

4.1 Agreed School Sites and Agreed Capacity. The Parties agree, for purposes of calculating the number of school sites required to be conveyed pursuant to this Agreement, the anticipated increased student population from the residents of the Projected Units of the Projects requires the following additional Agreed School Sites and Agreed Student Capacity.

School Type	Minimum Acreage	Agreed Student Capacity	Agreed School Sites
Elementary School	10 Usable Acres	450 students	4
Middle School	15 Usable Acres	550 students	2
High School	40 Usable Acres	1,200 students	1

4.1.1 The Parties agree that the Agreed School Sites are the maximum number of school sites that the Developer may be required to convey under this Agreement. The District agrees that, with the exception of the High School Site, School Facilities constructed on the Agreed School Sites shall have a minimum capacity of no less than 90% of the Agreed Student Capacity, except to the extent construction of the School Facility on the Agreed School Sites is limited or prohibited by applicable federal, state, City or King County law or condition of approval. If for any reason the District constructs a School Facility with less than 100% of the Agreed Capacity, the District shall use reasonable efforts to increase the capacity of the School Facility on the next Agreed School Site to make up the difference.

4.1.2 The Parties acknowledge that three of the Agreed School Sites are larger than the minimum acreage for school sites identified in Section 4.1 and that these size variations are negotiated terms of this Agreement. Specifically, the First Middle School Site is 24 acres, the Second Middle School Site is 20 acres, and Elementary School Site D is 13 acres.

4.2 Agreed Acreage, Student Capacity, and School Sites. The Parties acknowledge that the District's student generation rates may change over time from those identified in the District's Capital Facilities Plan and that the District's Capital Facilities Plan has service standards for school size and for minimum school site acreage that differ from those listed in Section 4.1. The Parties further acknowledge that the District's service standards as set forth in any capital facilities plans adopted by the District in the future during the Agreement Term may be different from those set out in the District's Capital Facilities Plan. Nonetheless, for purposes of the obligations of the Developer with respect to the Projects, the requirements of Section 4.1 shall control the Agreed Acreage, Agreed Student Capacity and the Agreed School Sites; except as provided in Section 5 below.

5. Adjustment to Number of Agreed School Sites.

5.1 Reduction in Number of Projected Units.

5.1.1 The Developer's obligation to convey the Agreed School Sites is based on the number of Projected Units described in this Agreement. If the approved number of Projected Units as set forth in the MPD Permit approval or amendments thereto because the City does not approve or otherwise reduces the development of any such Projected Units or the Developer applies for a MPD permit or amends its MPD permit application to request approval of less than the number of Projected Units, the Parties agree that the Agreed School Sites shall be adjusted to reflect the reduced number of approved Projected Units according to the formula set forth in Section 5.1.2 below. The reduced number of Projected Units shall be multiplied by the student generation rates that are identified in the District's Capital Facilities Plan as set forth below:

Unit Type	Elementary Students	Middle School Students	High School Students
Single Family Unit	.401	.135	.166
Multi-Family Unit	.137	.045	.056

5.1.2 In the event the number of Projected Units is reduced as described in Section 5.1.1 or there is a change, as documented in the MPD approval for the Projects, in the planned ratio between multi-family or single-family Units, the number of Elementary School Sites to be conveyed hereunder shall be determined by the product of the reduced Projected Units or multi-family or single family ratio of Units and the student generation rates set forth in Section 5.1.1 above divided by the Agreed Student Capacity set forth in Section 4.1. Notwithstanding anything herein to the contrary, the Developer shall not be obligated to convey an Elementary School Site if the projected number of students generated from the Projects will make up less than thirty-three percent (33%) of the Agreed Student Capacity. For example, with respect to the Elementary School Sites, if the number of Projected Units for the Village Project is reduced from 3,400 to 2,500 single family Units and from 1,200 to 400 multi-family Units, but the Projected Lawson Hills Units remain the same, the maximum number of Elementary School Sites the Developer would be obligated to convey would be reduced from four to three using the following methodology:

- 2,500 Village single family Units + 930 Lawson Hills single family Units = 3,430 single family Units. 3,430 single family Units x .401 student generation rate = 1,375.43 total elementary students from single family Units.

- 400 Village multi-family Units + 320 Lawson Hills multi-family Units = 720 multi-family units x .137 student generation rate = 98.64 total elementary students from multi-family Units.
- 1,375.43 total elementary students from single family Units + 98.64 total elementary students from multi-family Units = 1,474.07 total elementary students from the Projects.
- 1,474.07 students ÷ 450 (the Agreed Student Capacity for elementary schools) students per Elementary School Site = 3.276 School Sites).
- The Developer would only be required to provide the fourth of the Elementary School Sites if the final equation resulted in 3.33 School Sites or greater.

The Parties shall amend this Agreement to reflect any decrease in the Agreed School Sites as provided above.

5.2 Larger School Sites.

5.2.1 Recognizing that it may be more efficient for the District to build schools with a capacity that is greater than the Agreed Student Capacity, the Developer, will set aside the Maximum Acreage for each of the Elementary School Sites A-C to provide the District, in its sole discretion, with flexibility to build schools with larger student capacity than the Agreed Student Capacity. To provide flexibility with regard to this concept, the Parties agree as follows:

5.2.2 As of the Agreement Effective Date, Elementary School Site A, Elementary School Site B and Elementary School Site C, are legally described to reflect both the Agreed Acreage and the Maximum Acreage.

5.2.3 The District shall have the option, in its sole discretion, to construct schools with a capacity that exceeds the Agreed Student Capacity. In such event, the District may request from Developer the Maximum Acreage for Elementary School Site A, Elementary School Site B, and Elementary School Site C. To exercise this option, the District must give Developer notice of its intent to accept the Maximum Acreage for each of the above-referenced Elementary School Sites prior to the District's receipt of the building permit for construction of the school on the first of the Elementary School Sites. If the Closing on the first of the Elementary School Sites has already occurred, the Developer will immediately convey to the District the remaining 2.5 acres necessary to constitute the Maximum Acreage for the school site, all as consistent with Section 6.2.1 below.

5.2.4 If the District elects to accept the Maximum Acreage for the first, second and third of the Elementary School Site to be conveyed, the Developer shall be relieved of its obligation to convey the fourth of the Elementary School Sites. Any revised plan agreed to by the District and the Developer as provided above shall be

reflected in an amendment to this Agreement. The amendment shall reflect the District and the Developer's agreement regarding the amount of acreage to be conveyed at each Closing and the reduced number of Elementary School Sites.

5.2.5 If the District does not provide the Developer with notice of its election to accept the Maximum Acreage prior to the District's receipt of a building permit for the first of the Elementary School Sites to be built, the Developer shall have no obligation to reserve the Maximum Acreage for the Remaining Elementary School Sites and shall only be obligated to convey the Agreed Acreage to the District.

6. Conveyance of Identified School Sites.

6.1 Agreed Conveyance. Upon and subject to the terms and conditions set forth in this Agreement, the Developer shall convey to the District, and the District shall accept and acquire from the Developer such Identified School Sites with the Agreed Acreage described in Section 4.1 above or as provided in Section 5.2.

6.1.1 No later than thirty (30) days after the approval of the MPD for the first of the Projects and the expiration of the appeal period related to such approval without any appeal, or if an appeal is made, when the appeal is finally resolved (without any further possibility of appeal) in a manner that upholds the Developer's right to proceed with the Project as contemplated in the MPD application, the Developer shall delineate boundaries and create a legal description for each Identified School Site, with such boundaries and legal descriptions consistent with the depictions in Exhibits D.1, E.1, F.1, G.1, H.1, I.1, and N.1.

6.1.2 Unless otherwise required herein to be done at an earlier date, no later than one (1) year after the approval of the MPD for the first of the Projects and the expiration of the appeal period related to such approval without any appeal, or if an appeal is made, when the appeal is finally resolved (without any further possibility of appeal) in a manner that upholds the Developer's right to proceed with the Project as contemplated in the MPD application, the Developer shall have established each Identified School Site as a separate legal lot, all as consistent with the delineated boundaries and legal descriptions required by Section 6.1.1 above.

6.1.3 The District and Developer shall cooperate and work together in good faith to choose which Identified School Site for which the District will seek School Financing Approval such that the conveyance of each Identified School Site is geographically coordinated, to the extent possible, with Developer's phasing schedule and build-out of the Projects. The Parties agree that conveyance of an Identified School Site that is located in an area where General Off-Site Utilities and General Off-Site Improvements are complete or under design and construction shall occur prior to conveyance of an Identified School Site that is located in an area where General Off-Site Utilities and General Off-Site Improvements are not complete or under design or

construction. The District and the Developer shall prioritize walkable schools in such coordination.

6.2 Conveyance of the First Elementary School Site and First Middle School Site. Conveyance of the First Elementary School Site and First Middle School Site shall be as follows:

6.2.1 The Developer shall convey and the District shall acquire the first of the Elementary School Sites at the Agreed Acreage within one hundred eighty (180) days of the later of: (1) approval of the first MPD of the Projects and the expiration of the appeal period related to such approval without any appeal, or if an appeal is made, when the appeal is finally resolved (without any further possibility of appeal) in a manner that upholds the Developer's right to proceed with the Project as contemplated in the MPD application; or (2) the first of the Elementary School Sites is a separate legal lot. The Developer shall continue to reserve the area consisting of the Maximum Acreage for such school site and shall convey and the District shall acquire such additional acreage at the time the District elects to accept the Maximum Acreage pursuant to paragraph 5.2.3 above.

6.2.2 The Developer shall convey and the District shall acquire the First Middle School Site within sixty (60) days after the later of the following: (1) approval of the first MPD of the Projects and the expiration of the appeal period related to such approval without any appeal, or if an appeal is made, when the appeal is finally resolved (without any further possibility of appeal) in a manner that upholds the Developer's right to proceed with the Project as contemplated in the MPD application; (2) the First Middle School Site is a separate legal lot; and (3) the District receives School Financing Approval for the First Middle School Site. The Developer shall convey the First Middle School Site to the District at the end of the Agreement Term regardless of School Financing Approval so long as the City has granted final plat approval for at least one thousand six hundred (1,600) Units in the Projects; provided the 1,600 Unit threshold shall be adjusted to one thousand four hundred (1,400) Units if the total Units for which the City has granted final plat approval include less than ten percent (10%) of multi-family Units.

6.2.3 If the first of the Elementary School Sites to be conveyed to the District or the First Middle School Site are not separate legal parcels within 180 days of the City's approval of the first of the MPD applications for the Projects, then the Developer will submit an application to the City for a boundary line adjustment or short plat legally sufficient to create the first of the Elementary School Sites or the First Middle School Site, as applicable, subject to later boundary line adjustment when the final boundaries are determined through the platting process, if necessary.

6.3 Conveyance of the Remaining Elementary School Sites. The Remaining Elementary School Sites shall be conveyed as follows:

6.3.1 The Developer shall convey the second of the Elementary School Sites to be conveyed to the District when: (1) the District receives School Financing Approval for the second of the Elementary School Sites; and (2) the City has granted final plat approval for at least one thousand seven hundred fifty (1,750) Units in the Projects; provided the 1,750 Unit threshold shall be adjusted to one thousand four hundred fifty (1,450) Units if the total Units for which the City has granted final plat approval include less than ten percent (10%) of multi-family Units. The Developer shall convey the second of the Elementary School Sites to the District at the end of the Agreement Term regardless of School Financing Approval so long as the City has granted final plat approval for the thresholds set forth in this Section 6.3.1.

6.3.2 The Developer shall convey the third of the Elementary School Sites to be conveyed to the District when: (1) the District receives School Financing Approval for the third of the Elementary School Sites; and (2) the City has granted final plat approval for at least three thousand (3,000) Units in the Projects; provided the 3,000 Unit threshold shall be adjusted to two thousand seven hundred (2,700) Units if the total Units for which the City has granted final plat approval include less than ten percent (10%) of multi-family Units.

6.3.3 The Developer shall convey the fourth of the Elementary School Sites to be conveyed to the District when: (1) the District receives School Financing Approval for the fourth of the Elementary School Sites; and (2) the City has granted final plat approval for at least four thousand five hundred (4,500) Units in the Projects; provided the 4,500 Unit threshold shall be adjusted to four thousand (4,000) Units if the total Units for which the City has granted final plat approval include less than ten percent (10%) of multi-family Units; and provided if the District elects to acquire the Maximum Acreage pursuant to Section 5.2, the Developer shall be released from any obligation to convey the fourth of the Elementary School Sites.

6.3.4 The Developer shall convey the Second Middle School Site to the District if all of the following conditions are met:

(a) The District's boundaries have been modified to include the Second Middle School Site; and

(b) The District receives School Financing Approval for the Second Middle School Site.

6.4 Rural Middle School Sites and Permitting. The First Middle School Site and the Second Middle School Site are currently located outside of the City's boundaries in rural unincorporated area. The District shall use its best efforts to obtain the necessary permits and approvals to construct School Facilities on the Middle School Sites. If the District acquires the First Middle School Site or the Second Middle School Site, but, despite the District's best efforts, King County and/or another applicable permitting or

approval agency will not issue a building permit or other required permit or approval (including, without limitation, the provision of necessary sanitary sewer service) for construction of the School Facilities to be located thereon, the District shall have the right, as its sole and exclusive remedy, to sell the First Middle School Site or the Second Middle School Site, as applicable, subject to the Option to Purchase on the First Middle School Site. If the First or Second Middle School sites are sold by the District, the Developer shall have no obligation to perform under Section 23 of this Agreement with respect to the sold site. The District shall be required to use all proceeds from such sale to acquire an alternative middle school site or sites, as applicable, and fund any improvements to be located thereon or, if a suitable alternative middle school site or sites cannot be located, to fund capacity improvements at District schools located within the City or within the MPD Service Area. The District agrees to use good faith efforts to acquire an alternative middle school site within the MPD Service Area, and if one is not reasonable available for acquisition, to use good faith efforts to use all proceeds from such sale to fund capacity improvements at existing schools within the MPD Service area, before acquiring any land for an alternative middle school site outside of the MPD Service Area.

6.5 Second Middle School Site and Boundary Issue. The Second Middle School Site is located in an area outside of, but adjacent to, the District's boundaries. No later than ninety (90) days after the Agreement Effective Date, the District shall prepare and present a proposal to the Auburn School District to amend the boundaries of the District to include the Second Middle School Site. If the District is unable, despite its best efforts, to amend its boundary to include the Second Middle School Site, the Developer shall have no further obligation to convey to the District the Second Middle School Site, or any other site for a second middle school; provided however, the Developer shall be required to pay Mitigation Fees, regardless of whether the Developer is in need of Mitigation Fee Credits to complete the Projects in an amount equal to the Actual School Site Value of the Second Middle School Site as determined pursuant to Section 10.4 at such time as the District receives School Financing Approval for construction of a second middle school within the city or the MPD Service Area or, at the District's discretion, any time following construction and occupancy of the First Middle School Site or a sale of the First Middle School Site pursuant to Section 6.4 above; and provided further, and subject to Section 9.7, that the Developer's obligation to pay Mitigation Fees at set forth herein shall be reduced by the amount of any funds in the District's Mitigation Fee Account at the time the District receives School Financing Approval for construction of the second middle school or otherwise seeks payment pursuant to this Section 6.5.

6.6 Elementary School Site D.

6.6.1 Elementary School Site D is located in rural unincorporated King County. The District shall use its best efforts to obtain the necessary permits and approvals to construct School Facilities on Elementary School Site D. If the District acquires Elementary School Site D, but despite its best efforts King County or another

applicable permitting or approval agency will not issue a building permit or other required permit or approval (including, without limitation, the provision of necessary sanitary sewer service) for construction of the School Facilities to be located thereon, the District shall have the option of:

(a) locating the School Facilities for the fourth elementary school on the Alternative Elementary School Site; or

(b) selling Elementary School Site D, subject to the Option to Purchase, and using the proceeds therefrom solely for the purpose of acquiring an alternative site for the fourth elementary school in the City or within the MPD Service Area or, if a suitable alternative elementary school site cannot be located in such areas, to use good faith efforts to fund capacity improvements at District schools located within the City or within the MPD Service Area before acquiring any alternative site outside of the City.

6.6.2 To exercise the option described in Section 6.6.1(a) and (b), the District shall provide the Developer with written notice of its election within sixty (60) days from the date the District learns that it is unable to obtain a required permit, but in no event later than eighteen (18) months from the date of Closing on Elementary School Site D. If the District does not provide timely written notice as described herein, the District shall be deemed to have elected option 6.6.1(b).

6.6.3 In the event the District timely elects option 6.6.1(a), the District must convey to the Developer, at no cost to the Developer, Elementary School Site D. The Closing on the Developer's conveyance of the Alternative Elementary School Site to the District, and the District's conveyance of Elementary School Site D to the Developer, shall occur simultaneously on a date that is no later than ninety (90) days after the date the Developer receives the written notice required in Section 6.6.2.

6.6.4 As of the Agreement Effective Date, the Alternative Elementary School Site is located partially within the City's boundaries and partially within unincorporated King County. The Parties agree that in the event the Developer conveys the Alternative Elementary School to the District, the portion of the Alternative Elementary School Site located on MPD land must be at least the minimum amount necessary to construct the structural components of the School Facility and any required parking areas. Any playfields and open spaces may be located on the portion of the Alternative Elementary School Site that is located in unincorporated King County. The City agrees to use its best efforts to enter into an interlocal agreement or some other coordinated agreement with King County that would provide for the City's permitting of the entire Alternative Elementary School Site.

6.7 Elementary School Site C. Elementary School Site C is currently located within the Lawson Hills Project MPD. The District has performed a preliminary

review of the site and has determined that unique site features, critical areas, and topography may result in construction costs that are greater than the costs ordinarily associated with developing a suitable school site. The District is not willing to accept Elementary School Site C unless certain provisions are made to account for the increased construction costs associated with the site and topographic conditions. Therefore, the Parties agree that the following shall control with respect to Elementary School Site C:

6.7.1 Prior to the expiration of the Contingency Period applicable to Elementary School Site C, the District may accept Elementary School Site C, in which event the Developer shall have the option of either 6.7.1(a) or 6.7.1(b) as set forth below.

(a) Funding, in an amount not to exceed Three Million Dollars ($3,000,000.00), the cost of site work. For purposes of determining the cost required to be funded by the Developer under this Section 6.7.1(a), the Parties agree that the necessary site work shall be defined as any grading, cutting, fill and placement of retaining walls or other structural elements necessary to create a dirt/earthen surface upon which school facilities may be constructed, all as determined based upon the District's site design. The Parties further agree that, for purposes of determining the Developer's share of the cost of the site work, the average cost of performing similar work at the other Identified School Sites shall be deducted from the cost of performing the work at Elementary School Site C. The amount due and owing from the Developer shall be determined based on estimated construction costs, as determined pursuant to the District's professional cost estimator's projections or based on the District's bid documents for the project, and shall be paid at such time as the District awards a contract for construction of school facilities on Elementary School Site C. If the actual cost of construction is less than the estimated cost the Developer shall be entitled to a refund. If the actual cost is more than the estimated costs, the Developer shall pay such difference, up to the amount set forth in this Section 6.7.1(a), upon receipt of a statement from the District with documentation regarding the relevant costs. Furthermore, the Three Million Dollar ($3,000,000.00) amount set forth in this Section 6.7.1(a) shall be subject to an annual adjustment based on the Seattle Consumer Price Index (CPI).

(b) Performing the necessary site work prior to conveyance of the site to the District. For purposes of determining the scope of work to be performed by the Developer under this Section 6.7.1(b), the Parties agree that the necessary site work shall be defined as any grading, cutting, fill and placement of retaining walls or other structural elements necessary to create a dirt/earthen surface upon which school facilities may be constructed, all as determined based upon the District's site design. Any proposed fill to be used on the site shall be approved by the District in the District's reasonable discretion. Furthermore, the Developer shall indemnify, defend and hold the District and the District's Indemnified Parties from any and all damages, claims, demands, losses, fines, penalties, causes of actions, expenses and liabilities (including, without limitation, attorneys' fees) arising out of or in connection with the work to be done pursuant to this

Section 6.7.1(b) (including, without limitation, the presence of any Hazardous Substance on the site as a result of the Developer's site work) or any negligent act, omission, by the Developer or any of its agents, employees, licensees, invitees or contractors except to the extent caused by the negligence of the District and its present and future employees, partners, members, agents, contractors, and their respective successors and assigns. The Developer may perform the work at any time but no later than actual conveyance of Elementary School Site C to the District unless waived by the District to a later date.

(c) The Developer shall make its election under this Section 6.7.1 within thirty (30) days of the District's election to accept Elementary School Site C. The Developer shall not receive mitigation fee credits for either the funding of site work pursuant to Section 6.7.1(a) or the cost of any site work performed under Section 6.7.1(b).

(d) Notwithstanding the District's and Developer's elections pursuant to Section 6.7.1, in the event that, prior to either the payment of funds pursuant to Section 6.7.1(a) or the performance of the work pursuant to Section 6.7.1(b), the Developer acquires property of at least ten (10) usable acres in the area currently identified as a "Potential Expansion Area" in the Lawson Hills Project MPD application or otherwise subsequently added to the Lawson Hills Project MPD, the Developer shall be required to offer to the District at least ten (10) usable acres of this property in exchange for Elementary School Site C. The District shall have the opportunity to review and approve of the site pursuant to Sections 11 and 12 herein, provided the applicable Contingency Period shall be triggered by the Developer's notice of the alternative elementary school site selection and with the exception that the provisions of 11.6.2 shall be inapplicable and the appropriate remedy in the event of the District's objection to the alternative elementary school site shall be retaining Elementary School Site C. In the event the District retains Elementary School Site C, the Developer's election pursuant to Section 6.7.1(a) or 6.7.1(b) shall remain valid.

6.7.2 Prior to the expiration of the Contingency Period applicable to Elementary School Site C, the District may reject Elementary School Site C, in which event the Developer shall have the option of either 6.7.2(a) or 6.7.2(b) as set forth below.

(a) Paying the District the fair market value of Elementary School Site C, which shall in no event be less than Four Million Five Hundred Thousand Dollars ($4,500,000.00). If the Developer elects this option, the District may request payment at any time following the time that building permits have been issued for 375 single family dwelling units in the Lawson Hills MPD or for any combination of single and multi-family dwelling units where the sum total of such units will generate at least 150 elementary students as determined using the student generation rates set forth in Section 5.1.1. The District must use the funds received pursuant to this Section 6.7.2(a) to acquire a school site or to fund capacity improvements at another school site located within the MPD Service Area. If the Developer chooses to use Community Facilities District

financing for the required payment, the District must use the funds consistent with this Section 6.7.1(a) within three years of the date of payment. The Developer shall not make any payment required under this Section 6.7.1(a) until such time as the District requests payment. If Developer acquires property currently identified as a "Potential Expansion Area" in the Lawson Hills Project MPD application, this option shall not be available if the Developer identifies land within the Lawson Hills Project MPD as a replacement site for Elementary School Site C and the District accepts the site pursuant to Section 6.7.1(b).

(b) Identifying an alternative site consisting of the same or greater acreage to replace Elementary School Site C subject to the following: (1) the location of the replacement property must be within the boundaries of the Lawson Hills Project MPD or adjacent to the Lawson Hills Project MPD and within the City's boundaries; (2) the District shall have the opportunity to review and approve of the site pursuant to Sections 11 and 12 herein, provided the applicable Contingency Period shall be triggered by the Developer's notice of the alternative elementary school site selection and with the exception that the provisions of 11.6.2 shall be inapplicable and the appropriate remedy in the event of the District's objection to the alternative elementary school site shall be the option under Section 6.7.1(a) above; and (3) the proposal shall be subject to any applicable MPD amendment process as set forth in the City municipal code. If the alternative school site is approved, the Parties shall amend this Agreement to reflect the modification.

(c) The Developer shall make its election under this Section 6.7.2 within thirty (30) days of the District's election to reject Elementary School Site C; provided that, the Developer may subsequently offer the option under Section 6.7.2(b) to the District at any time up until the time the payment of funds required pursuant to Section 6.7.1(a) is required to be paid to the District and the District may, in its sole discretion, accept or reject the Developer's offer.

6.8 Elementary School Site A. Elementary School Site A is currently located in a gravel pit area and will require site work necessary to create a dirt/earthen surface upon which school facilities may be constructed, all as determined based upon the District's site design. The following provisions shall govern the Developer's obligations with regard to that site work.

6.8.1 The Developer shall perform, at its own expense and without receipt of any mitigation fee credits for such work, any and all site work necessary so that Elementary School Site A is brought to a grade that is, at a minimum: (i) reasonably level across the site, (ii) consistent with finished elevations of surrounding streets, sidewalks, and buildable lots or the plan for such streets, sidewalks, and buildable lots, and (iii) uses soils suitable and compacted for construction of School Facilities.

6.8.2 When the Developer has completed the improvements required pursuant to this Section 6.8, the Developer shall provide written notice to the

District. The District shall have twenty (20) business days after such notice to inspect and give notice to the Developer as to its approval or disapproval of the improvements, such approval not to be unreasonably withheld. Failure of the District to issue such notice shall be deemed to be the District's approval thereof. The District may reject the improvements with written notice detailing the defects in the improvements. If the District issues such notice rejecting the improvements, the Developer shall have the option of (i) correcting the improvements to a condition acceptable to the District, in its reasonable discretion, or (ii) identifying an alternative site, of the same or greater usable acreage, in the immediate vicinity of Elementary School Site A and within the Villages MPD. The District's acceptance of such site shall be subject to Sections 11 and 12 herein, provided the applicable Contingency Period shall be triggered by the Developer's site selection pursuant to this Section 6.8.2 and with the exception that the provisions of 11.6.2 shall be inapplicable and the appropriate remedy in the event of the District's objection to the alternative site shall be the Developer's performance of corrective work necessary to correct the improvements to Elementary School Site A to a condition acceptable to the District, in its reasonable discretion.

6.8.3 The Developer shall perform the site work required by this Section 6.8 prior to the conveyance of Elementary School Site A to the District unless Elementary School Site A is the first of the Elementary School Sites to be conveyed to the District pursuant to Section 6.2.1. In such case, the Developer shall perform the site work within one (1) year following conveyance to the District. In the event the District receives School Financing Approval to construct an elementary school prior to the time that the Developer has performed the necessary site work to Elementary School Site A and, in the District's reasonable discretion, such site work cannot be performed in a timely manner to meet the District's construction schedule, the Developer shall be required to immediately convey a second elementary school site to the District.

6.8.4 The Developer shall indemnify, defend and hold the District and the District's Indemnified Parties from any and all damages, claims, demands, losses, fines, penalties, causes of actions, expenses and liabilities (including, without limitation, attorneys' fees) arising out of or in connection with the work to be done pursuant to this Section 6.8 (including, without limitation, the presence of any Hazardous Substance on the site as a result of the Developer's site work) or any negligent act, omission, by the Developer or any of its agents, employees, licensees, invitees or contractors except to the extent caused by the negligence of the District and its present and future employees, partners, members, agents, contractors, and their respective successors and assigns.

7. **High School Site**. The following terms shall govern the conveyance of a high school site:

7.1 Identification of a High School Site and Developer's Alternatives. The Developer has identified the High School Site, which is located on MPD Property, and

consists of 40 acres. Within five (5) days following the delineation of boundaries pursuant to Section 6.1.1, the Developer shall cause the deed of trust attached as Exhibit P that will be in first position to be recorded against the title of the High School Site. Notwithstanding the designated High School Site, the Developer shall have the option, in the Developer's sole and absolute discretion subject to the Developer's fulfillment of all obligations set forth in Sections 7.1.1 and 7.1.2, as applicable, and subject to the District's acceptance of the site pursuant to Sections 11 and 12 herein, of conveying to the District any one of the High School Site, the Alternative High School Site, or the Rural High School Site as the Identified High School Site.

7.1.1 The Developer may choose to convey an Alternative High School Site subject to the Developer's compliance with the following:

(a) The Developer agrees to be solely responsible for the removal and remediation of any Hazardous Substances and underground storage tanks (if any) located on the Alternative High School Site.

(b) If the Developer acquires the Alternative High School Site before the District receives School Financing Approval for construction of a high school on the High School Site and the Developer wishes to retain the option of conveying such site to the District, at the closing of the Developer's acquisition of the Alternative High School Site, the Developer shall cause the deed of trust in the form attached as Exhibit P to be recorded against the title of the Alternative High School Site that will be in first position.

7.1.2 The Developer may choose to convey the Rural High School Site subject to the Developer's compliance with the following:

(a) The Developer agrees to be solely responsible for the removal and remediation of any Hazardous Substances and underground storage tanks (if any) located on the Rural High School Site.

(b) If the Developer acquires the Rural High School Site before the District receives School Financing Approval for construction of a high school on the High School Site and the Developer wishes to retain the option of conveying such site to the District, at the closing of the Developer's acquisition of the Rural High School Site, the Developer shall cause the deed of trust in the form attached as Exhibit P to be recorded against the title of the Rural High School Site that will be in first position.

(c) Prior to selecting the Rural High School Site as the Identified High School Site, the Developer shall be solely responsible for securing either: (i) inclusion of the Rural High School Site within the City's corporate boundaries and City zoning and comprehensive plan designation allowing for the siting of a high school on the Rural High School Site; or (ii) securing all required entitlements for siting a high school of

no less than 1,200 students on the Rural High School Site, including, without limitation: King County and/or another applicable permitting or approval agency approval of the provision and extension of necessary sanitary sewer service necessary to provide service to the high school site; King County and/or another applicable permitting or approval agency approval of the provision and extension of all utilities other than sanitary sewer necessary to provide service to the high school site; King County and/or another applicable permitting or approval agency approval of a conditional use permit, or any such land use permit that may be required; and the provision of any transportation improvements required to serve the Rural High School Site to the extent such improvements would not be required if the District were to build a high school in the City. Provided, however, the provisions of this paragraph shall not be construed to obligate the City Council or the City Mayor to approve any changes to the City's corporate boundaries, Urban Growth Area, Comprehensive Plan, zoning regulations, or any of its development regulations.

7.2 Developer's Selection of the Identified High School Site. No later than ten (10) years after the Agreement Effective Date, the Developer shall select the Identified High School Site. The Developer's selection shall be subject to the requirements set forth in Section 7.1 above and the following:

7.2.1 The District's obligation to accept the Alternative High School Site or the Rural High School Site as the Identified High School Site shall be subject to and continent upon the satisfaction or waiver by the District of the conditions set forth in Sections 11 and 12 herein, provided the applicable Contingency Period shall be triggered by the Developer's site selection in Section 7.2 and with the exception that the provisions of 11.6.2 shall be inapplicable and the appropriate remedy in the event of the District's objection to the Alternative High School Site or the Rural High School Site (as selected by the Developer) shall be identification of the High School Site or the remaining Alternative High School Site or the Rural High School Site (if the Developer has met the contingencies in Section 7.1 for such site and such site is acceptable to the District following the satisfaction or waiver by the District of the conditions set forth in Sections 11 and 12 herein) as the Identified High School Site. Once the District has deemed a site acceptable and following the satisfaction or waiver by the District of the conditions set forth in Sections 11 and 12 herein, the deed of trust on the site or sites not selected shall automatically terminate and be of no further force or effect.

7.2.2 The conveyance of the Alternative High School Site or the Rural High School Site shall be subject to the provisions of Sections 13 (as applicable), 15, 16, 17, 18, 19, and 20 herein, all in the same manner as applicable to the High School Site.

7.2.3 In the event the Developer fails to select the Identified High School Site by the last day of the tenth year following the Agreement Effective Date, the High School Site shall automatically be deemed to be the Identified High School Site.

7.2.4 If the High School Site or the Alternative High School Site is located on lands identified in the Village Project as being used for commercial purposes, then prior to the conveyance of the High School Site or Alternative High School Site the Developer in its sole discretion shall either (a) amend, or (b) shall already have amended, its MPD application to add additional Commercial-zoned expansion areas to offset the fiscal impact to the City for the loss of the commercially zoned property, or (c) shall otherwise show that the Village Project, even with the loss of the commercially zoned property will still be at least fiscally neutral for the City.

7.3 Conveyance of High School Site. The Developer's required conveyance of the Identified High School Site to the District shall be subject to the following:

7.3.1 The Identified High School Site shall be conveyed by the Developer to the District no earlier than ten (10) years after the Agreement Effective Date and, subject to Section 7.3.2, after such date only if the District receives School Financing Approval for the construction of a high school on the Identified High School Site before the end of the Agreement Term. In such case, the closing of the conveyance of the Identified High School Site to the District shall be within one hundred eighty (180) days of School Financing Approval.

7.3.2 In the event the District does not receive School Financing Approval for the construction of a high school on the Identified High School Site before the end of the Agreement Term, the deed of trust shall automatically terminate and be of no further force or effect; provided that the District shall have the option to purchase the Identified High School Site from the Developer for a period of three (3) years, as otherwise set forth in the option agreement attached as Exhibit Q ("High School Option Agreement"), which High School Option Agreement shall be recorded against the Identified High School Site at the end of the Agreement Term. The High School Option Agreement sets forth that the purchase price of the Identified High School Site shall be the lesser of the following:

(a) the current market value of the Identified High School Site, based on an appraisal performed by an MAI, state certified appraiser with at least five (5) years of experience appraising land in King County, Washington, which is acceptable to the Developer and the District, in each party's reasonable discretion, and the cost of such appraisal shall be equally shared between the Developer and the District; and

(b) the amount of mitigation fees collected as of the date of the District's exercise of the option to purchase pursuant to Section 9.7.3. The Developer and the District agree that the term "collected" as used herein shall not include any mitigation fees used by the District to satisfy its obligations under Sections 9.7.2, as applicable, or those mitigation fees subject to the restrictions set forth in Section 9.7.1.

In the event of any conflict between this Section 7.3 and the High School Option Agreement, the language of the High School Option Agreement shall control.

7.4 District's Use of Mitigation Fees for Acquisition of High School Site During Agreement Term. Consistent with Section 9.7, and without including the value of any Mitigation Fees received pursuant to Sections 6.5, 11.6.2, or 11.6.3 and subject to other restrictions on the use of Mitigation Fees as may be contained in this Agreement, if the District receives School Funding Approval for the high school during the Agreement Term, the District shall use Mitigation Fees collected pursuant to Section 9.3, to fund the purchase, from the developer, of the Identified High School Site. If the funds in the District's Mitigation Fee Account are insufficient to fully fund the acquisition price, the District may use a combination of Mitigation Fee Credits and cash from the Mitigation Fee Account to compensate the Developer, provided that the use Mitigation Fees Credits to compensate Developer shall only be an option if the Identified High School Site is acquired during the first fifteen (15) years following the Effective Date of this Agreement and Mitigation Fee Credits shall not total more than the product of the number of remaining un-built Units times the minimum Mitigation Fee in effect at such time. Notwithstanding the preceding sentence, in no event shall the District be required to transfer any funds to the Developer for the purchase of the Identified High School Site over and above the total amount of funds collected pursuant to Section 9.7.3.

8. Joint Use Land.

8.1 Use of Portions of Agreed School Sites as Joint Use Land. The Developer may request Land Use Approvals that include use of portions of the Agreed School Sites, with the exception of the Alternative Elementary School Site, that are located within the City for the purpose of satisfying a share of the City's park and recreational facilities requirements. In their sole and reasonable discretion, the City and the District may allow the use of portions of the Agreed School Sites for such purposes, to the extent the portions of the Agreed School Sites and the improvements to be located thereon: (1) meet the needs of the District for the programmatic, open space, and playfield facilities associated with the intended school use; (2) satisfy the City's open space, park and/or recreational facilities requirements; and (3) the City and the District enter into a Joint Use Agreement in accordance with the provisions of Section 8.3 below.

8.2 Developer's Identification of Proposed Joint Use Land. If the Developer seeks Joint Use Lands on any Agreed School Site, the Developer shall submit an application to the City for a Land Use Approval that includes a portion of the Agreed School Site, and provide a copy of that application to the District. The application shall identify the proposed Joint Use Lands and describe how and to what extent they meet City park requirements and what amenities, if any, the Developer intends to construct on the Joint Use Lands in order to meet the City's park standards, as well as how they meet the

needs of the District for the programmatic, open space, and playfield facilities associated with the intended school use.

8.3 City and District Agreement to Joint Use Land. If the Developer identifies proposed Joint Use Lands, the City and District shall meet to discuss in good faith and determine in each entity's reasonable discretion if and to what extent the identified lands: (1) meet the needs of the District for the programmatic, open space, and playfield facilities associated with the intended school use; and (2) satisfy the City's park and recreational facilities requirements. In particular, the District shall have the right, in its reasonable discretion, to determine if the park and recreational facilities would conflict with or otherwise materially limit the use of the proposed Joint Use Land for the District's programmatic, open space, and playfield facilities needs or the District's ability to construct a School Facility on the remaining portion of the Agreed School Site. Likewise, the City shall have the right, in its sole discretion, to determine if and to what extent the District's programmatic, open space and playfield needs render the proposed Joint Use Lands partially or entirely unsuitable for meeting City open space, park and/or recreational facilities requirements. In either such case, the proposed Joint Use Land shall not be deemed appropriate as Joint Use Lands, or shall be deemed appropriate as Joint Use Lands only to the extent determined by the City and/or District. If the City and the District agree, in each entity's reasonable discretion, that the proposed Joint Use Lands are acceptable for such purposes, the City and the District shall negotiate in good faith acceptable terms for a Joint Use Agreement.

8.3.1. The City and the District agree that, at a minimum, the following provisions will be included within the Joint Use Agreement:

(a) The District shall have primary use of any recreational facilities during the school hours and programmed after school hour events and the City will have primary use for all other times.

(b) If the District holds title to the Joint Use Lands, then there shall be a condition subsequent that if the District ceases to use the Agreed School Site for school purposes, then fee title to the Joint Use Land shall automatically be conveyed to the City without further consideration. The other provisions of this Agreement notwithstanding, the Deed Restriction and the Option to Purchase shall not apply to Joint Use Lands.

(c) Any facilities that the District identifies as necessary to meet the programmatic needs of the District, above what has been constructed by the Developer to meet the City park and recreational facilities requirements, shall be constructed at the sole cost of the District.

(d) The operation and maintenance costs of the Joint Use Land shall be divided between the City and the District twenty five percent (25%) for the City and seventy-five (75%) for the District based on the assumption that the District will have primary scheduling priority for nine (9) months each year. The percentage shall be adjusted accordingly if this assumption is modified; provided, the District shall not be responsible for any such costs until such time that School Facilities are constructed on the Identified School Site containing such Joint Use Land.

(e) The District and City shall include such other provisions as are necessary and appropriate to provide cost savings by efficient and effective use of each jurisdiction's personnel and assets instead of creating duplicative systems.

(f) The District and City shall indemnify each other (including officers, agents, and employees) from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, including costs and attorneys fees in defense thereof, for injuries, sickness or death of persons (including employees) or damage to property, which are caused by or arises out of the indemnifying party's acts, errors or omissions with respect to the Joint Use Land (including equipment located thereon); provided, however that, the indemnification shall not extend to injuries, sickness, death, or damage caused by or resulting form the sole actions or negligence of the party being indemnified.

(g) The District and the City shall assist one another in preserving and presenting a defense of limited liability under RCW 4.24.210 for allowing public use of property for outdoor recreation.

(h) The District and the City shall furnish one another with a certificate of insurance evidencing general liability coverage in amounts no less than $1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage, and for those policies where aggregates apply, a $2,000,000 aggregate limit. Each entity's certificate of insurance shall name the other entity (including its elected and appointed officials, board members, agents, and employees) as additional insureds.

8.3.2 If the Developer proposes to use Joint Use Land to satisfy the City parks and recreational requirements, the facilities to be constructed on the Joint Use Land shall: (1) meet or exceed all City requirements applicable to those facilities that the Developer would otherwise be required to construct in order to meet the City park requirements; and (2) shall be paid for by the Developer

8.3.3 The Joint Use Agreement will be effective upon its approval by the City and the District.

8.4 Conveyance of the Joint Use Land. If the Developer is required to convey Joint Use Land to the City before the Developer is required to convey the Agreed School Site to the District, then the Joint Use Land shall be conveyed to the City and the Developer shall be deemed to have met its conveyance obligation to the District for the portion of the Agreed School Site that constitutes Joint Use Land.

8.5 Mitigation Fee Credits for Joint Use Land. The Developer shall receive Mitigation Fee Credits for the Appraised Value of the Joint Use Land. The determination of the Appraised Value for the Agreed School Site shall be determined based upon the sum of the Appraised Value of the Joint Use Land at the time of transfer to the City and the Appraised Value of the remaining portion of the Agreed School Site as determined pursuant to Section 10.4. The Parties agree that the Developer shall not receive any Mitigation Fee Credit for the Joint Use Land until the Agreed School Site adjoining the Joint Use Land is conveyed to the District or, if applicable, the Developer requests a Mitigation Fee Credit for an Estimated School Site Value.

8.6 Maintenance of Joint Use Land. The City shall be responsible for all of the operation and maintenance costs on the Joint Use Land conveyed to the City, until such time as this Agreement requires the conveyance to the District of the remainder of the Agreed School Site. The City's obligation pursuant to this Section 8.6 shall not extend to any improvements related to a Community Recreational Facility; rather, the Developer shall be solely responsible for any operation and maintenance costs associated with a Community Recreational Facility.

8.7 Community Recreational Facility. It is possible that, prior to the time the Developer is required to convey to the District the Agreed School Site upon which the Joint Use Land is located, the Developer may choose to construct a Community Recreational Facility on the Joint Use Land. Prior to construction of a Community Recreational Facility, the Developer shall seek the District's approval of the proposed Community Recreational Facility. The District shall have the right, in its sole and absolute discretion, to review and approve the proposal for purposes of determining if the Community Recreational Facility will be consistent with the development and operation of the Agreed School Site. If the District approves the proposed Community Recreational Facility, the following shall apply:

8.7.1 The Developer shall construct the Community Recreational Facility at its own cost and expense, with no cost to the District or City through, without limitation, direct billing, maintenance costs, user fees, or latecomer's fees; provided the Developer may seek District contribution pursuant to Section 8.7.3 below.

8.7.2 The District's approval may be conditioned on the Developer's agreement to remove the Community Recreational Facility and restore the

affected area of the Joint Use Land to the condition existing prior to installation, at no cost to the District, at the time that the Agreed School Site is conveyed to the District.

8.7.3 At the time the Developer seeks the District's approval of any proposed Community Recreation Facility or following conveyance of the Agreed School Site, the Developer may request the District to consider whether a Community Recreational Facility located on the adjacent Joint Use Lands is an amenity that will benefit the School Facility to be located on the Agreed School Site. In such case, the District, in its sole and absolute discretion, may agree to pay a portion of the Developer's costs to construct the Community Recreational Facility; provided that, the District's portion shall be determined based upon the District's documented programmatic need for such a facility at the School Site; and provided further that, the District's portion shall be determined based upon the depreciated value of the Developer's actual costs (as evidenced by actual billings, purchase orders, or other reliable financial documents) to construct the Community Recreational Facility. The Parties expressly agree that in no case shall the District be deemed to be required, absent its express and discretionary approval described herein, to pay any costs of a Community Recreational Facility.

8.7.4 The Community Recreational Facility must first be approved by the City. The Community Recreational Facility must be consistent with the City's Comprehensive Park Plan and not interfere with the City's programmatic planning and operations for the Joint Use Land.

8.8 Credit Towards City Open Space, Park and/or Recreational Facility Requirements. If the Developer proposes joint use of an Agreed School Site as part of a Land Use Approval, and if the District and City approve such joint use and enter into a Joint Use Agreement as set forth in Sections 8.1 – 8.3 above, the City may determine in its sole discretion to give the Developer full or partial credit towards the open space, park and/or recreational facility requirements that would otherwise apply to the Land Use Approval for which Developer requested joint use. The amount of credit given to the Developer towards meeting the City parks and recreational requirements shall be determined in the sole discretion of the City, which may be determined based on multiple factors including, but not limited to, the extent that recreational facilities meet or exceed minimum facility size and/or quality requirements specified by the Parks Element of the City's Comprehensive Plan, and/or the extent of use available to the general public. By way of examples only, and not as a limitation on the exercise of City discretion, if a joint use tennis court was available only for school use during the school year, and available for general public use only three months per year, the amount of credit granted might be 25% of a full tennis court; if a soccer field equipped with Field Turf or equivalent all-weather surface were provided (rather than grass or bentonite) such that the facility was available for year-round use, 100% or more credit toward a soccer field might be granted.

9. Mitigation Fees.

9.1 Maximum and Minimum Mitigation Fee Amounts. The District's Capital Facilities Plan sets forth impact fee calculations that demonstrate the unfunded need to mitigate the impacts of new development on District facilities as of the Agreement Effective Date. The Parties acknowledge that the District's Capital Facilities Plan only contemplates construction costs (and no land costs) to construct elementary capacity improvements. Within 180 days of the Agreement Effective Date, the City shall consider and use good faith efforts to decide whether or not to adopt Growth Management Act school impact fees for both single family and multi-family dwelling units, as authorized under RCW 82.02.050 through RCW 82.02.090 and Chapter 36.70A RCW of no less than $4,670.00 per single family unit and no less than $1,501.00 per multi-family unit. Notwithstanding the City's adoption of any school impact fee or mitigation fee ordinance, $12,453 for single-family dwelling units and $4,003 for multi-family dwelling units shall be the maximum Mitigation Fee that will apply to the Projects during the Agreement Term, even if the District's Capital Facilities Plan is subsequently amended to increase the amount needed to pay the unfunded portions of the impacts of new development on District facilities.

9.2 Minimum Mitigation Fees. Notwithstanding the foregoing in Section 9.1, during the first five years following the Agreement Effective Date, the Mitigation Fees due for the Projects shall be $4,670.00 per single family Unit and $1,501.00 per multi-family Unit. Thereafter, and until all Units are built, the Mitigation Fees due for the Projects shall be the rate adopted by the City pursuant to any school impact fee or school mitigation fee ordinance, if any, provided that in no event shall the Mitigation Fee be less than $7,783 per single family unit and $2,502 per multi-family unit or greater than $12,453 for single-family dwelling units and $4,003 for multi-family dwelling units regardless of the existence or absence of any City school impact fee or school mitigation fee ordinance. The following language shall be reflected on the face of the plats:

> School mitigation fees shall be due prior to building permit issuance for each single family and multi-family dwelling unit. During the first five years following _____[*blank to be filled with the Agreement Effective Date*] the school mitigation fees shall be $4,670.00 per single family unit and $1,501.00 per multi-family unit. Thereafter, the mitigation fee shall be the rate adopted by the City of Black Diamond school impact fee or school mitigation fee ordinance, if any, provided that the maximum school mitigation fee due for each dwelling unit shall be $12,453 per single family dwelling unit and $4,003 per multi-family dwelling unit, as applicable, but in no event, even in the absence of a school impact fee or mitigation fee ordinance, shall the mitigation fees be less than $7,783.00 per single family dwelling unit and $2,502.00 per multi-family dwelling unit.

The District and the Developer agree that the minimum Mitigation Fees as stated in this Section 9.2 shall apply even if the City subsequently repeals by Council vote or by operation of law its code provisions applicable to a Growth Management Act school impact fee ordinance or other school mitigation fee ordinance, or if the City never adopts such an impact or mitigation fee.

9.3 Due Date. All Mitigation Fees, or application of Mitigation Credits, as applicable, in connection with the Projects shall be due to the District and collected by the City at the time the building permit for a particular Unit is issued by the City using the City's adopted rate then in effect, subject to the terms of this Agreement or, if no City adopted rate is then in effect, by using the then-applicable rate required by the terms of this Agreement.

9.4 Direct Payment. The Developer shall have the option to require the then-current owner of the lot on which a Unit is to be developed pay any Mitigation Fee owing to the District directly to the City at the time the building permit is issued for such Unit instead of off setting such Mitigation Fee from any Mitigation Fee Credit. Such direct payments shall not relieve the Developer's obligation to convey School Sites pursuant to the terms of this Agreement.

9.5 Payment Date and Related Agreements. The Parties agree that, for purposes of this Agreement, the Mitigation Fees shall not be subject to the time constraints of RCW 82.02.020(2) or RCW 82.02.070(3) due to the fact the Agreement is a mechanism for the dedication of land that is reasonably necessary to mitigate the impacts that are a direct result of the Projects. If for any reason it should be determined that the provisions of RCW 82.02.020(2) or RCW 82.02.070(3) are applicable, then the issuance of Mitigation Fee Credits shall be deemed the acknowledgement of payment as of the date the Agreed School Sites are conveyed to the District.

9.6 City Disbursement of Mitigation Fees. The City shall disburse the collected fees on a monthly basis to the District for uses consistent with Section 9.7.

9.7 Mitigation Fee Account and Use of Mitigation Fees. The District shall place all Mitigation Fees collected from the Projects in the Mitigation Fee Account. The Mitigation Fees shall be held and used as follows:

9.7.1 The District shall segregate any Mitigation Fees received from the Developer pursuant to Sections 6.4, 6.5, 11.6.2, and 11.6.3 and shall only use such fees to purchase relevant replacement sites or capacity for the sites subject to Sections 6.4, 6.5, 11.6.2, and 11.6.3.

9.7.2 Subject to the restrictions on funds set forth in Section 9.7.1, the District shall disburse Mitigation Fees to the Developer as provided in Section 10.5.

9.7.3 After satisfying its obligations under Sections 9.7.2, as applicable, and subject to the restrictions on funds set forth in Section 9.7.1, the District shall use Mitigation Fees for the purposes of acquiring the Identified High School Site as described in Section 7.

9.7.4 Following conveyance of all of the Agreed School Sites during the Agreement Term and acquisition of the Identified High School Site, if such Identified High School Site is acquired during the Agreement Term or pursuant to the High School Option Agreement, the District shall use Mitigation Fees for site acquisition, engineering, architectural, legal, and construction management services, and for construction costs, all of which must be associated with the acquisition and/or the design and construction of improvements of the Agreed School Sites or other school sites in the City or within the MPD Service Area.

9.7.5 Notwithstanding the provisions of this Section 9.7, the District shall retain all interest earned on collected Mitigation Fees and shall use such interest for site acquisition, engineering, architectural, legal, and construction management services, and for construction costs, all of which must be associated with the acquisition and/or the design and construction of improvements of the Agreed School Sites or other school sites in the City or within the MPD Service Area or otherwise serving students from the MPDs.

10. Mitigation Fee Credit; Actual School Site Value.

10.1 Mitigation Fee Credits. The Developer shall be entitled to Mitigation Fee Credits as and when described in this Agreement. The Parties intend that Mitigation Fee Credits will offset at least a portion of the Mitigation Fees due in connection with the Projects. The Developer shall receive Mitigation Fee Credits for (i) the aggregate of all of the Actual School Site Values (less any Joint Use Land) for Identified School Sites conveyed to the District or cash paid in lieu of conveyance pursuant to Sections 6.4, 6.5, 11.6.2 and 11.6.3, (ii) the Actual Joint Use Land Values for the District's right to use, if applicable, the Joint Use Land conveyed to the City, (iii) the Included Costs, and (iv) any other credits described in this Agreement.

10.2 Vesting of Mitigation Fee Credits. All Mitigation Fee Credits shall be fully and irrevocably vested with the Developer at the time the District issues the Mitigation Fee Credit Certificates. The District shall provide the Developer with Mitigation Fee Credits equal to the Actual School Site Value or the Estimated School Site Value, whichever is applicable.

10.3 Actual School Site Value for Identified High School Site. For purposes of the Mitigation Fee Credit, the Actual School Site Value for the Identified High School Site shall be equal to the greater of (i) the purchase price of the Alternative High

School Site if such site is designated pursuant to Section 7.2 as the Identified High School Site, or (ii) the Actual School Site Value of the Identified High School Site as determined using the process set forth in 10.4 below without the assumption that the Identified High School Site is served by all necessary General Off-Site Utilities and General Off-Site Improvements unless that fact is true; and less any Mitigation Fees collected by the District and reimbursed to the Developer for the purchase of that site pursuant to Sections 9.7.3 and 10.5.

10.4 Actual School Site Value for Identified School Sites. At the Closing of an Identified School Site, the District shall provide the Developer a Mitigation Fee Credit equal to the Actual School Site Value for the particular Identified School Site. If the Developer obtained a Mitigation Fee Credit equal to the Estimated School Site Value for the Identified School Site, the Mitigation Fee Credit due at Closing shall be the difference between the Actual School Site Value and the Estimated School Site Value. If the Estimated School Site Value exceeds the Actual School Site Value, credits shall be subtracted from the Developer's total and, if not enough credits exist or remain to cover the difference, the Developer shall pay Mitigation Fees equal to the unmitigated amount. The Actual School Site Value shall be determined as follows:

10.4.1 Within five (5) days after the District's Board of Directors adopts a resolution authorizing a bond issue to be placed on the ballot for the construction of a School Facility on the Identified School Site or authorizing the District to seek or accept other School Financing Approval for construction of a School Facility on the Identified School Site, the District shall provide the Developer the Valuation Notice for the particular Identified School Site. The Valuation Notice shall also contain the name and contact information for the appraiser the District intends to use to value the Identified School Site.

10.4.2 Within ten (10) days after receipt of the District's Valuation Notice, the Developer shall provide the District with the name and contact information for the appraiser the Developer intends to use to value the Identified School Site. Each Party shall pay for its own appraisal.

10.4.3 Each appraiser will determine the Appraised Value per acre of the Identified School Site, less any Joint Use Land located thereon previously conveyed to the City, using the following assumptions: (1) the Identified School Site's highest and best use as a school site and not for development of residential, commercial, or industrial purposes; and (2) the Identified School Site is served by all necessary General Off-Site Utilities and General Off-Site Improvements except the utilities and improvements that the District will be required to pay the cost, pursuant to Section 23, either directly or through payment of latecomer fees, including regional stormwater collection fees or similar fees or assessment. Notwithstanding the foregoing, the appraiser shall be instructed not to assume the Identified School Site is served by General Off-Site Utilities and General Off-Site

Improvements if the Identified School Site is located outside of Project boundaries and the Developer does not construct the General Off-Site Utilities and General Off-Site Improvements necessary to serve the Identified School Site.

10.4.4 The District's and the Developer's appraisal establishing each Party's Appraised Value shall be delivered to the other within sixty (60) days of the Valuation Notice. If either Party fails to deliver an Appraised Value within the time period, the other Party's Appraised Value shall be deemed the Actual School Site Value.

10.4.5 If both Parties submit a timely Appraised Value to the other Party, the Actual School Site Value shall be the average of the two Appraised Values, unless the Appraised Values vary by more than ten percent (10%).

10.4.6 If the Appraised Values vary by more than 10%, the Parties shall use good faith efforts to agree on an Actual School Site Value within ten (10) days after receipt of the other Party's Appraised Value. If the Parties cannot agree on the Appraised Value, the two appraisers shall appoint a third appraiser who shall independently determine the Appraised Value of the Identified School Site. The Actual School Site Value shall be the average of the third appraiser's Appraised Value and the next closest Appraised Value. The Developer and the District agree to share on an equal basis (i.e., 50/50 percent) the cost of the third appraisal.

10.4.7 Any appraiser selected under Section 10.4 shall be an MAI, state certified appraiser with at least five (5) years of experience appraising vacant land in King County, Washington.

10.4.8 The Actual School Site Value shall be effective until the earlier of the following: two failed bond passage measures, or one (1) year from the date the Actual School Site Value was determined. After such period, upon a new Valuation Notice from the District, the Parties shall have the School Site re-appraised using the same process described in Section 10.4.

10.4.9 The Parties agree that, with respect to the first of the Elementary School Sites and the First Middle School Site, the following conditions must be met before the District may issue a Valuation Notice: (1) the satisfaction of all of the conditions to the Developer's right to terminate this Agreement as provided in Section 25; and (2) such Identified School Site is a separate legal lot.

10.5 Reimbursement of Mitigation Fees. Consistent with Section 9.7.2, as applicable, at each Closing of an Agreed School Site for which the Developer did not receive an Estimated School Site Value and with the exception of the Identified High School Site, which is subject to Section 9.7.3, or as soon as possible thereafter, the District shall disburse funds from the Mitigation Fee Account to the Developer in an amount equal

to the Actual School Site Value (less any Joint Use Land) for the Agreed School Site less any Mitigation Fee Credits already received in connection with any Agreed School Site. Subject to Section 9.7.1, if the eligible funds in the Mitigation Fee Account are less than the Actual School Site Value, the District shall issue Mitigation Fee Credits to the Developer in an amount equal to the difference between the funds disbursed and the Actual School Site Value.

10.6 Assignment of Mitigation Credits. Subject to the restriction on the use of Mitigation Fee Credits contained in this Agreement, the Developer may assign its interest in the Mitigation Fee Credits and/or Mitigation Fee Credit Certificate to any person or entity that purchases a lot in either the Lawson Hills Project or the Village Project. Such an assignment shall not require the consent of either the District or the City, but notice of the assignment shall be provided to all Parties and any affected Mitigation Fee Credit Certificate shall be surrendered by the Developer to the District, and the District shall promptly reissue such Mitigation Fee Credit Certificates in the name of the assignee.

10.7 Estimated School Site Value for Identified School Sites. At any time following the Agreement Effective Date and satisfaction of the conditions set forth in Section 10.4.9 and conveyance of the first of the Elementary School Sites, the Developer shall have the right to obtain a Mitigation Fee Credit equal to the Estimated School Site Value of the particular Identified School Site not yet conveyed to the District according to the following process: (i) the Developer shall send written notice to the District that it intends to determine an Estimated School Site Value; (ii) such notice shall identify the Identified School Site(s) to be valued; (iii) the Parties shall follow the process outlined in Section 10.4.1 through Section 10.4.8 to determine the Estimated School Site Value, provided that only one appraisal shall be necessary and the appraiser shall be chosen by Developer and subject to approval, in its reasonable discretion, by the District; and (iv) the Mitigation Fee Credit for the Identified School Site shall be subsequently adjusted pursuant to Section 10.4.

10.7.1 In the event a school site for which the Developer obtained an Estimated School Site Value is not conveyed to the District prior to the last day of the Agreement Term, the Developer shall be required to pay, within thirty (30) days of the last day of the Agreement term, to the District Mitigation Fees equal to the Estimated School Site Value of any school site not conveyed but for which Mitigation Fee Credits were received. The Developer shall pay for appraisals required to determine Estimated School Site Value.

10.7.2 The Developer's receipt of the Mitigation Fee Credits pursuant to this Section 10.7 shall be conditioned on the Developer recording a deed of trust, in the form of Exhibit W, encumbering the school site for which the Developer receives a Mitigation Fee Credit. The deed of trust shall secure the Developer's obligation to repay to the District any advanced Mitigation Fee Credit received in the event the

particular Identified School Site for which the Mitigation Fee Credit was received is not conveyed to the District.

10.8 Mitigation Fee Credit Certificates. Once the High School Site or an Identified School Site is valued pursuant to the provisions of this Section 10 and conveyed to the District the District shall issue to the Developer, with a copy to the City, a Mitigation Fee Credit Certificate that sets forth the dollar value of the Mitigation Fee Credit. In the case of Mitigation Fee Credits for an Estimated School Site Value, the District shall issue a Mitigation Fee Credit Certificate, noting the future adjustment that will be required pursuant to Section 10.4.

10.9 Use of Mitigation Fee Credits. The Mitigation Fee Credits shall only be used to offset Mitigation Fees due in connection with the Projects or any Other Property and may not be used in connection with the development of other real property.

10.10 Mitigation Fee Credit Accounting. The Mitigation Fee Credit accounting shall be as follows:

10.10.1 The City shall maintain records of the total Mitigation Fee Credits for the Lawson Hills Project and the Village Project. Each time a building permit is issued with respect to the Lawson Hills Project or the Village Project, the City shall reflect a debit in its records of the Mitigation Fee Credits for the applicable Project, in the amount of the Mitigation Fee, unless fees are actually paid pursuant to Section 9.4.

10.10.2 At any time, upon ten (10) days prior written notice from both BDLP and BDVP, the City shall reallocate the Mitigation Fee Credits from one Project to the other in the amount reflected in such notice.

10.10.3 At any time upon ten (10) days prior written notice from any Party, the City shall provide such Party with notice of the total Mitigation Fee Credits available with respect to either Project.

11. Contingency Period. The District's obligation to accept conveyance of the Identified School Sites shall be subject to and contingent upon the satisfaction or waiver by District of the conditions set forth in this Section 11 at or prior to expiration of the Contingency Period.

11.1 Developer's Provision of Site Information. Within twenty (20) days after the Developer has delineated boundaries for the Identified School Sites pursuant to Section 6.1.1, the Developer shall deliver or make available to the District copies of: (a) all available plans and specifications relating to the Identified School Sites, including, all surveys, topographical and plat maps, results of soil tests, engineering studies, environmental reports and permits and any other test results, reports and other information

pertaining to the physical condition of the Identified School Sites reasonably requested by the District and in Developer's possession or control; and (b) all contracts or agreements, with the exception of purchase and sales agreements, affecting the Identified School Site except to the extent that such contracts or agreements are recorded on the title of the Identified School Site. At a minimum, the Developer shall provide the District with copies of the reports referenced on the attached Exhibit R. Notwithstanding anything herein to the contrary, the Developer shall be entitled to redact any portion of the reports, studies or documents that contains confidential or proprietary information.

11.2 License to Enter. Upon at least five (5) business days prior written notice to the Developer: (a) during the Contingency Period, and (b) at all times thereafter during the Agreement Term and prior to conveyance of a particular Identified School Site, if the District has waived its contingencies with respect to a particular Identified School Site as described herein, the District and its agents shall have a license to enter upon each Identified School Site and, if reasonably necessary, to cross any other Developer owned property within the Project as and where indicated by the Developer to access the Identified School Site, for the limited purposes of performing reasonable feasibility investigations, tests, and studies, and site plan development tasks. The notice shall describe the nature of the review work or site development tasks to be undertaken, the name of the agents or representatives of the District who will be conducting the work, and the estimated duration of the review. The Developer shall have the right to designate one or more representatives for purposes of coordinating and overseeing the District's on-site due diligence investigation; provided that, if the District provides proper notice consistent with this Section 11, the failure of the Developer to respond to such notice shall not preclude the District from performing such tests or other due diligence on or about the Identified School Sites. A representative of the Developer shall have the right to accompany the District and its agents and contractors when they are performing tests on or about the Identified School Sites. The District shall conduct its inspections and tests in compliance with all applicable laws, regulations and ordinances, and so as to not unreasonably interfere with any business or development activities of the Developer or any third parties on the Identified School Sites or adjacent property. The District shall not conduct any invasive testing or sampling at the Identified School Sites without the Developer's prior written approval, which approval shall not be unreasonably withheld. The District agrees to indemnify, defend, and hold the Developer and the Developer's Indemnified Parties, harmless from any and all damages, claims demands, losses, fines, penalties, causes of action, expenses and liabilities to or by the District, its contractors or third parties, including without limitation the District's own employees and agents or arising from resulting from, or connected in any way with presence, or acts performed or to be performed under this grant of this license to enter the Identified School Sites, both before and after Closing, including but not limited to clean-up costs related to Hazardous Substances resulting from the District's presence or activities except to the extent caused by the Developer's negligence or willful misconduct. THE FOREGOING INDEMNITY IS EXPRESSLY INTENDED TO CONSTITUTE A WAIVER OF THE DISTRICT'S IMMUNITY UNDER WASHINGTON'S INDUSTRIAL INSURANCE ACT,

RCW TITLE 51, TO THE EXTENT NECESSARY TO PROVIDE THE DEVELOPER AND THE DEVELOPER'S INDEMNIFIED PARTIES WITH A FULL AND COMPLETE INDEMNITY FROM CLAIMS MADE BY THE DISTRICT AND ITS EMPLOYEES. DEVELOPER AND THE DISTRICT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISION OF THIS SECTION WAS SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM. The District agrees to keep the Identified School Site free and clear of any liens at all times, and to return the property to its original condition promptly after any such due diligence work on the Identified School Sites. The District shall provide the Developer with copies of any plans and specifications, surveys, topographical and plat maps, results of soil tests, engineering studies, environmental reports and permits and any other test results, reports or information obtained in connection with such Identified School Site at the time such documents are received by the District, provided that the District shall be entitled to redact any portion of the reports, studies or documents that contains confidential or proprietary information.

11.3 Physical Condition of Site. During the Contingency Period, the District shall be satisfied, in its reasonable discretion, with the physical condition of each Identified School Site, including, without limitation, the results of soil tests (including borings), toxic and hazardous waste studies, wetlands information, geotechnical studies, surveys, engineering, historical use, traffic and access studies, structural studies and review of zoning, fire, safety and other compliance matters.

11.4 Site Performance. During the Contingency Period, the District shall be satisfied, in its reasonable discretion, with the past performance and potential future performance of each Identified School Site for the District's intended purposes, including, without limitation, the zoning and other codes, covenants and/or restrictions affecting the use and future development of the Identified School Site, school district boundaries, the certificates, licenses and permits existing with respect to the relevant site and likelihood and anticipated cost of obtaining additional certificates, licenses and permits that the District desires to obtain with respect thereto, the availability and access to public roads, and any executed agreements or contracts affecting the Identified School Site.

11.5 Wavier of Non-wavier of Contingencies. At the end or prior to the end of the Contingency Period, the District shall give notice in writing to the Developer of whether or not the District waives the contingencies described in this Section 11. If the District determines, in its reasonable discretion, that any Identified School Site cannot be used to construct School Facilities, the District shall set forth in the notice its reasons for reaching that conclusion, citing specific programmatic, title, or environmental factors that caused it to reach that conclusion. Failure to timely give notice as to any particular Identified School Site shall mean that the Identified School Site is acceptable to the District.

11.6 Remedy for Non-waiver of Contingencies. If the District timely objects to an Identified School Site, as provided in this Section 11, then the Parties will meet within fifteen (15) days to discuss whether or not an alternative site is available that would meet the District's requirements.

11.6.1 If an alternative school site is identified and agreed upon, the Parties shall execute an addendum to the Agreement to reflect the modification.

11.6.2 Except with respect to the High School Site, if the Parties are unable to reach an agreement on an alternate site within sixty (60) days from the date the Developer receives the District's written notice that an Identified School Site is not acceptable, then the Parties shall amend the Agreement to exclude the Identified School Site and the Developer will be required to pay Mitigation Fees in an amount equal to the Actual School Site Value, including any Joint Use Land located on the Identified School Site (even if previously conveyed to the City) with such Joint Use Land valued on a per acre basis not as Joint Use Land but in an amount equal to the remaining Identified School Site acreage, for the unacceptable school site as set forth in Section 10.4 regardless of whether the Developer is in need of Mitigation Fee Credits to complete the Projects; provided that, and subject to Section 9.7, the amount of Mitigation Fees required above shall be reduced by the amount of funds in the District's Mitigation Fee Account at the time the Developer pays the Mitigation Fees pursuant to this Section 11.6.2. The Developer shall pay the Mitigation Fees equal to the Actual School Site Value at such time as the Developer would have conveyed the unacceptable Identified School Site to the District, as set forth in Section 6 or, at the District's discretion, any time after the City provides final plat approval for Units where the product of such Units and the student generation rate set forth in Section 5.1.1 is equal to 33% of the Agreed School Capacity of the school that would have been constructed on the Identified School Site; provided that the unacceptable site shall be treated as though it were the last to be conveyed, for example, if the District disapproves of Elementary School Site B the District must accept conveyance of Elementary School Sites A, C and D before the Developer will be obligated to pay Mitigation Fees pursuant to this Section 11.6.2.

11.6.3 With respect to the High School Site, if the Parties are unable to reach an agreement on an alternate site within sixty (60) days from the date the Developer receives the District's written notice that the High School Site is not acceptable, then the Parties shall amend the Agreement to exclude the High School Site and the Developer shall pay Mitigation Fees in an amount equal to the Actual School Site Value for the unacceptable school site as set forth in Section 10.4 regardless of whether the Developer is in need of Mitigation Fee Credits to complete the Projects; provided that, and subject to Section 9.7, the amount of Mitigation Fees required above shall be reduced by the amount of funds in the District's Mitigation Fee Account at the time the Developer pays the Mitigation Fees pursuant to this Section 11.6.2. The Developer shall pay the Mitigation Fees equal to the Actual School Site Value as determined at the time the

Mitigation Fees are paid and no later than ten (10) years after the Agreement Effective Date unless the Alternative High School Site or the Rural High School Site is designated as the Identified High School Site pursuant to Section 7.1 and 7.2 herein.

11.6.4 The remedy set forth in Section 11.6.2 shall only be available with respect to the first three of the Identified School Sites that the District rejects in accordance with this Agreement. The District's rejection of any additional Identified School Sites, beyond the first three rejected sites, must be based on one of the following reasons: (i) the Identified School Site does not include the agreed upon number of Usable Acres, as set forth in Section 4.1; (ii) topographic or other site conditions, including without limitation zoning designations, comprehensive plan designations, or other federal, state, or local regulations, make construction of School Facilities impossible or mitigation of such conditions make construction of School Facilities financially impractical; or (iii) because a covenant or condition applicable to the Identified School Site does not permit construction of School Facilities. Beginning with the fourth Identified School Site so rejected by the District, and for any other Identified School Sites subsequently so rejected by the District, the Developer shall identify an alternate School Site within the MPD Service Area. If an alternate School Site is required by this Section 11.6.4, the alternate site must be identified by the Developer and accepted by the District prior to the City's issuance of the number of building permits that trigger conveyance of the Identified School Site, as set forth in Sections 6.2 and 6.3, which the alternate site replaces. After the alternate site has been identified and accepted the Parties shall execute an addendum to the Agreement to reflect the modification.

12. Title and Survey. The Developer and the District agree to the following title and Survey matters as to the Identified School Sites:

12.1 Title Binder/Commitment. The Developer shall, within twenty (20) days after the Developer has delineated boundaries for the Identified School Sites pursuant to Section 6.1.1, obtain at its cost and cause the Title Company to deliver to the District a Title Binder consisting of a commitment for a 2006 ALTA owner's standard title insurance policy covering each of the Identified School Sites (and the other legal lots on which an Identified School Site is located), showing recorded matters pertaining to the Identified School Site and listing the District as the prospective named insured. The Title Binder shall include true, correct copies of all of the Title Documents referred to in such title commitment as conditions or exceptions to title to the Identified School Site.

12.2 Title Review. The District shall review the Title Binder and Survey for each Identified School Site and, on or before ninety (90) days after delivery of the Title Binder required in Section 12.1, shall notify the Developer what exceptions to title, if any, will be rejected by the District and specifically identify the reasons why, in the District's reasonable discretion. Only those exceptions that are not rejected by the District in this Agreement, in writing, or deemed to be approved by the District, as provided herein, shall

constitute Approved Exceptions. The Parties acknowledge that the Identified School Sites are subject to certain Permitted Exceptions. The Permitted Exceptions shall be Approved Exceptions. The Developer will have fifteen (15) days after receipt of the District's notice of Approved Exceptions to notify the District if it will remove any title exception that is not an Approved Exceptions. The Developer shall use reasonable efforts to remove any exceptions that are not Approved Exceptions, provided that the Developer shall not be required to institute any litigation or incur any liabilities or unreasonable costs to remove such exceptions, except the Developer agrees to pay any monetary liens prior to Closing affecting title to the School Sites, and thus, eliminate any such title exception. If the Developer does not respond to the District within such 15 day time period, or notifies the District that it will not remove any title exception that is not an Approved Exception, then the District shall have the right within ten (10) days of receipt of the Developer's notice, or the date such notice was due, whichever is earlier, to either (i) reject conveyance of the Identified School Site; or (ii) waive its objection with respect to such title exception. If the District fails to respond within such 10-day period, the District will be deemed to have waived its objection and such title exceptions shall be deemed Approved Exceptions.

12.3 Remedy for Rejection of an Identified School Site. If the District timely rejects an Identified School Site as described in Section 12.2, the Parties shall follow the provisions set forth in Section 11.6 above.

12.4 Supplemental Title Commitment. Following expiration of the Contingency Period and within twenty (20) days following the Developer's receipt of a Valuation Notice from the District regarding a particular Identified School Site, the Developer shall obtain, at its cost, and deliver to the District a supplement to the Commitment for such Identified School Site that includes the Title Documents for any exceptions that were not listed in the title Binder provided pursuant to Section 12.1. Within ten (10) business days after the District's receipt of a supplement to any Commitment together with a copy of such intervening lien or matter, the District shall notify the Developer in writing of any additional Approved Exceptions and such exceptions that are not Approved Exceptions; provided however, the District shall not object to any Permitted Exceptions or Development Encumbrances. Notwithstanding the foregoing, the District shall not object to any title exceptions created by the Developer after the Contingency Period unless, in the District's reasonable discretion, the title exception materially adversely affects the District's ability to construct a School Facility on and use the Identified School Site for its intended purpose. The Developer and the District shall have the same rights and duties with respect to an objection by the District to a Commitment supplement as they do with respect to an objection by the District to a matter contained in the Commitment, except that if the District reasonably objects to an exception that was added to the Title Commitment after the end of the Contingency Period with the consent of the Developer, and the exception is not an authorized Development Encumbrance, then the Developer shall remove the exception prior to Closing. Any other

exceptions that the District approves in writing or is deemed to have approved hereunder shall be referred to as an Approved Exception.

12.5 Title Policy. The District shall receive as soon after Closing as reasonably possible, an Owner's Policy of Title Insurance (ALTA Form 2006) issued by the Title Company to the District. The Title Policy shall insure fee simple, to the Identified School Site in the District, subject to the Deed Restriction if applicable, and the Approved Exceptions. The District shall have the right to obtain such endorsements as the District may reasonably require at its sole cost and expense. The District may also elect to request extended coverage title insurance. If the District seeks endorsements or extended coverage, the District shall pay the additional premium for such endorsements and extended coverage and the Developer shall cooperate to the extent it does not result in any costs, expense or liability, by executing such affidavits and agreements reasonably acceptable to the Developer (from the Title Company's standard forms) as the Title Company may require for extended coverage. The District's obligation to close this transaction shall not be contingent on the District's receipt of any such endorsements or extended coverage.

12.6 Survey. BDLP with respect to the Lawson Hills School Sites and BDVP with respect to the Village School Sites shall provide to the District with an ALTA/ACSM Survey of each Identified School Site prepared by a licensed or registered surveyor which Survey prior to the Closing of each Identified School Site.

13. Development Encumbrances.

13.1 Development Encumbrances. Subject to the terms herein, the Developer expressly reserves the right to grant the following Development Encumbrances: all utility related easements, agreements and covenants, temporary constructions or other easements, or title encumbrances directly related to MPD or preliminary or final plat approval. However, in no event shall any permanent Development Encumbrance be located on any portion of the Agreed School Sites except the area extending twenty (20) feet from the external boundary of an Agreed School Site and provided further that such Development Encumbrance shall not materially interfere with the District's ability to construct a School Facility on the Agreed School Site.

13.2 Covenants, Conditions and Restrictions. Before recording the CCRs against the Agreed School Sites, the Developer will provide the District with a copy of the CCRs that it intends to record against each Agreed School Site located within the Projects for its review and consent, not to be unreasonably withheld, conditioned or delayed. The District's review shall be limited only to that portion of the CCRs that affect the Agreed School Site. To the extent the CCRs are subject to the approval of the City, the Developer shall provide the District with a copy of the CCRs when the Developer submits the CCRs to the City for review and approval.

13.2.1 The District shall have thirty (30) days after receipt of the CCRs to make a reasonable objection to such CCRs. If the District does not respond within such 30-day period, the District's consent to the CCRs shall be deemed given. If the District makes a timely objection to the CCRs, then the Developer may amend or modify the CCRs to make them reasonably acceptable to the District, or the Developer may elect not to record such CCRs against the Agreed School Sites. Any such proposed CCRs shall not require the District to pay any latecomer fees or similar assessments, costs or fees that are not directly related to the District's development or use of the Agreed School Site, or any common area maintenance charges, or other similar fees or costs related to the ongoing operations of the Projects.

13.2.2 It is intended by the Parties that the design of the School Facilities to be constructed on the Agreed School Sites is compatible with the design standards for the rest of the Projects. The CCRs may provide design guidelines that are reasonably acceptable to the Developer and the District for the Agreed School Sites; provided that, the cost of any improvements required by the Developer or required under the design guidelines that increase the cost of the exterior façade of the School Facility by ten percent (10%) or more than the cost of a typical exterior façade for the same School Facility within the District's boundaries (for example, and not by way of limitation, architectural elements, landscaping, screening, particular materials) shall be paid by the Developer and such amounts shall be deposited with the District prior to commencement of construction of the School Facility, or the District shall not have any obligation to incorporate such improvements. The Developer shall have sole discretion in determining whether to pay the additional cost or waive the application of the design guideline. The Parties hereby agree that the District shall not be required to go through a design review process with any association that is created by the CCRs. If the Developer and the District cannot agree as to any design issues, after consultation as required by Section 13.2.3, then the Community Development Director shall select a qualified architect with school design experience to serve as the arbitrator of any dispute, and the architect's decision shall be binding on the Parties. The District and the Developer shall jointly be responsible for the architect's fees.

13.2.3 Prior to pursuing a building permit for a School Facility on an Agreed School Site within or adjacent to the Projects, the District shall provide the Developer with a copy of the plans, specifications, and elevation drawings of buildings to be constructed on the Agreed School Site. If notice of the Developer's disapproval is not given within forty-five (45) days following delivery of such plans, specifications, or elevations, such documents shall be deemed approved. If the Developer disapproves of the School Facility, the Developer's notice to the District shall state with specificity the elements of the proposed design of the School Facility that violates the CCRs or other design guidelines. The reasons for disapproval shall not compromise the District's ability to construct a School Facility that is materially consistent with a typical School Facility

within the District's boundaries. The Developer and the District shall meet within ten (10) days of any disagreement regarding applicable design requirements to attempt in good faith to resolve the dispute. If the Parties are unable to resolve the dispute, the matter shall be referred to the dispute resolution process referenced in Section 13.2.2.

14. Condition of Title.

14.1 Deed Restriction. Title to the Identified School Sites, with the exception of the Elementary School Site D, the First Middle School Site, the Second Middle School Site, and any High School Site acquired pursuant to Section 7, shall be conveyed by Deed to the District in fee simple absolute subject to the Deed Restriction. The Deed Restriction shall require the Identified School Site to be used for a School Facility for a period of forty (40) years from the date of conveyance, unless earlier terminated as provided in Section 14.2.

14.2 Option to Purchase. At the Closing of all Identified School Sites, with the exception of the Second Middle School Site and any High School Site acquired pursuant to Section 7, the District and the Developer shall execute an Option to Purchase and record a Memorandum of the Option to Purchase in the forms attached hereto as Exhibit M. If the Identified School Site ceases to be used for school purposes during the term of the Deed Restriction or if the District is unable to use the Identified School Site as set forth in Sections 6.4 and 6.6.1(b), the Developer shall have the right to exercise the Option to Purchase. Under the Option to Purchase, the Developer shall have the right to purchase such Identified School Site, less any Joint Use Lands, back from the District for the lesser of (a) the then-current market value of the Identified School Site (less any Joint Use Lands), based on an appraisal to be performed by an MAI, state certified appraiser with at least five (5) years of experience appraising land in King County, Washington that is acceptable to the Developer and the District, in each Party's reasonable discretion, and the cost of such appraisal shall be equally shared between the Developer and the District; or (b) the Actual School Site Value of the Identified School Site (less any Joint Use Lands) escalated at an annual compound rate equal to the lesser of: (i) four percent (4%); or (ii) the increase in the two month Consumer Price Index for all urban consumers (CPI-U) published by the U.S. Department of Labor for the Seattle/Tacoma/Bremerton Standard Metropolitan Statistical Area, 1982-84=100 from the date the Identified School Site is conveyed to the District until the Option to Purchase is triggered. Notwithstanding the foregoing, in no event shall the Developer's right to repurchase an Identified School Site be for a price that is less than the Actual School Site Value at the time of the conveyance of the Identified School Site from the Developer to the District. If the Developer elects not to exercise the Option to Purchase within sixty (60) days of the District's notice, the Deed Restriction will automatically terminate and the District may surplus and rent, lease, or sell the Identified School Site (less any Joint Use Lands) free and clear of the Deed Restriction and the Option to Purchase.

15. Representations and Warranties.

15.1 Developer Representations and Warranties. The Developer represents and warrants with respect to the Identified School Sites the following, which shall be deemed made by Developer also as of the Closing Date:

15.1.1 This Agreement, and all documents executed by the Developer which are to be delivered to the other Parties at the Closing, are and at the time of Closing will be duly authorized, executed and delivered by the Developer.

15.1.2 The Developer's Actual Knowledge with respect to the Identified School Sites, except as disclosed in any documents described in Section 11.1: (i) such Identified School Site is not in violation of any applicable Environmental Laws; (ii) the Developer has not used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or about the Identified School Sites or transported from the Identified School Sites, any Hazardous Substance in violation of applicable Environmental Laws; and (iii) the Developer has not removed underground storage tanks from any Identified School Sites, and no underground storage tanks are located on any Identified School Sites.

15.1.3 Without limiting the Developer's representations and warranties herein, the Developer further represents and warrants that Brian Ross, Colin Lund, David MacDuff and Ryan Kohlmann, are the officers, employees and/or principals of the Developer who have the most knowledge regarding the ownership and operation of the Identified School Sites.

15.2 District Representations and Warranties. The District represents and warrants as follows, which shall be deemed made by the District also as of the Closing, that this Agreement, and all documents executed by the District, which are to be delivered to the other Parties and the District at the Closing, are and at the time of Closing will be duly authorized, executed and delivered by the District.

15.3 City Representations and Warranties. The City represents and warrants as follows, which shall be deemed made by City also as of the Closing Date, that this Agreement, and all documents executed by the City, which are to be delivered to the other Parties at the Closing, are and at the time of Closing will be duly authorized, executed and delivered by the City.

15.4 Limitation on Representations. All the representations and warranties made by the Parties in Section 15.1 through 15.3 above shall survive Closing for a period of two (2) years, and no claim brought for misrepresentation or breach of warranty shall be valid unless brought within two (2) years after Closing.

16. Conditions Precedent to Closing.

16.1 Preservation of Representations and Warranties. All representations and warranties of the Parties contained herein shall be true, accurate and complete at the time of the Closing as if made again at such time.

16.2 Performance of Obligations. The Parties shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance) unless the affected party waives the right to require such obligation.

16.3 Casualty/Condemnation. The District's obligation to accept conveyance of an Identified School Site is conditioned upon, and subject to, the following: there shall not have been any casualty materially and detrimentally affecting all or any significant portion of the Identified School Site, any eminent domain or condemnation proceeding commenced or consummated for all or any material and significant portion of the Identified School Site, except any eminent domain or condemnation proceeding by the City or the District shall not excuse the District's obligation to accept the Identified Site. In the event of any condemnation or casualty as described herein, the District may elect, by written notice to the Developer, to forego conveyance. In such case, the Developer and the District shall have the same rights and duties as set forth in Section 12.3. Notwithstanding anything herein to the contrary, if the City or the District threatens or commences any eminent domain or condemnation proceeding for any of the Agreed School Sites, without the Developer's prior consent, in its sole discretion, the City or the District, as applicable, shall be in default of this Agreement and the Developer shall have the rights and remedies described herein.

17. Timing of Closing.

17.1 First Elementary School Site and First Middle School Site. The Closing of the first of the Elementary School Sites and the First Middle School Site will occur on a day mutually agreed upon by the District and the Developer that is no later than sixty (60) days after the conditions precedent described in Section 6 as to conveyance of the particular Identified School Site have been satisfied.

17.2 Conveyance of Remaining School Sites. The Closing of the remaining Identified School Sites will occur on a day mutually agreed upon by the District and the Developer that is no later than sixty (60) days after the conditions precedent described in Section 6 or Section 7 as to conveyance of the particular Identified School Site have been satisfied.

17.3 Earlier Closing. The Parties shall have the right in their sole and absolute discretion to Close on an Agreed School Site earlier than the times described in this Section 17.

18. Closing Documents.

18.1 District Closing Documents and Items. The following documents and items shall be executed by the District and timely provided to the Escrow Holder for each Identified School Site closing:

18.1.1 REETA.

18.1.2 Permanent and Temporary Easements to the Developer for Approval Work.

18.1.3 Temporary Easements to Developer, if applicable, for the purpose of providing access and temporary utilities to the Identified School Sites substantially in the form of the attached Exhibit S.

18.1.4 License Agreements, if applicable, for the purpose of providing the District with access over the Developer's property to the Identified School Sites substantially in the form of the attached Exhibit T.

18.1.5 Closing instructions as necessary to implement the Agreement terms.

18.1.6 Deed Restriction, for Elementary School Sites A-C and Option to Purchase for the Elementary School Sites and the First Middle School Site.

18.1.7 Mitigation Fee Credit Certificates, if applicable, showing the total Mitigation Fee Credits earned based on the Actual School Site Value of the Identified School Site.

18.1.8 Joint Use Agreement, if applicable.

18.1.9 Funds necessary to pay closing costs attributable to the District.

18.2 Developer Closing Documents and Items.

18.2.1 Deed conveying fee title, subject to Permitted Exceptions relevant to the applicable Identified School Site.

18.2.2 REETA.

18.2.3 FIRPTA.

18.2.4 Temporary Construction Easements to the District, if applicable, for the purpose of providing access and temporary utilities to the Identified School Sites substantially in the form of the attached Exhibit U.

18.2.5 License Agreements, if applicable, for the purpose of providing the District with access over the Developer's property to the Identified School Sites substantially in the form of the attached Exhibit T.

18.2.6 Deed Restriction, for Elementary School Sites A-C and Option to Purchase for the Elementary School Sites and the First Middle School Site.

18.2.7 Closing instructions as necessary to implement the Agreement terms.

18.2.8 Title Documents.

18.2.9 Funds necessary to pay closing costs attributable to the Developer.

18.3 City Closing Documents.

18.3.1 Joint Use Agreement, if applicable.

18.3.2 REETA if the Joint Use Lands are to be conveyed to the City.

18.3.3 Closing Instructions as necessary to implement the Agreement terms.

19. Closing Costs; Prorations. The Developer and the District shall each pay an equal one-half (50/50) share of the costs of the escrow services and recording fees related to the conveyance of any Identified School Site. Developer shall pay any excise taxes due in connection with conveyance of any Identified School Site. All real estate taxes for the Identified School Site shall be prorated as of the Closing Date.

20. Taxes and Impositions. The Developer shall pay to the Escrow Agent the estimated real estate taxes affecting each Identified School Site for the time prior to Closing and the Developer's payment of such real estate taxes shall not be subject to a mitigation fee credit. Except as provided herein, special assessments or impositions

payable in installments (whether now existing or arising in connection with the Projects) payable for the Agreed School Sites shall be paid in full by the Developer and shall not be prorated between the Parties and shall not be subject to a mitigation fee credit. Without limiting the language in this Section 20, the District shall not be required to pay any costs, fees, or assessments related to Community Facilities District financing per Chapter 36.45 RCW and the Developer shall pay to the Escrow Agent the total sum of any such costs, fees, or assessments levied or otherwise imposed on any Identified School Site prior to the conveyance of such school site and the Developer's payment of such costs, fees, or assessments shall not be subject to a mitigation fee credit. Except as provided herein, the District shall not be required to pay any costs or fees in any way arising out of construction of the on-site improvements constructed for the Projects, or any common area maintenance charges, or other similar fees or costs related to the ongoing operation of the Projects. The District shall pay the Developer for any applicable latecomer's fees, a proportionate share of the cost of constructing a regional stormwater collection facility, costs of School-Specific Utilities and Improvements as set forth in Section 23.4 and shall pay to the City or any other utility purveyor any Identified School Site-specific permit fees, utility connection charges, general facilities charges, including but not limited to reimbursable amounts allowed under the Water Supply and Facilities Funding Agreement, or other like fees or charges, due and owing to the City or other utility purveyors on the same basis as any other connecting property owner. Latecomer's fees, a proportionate share of the cost of construction of a regional stormwater collection facility, reimbursable amounts under the Water Supply and Facilities Funding Agreement , and the cost of School-Specific Off-Site Utilities and the School-Specific Off-Site Improvements owed by the District to the Developer may be payable through Mitigation Fee Credits, provided that the costs and/or fees may not be payable through Mitigation Fee Credits if the product of the remaining un-built units multiplied by the applicable Mitigation Fee is less than the cost and/or fee.

21. District's Covenants.

21.1 On-Site Improvements. District for itself, its subcontractors, vendors, suppliers and materialmen, agrees to the following with respect to any Agreed School Site:

21.1.1 To pay the cost of all on-site improvements and to perform all work in a neat and workmanlike manner and to use its best efforts to not allow excessive dirt, debris, or other material to be scattered on other adjacent properties or Units or on the streets;

21.1.2 To the extent that the District's construction activities cause excessive dirt, debris, or other material to be scattered on other adjacent properties or Units or on the streets, the District shall ensure that such excessive dirt, debris, or other material is promptly removed and the relevant area restored to the manner existing before the scattering of the excessive dirt, debris, or other material;

21.1.3 To comply with all life safety rules and regulations which may apply to roads and common areas within the Project; provided, that, the Parties agree that such life safety rules and regulations shall not preclude the normal and reasonable use of such roads and common areas by the District's construction contractors and subcontractors for purposes of transporting construction-related equipment and supplies to the Identified School Sites and gaining necessary access to the Identified School Sites for purposes of constructing school facilities;

21.1.4 To perform all work in such a manner as not to unreasonably interfere with neighboring properties in the Project and to preserve lateral support for adjoining properties.

21.2 Location of School. If the District acquires an Identified School Site, the District shall not use funds from the School Financing Approval for that Identified School Site toward school facilities in a different location unless the other location is also within the City or within the MPD Service Area. The District shall use commercially reasonable efforts to construct the School Facilities on the Agreed School Sites.

21.3 Cooperation.

21.3.1 The District agrees to cooperate with the Developer in any actions reasonably necessary or convenient to effect approvals relevant to the development of the MPDs in which an Agreed School Site is located. Such actions may include the signing and recording of temporary or permanent easements for utilities and the approval of reasonable ingress/egress for construction and the dedication of roads over which the District has beneficial easement rights; provided that, the Parties agree that any actions pursuant to this Section 21.3 shall be consistent with the design review criteria in Section 13.2 and, with the exception of utilities, shall not include any permanent disturbance of the Agreed School Sites that materially interferes with the District's ability to develop the Agreed School Site with a School Facility. The District further agrees to execute, subject to review and approval by the District's legal counsel not to be unreasonably withheld, conditioned or delayed, any and all documents reasonably necessary and relevant to the development of the MPDs in which an Agreed School Site is located, including the Approval Work, within ten (10) business days after being provided those documents; provided that, if such documents require approval of the District's Board of Directors, approval will be sought at the next regularly scheduled Board meeting. The District further agrees to cooperate with the Developer in any efforts by the Developer to include all portions of the MPDs within the District's boundaries; provided that, such cooperation shall not require the expenditure of any District funds for such purposes; and provided further that, in no event shall this Section 21.3 be construed to require the District to initiate any such action.

21.3.2 The District shall cooperate with the Developer, provided that such cooperation is at no expense to the District, in the process of obtaining from the City those certain Land Use Approvals necessary to segregate or subdivide each Agreed School Site from the rest of the Projects or other property. To the extent the City requires modifications to the configuration or boundaries of any Agreed School Site as part of any Land Use Approval, or, based upon documented need, the Developer requires modifications to the configuration or boundaries of any Agreed School Site to account for site conditions, utility alignment, relocation of residential development area, road alignment or similar site and design planning reasons, such Agreed School Site shall be revised to reflect such modifications in Developer's reasonable discretion, subject to the District's approval not to be unreasonably withheld, conditioned or delayed. Any modifications to the configuration or boundaries of an Agreed School Site shall be the minimum reasonably necessary to address the documented need. In no event shall the revised boundaries diminish the minimum Usable Acreage for the particular Agreed School Site nor shall the revised boundaries differ from the agreed site dimensions such that a School Facility can no longer be sited on the Agreed School Site in a manner similar to other School Facilities in the District. If the revised boundaries vary significantly from those approved by the District as of the end of the Contingency Period the provisions of Sections 11 and 12 shall apply with respect to the District's acceptance of the new portion of the Agreed School Site resulting from the revised boundaries. If necessary, the Developer shall prepare a final legal description for the applicable Agreed School Site and the Parties shall amend this Agreement by replacing the prior description with the final legal description of the applicable Agreed School Site.

21.4 Release. Without limiting the Developer's warranties provided for elsewhere herein, the District, for itself and on behalf of anyone claiming by, through, or under the District, hereby releases the Developer and its present and future employees, partners, members, agents, contractors, and their respective successors and assigns from any liability or claim arising out of or in connection with the District's development of the Agreed School Sites and the District's construction of School Facilities, including, without limitation, any loss, damage, injury or claim attributable to the District's use and/or development of the Agreed School Sites or any part thereof, defect in design or construction of any improvement on the Agreed School Sites, including, without limitation, grading and other surface and subsurface conditions, presence on the Agreed School Sites of any threatened or endangered species or archeological sites, artifacts, or other matters of archeological significance, except to the extent caused by the negligence of the Developer and its present and future employees, partners, members, agents, contractors, and their respective successors and assigns.

21.5 Indemnity for the District's Construction. The District shall indemnify, defend and hold the Developer and the Developer's Indemnified Parties from any and all damages, claims demands, losses, fines, penalties, causes of action, expenses and liabilities (including, without limitation, attorneys' fees) arising out of or in connection

with the construction of any School Facilities, any breach of obligation in Section 21 or representation or warranty by the District, or any negligent act, omission, by the District or any of its agents, employees, licensees, invitees or contractors except to the extent caused by the negligence of the Developer and its present and future employees, partners, members, agents, contractors, and their respective successors and assigns.

21.6 Developer Right of Entry to Identified School Sites. The District shall allow the Developer to enter the Identified School Sites located within the Projects after Closing for the limited purposes of completing the Approval Work or for Development Use purposes; provided that the Developer shall provide annual written notice to the District and such written notice shall describe the nature of the Approval Work to be undertaken for the notice year and the estimated duration of Developer's entry on the Identified School Site; provided further that, if the District has commenced a contract with a third-party for pre-construction or construction activities on an Identified School Site or has commenced school operations on any such Identified School Site, any Developer entry shall be subject to a use license which shall include limitations on the Developer's entry, including but not limited to restrictions on time of entry, area of entry, and any other such provisions necessary to avoid interference with the District's construction work or school operations; provided further that, in the event the Developer wishes to undertake Other Work on any such Identified School Site, the Developer shall request in writing the District's approval of such Other Work and within seven (7) days of the District's receipt of such written request, the District shall, in its reasonable discretion, consider whether to allow the Other Work and may require the Developer to enter into a use license that includes requirements in addition to those contained in this Agreement to govern the Developer's use of the Identified School Site for the Other Work. The District shall have the right to monitor the activities related to the Approval Work, Development Use, and Other Work.

21.7 Signage. After Closing of each Agreed School Site, the District agrees to install or maintain, as applicable, a sign stating "This property is the future site of a new Enumclaw School District _[high, middle, elementary]_ school." All signs shall be of similar style, size coloring as Developer's other Project signage. The location of the signage shall be subject to Developer's prior approval, which shall not be unreasonably withheld.

22. Developer's Covenants.

22.1 Condition of the School Sites. Except as expressly provided herein, the Developer shall not enter into, materially modify or terminate any contracts affecting the Identified School Sites that will survive Closing and that will have a material adverse effect upon the Identified School Sites, without the prior consent of the District, which shall not be unreasonably withheld or delayed; provided that, the District shall have the absolute right to withhold consent of any contracts that will have the potential of a material adverse effect on the Identified School Sites or that would in any manner limit the

District's ability to construct School Facilities on the Identified School Sites. At Closing, the physical condition of the Identified School Site shall not be materially different than the condition of the Identified School Site on the date of the District's waiver of feasibility except to the extent the Developer has offered, and the District has approved in advance, to perform improvements or modifications to any of the Identified School Sites (e.g., grading a site to make it uniformly level). Changes to the Identified School Site that are related to Approval Work or ordinary wear and tear and changes caused by the District or its agents or contractors shall not be considered material changes.

22.2 Cooperation. The Developer shall cooperate with the District, provided that such cooperation is at no expense to the Developer, in the process of obtaining from the City or King County building permits or other approvals necessary for the construction of School Facilities on the Identified School Sites. The Developer shall also cooperate with the District, provided that such cooperation is at no expense to the Developer, in the process of amending the District's boundaries to include the Second Middle School Site and in the process of obtaining School Financing Approval for the construction of School Facilities on the Identified School Sites.

22.3 Approval Work and Other Work. The Developer shall conduct the Approval Work, Development Use, and Other Work in compliance with all applicable laws, regulations and ordinances, and so as to not unreasonably interfere with the District's use of the relevant Identified School Site, including any development activities of the District or any third parties on such site.

22.3.1 The Developer agrees to keep the Identified School Sites free and clear of any liens arising from the Approval Work, Development Use, or Other Work, and to return the Identified School Site to a substantially similar condition as existed prior to the commencement of the Approval Work, Development Use, or Other Work, or an altered condition consistent with the Approval Work.

22.3.2 In performing the Approval Work, Development Use, or Other Work, the Developer shall not alter the physical condition of the Identified School Sites in a manner that materially adversely affects the District's ability to use the Identified School Sites for the District's intended purpose.

22.3.3 The Developer shall provide the District with copies of any final plans and specifications, surveys, topographical and plat maps, results of soil tests, engineering studies, environmental reports, permits, approvals, and any other test results, reports or information obtained in connection with such Approval Work, Development Use, or Other Work, including as-built drawings for the location of all utilities that will remain on or in the Identified School Site.

22.3.4 Any other provisions of this Section notwithstanding, the Developer shall not, under any circumstances, conduct any activities on the Identified School Sites in a manner that degrades the condition of the Identified School Site. For example, and without limitation, the Developer shall not excavate soil from the Identified School Site and replace it with substandard soil, nor shall the developer use an Identified School Site to stockpile, store, or treat waste or Hazardous Substances, and, in no event shall the Developer engage in any activities on or around the Identified School Site that would compromise, weaken or disturb lateral or subjacent support of the Identified School Site.

22.4 Indemnification. The Developer agrees to indemnify, defend, and hold the District, and the District's Indemnified Parties, harmless from any and all damages, claims demands, losses, fines, penalties, causes of action, expenses and liabilities caused by the Developer's breach of the obligations in this Section 22 and/or the exercise of the Developer's rights pursuant to Section 21.6, including but not limited to clean-up costs related to Hazardous Substances resulting from the Developer's presence or activities, except to the extent arising from the negligence of the District or the District's agents, officers, directors, contractors, subcontractors, employees or invitees. In no event shall Developer, or its successors, assigns, agents, employees and contractors in the exercise of any rights or performance arising out of this Section: (i) store Hazardous Substances on or in; (ii) dispose of Hazardous Substances from, on or into; (iii) release Hazardous Substances on or into; (iv) discharge Hazardous Substances on or into; (v) transport Hazardous Substances over; or (vi) otherwise use or keep any Hazardous Substances or other wastes or substances on the School Sites in violation of applicable Environmental Laws.

THE FOREGOING INDEMNITY IS EXPRESSLY INTENDED TO CONSTITUTE A WAIVER OF THE DEVELOPER'S IMMUNITY UNDER WASHINGTON'S INDUSTRIAL INSURANCE ACT, RCW TITLE 51, TO THE EXTENT NECESSARY TO PROVIDE THE DISTRICT OR THE DISTRICT'S INDEMNIFIED PARTIES WITH A FULL AND COMPLETE INDEMNITY FROM CLAIMS MADE BY THE DEVELOPER AND ITS EMPLOYEES. THE DEVELOPER AND THE DISTRICT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISION OF THIS SECTION WAS SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

23. Off-Site Improvements and Off-Site Utilities.

23.1 Construction of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities. For each Identified School Site located in whole or in part within the Project boundaries, the Developer shall construct Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities up to the property line of each Identified School Site. The Developer shall design and construct the Comprehensive Off-Site Improvements and the Comprehensive Off-Site Utilities in compliance with applicable

City or King County standards and per the approved engineering plans for the Projects. If the Comprehensive Off-Site Utilities or Comprehensive Off-Site Improvements are designed prior to the construction of a School Facility on the Identified School Site, the Developer shall notify the District of such engineering and request that the District provide an estimate, based on school facilities of similar size with the District, of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities required to serve the intended School Facility. In the event the District fails to provide the Developer with such an estimate, the Developer may proceed with design and construction of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities based on the Developer's reasonable estimate of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities required to serve such a School Facility and shall not be liable for any additional costs. The Developer will construct the Comprehensive Off-Site Improvements and the Comprehensive Off-Site Utilities in a diligent, reasonable and practical manner consistent with the phased development of each Project, provided that in no event shall the Developer be required to construct Comprehensive Off-Site Improvements or Comprehensive Off-Site Utilities serving Elementary School Site A unless and until the Developer receives final plat approval from the City for its first development within the Villages MPD.

23.2 Construction of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities at the District's Request. In the event the District anticipates constructing a School Facility on an Identified School Site prior to the Developer's construction of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities and to allow the Developer sufficient time to arrange for the design and construction of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities, the District shall provide the Developer with copies of its building and site plans at least three (3) months in advance of submitting a building permit. The Developer shall provide the District with three (3) months advance notice prior to commencing design of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities. If the District fails to provide the Developer a copy of its building and site plan, the Developer may proceed with design and construction of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities based on the Developer's reasonable estimate of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities required to serve a School Facility and shall not be liable for any additional costs associated with designing and constructing the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities in conformance with the District's building or site plan. If the District timely provides copies of its building and site plans to the Developer, the Developer shall use its best efforts to complete the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities no later than six (6) months after the District has applied for a building permit for construction of a School Facility on the particular Identified School Site served by such Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities. In the event the District amends or modifies its building or site plan previously provided to the Developer, the Developer shall not be liable for any additional

costs or delays associated with constructing the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities in conformance with the District's amended building or site plan. In such case, any modification to the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities shall be subject to the Developer's prior consent, which shall not be unreasonably withheld, conditioned, or delayed, and shall be at the District's sole cost and expense. Notwithstanding anything herein to the contrary, the Developer and its contractor and subcontractors shall not be liable for damages caused by delays in construction of the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities if such delays are a result of a force of nature, fire, theft, casualty or other circumstance beyond the Developer's reasonable control or if the six (6) month period following the District's receipt of a building permit that includes any time in the months of November through April and the Developer is unable to perform work due to the wet conditions.

23.3 Temporary Improvements and Utilities. In the event the District needs to construct a School Facility on the First Middle School Site or Elementary School Site D in advance of the Developer's planned build-out of southern section of the Village Project, the Developer shall, at its own expense and subject to the notice and timing provisions set forth in Section 23.2 above, construct temporary Comprehensive Off-site Utilities that meet state and local health department requirements, as well as provide all-weather safe access, per applicable King County or City standards, sufficient for school busses, pedestrians, bicyclists, and emergency response vehicles and shall maintain said facilities at its expense until such time as the permanent improvements required by the MPD permit, or other appropriate Land Use Approval, and the City Municipal Code are completed and accepted by the City. The City agrees not to object to the temporary facilities so long as they meet the performance criteria of this Section. Any temporary Comprehensive Off-Site Utilities shall be replaced, at the Developer's expense, by permanent Comprehensive Off-Site Utilities as soon as practicable in accordance with the Developer's planned build-out of the Village Project.

23.4 Cost of Utilities and Improvements. Consistent with Section 10.4.3, the cost of design and constructing the General Off-Site Utilities and General Off-Site Improvements shall be incorporated into the Actual School Site Value and, except as provided otherwise herein, the Developer shall not be entitled to any other form of reimbursement for such costs. Notwithstanding the foregoing, the District shall be responsible for the cost of constructing and installing the School-Specific Off-Site Utilities and the School-Specific Off-Site Improvements. Such costs may be payable, at the through Mitigation Fee Credits, consistent with Section 10.1, or direct cash payment to the Developer after the District has closed on acquisition of the applicable Identified School Site, provided that the costs may not be payable through Mitigation Fee Credits if the product of the remaining un-built units multiplied by the applicable Mitigation Fee is less than the cost of the improvement

24. **As-Is/Where Is**. The District and its agents and contractors (including environmental consultants, architects and engineers) have been or will be afforded the right and opportunity to enter upon the applicable Identified School Site and to make such inspections of the Identified School Site and matters related thereto, including the conduct of soil, environmental and engineering tests, as the District and its representatives desire, pursuant to Section 11. The District acknowledges that, except as set forth in the Deed and in this Agreement, neither the Developer nor any principal, agent, attorney, employee, broker or other representative of the Developer has made any representations or warranties of any kind whatsoever regarding the Identified School Sites, either express or implied, and that the District is not relying on any warranty, representation or covenant, express or implied, with respect to the Identified School Sites, except as set forth in the Deed and in this Agreement. The District further agrees that it is acquiring the Identified School Sites in wholly an "AS-IS" "WHERE-IS" condition, with all faults, and waives all contrary rights and remedies available to it under applicable law. In particular, but without limitation, except as set forth in the Deed and in this Agreement, the Developer makes no representations or warranties with respect to the Identified School Sites or their use or condition of any kind or nature, express or implied, including, without limitation, none as to: (i) the condition of the soils or groundwater of the Identified School Sites or the presence or absence of hazardous or toxic materials or Hazardous Substances on or under the Identified School Sites; (ii) the compliance of the Identified School Sites with applicable statutes, laws, codes, ordinances, regulations, rules or requirements, whether relating to zoning, subdivision, planning, building, fire, safety, health or environmental matters or otherwise; (iii) the compliance of the Identified School Sites with covenants, conditions and restrictions (whether or not of record); (iv) the compliance of the Identified School Sites with other local, municipal, regional, state or federal requirements; or (v) the density that the District may achieve in developing the Identified School Sites, and the availability of building, excavation and other permits that may be necessary for the construction of improvements on the property. The District represents that it is knowledgeable in real estate matters and that upon completion of the inspections contemplated or permitted by this Agreement, the District will have made all of the investigations and inspections the District deems necessary in connection with its purchase of the Identified School Sites, and that approval by the District of such inspections pursuant to this Agreement will be deemed approval by the District without reservation of all aspects of this transaction, including, but not limited to, the physical condition of the Identified School Sites, its use, title and the financial aspects of the development and operation of the Identified School Sites, subject to the express representations, warranties and covenants of the Developer set forth in this Agreement. The District expressly understands and acknowledges that it is possible that unknown problems, conditions or claims may exist with respect to the Identified School Sites and agrees that the District explicitly took such into account in determining and agreeing to the Mitigation Fee Credit for the Identified School Sites, and that a portion of such consideration, having been bargained for between the Parties with the knowledge of the possibility of such unknown problems, conditions or claims, was given in exchange for a full accord, satisfaction and

discharge of all such problems, conditions, losses and claims and all rights of contribution and indemnity.

the District's Initials

25. Termination Rights. In its sole discretion, the Developer may terminate this Agreement as to any other Parties, upon five (5) days prior written notice to the other Parties upon the occurrence of any of the following events identified in this Section 25; provided however that, the Agreed School Sites conveyed prior to the termination of this Agreement shall remain with the District, and Mitigation Fee Credits and Mitigation Fee Credit Certificates associated with the previously conveyed Agreed School Sites shall remain with the Developer.

25.1 MPD Approval. The City does not approve the MPD permit application or development agreement required to implement one or both of the Projects or the City imposes conditions on its approval that are unacceptable to the Developer in its sole discretion, but if, and only if, at the time the Developer tenders its five day notice it also includes in the notice an acknowledgment that it is abandoning one or both of its MPD applications and forfeiting its vesting rights as to the MPD approval(s), effective immediately upon termination of the Agreement.

25.2 Adverse Ruling on Third Party Appeal. A ruling by a court of competent jurisdiction on a third party's appeal of any Land Use Approval or EIS adequacy for one or both of the Projects that restricts or interferes with the Developer's ability to proceed with one or both of the Projects or results in the imposition of additional school mitigation requirements, outside and in addition to those established in this Agreement, but if, and only if, at the time the Developer tenders its five day notice it also includes in the notice an acknowledgment that it is abandoning one or both of its MPD applications and forfeiting its vesting rights as to the MPD approval(s), effective immediately upon termination of the Agreement.

25.3 Revocation of MPD Permit. The City revokes the MPD permit required to implement one or both of the Projects.

25.4 Termination for one but not both MPD Permits. In the event the Developer exercises its right to terminate the Agreement and abandons its right to one but not both of the MPD Permits pursuant to the provisions of this Section 25, the Parties agree that: (a) the City Council may reconsider its own school impact fee ordinance and associated fee schedule; (b) the termination shall be considered as requiring an amendment to the remaining MPD application, and the hearing and approval process shall be reopened solely as to the issue of the appropriate manner to address the impact of the remaining MPD on school capital facilities and siting needs, taking into account the parties expressed intent to have walkable schools at the elementary school level and for all schools to be

located within the MPD Service Area; and (c) the Parties will work in good faith to negotiate changes to the Agreement to take into account the impact of removing one of the MPDs from consideration so that the changes can be incorporated into the MPD amendment approval process. The Parties agree that, for purposes of the amendment to the MPD application, all Parties shall have standing to challenge the determination regarding whether such amendment is or is not a major amendment.

26. Default. Any Party shall be in "default" on the occurrence of any one or more of the following: (a) its failure to timely perform an act, pay a sum, or satisfy a term or condition as required by this Agreement; or (b) its making of any statement, representation, or warranty in this Agreement which is untrue or misleading in any material respect at the time made or reaffirmed. The remedies for default as described below shall only be available to the other Party(ies) after twenty (20) days' written notice and opportunity to cure. If because of the nature of the default (other than the payment of money) the default cannot reasonably be cured with 20 days, then a Party shall not be considered in default if that Party promptly commences curing the default within the 20-day period and thereafter continues diligently to cure the default thereafter, but in no event longer than within ninety (90) days from the defaulting Party's receipt of the written notice.

27. Remedies. If any Party defaults in the performance of any obligation under this Agreement, either directly or through its agents, employees or subcontractors, the Party entitled to the benefit of such obligation or performance shall be entitled to any or all of the following: (a) to cure the default and recover the cost of correcting any such default or breach from the breaching Party; (b) to bring suit at law to recover all damages; and/or (c) to avail itself of the equitable remedy of specific performance as to any obligations not compensable by monetary damages. Notwithstanding anything herein to the contrary, in no event shall any Party be liable to any other Party(ies) for any consequential or incidental damages.

28. Mediation. If a conflict arises under this Agreement, the Parties shall have the right to file a lawsuit to enforce the rights and obligations hereunder and/or to enter into nonbinding mediation under the auspices of the Commercial Mediation Rules of the American Arbitration Association. Any Party may initiate mediation by serving on the Party upon whom the request is made and filing with the American Arbitration Association a request for mediation substantially in the form of Exhibit V. If a Party files a lawsuit, any Party thereto shall have the right to require the other Party(s) to enter into nonbinding mediation by serving on the other Party(s) and filing the request for mediation within ten (10) days after a complaint is filed. In any case, the mediation shall be scheduled for the earliest date possible, but in no event later than at least twenty (20) days before the deadline for filing dispositive motions or a motion for a permanent injunction pursuant to the court's scheduling order.

29. **Notices**. Unless applicable law requires a different method of giving notice, any and all Notices shall be in writing and shall be validly given or made to another Party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit with such delivery service. If such notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each notice shall be deemed given only if properly addressed to the Party to whom such notice is to be given as follows:

To the City:
The Honorable Rebecca Olness
Mayor, City of Black Diamond
PO Box 599
24301 Roberts Drive
Black Diamond, Washington 98010

With a copy to:
Michael R. Kenyon
Kenyon Disend, PLLC
11 Front Street South
Issaquah, Washington 98027-3820

To the District:
Mr. Mike Nelson
Superintendent
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022

With a copy to:
Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

Signed Copy

To BDLP:
Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Suite 120
Kirkland, WA 98033

With copies to:
Megan Nelson
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

To BDVP:
Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

With copies to:
Megan Nelson
Yarrow Bay Group
P.O. Box 690
Black Diamond, WA 98010

Aleana W. Harris
Alston Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

Any Party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other Party hereto

30. **Term of Agreement.** Unless terminated earlier pursuant to the provisions set forth in this Agreement, this Agreement shall remain in effect for fifteen (15) years; provided that, the Agreement Term shall be automatically extended to coincide with the end of the vesting period for the longer of the MPD vesting periods approved for the Projects (including any City-approved extensions thereto or to the development agreement

for the Projects) or four (4) years after the final plat approval and recording of the last plat in either Project, whichever occurs last. Notwithstanding the foregoing, the District shall have the right to extend the term of this Agreement for an additional period of one (1) year if the following conditions have been met: (i) the District's Board of Directors has passed a resolution authorizing the District to present a bond measure to the public to finance the construction of a School Facility on an Agreed School Site, or in the case of the High School Site or an Identified School Site where the location is unusable for a School Facility pursuant to Sections 6.4, 6.5, 6.6.1(b), 11.6.2, or 11.6.3, an alternative location, or has initiated receipt of any other School Financing Approval for the construction of a School Facility on an Agreed School Site, or in the case of the High School Site or an Identified School Site where the location is unusable for a School Facility pursuant to Sections 6.4, 6.5, 6.6.1(b), 11.6.2, or 11.6.3, an alternative location; and (ii) the District has otherwise met the conveyance conditions set forth in Section 5 for conveyance of the particular Agreed School Site.

31. **Recording of Agreement**. The Parties agree that this Agreement shall be recorded with the King County Recorder's Office and that the costs of recording shall be equally shared amongst the Parties. Upon termination of this Agreement and at the request of any Party, the other Parties shall promptly execute and deliver a recordable instrument identifying the termination of the Agreement.

32. **Joint BDLP and BDVP Obligations.** BDLP and BDVP each hereby acknowledge and assume all of the obligations of the other as set forth in this Agreement and each agree, as necessary, to fulfill the obligations of the other as if BDLP or BDVP, on its own, were the Developer.

33. **Miscellaneous Terms**.

32.1 Interpretation. All of the Parties jointly participated in the drafting of this Agreement. Accordingly, this Agreement shall be construed neither for nor against any Party notwithstanding the Party which drafted the same, but shall be given a fair and reasonable interpretation in accordance with the meaning of its terms and the intent of the Parties.

32.2 Attorneys' Fees. In any proceeding to enforce any provision of this Agreement, the substantially prevailing Party shall be entitled to the payment of its attorneys' fees and costs by the substantially nonprevailing Party or Parties, including attorneys' fees and costs on appeal.

32.3 Runs with the Land/Successors and Assigns. This Agreement shall run with the land and shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

32.4 Authority. Each Party represents and warrants to the other Party that it has full power and authority to make this Agreement and to perform its obligations hereunder and that the person signing this Agreement on its behalf has the authority to sign and to bind that Party.

32.5 Complete Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the Parties.

32.6 Savings. If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted, rather than void, if possible, to achieve the intent of the Parties. If any portion of this Agreement becomes unenforceable, null, or void, the balance of this Agreement shall remain in full force and effect.

32.7 Non-waiver. No failure on the part of either Party to exercise, and no delay in exercising, any rights hereunder shall operate as a waiver thereof; nor shall any waiver or acceptance of a partial, single or delayed performance of any term or condition of this Agreement operate as a continuing waiver or a waver of any subsequent breach thereof.

32.8 No Third Party Rights/Obligations. The Parties expressly do not intend to create any obligation or liability, or promise any performance to, any third Party. The Parties have not created for any third Party any right to enforce this Agreement.

32.9 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

32.10 Agreement Conditions Survive Closing. Except for (a) Section 22.1; and (b) any Section expressly stating it shall not survive Closing, all Sections of this Agreement shall survive the Closing as to each Identified School Site.

32.11 Venue/Waiver of Jury Trial. If an action must be brought to enforce the terms of this Agreement, such action shall be brought in King County Superior Court. All Parties to this Agreement hereby waive the right to a jury trial in connection with this Agreement.

32.12 Time. Time is of the essence of this Agreement.

[Signatures on following page]

CITY OF BLACK DIAMOND

DATED: 1-24-11

By _____
Rebecca Olness, Mayor

ENUMCLAW SCHOOL DISTRICT

DATED: 1.6.2011

By _____
Mike Nelson, Superintendent

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: 1-6-2011

By _____

Name Brian Ross, President, BRNW Inc.

Title General Partner, Yarrow Bay Development LLC

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED: 1-6-2011

By _____

Name Brian Ross, President, BRNW, Inc.

Title General Partner, Yarrow Bay Development LLC

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that MIKE NELSON 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 Superintendent of the ENUMCLAW SCHOOL DISTRICT to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 01-06-2011

BONNIE J. WALKUP NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 6-09-12

(Use this space for notarial stamp/seal)

Bonnie J Walkup
Notary Public
Print/Type Name BONNIE J. WALKUP
My commission expires 06-09-2012

Consent

STATE OF Washington)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Rebecca Olness is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF BLACK DIAMOND to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: 1/24/11

Rachel J Pitzel
Notary Public
Print Name Rachel J Pitzel
My commission expires 08/13/2012

RACHEL J. PITZEL
NOTARY PUBLIC
STATE OF WASHINGTON
My Comm. Expires Aug. 13, 2012

(Use this space for notarial stamp/seal)

Consent

STATE OF ~~King~~ Wa)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Brian Ross is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the General Partner, YBD, LLC of BD LAWSON PARTNERS, LP, to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: 1/4/11

Kim Ross
Notary Public
Print Name KIM ROSS
My commission expires 6/5/11

KIM W. ROSS
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
06-06-11

(Use this space for notarial stamp/seal)

Consent

STATE OF WA)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Brian Ross is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the General Partner, HBD LLC of BD VILLAGE PARTNERS, LP, to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: 1/6/11

Kim Ross
Notary Public
Print Name Kim Ross
My commission expires 6/5/11

KIM W. ROSS
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
06-05-11

(Use this space for notarial stamp/seal)

Consent

EXHIBIT LIST

Exhibit	Description
A	"Alternative Elementary School Site" (2.9)
A.1	"Alternative Elementary School Site" Legal Description (2.9)
B	"Alternative High School Site" (2.10)
C	"Deed Restriction" (2.29)
D	"Elementary School Site A" (2.37)
D.1	"Elementary School Site A" Legal Description (2.37)
E	"Elementary School Site B" (2.38)
E.1	"Elementary School Site B" Legal Description (2.38)
F	"Elementary School Site C" (2.39)
F.1	"Elementary School Site C" Legal Description (2.39)
G	"Elementary School Site D" (2.40)
G.1	"Elementary School Site D" Legal Description (2.40)
H	"First Middle School Site" (2.45)
H.1	"First Middle School Site" Legal Description (2.45)
I	"High School Site" (2.49)
I.1	"High School Site" Legal Description (2.49)
J	[RESERVED]
K	"Lawson Hills Project" (2.58)
L	"Mitigation Fee Credit Certificates" (2.64)
M	"Developer's Option Agreement" (2.68)
N	"Second Middle School Site" (2.83)
N.1	"Second Middle School Site" Legal Description (2.83)
O	"Village Project" (2.91)

December 15, 2010

Draft

P	High School Site Deed of Trust (7.1, 7.1.1b, 7.1.2b)
Q	High School Option Agreement (7.3)
R	Developer's Provision of Site Information Reports Reference (11.1)
S	Temporary Easements to Developer (18.1.3)
T	License Agreement (18.1.4; 18.2.5)
U	Temporary Construction Easements to the District (18.2.4)
V	Request for Mediation (28)
W	Deed of Trust for Receipt of Mitigation Fee Credits (10.7.2)

Original Document

December 15, 2010

EXHIBIT A
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Alternate Elementary School Site D

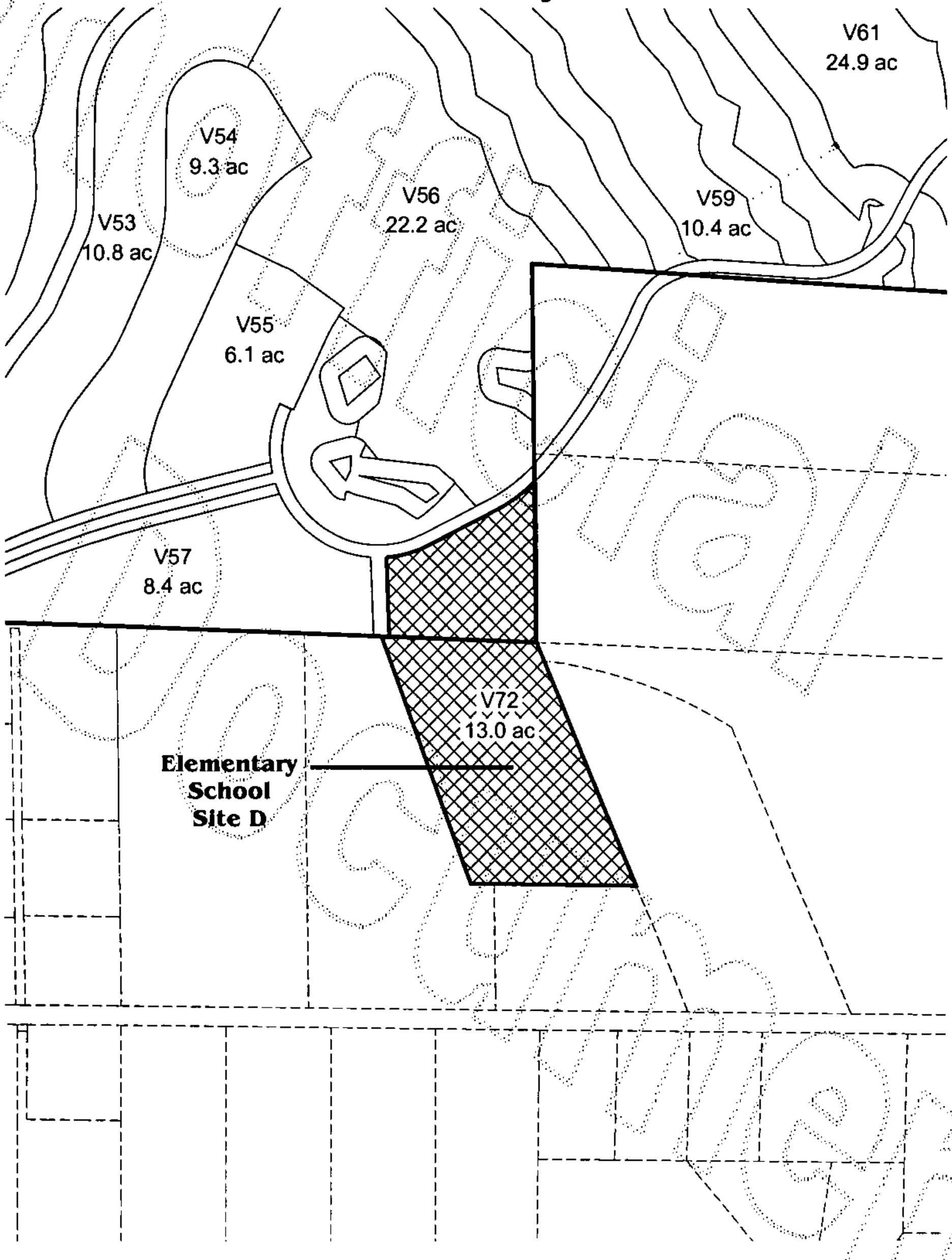

EXHIBIT A.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LEGAL DESCRIPTION FOR ALTERNATE ELEMENTARY SCHOOL SITE D

A portion of the properties legally described as follows:

Parcel No. 2321069058: S 1/2 OF NW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 14 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069063: LOT B OF KCLLA #L09L0029 REC # 20090924900013 SD LLA BEING LOCATED IN FOLG PORS OF SEC 23-21-6 - S 1/2 OF SW 1/4 TGW NE 1/4 OF SD SW 1/4 TGW N 1/2 OF SE 1/4 TGW POR OF SE 1/4 OF NE 1/4 LY BET RDS

Parcel No. 2321069062: LOT C OF KCLLA #L09L0029 REC # 20090924900013 SD LLA BEING LOCATED IN FOLG PORS OF SEC 23-21-6 - S 1/2 OF SW 1/4 TGW NE 1/4 OF SD SW 1/4 TGW N 1/2 OF SE 1/4 TGW POR OF SE 1/4 OF NE 1/4 LY BET RDS

Copy
Document

EXHIBIT B
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Alternate High School Sites

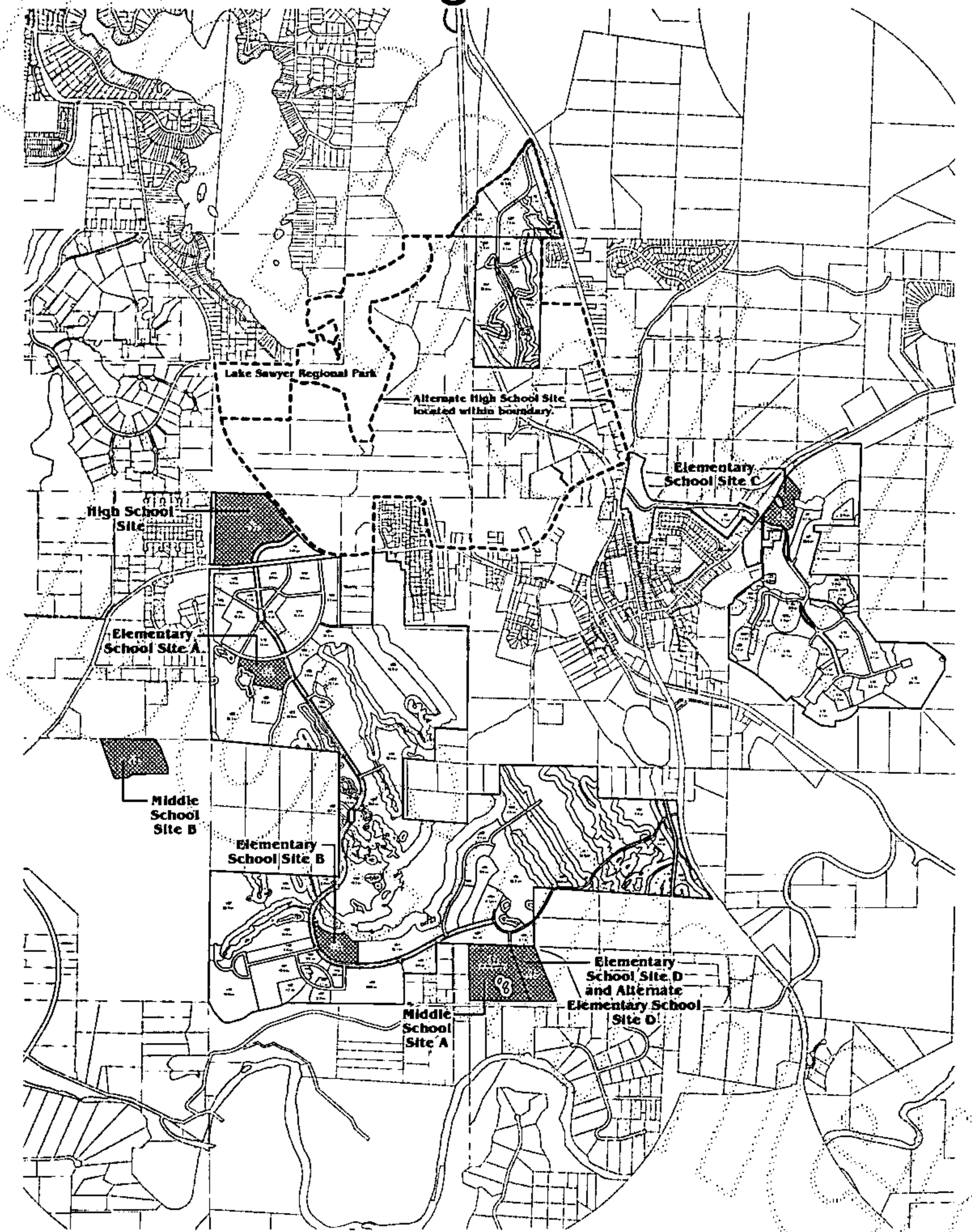

EXHIBIT C
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

DEED RESTRICTION

The entire property conveyed to grantee under this deed shall be continually used as a School Facility by the grantee, or by grantee's successor in interest, for a period of forty years from the date of recording of this deed with the King County Recorder's Office, provided that if the entire property is not so continually used as a School Facility at any time during this forty year period, then grantor, or grantor's successor in interest (if applicable), shall have the option to purchase the entire property pursuant to the option to purchase described in the Comprehensive School Mitigation Agreement dated _____, _____, between grantor, grantee, the City of Black Diamond, and BD ____ Partners, LP and recorded under King County Recording No. _____ (the "School Agreement"). If buyer under that option to purchase (grantor under this deed restriction) has, and does not exercise, the option to purchase within sixty (60) days of seller's notice as required pursuant to that option to purchase, then the restriction on School Facility use contained in this paragraph shall automatically terminate. As used herein, the term "School Facility" means a school building and related facilities, including but not limited to vehicle parking areas, school bus parking areas, internal site access areas, portable facilities, other related impervious surfaces, walkways, landscaping, playfields, and open spaces, used for the public education of K-12 students.

Consent

EXHIBIT D
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Elementary School Site A

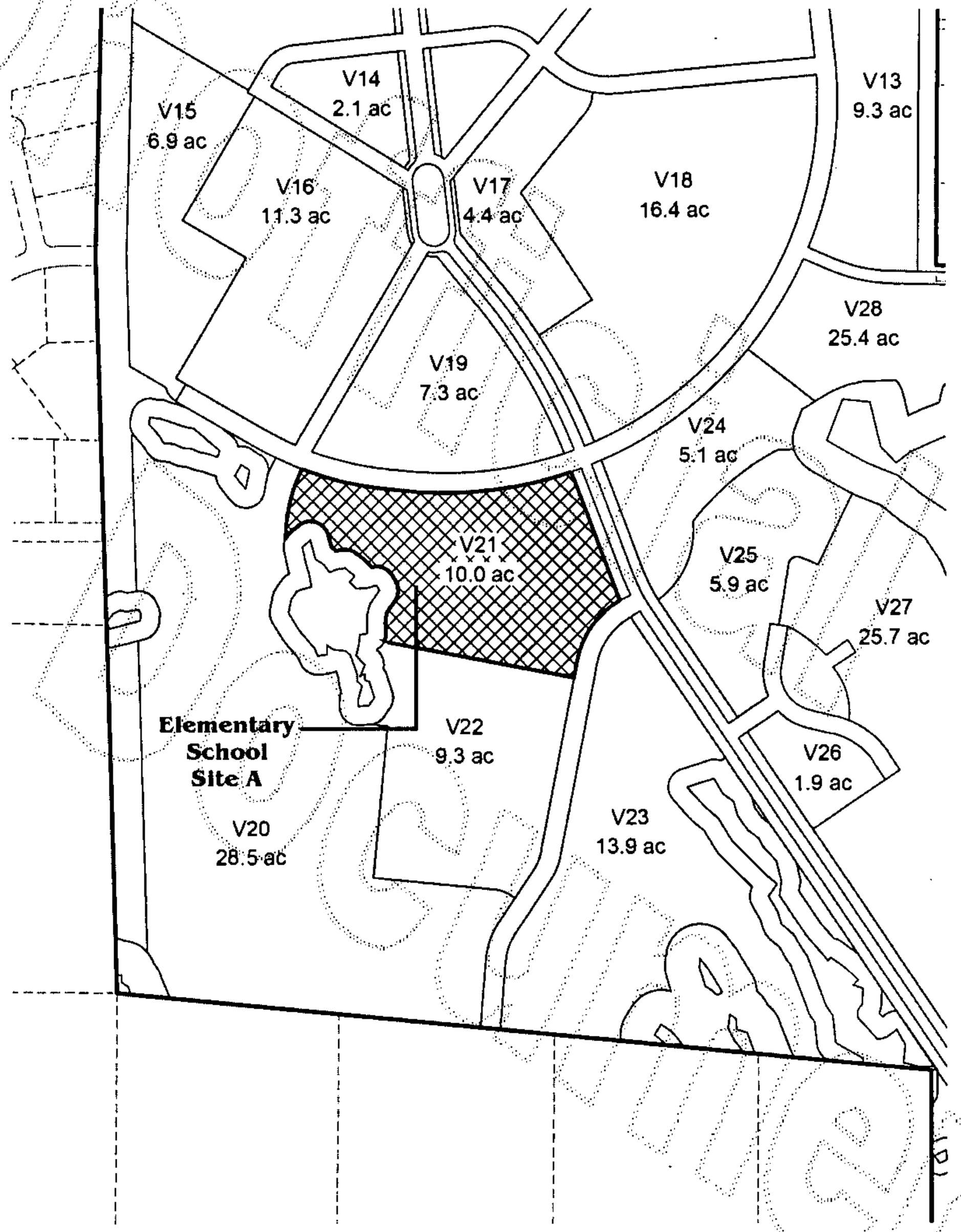

EXHIBIT D.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LEGAL DESCRIPTION OF ELEMENTARY SITE A

A portion of the properties legally described as follows:

Parcel No. 1521069106: N 1/2 OF SE 1/4 OF SW 1/4 & E 80 FT OF N 1/2 OF SW 1/4 OF SD SW 1/4 OF SEC 15-21-6 LESS E 80 FT OF SD N 1/2 OF SE 1/4 OF SW 1/4 - AKA PCL 15 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Parcel No. 1521069103: S 1/2 OF NE 1/4 OF SW 1/4 & E 80 FT OF S 1/2 OF NW 1/4 OF SW 1/4 OF SE 1/4 OF SEC 15-21-6 LESS E 80 FT OF SD S 1/2 OF NE 1/4 OF SW 1/4 - AKA PCL 12 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Parcel No. 1521069104: S 1/2 OF NW 1/4 OF SW 1/4 & S 120 FT OF N 1/2 OF NW 1/4 OF SD SW 1/4 OF SEC 15-21-6 LESS E 80 FT OF SD NW 1/4 OF SW 1/4 & LESS S 80 FT OF SD S 1/2 OF NW 1/4 OF SW 1/4 - AKA PCL 13 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Parcel No. 1521069105: N 1/2 OF SW 1/4 OF SW 1/4 & S 80 FT OF NW 1/4 OF SW 1/4 OF SEC 15-21-6 LESS E 80 FT OF SD NW 1/4 OF SW 1/4 & LESS E 80 FT OF SD SW 1/4 OF SW 1/4 & LESS S 40 FT OF SD N 1/2 OF SW 1/4 OF SW 1/4 - AKA PCL 14 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Copy
Consent

EXHIBIT E
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

Elementary School Site B

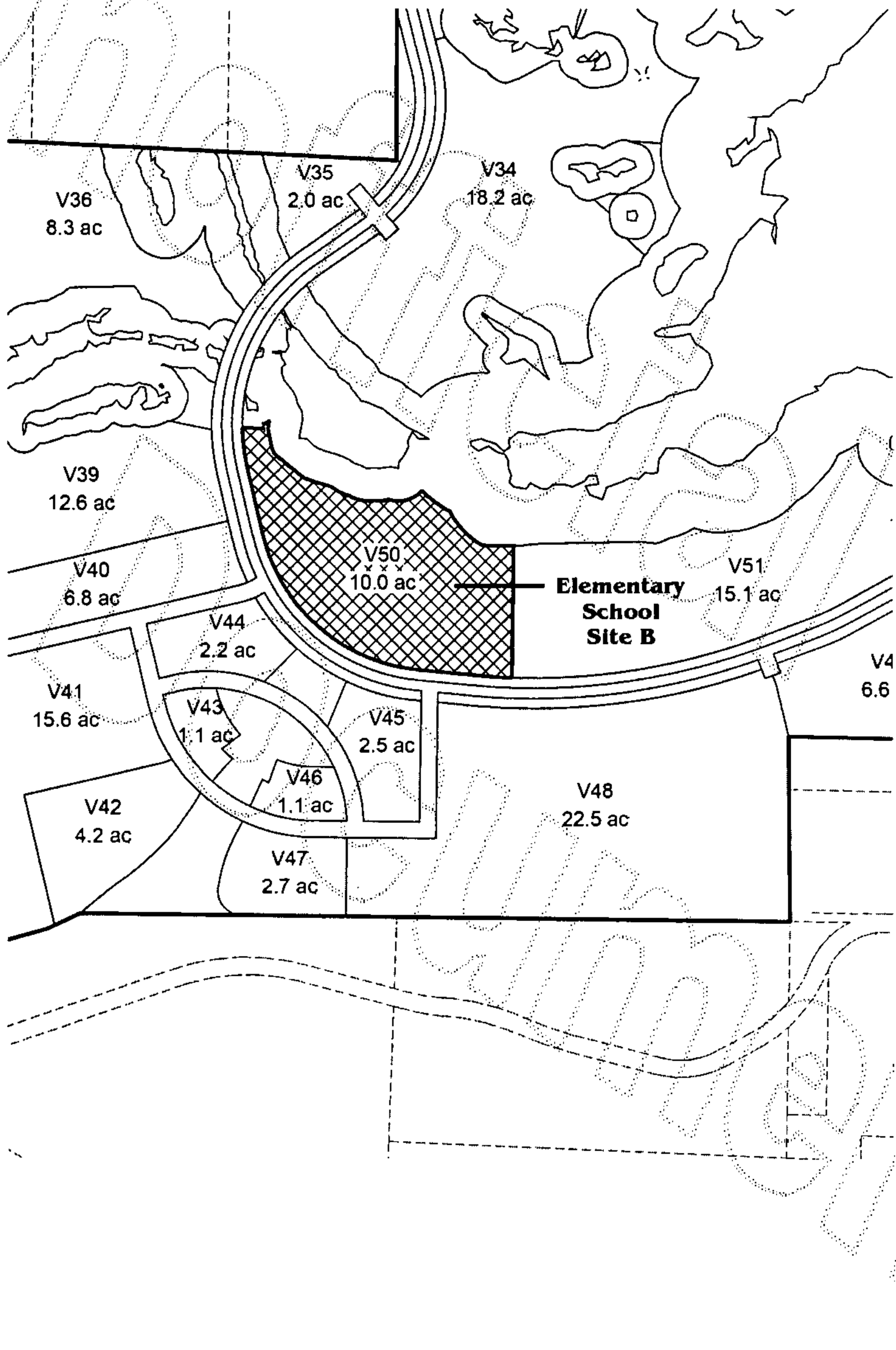

EXHIBIT E.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LEGAL DESCRIPTION OF ELEMENTARY SCHOOL SITE B

A portion of the properties legally described as follows:

Parcel No. 2221069051: E 1/2 OF NE 1/4 OF SW 1/4 SEC 22-21-06

Parcel No. 2221069037: S 1/2 OF NW 1/4 OF SE 1/4 SEC 22-21-06

Parcel No. 2221069036: W 1/2 OF SW 1/4 OF SE 1/4 SEC 22-21-06 - LESS CO RD

Parcel No. 2221069044: E 1/2 OF SE 1/4 OF SW 1/4 SEC 22-21-06 - LESS CO RD

Original Document

EXHIBIT F
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Elementary School Site C

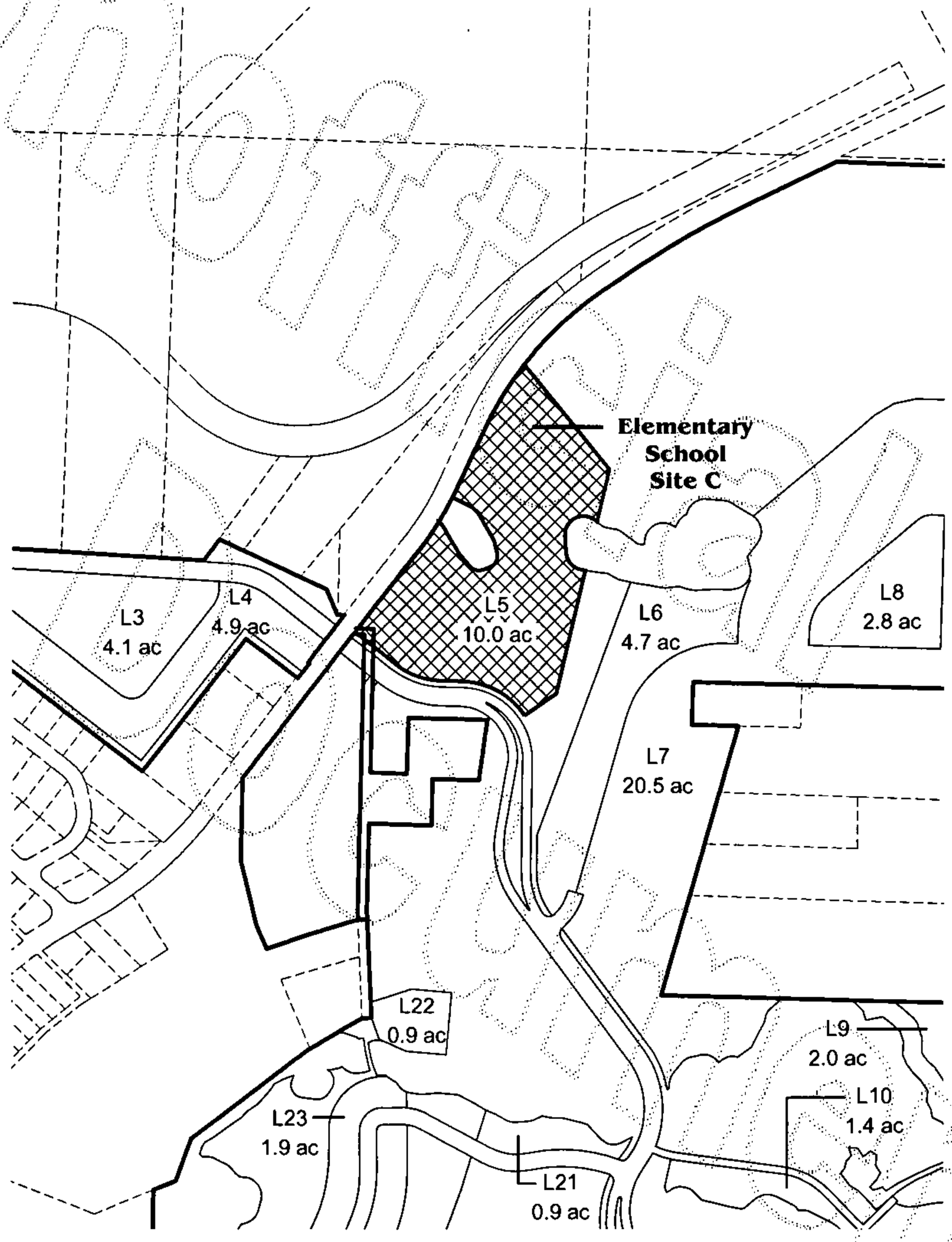

EXHIBIT F.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LEGAL DESCRIPTION OF ELEMENTARY SCHOOL SITE C

A portion of the property legally described as follows:

Parcel No. 1221069012: POR OF SE 1/4 OF SW 1/4 STR 12-21-06 LY SELY OF SE GREEN RIVER GORGE COUNTY ROAD LESS POR TO JOHN MAKA 09/0S/2S LESS C/M RGTS
Parcel No. 1221069011: POR OF SW 1/4 OF SW 1/4 LY SELY OF CO RD LESS POR TO JOHN MAKS - 9/5/25 LESS C/M RGTS

Parcel No. 1321069021: N 1/2 OF FOLG-BEG 472.70 FT S & 807.97 FT E OF NW COR OF SEC TH N 00-33-00 E 469.94 FT TH N 36-49-00 E 311.26 FT TH S 89-48-42 E 725.85 FT TH S 00-33-00 W 719.72 FT TH N 89-48-42 W 910.01 FT TO BEG LESS C/M RGTS LESS S 23.74 FT OF E 640 FT THOF TGW N 56.27 FT OF W 270 FT OF S ½

Parcel No. 1321069029: BEG 192.15 FT S & 810.57 FT E OF NW COR OF SEC 13 TH N 00-32-00 E 189.47 FT TH N 89-48-42 W 37.73 FT TH S 37-11-00 W 237.34 FT TH S 89-51-00 E 174.10 FT TO BEG LESS C/M RGTS

Parcel No. 1321069023: BEG AT PT 211.84 FT S & 690.70 FT E OF NW COR OF SEC TH S 89-51-00 E 119.68 FT TH S 00-32-00 W 439.59 FT TH N 89-28-00 W 116.74 FT TH N 00-09-00 E 438.74 FT TO BEG LESS S 180.00 FT & LESS C/M RGTS

Parcel No. 1321069033: S 1/2 OF FOL-BEG 472.70 FT S & 807.97 FT E OF NW COR OF SEC TH N 00-33-00 E 469.94 FT TH N 36-49-00 E 311.26 FT TH S 89-48-42 E 725.85 FT TH S 00-33-00 W 719.72 FT TH N 89-48-42 W 910.01 FT TO BEG LESS C/M RGTS LESS N 56.27 FT OF W 270 FT THOF TGW S 23.74 FT OF E 640 FT OF N 1/2

Document

EXHIBIT G
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Elementary School Site D

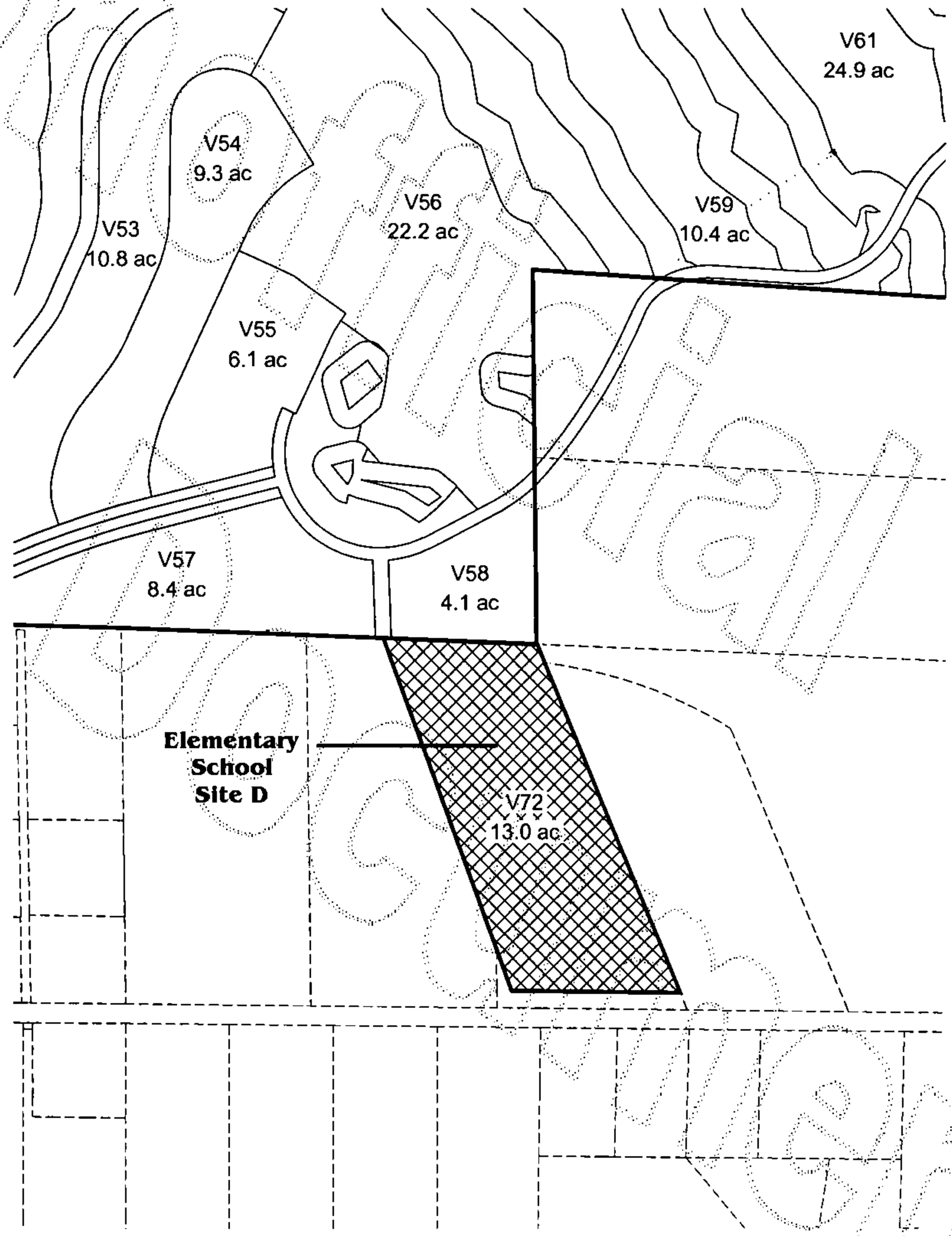

EXHIBIT G.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LEGAL DESCRIPTION OF ELEMENTARY SCHOOL SITE D

A portion of the property legally described as follows:

Parcel No. 2321069063: N 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 19 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069062: N 1/2 OF SE 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 18 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069065: S 1/2 OF SE 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 21 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069064: S 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 20 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Official Document

EXHIBIT H

COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

Middle School Site A

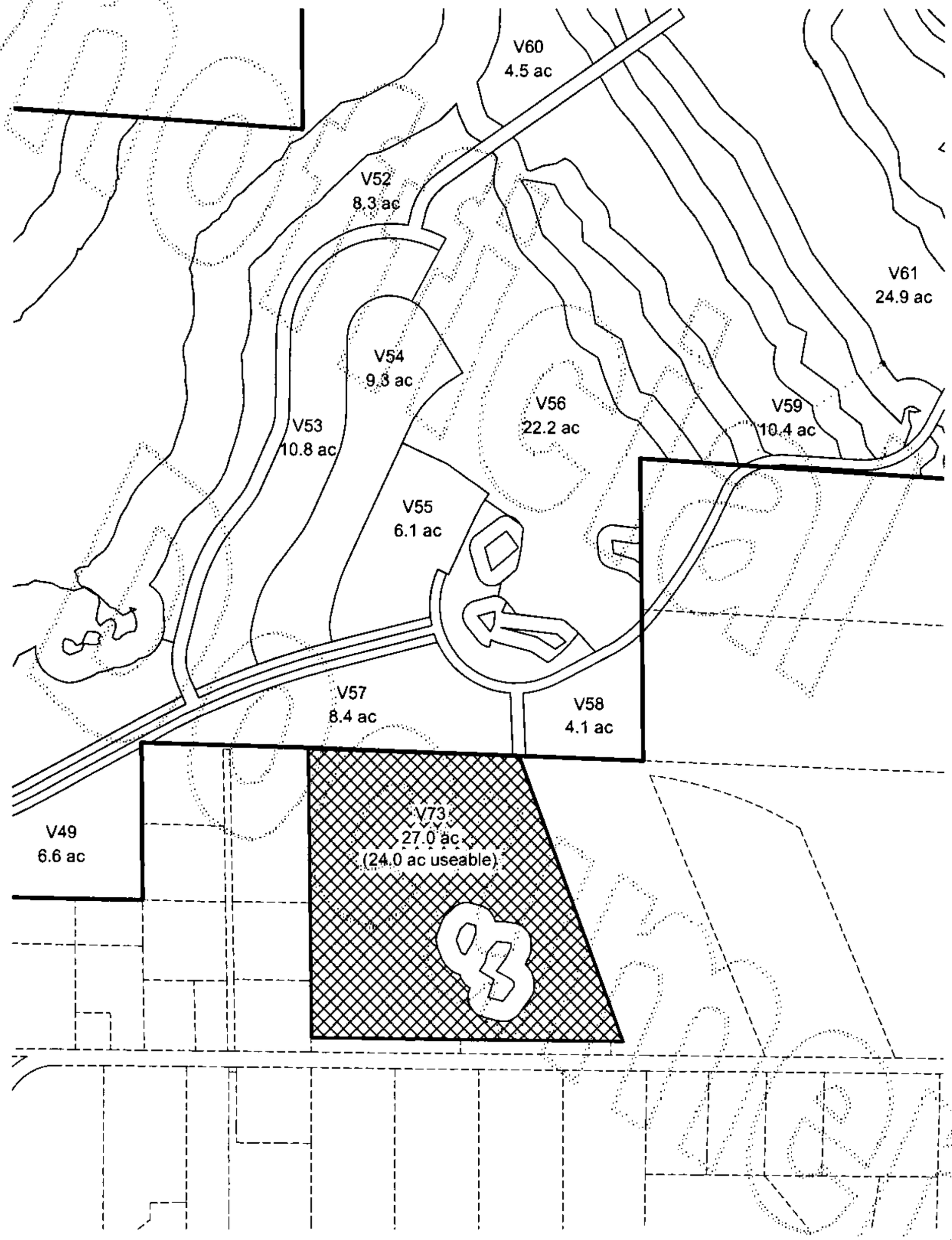

EXHIBIT H.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

LEGAL DESCRIPTION OF FIRST MIDDLE SCHOOL SITE

A portion of the properties legally described as follows:

Parcel No. 2321069063: N 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 19 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069062: N 1/2 OF SE 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 18 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069065: S 1/2 OF SE 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 21 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Parcel No. 2321069064: S 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 20 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Draft Document

EXHIBIT I
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

High School Site

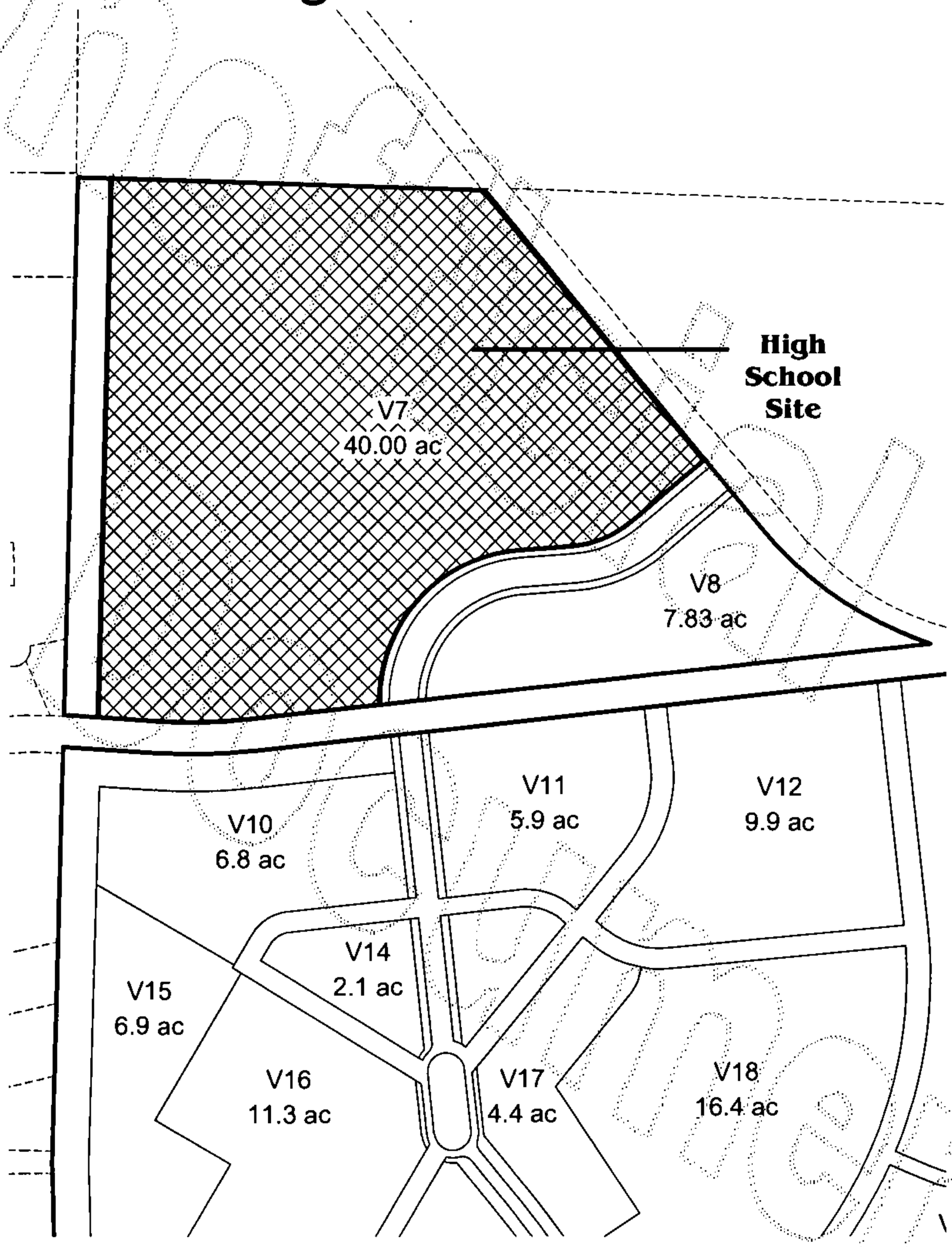

EXHIBIT I.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

LEGAL DESCRIPTION OF HIGH SCHOOL SITE

A portion of the properties legally described as follows:

Parcel No. 1521069005: POR OF E 1/2 OF NW 1/4 & OF E 1/2 OF W 1/2 OF SD NW 1/4 OF SEC 15-21-6 LY NLY OF C/L OF AUBURN-BLACK DIAMOND RD & SWLY OF C/L OF MAPLE VALLEY-LAKE SAWYER RD - AKA PCL 1 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Parcel No. 1521069097: POR OF W 1/2 OF W 1/2 OF NW 1/4 OF SEC 1S-21-6 LY NLY OF C/L OF AUBURN-BLACK DIAMOND RD - AKA PCL 2 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Official Document

EXHIBIT J
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

EXHIBIT J
RESERVED

Order
Official
Document

EXHIBIT K
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

LEGAL DESCRIPTION OF LAWSON HILLS MPD PROJECT – Note: This includes property located in the MPD as approved by City of Black Diamond Ordinance 10-946 and specifically does not include any potential MPD expansion areas.

NORTH TRIANGLE (PORTIONS OF PARCEL NOS. 022106-9024, 032106-9076, 032106-9014, 032106-901S AND 032106-9001)

LOTS U, W, X, Y, AND Z OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L0SL0097, RECORDED UNDER RECORDING NO. 20051209900003, SITUATE IN SECTIONS 2 AND 3, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL NO. 132106-9048 AND 132106-9007 (FROM PHASE 1 BEE "PARCEL F")

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION THEREOF LYING WESTERLY AND NORTHWESTERLY OF A LINE BEGINNING ON THE NORTH LINE OF SAID SUBDIVISION AT A POINT BEARING NORTH 03°40'0" WEST FROM A POINT DESIGNATED AS 1438.12 FEET SOUTH AND 680.73 FEET EAST OF THE NORTHWEST OF SAID SECTION 13;
THENCE SOUTH 03°40'00" EAST TO SAID DESIGNATED POINT;
THENCE SOUTH 58°32'19" WEST A DISTANCE OF 198.19 FEET;
THENCE SOUTH S2°19'00" WEST A DISTANCE OF 412.S2 FEET;
THENCE SOUTH 18°S0'00" WEST A DISTANCE OF 144.72 FEET;
THENCE SOUTH 66°50'00" WEST TO THE SECTION LINE; ALSO

EXCEPT THAT PORTION THEREOF LYING EASTERLY AND NORTHERLY OF A LINE BEGINNING 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 178.96 FEET;
THENCE NORTH 89°28'00" WEST A DISTANCE OF 116.74 FEET;
THENCE SOUTH 00°09'00" WEST A DISTANCE OF 438.25 FEET;
THENCE SOUTH 03°40'00" EAST A DISTANCE OF 348.10 FEET;
THENCE SOUTH 73°44'00" EAST A DISTANCE OF 336.10 FEET;
THENCE SOUTH 89°48'42" EAST A DISTANCE OF 5S7.35 FEET, MORE OR LESS, TO A POINT 20 FEET WEST OF AND PARALLEL WITH THE CENTERLINE OF SKID ROAD;
THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION;

ALSO

EXCEPT THAT PORTION THEREOF LYING WITHIN THE RIGHT OF WAY OF 262ND AVENUE SOUTHEAST.

PARCEL NO. 132106-9034 (FROM PHASE 1 BEE "PARCEL G")

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 178.96 FEET;
THENCE NORTH 89°43'00" WEST A DISTANCE OF 116.74 FEET;
THENCE SOUTH 00°09'00" WEST A DISTANCE OF 438.25 FEET;
THENCE SOUTH 03°40'00" EAST A DISTANCE OF 348.10 FEET;
THENCE SOUTH 73°44'00" EAST A DISTANCE OF 336.10 FEET;
THENCE SOUTH 89°48'42" EAST A DISTANCE OF 557.35 FEET, MORE OR LESS, TO A LINE PARALLEL WITH AND 20.00 FEET WESTERLY FROM THE CENTERLINE OF A SKID ROAD;
THENCE NORTHERLY ALONG SAID PARALLEL LINE A DISTANCE OF 1110.00 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO LEONARD AND DONALD KUZARO BY DEED RECORDED UNDER RECORDING NUMBER 3794571;
THENCE NORTH 89°48'42" WEST A DISTANCE OF 1060.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

EXCEPT THEREFROM THE FOLLOWING DESCRIBED TRACT:

A PARCEL FROM THE ABOVE TRACT BEGINNING AT A POINT 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13, SAID POINT BEING IDENTICAL WITH THE SOUTHWEST CORNER OF THE TRACT SOLD TO JOHN MAKS, AND RUNNING AS FOLLOWS:

THENCE SOUTH 00°32'00" WEST A DISTANCE OF 178.96 FEET;
THENCE NORTH 89°28'00" WEST A DISTANCE OF 116.74 FEET;
THENCE SOUTH 00°09'00" WEST A DISTANCE OF 361.40 FEET;
THENCE SOUTH 89°53'42" EAST A DISTANCE OF 514.10 FEET;
THENCE NORTH 00°20'42" WEST A DISTANCE OF 538.30 FEET;
THENCE NORTH 89°48'42" WEST A DISTANCE OF 391.30 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9063/132106-9066/132106-9067 (FROM PHASE 2 BEE "PARCEL A")

THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON.

PARCEL NO. 122106-9011 (FROM PHASE 2 BEE "PARCEL C")

THAT PORTION OF THE WEST HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY MARGIN OF SOUTHEAST GREEN RIVER GORGE ROAD.

EXCEPT THAT PORTION THEREOF LYING WITHIN THE LANDS CONVEYED TO JOHN MAKS AND MARY MAKS BY DEED RECORDED UNDER RECORDING NUMBER 20688S1, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 12, AND THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 13 IN SAID TOWNSHIP AND RANGE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST A DISTANCE OF 469.94 FEET;
THENCE NORTH 36°49'00" EAST A DISTANCE OF 311.26 FEET;
THENCE SOUTH 89°48'42" EAST A DISTANCE OF 725.85 FEET;
THENCE SOUTH 00°33'00" WEST A DISTANCE OF 719.72 FEET;
THENCE NORTH 89°48'42" WEST A DISTANCE OF 910.01 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9014

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHWEST CORNER OF SAID SUBDIVISION;
THENCE SOUTH 43°05'17" EAST 1,862.67 FEET TO THE SOUTHEAST CORNER OF SAID SUBDIVISION AND THE TERMINUS OF THE HEREIN DESCRIBED LINE.

PORTIONS FROM PARCEL NO. 132106-9013, 132106-9057, 132106-9062, AND 132106-9003

LOT B OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L09L00S6, RECORDED UNDER RECORDING NO. 20100608900003, SITUATE IN SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL NO. 132106-9024 (FROM DEED)

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 473.S0 FEET SOUTH AND 1051.38 FEET EAST OF NORTHWEST CORNER OF SAID SECTION 13, SAID POINT BEING THE ORIGINAL NORTHEAST OF JAMES L. MANOWSKI'S AND JULIE MANOWSKI'S PROPERTY, AS SET FORTH IN A DEED RECORDED UNDER RECORDING NUMBER 6S23609;

THENCE SOUTH 89°49'00" FAST A DISTANCE OF 10.00 FEET TO THE NEW NORTHEAST CORNER OF MONAWSKI PROPERTY, PURSUANT TO A BOUNDARY LINE AGREEMENT, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 06°S4'16" WEST A DISTANCE OF 180.19 FEET, SAID LINE BEING THE NEW BOUNDARY BETWEEN MANOWSKI AND KUZARO PARCELS BY AGREEMENT, TO THE SOUTHEAST CORNER OF MANOWSKI PROPERTY WHICH BEARS NORTH 89°49'00" WEST AT A DISTANCE OF 10 FEET FROM THE ORIGINAL SOUTHEAST CORNER OF MANOWSKI PROPERTY;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 1S.00 FEET;
THENCE SOUTH 89°49'00" EAST A DISTANCE OF 60.86 FEET;
THENCE SOUTH 00°20'42" EAST A DISTANCE OF 167.SS FEET;
THENCE SOUTH 86°40'42" EAST A DISTANCE OF 100.00 FEET;
THENCE NORTH 00°20'42" WEST A DISTANCE OF 367.00 FEET;
THENCE NORTH 89°48'42" WEST A DISTANCE
OF 137.89 FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS A PORTION OF BLACK DIAMOND SHORT PLAT NUMBER. 79-734, RECORDED UNDER RECORDING NUMBER 7908069009);

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE NEW SOUTHEAST CORNER OF THE MANOWSKI PROPERTY AS DESCRIBED ABOVE;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 1S.00 FEET;
THENCE NORTH 89°49'00" EAST A DISTANCE OF 3S0 FEET, MORE OR LESS, TO THE EAST LINE OF 262ND AVENUE SOUTHEAST AS ESTABLISHED;
THENCE NORTH ALONG SAID EAST LINE A DISTANCE OF 1S FEET, MORE OR LESS, TO A POINT WHICH BEARS NORTH 89°49'00" WEST FROM THE TRUE POINT OF BEGINNING;
THENCE SOUTH 89°49'00" EAST TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 132106-9037 (FROM DEED)

THE SOUTH 180 FEET OF THE FOLLOWING DESCRIBED TRACT:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMERE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 211.84 FEET SOUTH AND 690.70 FEET EAST OF THE NORTHWEST CORNER OF SAID SUBDIVISION, SAID POINT BEING THE INTERSECTION OF THE EAST AND SOUTH LINES OF TWO ROADWAYS;
THENCE SOUTH 89°51'00" EAST A DISTANCE OF 119.68 FEET;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 439.59 FEET;
THENCE NORTH 89°28'00" WEST A DISTANCE OF 116.74 FEET TO THE EAST LINE OF A 30 FOOT ROADWAY;
THENCE ALONG SAID ROADWAY LINE NORTH 00°09'00" EAST A DISTANCE OF 439.74 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9040 (FROM DEED)

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHEASTERLY LINE OF THE FRANKLIN HOWARD COUNTY ROAD NO. 1018 AT A POINT WHICH IS 677.39 FEET SOUTH AND 278.50 FEET EAST OF THE NORTHWEST CORNER OF SAID SUBDIVISION;
THENCE SOUTH 0°16' EAST 264.21 FEET;
THENCE SOUTH 14°54" EAST 97.79 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 14°54' EAST 112.02 FEET; THENCE SOUTH 24°20' EAST 86.84 FEET;
THENCE NORTH 71°45' EAST 315.72 FEET TO THE WEST LINE OF A 30 FOOT ROADWAY;
THENCE ALONG SAID ROADWAY LINE NORTH 3°40 FEET WEST 33.28 FEET;
THENCE NORTH 0°29' EAST 173.05 FEET; THENCE SOUTH 69°26' WEST 237.81 FEET;
THENCE SOUTH 75°18' WEST 141.86 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 132106-9046 (FROM UNUSED PHASE 3 BEE OPTION 1 "PARCEL A" AND PHASE 4 BEE "PARCEL A")

THE NORTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;
EXCEPT THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED TRACT:
BEGINNING AT A POINT 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION;
THENCE NORTH 00°33'00" EAST 469.94 FEET;
THENCE NORTH 36°49'00" EAST 311.26 FEET;
THENCE SOUTH 89°48'42" EAST 725.85 FEET;
THENCE SOUTH 00°33'00" WEST 719.72 FEET;
THENCE NORTH 89°48'42" WEST 865 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9053 (FROM UNUSED PHASE 3 OPTION 1 BEE "PARCEL B" AND PHASE 4 BEE "PARCEL C")

THAT PORTION OF SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER;
THENCE SOUTH 0°22'10" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, 530 FEET;
THENCE NORTH 89°37'50" EAST 115 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 89°37'50" EAST 180 FEET;
THENCE SOUTH 0°22"10" EAST 121 FEET;

THENCE SOUTH 89°37'S0" WEST 180 FEET;
THENCE NORTH 0°22'10" WEST 121 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 122106-9012 (FROM UNUSED PHASE 3 OPTION 2 BEE "PARCEL A")

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY MARGIN OF SOUTHEAST GREEN RIVER GORGE ROAD;
EXCEPT THAT PORTION THEREOF LYING WITHIN THE LANDS CONVEYED TO JOHN MAKS AND MARY MAKS BY DEED RECORDED UNDER RECORDING NUMBER 2068851, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 12, AND THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 13 IN SAID TOWNSHIP AND RANGE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST 469.94 FEET;
THENCE NORTH 36°49'00" EAST 311.26 FEET;
THENCE SOUTH 89°48'42" EAST 725.85 FEET;
THENCE SOUTH 00°33'00" WEST 719.72 FEET;
THENCE NORTH 89°48'42" WEST 910.01 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9008 (FROM PHASE 4 BEE "PARCEL B")

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6
EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION THEREOF LYING NORTHERLY AND WESTERLY OF A LINE BEGINNING 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION;
THENCE SOUTH 00°32'00" WEST 178.96 FEET;
THENCE NORTH 89°28'00" WEST 116.74 FEET;
THENCE SOUTH 00°09'00" WEST 438.25 FEET;
THENCE SOUTH 03°40'00" EAST 348.10 FEET;
THENCE SOUTH 73°44'00" EAST 336.10 FEET;
THENCE SOUTH 89°48'42" EAST 557.35 FEET, MORE OR LESS, TO A POINT 20 FEET WEST OF AND PARALLEL WITH THE CENTERLINE OF SKID ROAD;
THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; AND

EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER;
THENCE SOUTH 0°22'10" EAST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST

QUARTER, 530 FEET;
THENCE NORTH 89°37'50" EAST 115 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 89°37'50" EAST 180 FEET;
THENCE SOUTH 0°22'10" EAST 121 FEET;
THENCE SOUTH 89°37'50" WEST 180 FEET;
THENCE NORTH 0°22'10" WEST 121 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 132106-9033 (FROM ALTA DATED 09-30-08)

THE MOST SOUTHERLY HALF OF THE FOLLOWING DESCRIBED TRACT:
BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;
THENCE NORTH 00°33'00" EAST 469.94 FEET;
THENCE NORTH 36°49'00" EAST 311.26 FEET;
THENCE SOUTH 89°48'42" EAST 725.85 FEET;
THENCE SOUTH 00°33'00" WEST 719.72 FEET;
THENCE NORTH 89°48'42" WEST 910.01 FEET TO THE POINT OF BEGINNING;
TOGETHER WITH THAT PORTION OF THE NORTH HALF OF SAID SECTION 13 CONVEYED TO JOHN MAKS, JR. AND AMELIA MAKS, HIS WIFE, BY QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 4984499, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;
THENCE NORTH 00°33'00" EAST 347.27 FEET;
THENCE SOUTH 89°48'22" EAST 270 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 89°48'22" EAST 640 FEET;
THENCE NORTH 00°33'00" EAST 23.74 FEET;
THENCE NORTH 89°48'22" WEST 640 FEET;
THENCE SOUTH 00°33'00" WEST 23.74 FEET TO THE TRUE POINT OF BEGINNING;
EXCEPT THAT PORTION THEREOF CONVEYED TO THOMAS H. MAKS AND GLORIA MAKS, HIS WIFE, BY QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 4984498, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT 807.97 FEET EAST AND 472.7 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST 291 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 00°33'00" EAST 56.27 FEET;
THENCE SOUTH 89°48'22" EAST 270 FEET;
THENCE SOUTH 00°33'00" WEST 56.27 FEET;
THENCE NORTH 89°48'22" WEST 270 FEET TO THE TRUE POINT OF BEGINNING OF THIS EXCEPTION.

PARCEL NO. 132106-9029 (FROM BEE DATED 06-09-08)

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 192.15 FEET SOUTH AND 810.57 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°32'00" EAST A DISTANCE OF 189.47 FEET TO SAID NORTH LINE OF SECTION 13;
THENCE NORTH 89°48'42" WEST, ALONG SAID NORTH LINE OF SECTION 13, A DISTANCE OF 37.73 FEET TO THE SOUTHEASTERLY MARGIN OF THE RIGHT OF WAY OF FRANKLIN HOWARD ROAD NO. 1018;
THENCE SOUTH 37°11'00" WEST A DISTANCE OF 237.34 FEET, ALONG SAID RIGHT OF WAY;
THENCE SOUTH 89°51'00" EAST A DISTANCE OF 174.10 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 132106-9023 (FROM BEE DATED 06-11-07)

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 211.84 FEET SOUTH AND 690.70 FEET EAST OF THE NORTHWEST CORNER OF SAID SUBDIVISION, SAID POINT BEING THE INTERSECTION OF THE EAST AND SOUTH LINES OF TWO ROADWAYS;
THENCE SOUTH 89°51'00" EAST A DISTANCE OF 119.68 FEET;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 439.59 FEET;
THENCE NORTH 89°28'00" WEST A DISTANCE OF 116.74 FEET TO THE EAST LINE OF A 30-FEET ROADWAY;
THENCE ALONG THE EASTERLY MARGIN OF SAID ROADWAY NORTH 00°08'00" EAST A DISTANCE OF 438.74 FEET TO THE POINT OF BEGINNING;

EXCEPT THE SOUTH 180 FEET THEREOF CONVEYED TO ALFRED R. SHAY AND ELSIE E. SHAY, HIS WIFE, BY STATUTORY WARRANTY DEED RECORDED UNDER RECORDING NUMBER 6439467.

PARCEL NO. 132106-9010 (FROM PHASE 3 BEE "PARCEL A")

LOT A, CITY OF BLACK DIAMOND BOUNDARY LINE ADJUSTMENT NO. LLA 07-001, RECORDED UNDER RECORDING NUMBER 20080610900012.

PARCEL NO. 132106-9011 (FROM IN FOREST BLA DATED 05-30-08)

LOT B, CITY OF BLACK DIAMOND BOUNDARY LINE ADJUSTMENT NO. LLA 07-001, RECORDED UNDER RECORDING NUMBER 20080610900012.

PARCEL NO. 132106-9009 (FROM IN FOREST BLA DATED 05-30-08)

LOT C, CITY OF BLACK DIAMOND BOUNDARY LINE ADJUSTMENT NO. LLA 07-001, RECORDED UNDER RECORDING NUMBER 20080610900012.

PARCEL NO. 132106-9021 (FROM ALTA STAMPED 11-29-06)

THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 12, AND OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 13, ALL IN TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST 469.94 FEET;
THENCE NORTH 36°49'00" EAST 311.26 FEET;
THENCE SOUTH 89°48'42" EAST 725.85 FEET;
THENCE SOUTH 00°33'00" WEST 719.72 FEET;
THENCE NORTH 89°48'42" WEST 910.01 FEET TO THE POINT OF BEGINNING;

EXCEPT THE MOST SOUTHERLY HALF THEREOF CONVEYED TO JOHN MAKS JR. BY DEED RECORDED UNDER RECORDING NUMBER 3833110; AND

EXCEPT THAT PORTION THEREOF CONVEYED TO JOHN MAKS, JR. AND AMELIA MAKS, HIS WIFE, BY QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 4984499, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT WHICH IS 472.70 FEET SOUTH AND 807.97 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST 347.27 FEET;
THENCE SOUTH 89°48'22" EAST 270 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 89°48'22" EAST 640 FEET;
THENCE NORTH 00°33'00" EAST 23.74 FEET;
THENCE NORTH 89°48'22" WEST 640 FEET;
THENCE SOUTH 00°33'00" WEST 23.74 FEET TO THE TRUE POINT OF BEGINNING;

TOGETHER WITH THAT PORTION OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 13 CONVEYED TO THOMAS H. MAKS AND GLORIA MAKS, HIS WIFE, BY QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 4984498, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 807.97 FEET EAST AND 472.7 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE NORTH 00°33'00" EAST 291 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 00°33'00" EAST 56.27 FEET;

THENCE SOUTH 89°48'22" EAST 270 FEET;
THENCE SOUTH 00°33'00" WEST 56.27 FEET;
THENCE NORTH 89°48'22" WEST 270 FEET TO THE TRUE POINT OF BEGINNING.

POR. OF PARCELS NO. 112106-9122, 112106-9044, 112106-9015, 112106-9110, 112106-9111, 112106-9112, 112106-9113, 112106-9114, 112106-9020, AND 122106-9049 (HAMMERHEAD)

LOT 3 OF CITY OF BLACK DIAMOND BOUNDARY LINE ADJUSTMENT NO. PLN-10-0010, RECORDED UNDER RECORDING NO. 20100713900006, SITUATE IN SECTIONS 11 AND 12, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL NO. 142106-9002 (FROM BEE DATED 07-26-06)

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THOSE PORTIONS THEREOF LYING SOUTHERLY OF THE NORTHERLY MARGIN OF PARK STREET (NOW KNOWN AS SOUTHEAST 323RD STREET) AND WESTERLY OF THE EASTERLY MARGIN OF 4TH AVENUE (NOW KNOWN AS 254TH AVENUE SOUTHEAST), AND SOUTHERLY OF THE NORTHERLY MARGIN OF JAMES STREET (NOW KNOWN AS SOUTHEAST 321ST STREET), AND SOUTHERLY AND WESTERLY OF THE NORTH AND EAST LINES OF BLOCK 2, ALL AS PLATTED IN BLACK DIAMOND TOWNSITE, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 35 OF PLATS, PAGES 23 THROUGH 27, AND WESTERLY OF THE EASTERLY MARGIN OF THE RIGHT OF WAY OF STATE ROAD NO. 5 (THIRD AVENUE); ALSO
EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE WESTERLY MARGIN OF THE ABANDONED BRUCE SWITCH OF THE COLUMBIA & PUGET SOUND RAILROAD COMPANY RIGHT OF WAY, AS DESCRIBED IN RECORDING NUMBER 543409, AND

TOGETHER WITH THAT PORTION OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 14 LYING EASTERLY OF THE EASTERLY MARGIN OF THE ABANDONED BRUCE SWITCH OF THE COLUMBIA & PUGET SOUND RAILROAD COMPANY RIGHT OF WAY, AS DESCRIBED IN RECORDING NUMBER S43409, AND LYING NORTHERLY OF THE NORTH LINE OF LAWSON HILL ESTATES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 162 OF PLATS, PAGES 20 THROUGH 24, IN KING COUNTY, WASHINGTON.

PARCEL NO. 142106-9063 (FROM BEE DATED 07-26-06)

THAT PORTION OF THE PACIFIC COAST RAILROAD COMPANY RIGHT OF WAY (FORMERLY KNOWN AS THE ABANDONED BRUCE-LAWSON TRACK OF THE COLUMBIA AND PUGET SOUND RAILROAD) LYING WITHIN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION THEREOF LYING SOUTHERLY OF THE NORTHERLY MARGIN OF SOUTHEAST 323RD STREET (ALSO KNOWN AS PARK STREET); ALSO

EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF BLACK DIAMOND FOR STREET AND UTILITY PURPOSES BY QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 9206160254; ALSO

EXCEPT THAT PORTION THEREOF LYING WITHIN THE TRACT CONVEYED TO A. P. KINKADE BY DEED RECORDED UNDER RECORDING NUMBER 3008428, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT WHICH IS 609.24 FEET SOUTH AND 978.51 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION 14;
THENCE SOUTH 01°38'00" WEST A DISTANCE OF 211.25 FEET;
THENCE NORTH 88°22'00" WEST A DISTANCE OF 618.60 FEET;
THENCE NORTH 01°38'00" EAST A DISTANCE OF 211.25 FEET ALONG A LINE PARALLEL WITH AND 20 FEET EAST OF THE CENTERLINE OF THE RIGHT OF WAY OF THE BRUCE BRANCH OF THE PACIFIC COAST RAILROAD;
THENCE SOUTH 88°22'00" EAST A DISTANCE OF 618.60 FEET TO THE POINT OF BEGINNING; ALSO

EXCEPT THAT PORTION THEREOF LYING WITHIN LAWSON HILL ESTATES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 162 OF PLATS, PAGES 20 THROUGH 24, IN KING COUNTY, WASHINGTON.

PARCEL NO. 142106-9001 (FROM BEE DATED 07-26-06)

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF THE NORTH LINE OF LAWSON HILL ESTATES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 162 OF PLATS, PAGES 20 THROUGH 24, IN KING COUNTY, WASHINGTON, AND SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF BLACK DIAMOND SHORT PLAT NUMBER 011-08-83 REV, RECORDED UNDER RECORDING NUMBER 8808039001.

PARCEL NO. 142106-9186 (FROM BEE DATED 07-26-06)

THAT PORTION OF LOT 1, BLACK DIAMOND SHORT PLAT NUMBER 011-08-83 REV, RECORDED UNDER RECORDING NUMBER 8308299001, AS REVISED UNDER RECORDING NUMBER 8808039001, LYING WITHIN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON.

PARCEL NO. 132106-9054 (FROM BEE DATED 07-26-06)

THAT PORTION OF LOT 1, BLACK DIAMOND SHORT PLAT NUMBER 011-08-83, RECORDED UNDER RECORDING NUMBER 8308299001, AS REVISED UNDER RECORDING NUMBER 8808039001, LYING WITHIN SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON.

PARCEL NO. 132106-9036 (FROM DEED)

LOT 1, CITY OF BLACK DIAMOND SHORT PLAT NO. 03-SP-01 RECORDED UNDER RECORDING NUMBER 20030224900001;

BEING A PORTION OF:
THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 13;
THENCE SOUTH 72°38'50" EAST 117.22 FEET TO THE POINT OF BEGINNING;
THENCE SOUTH 54°10' EAST 463.55 FEET TO THE NORTHWESTERLY MARGINAL LINE OF THE FRANKLIN HOWARD ROAD;
THENCE NORTH 37°11' EAST ALONG SAID LINE 189.6 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO PAUL SAWICKE BY DEED RECORDED UNDER RECORDING NUMBER 1592304, IN KING COUNTY, WASHINGTON;
THENCE WEST 24 FEET;
THENCE NORTH 0°18' WEST ALONG THE WEST LINE OF SAWICKE TRACT 253.48 FEET TO THE CENTERLINE OF THE GRADE OF AN ABANDONED RAILROAD SPUR;
THENCE NORTHEASTERLY ALONG SAID GRADE 915 FEET, MORE OR LESS, TO A POINT ON A LINE PARALLEL WITH AND 20 FEET SOUTHERLY FROM THE CENTERLINE OF THE ABANDONED PACIFIC COAST RAILROAD, BRUCE BRANCH;
THENCE SOUTHWESTERLY ON SAID LINE, PARALLELING THE CENTERLINE TO A POINT WHICH BEARS NORTH 35°56' EAST FROM THE POINT OF BEGINNING;
THENCE SOUTH 35°56' WEST 440 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;

TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS ACROSS TRACT "X" OF SAID SHORT PLAT; AND

TOGETHER WITH AN EASEMENT FOR UTILITIES ACROSS OR UNDER THE EASTERLY 60 FEET OF TRACT "X" AS MEASURED A RIGHT ANGLE TO LAWSON STREET.

PARCEL NO. 132106-9038, 132106-9022 (FROM DEED)

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHEASTERLY MARGIN OF THE FRANKLIN-HOWARD COUNTY ROAD NO. 1018 (GREEN RIVER GORGE ROAD), AS SAID MARGIN WAS ESTABLISHED BY DEED RECORDED UNDER RECORDING NUMBER 1107075, AT A POINT WHICH IS 677.39 FEET SOUTH AND 278.50 FEET EAST OF THE NORTHWEST CORNER OF SAID SUBDIVISION, WHICH POINT IS ALSO THE MOST

NORTHERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO JOHN NEIMCZYK BY DEED RECORDED UNDER RECORDING NUMBER 1449328;
THENCE SOUTH 00°16'00" EAST, ALONG THE EAST LINE OF SAID NEIMCZYK TRACT, A DISTANCE OF 264.21 FEET;
THENCE CONTINUING ALONG THE EAST LINE OF SAID NEIMCYZK TRACT, SOUTH 14°S4'00" EAST A DISTANCE OF 97.79 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND SOLD TO STANLEY V. HAWKINS AND DONNIE L. HAWKINS, HUSBAND AND WIFE, BY REAL ESTATE CONTRACT RECORDED UNDER RECORDING NUMBER 6702196;
THENCE NORTH 75°18'00" EAST, ALONG THE NORTH LINE OF SAID HAWKINS TRACT, A DISTANCE OF 141.86 FEET;
THENCE CONTINUING ALONG THE NORTH LINE OF SAID HAWKINS TRACT, NORTH 69°26'00" EAST A DISTANCE OF 237.81 FEET TO THE WESTERLY MARGIN OF A 30-FOOT ROADWAY (262ND AVENUE SOUTHEAST);
THENCE ALONG SAID ROADWAY MARGIN NORTH 00°29'00" EAST A DISTANCE OF 704.92 FEET TO THE SOUTHERLY MARGIN OF A 30-FOOT ROADWAY;
THENCE NORTH 89°51'00" WEST A DISTANCE OF 39 FEET TO THE SOUTHEASTERLY MARGIN OF THE FRANKLIN-HOWARD COUNTY ROAD;
THENCE ALONG SAID ROAD MARGIN SOUTH 37°11'00" WEST A DISTANCE OF 584.45 FEET TO THE BEGINNING.

PARCEL NO. 132106-9047 (FROM DEED)

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT 473.50 FEET SOUTH AND 1061.38 FEET EAST OF THE NORTHWEST CORNER OF SAID SECTION 13, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR NORTH 89°48''43" WEST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
THENCE SOUTH 06°54'16" WEST A DISTANCE OF 180.19 FEET;
THENCE SOUTH 00°32'00" WEST A DISTANCE OF 15 FEET TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 89°49'00" EAST A DISTANCE OF 60.86 FEET;
THENCE SOUTH 00°20'42" EAST A DISTANCE OF 167.55 FEET;
THENCE SOUTH 86°40'42" EAST A DISTANCE OF 100.20 FEET;
THENCE SOUTH 00°20'42" EAST A DISTANCE OF 171.87 FEET;
THENCE NORTH 89°53'42" WEST A DISTANCE OF 514.10 FEET;
THENCE NORTH 00°09'00" EAST A DISTANCE OF 197.82 FEET;
THENCE SOUTH 89°28'00" EAST A DISTANCE OF 200.04 FEET;
THENCE NORTH 00°09'00" EAST A DISTANCE OF 149.00 FEET;
THENCE SOUTH 89°49''00" EAST A DISTANCE OF 150.23 FEET TO THE TRUE POINT OF BEGINNING.
(ALSO KNOWN AS LOT "A", CITY OF BLACK DIAMOND LOT LINE ADJUSTMENT NUMBER 00-01, RECORDED UNDER RECORDING NUMBER 20000301000735.)

EXHIBIT L
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

Mitigation Fee Credit Certificate

On _____, 2____, [*BD Lawson Partners LP/BD Village Partners LP*] or assigns [*conveyed _____ acres to the Enumclaw School District/obtained an Estimated School Site Value for _____ acres from the Enumclaw School District/provided cash to the Enumclaw School District in lieu of conveyance of _____ acres/provided __{utilities/improvements/__ /waived _____latecomer's fees/reimbursable amounts due under _____}__*] valued at an agreed amount of $_____.

Pursuant to the terms of the Comprehensive School Mitigation Agreement dated _____, 2____, which was executed by the City of Black Diamond, the Enumclaw School District, BD Lawson Partners LP, and BD Village Partners LP, [*BD Lawson Partners LP/BD Village Partners LP*] hereby receives mitigation fee credit in the amount of $_____.

[*BD Lawson Partners LP/BD Village Partners LP*] may assign its interest in all or a portion of this Mitigation Fee Credit Certificate to any person or entity that purchases a lot in either the Lawson Hills MPD or the Villages MPD.

The mitigation fee credits shall only be used to offset mitigation fees due in connection with the Lawson Hills MPD or the Villages MPD and may not be used in connection with the development of any other real property.

ENUMCLAW SCHOOL DISTRICT NO. 216,
a Washington municipal corporation

By: _____
Name:
Its: Superintendent

Date: _____

Sample

EXHIBIT M
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

OPTION AGREEMENT

This OPTION AGREEMENT (this "**Agreement**") is made as of _____, 20_____ (the "**Effective Date**") by and between ENUMCLAW SCHOOL DISTRICT NO. 216 ("**Seller**"), and **[BD LAWSON PARTNERS, LP, a Washington limited partnership or BD VILLAGE PARTNERS, LP, a Washington limited partnership]** and its successors and assigns ("**Buyer**").

1. Option. In consideration of the performance of Buyer's obligations hereunder and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller hereby grants to Buyer the exclusive right and option to purchase the real property, including all existing or future appurtenances and improvements located thereon situated in King County, Washington, and described on Exhibit A-1 and shown on Exhibit B-1 attached hereto and incorporated herein by this reference (collectively, the "**Option Property**"), for the option period hereinafter defined (the "**Option**").

2. Option Period. The term of the Option shall commence upon the Effective Date and shall terminate on the sooner of (a) the expiration of that certain Deed Restriction dated _____ and recorded against the Option Property under King County recording number _____, or (b) upon Buyer's failure to elect the Option as set forth in Section 3 below. The option period shall be the period between commencement and termination as set forth herein (the "**Option Period**").

3. Exercise and Termination of Option. So long as the Option Period has not expired or been terminated, Seller shall promptly provide notice to Buyer upon (a) any violation of the Deed Restriction; or (b) the trigger of the Option to Purchase as described in Section **14.2** of that certain Comprehensive School Mitigation Agreement dated _____ __ __, 2____ by and between Seller, the City of Black Diamond, Buyer, [BD Villages Partners LP or BD Lawson Partner LP] and recorded under King County Recording No. _____ (the "School Agreement"). Buyer may exercise this Option within sixty (60) days after receiving such notice from Seller upon written notice to Seller. If Buyer fails to exercise the Option within that 60 day period, the Option shall immediately terminate at Seller's election and be of no further force and effect. Upon the termination or expiration of the Option, Buyer shall, within fourteen (14) business days after a request by Seller, execute, acknowledge and deliver to Seller a "Termination of Option" in recordable form and with content reasonably acceptable to Seller, evidencing the expiration and termination of this Option and to be recorded with the King County Recorder's Office.

4. Terms and Conditions of Purchase. If Buyer exercises the Option in accordance herewith:

(a) The Purchase Price shall be the lesser of the following:

(1) The current market value of the Option Property, based on an appraisal performed by an MAI, state certified appraiser with at least five (5) years of experience appraising land in King County, Washington, which appraiser is acceptable to

Buyer and Seller, in each party's reasonable discretion, and the cost of such appraisal shall be equally shared between Buyer and Seller; and

(2) the product by multiplying _____ **[Actual School Site Value (as defined in the School Agreement) for the Option Property]** by the Annual Percentage Increase. The "**Annual Percentage Increase**" means the percent equal to the lesser of: (i) four percent (4%) per year; or (b) the percentage increase in the Consumer Price Index Rate for all urban consumers (CPI-U) published every two months by the U. S. Dept. of Labor for the Seattle-Tacoma-Bremerton area, 1982-84=100 ("**CPI Rate**") from (i) the most recently published CPI Rate when the Real Property was conveyed to the District for the first year and the January-February CPI Rate for each year thereafter; to (ii) the November-December CPI Rate of each year thereafter, except in the year in which the Option is triggered, the CPI Rate shall be the most recently published CPI Rate when the Option was triggered. If the CPI Rate ceases to be published during the term of this Agreement, then Buyer and Seller, by mutual agreement, shall substitute a different published index that reasonably approximates the CPI Rate Notwithstanding the foregoing, in no event shall the Purchase Price be less than _____ ($_____) **[Actual School Site Value stated above].**

In the event that Buyer and Seller are unable to agree on an appraiser, each party shall select its own appraiser, at each party's own expense, and timely submit the appraisal report to the other party for review. If the appraised values of those two appraisals are within 10%, the parties shall use an average of the two appraisals as the appraised value. If the appraised values of those two appraisals are more than 10% apart, the two appraisers shall appoint a third appraiser who shall independently determine its own appraisal of the Option Property. The appraised value of the Option Property shall be the average of the third appraiser's appraised value and the next closest appraised value. The Buyer and Seller agree to share on an equal basis (i.e., 50/50 percent) the cost of the third appraisal.

(b) Closing of the purchase of the Option Property shall be governed by the terms of the Real Estate Purchase and Sale Agreement attached hereto as Exhibit C (the "**Purchase Agreement**"), and closing thereunder shall occur on a business day mutually acceptable to Seller and Buyer, but in no event later than the later of (i) ninety (90) days after Buyer's exercise of the Option; or thirty (30) days after receipt of the appraisal described in Section 4(a)(1) above. The Buyer and Seller shall execute the Purchase Agreement within ten (10) business day after the later of (1) Seller's receipt of Buyer's written notice that it is exercising the Option; or (2) Buyer and Seller's receipt of the above referenced appraisal.

5. Seller Covenants.

(a) Encumbrances and Operations. Buyer and Seller agree that Buyer's intended use of the Option Property is for any retail, office, and/or residential use or other commercial uses permitted in the City, and the Seller's intended use of the Option Property is to construct, maintain and operate a school, including the School Facilities (described in the School Agreement). During the Option Period and until Closing under the Purchase

Agreement, Seller shall not encumber the Option Property or enter into any leases, easements, restrictions, encumbrances, licenses or other instruments or agreements affecting the Real Property without the prior written consent of the Buyer, which shall not unreasonably be withheld or delayed. Seller shall provide Buyer with written notice consistent with Section 6 herein of the need for such consent and Buyer shall have seven (7) business days to respond to Seller. In the event Buyer fails to respond to Seller's request for consent by the end of the 7 day period, Buyer shall be deemed to have provided the necessary consent. Any such document, if consented to by Buyer, shall constitute a Permitted Exception and shall not be subject to the title review process described in Section 3.1 of the Purchase Agreement. During the Option Period and until Closing under the Purchase Agreement, Seller shall not encumber the Option Property with or enter into any mortgages, deeds of trust, lien, and other encumbrances securing the payment of money, except to the extent such encumbrances will be paid in full or reconveyed by Seller prior to Closing under the Purchase Agreement.

(b) Maintenance. Between the date of this Agreement and the Closing Date, Seller shall maintain and keep the Real Property in substantially the same condition as existed on the date of this Agreement, except Seller shall be permitted to construct, maintain and operate the School Facilities (as defined in the School Agreement) thereon.

(c) Performance of Obligations. From the date of this Agreement to the Closing Date, and except for those obligations assumed by Buyer, Seller will perform all of its monetary and non-monetary obligations under all indebtedness (whether for borrowed money or otherwise) and the liens securing same pertaining to the Real Property or any portion thereof, if any. Seller shall pay all taxes, if any, attributable to any period of time prior to the date of Closing.

(d) Liens. From the date of this Agreement to the Closing Date, Seller will not allow any lien to attach to the Property or any part thereof except the lien for ad valorem taxes that are not due and payable and any liens that result from the activities of Buyer in connection with the Real Property, provided, however Seller shall not be in default under this Section 5(d) if a lien is filed as long as Seller causes such lien to be discharged or fully bonded around by the earlier of Closing of the portion of the Real Property affected by the lien, or thirty (30) days after Buyer's written demand.

6. Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, (ii) sent by a nationally recognized overnight delivery service, (iii) electronically transmitted with confirmation sent by sender's fax machine or (iv) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Seller at:

Mr. Mike Nelson
Superintendent
Enumclaw School District

2929 McDougall Ave.
Enumclaw, Washington 98022

With a copy to:
Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

To Buyer:

Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

With copies to:

Jami L. Kuzaro-Balint
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

And to:

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

7. Governing Law; Attorneys' Fees. This Agreement shall be construed according to the laws of the state of Washington. In the event that either Buyer or Seller should find it necessary to employ an attorney to enforce any provision of this Agreement or to recover damages for the breach hereof (including proceedings in bankruptcy), the substantially prevailing party shall be entitled to be reimbursed for its court costs and attorneys' fees, at trial (including arbitration proceedings) and on appeal.

8. Default and Remedies.

(a) Default. If Buyer or Seller fails to perform any obligation or breaches any term, covenant or agreement in this Agreement that is not cured within twenty (20) days after receipt of written notice from the other Party (except for Seller's failure to Close on the Closing Date, which shall not be subject to any notice or cure period), such party will be in "Default" hereunder.

(b) Remedies. If Buyer is in Default hereunder, Seller may (a) terminate this Agreement; or (b) sue for damages, in an amount not to exceed $25,000. If

Seller is in Default hereunder, Buyer may elect to pursue any one or more of the following remedies: (a) terminate this Agreement and sue for damages; or (b) specifically enforce this Agreement; (c) sue for damages; or (d) seek any other remedy available in equity or in law.

(c) Attorneys' Fees. In the event either party brings an action or any other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions hereof, the party substantially prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party in such amounts as shall be set by the court or in any arbitration proceeding, at trial and on appeal.

9. Option Runs With Land. This Option shall run with and burden the Option Property and be binding upon Seller and its successors and assigns and shall benefit Buyer and its permitted successors and assigns. Buyer may assign its rights under this Agreement without Seller's consent (but with notice to Seller).

10. Relationship of Parties. This Agreement is solely intended to create the relationship of optionor (Seller) and optionee (Buyer). It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer or Seller, and nothing contained in this Agreement shall, create a relationship of lender and borrower between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

11. Memorandum of Option. Upon the occurrence of Seller's Acquisition of the Option Property, a memorandum of this Option in the form of Exhibit __ to the Purchase Agreement attached hereto shall be recorded.

IN WITNESS WHEREOF the parties have executed this Agreement on the respective dates of acknowledgment set forth below, to be effective as of the Effective Date.

[*Remainder of page intentionally left blank; signature pages follow*]

Seller's Signature Page for Option Agreement

ENUMCLAW SCHOOL DISTRICT

By_____

DATED:_____

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 _____ to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____ ____, 20____.

_____
Notary Public
Print/Type Name_____
My commission expires _____

(Use this space for notarial stamp/seal)

Unofficial Document

Buyer's Signature Page for Option Agreement

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: _____

By_____
Name _____
Title _____

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED:_____

By_____
Name _____
Title _____

DATED: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

Unofficial Document

Exhibit A-1

Unofficial Document

EXHIBIT B
To Option Agreement

DEPICTION OF THE OPTION PROPERTY

Exhibit B-1

EXHIBIT C
To Option Agreement

TERMS OF PURCHASE AND SALE AGREEMENT

Real Property Purchase and Sale Agreement
Option Property, King County, Washington

This Real Property Purchase and Sale Agreement ("**Agreement**") is effective as of the date the Option is exercised (the "**Effective Date**"), pursuant to that certain Option Agreement (as defined below) by and between ENUMCLAW SCHOOL DISTRICT NO. 216 ("**Seller**"), and **[BD LAWSON PARTNERS, LP, a Washington limited partnership or BD VILLAGE PARTNERS, LP, a Washington limited partnership]** ("**Buyer**").

Seller has granted Buyer the Option to purchase the Real Property pursuant to that certain Option Agreement between Buyer and Seller dated as of _____, 2____ ("**Option Agreement**"). The purpose of this Agreement is to provide for the closing of the purchase and sale of the Real Property following exercise of the Option pursuant to the Option Agreement.

All terms not defined herein shall have the definition ascribed to such term in the Option Agreement.

In consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

Article I. REAL PROPERTY

Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, the obligations of each of them subject to the terms and conditions set forth herein, the following:

1.1 Land. That certain real property located in King County, Washington and more particularly described on Exhibit A to the Option Agreement (the "**Land**").

1.2 Appurtenances. Seller's interest in all rights, privileges and easements, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under the Land, all development rights, air rights, water rights, all easements, rights-of-way, permits, licenses, plat approvals, improvements, structures, fixtures, appurtenances and other rights appurtenant to or used in connection with the Land and improvements (collectively, the "**Appurtenances**").

All of the items described in Sections 1.1 and 1.2 are herein collectively referred to as the "**Real Property**."

Article II. PURCHASE PRICE

2.1 Purchase Price. The purchase price for the Real Property (the "**Purchase Price**") shall be _____ ($_____). The Purchase Price shall be paid by Buyer in cash on the Closing Date (as defined below).

2.2 Escrow Holder. Chicago Title Insurance Company located in Seattle Washington ("**Escrow Holder**" in its capacity as escrow holder and "**Title Company**" in its capacity as title insurer) has been designated as Escrow Holder hereunder by mutual agreement of Seller and Buyer. Upon execution of this Agreement by the last of Seller and Buyer, Escrow Holder shall open a closing escrow for the benefit of Buyer and Seller in accordance with the terms of this Agreement.

Article III. TITLE

3.1 Title. Buyer hereby accepts and approves the exceptions to title (including any survey matters) (the "**Exceptions**") attached hereto as Exhibit 1 **[the special exceptions existing as of the date of Seller acquired the Real Property] and subsequent title exceptions approved by Buyer as described in Section 7 of the Option Agreement]**. Within five (5) days of the date of this Agreement, Seller shall deliver to Buyer a commitment for a 2006 ALTA owner's standard title insurance policy covering the Real Property, showing recorded matters pertaining to the Real Property and true, correct copies of all the title documents referred to in the title commitment as conditions or exceptions to title.

The term "**Permitted Exceptions**" as used hereafter means: (a) the Exceptions accepted by Buyer as provided above; (b) the lien of real estate taxes and assessments prorated to the Closing Date; (c) local, state and federal laws, ordinances and governmental regulations; and (d) any encumbrances recorded against the Real Property by Seller and approved by Buyer in accordance with Section 7 of the Option Agreement. Notwithstanding the foregoing, Seller shall cause, at Seller's sole expense, all mortgages, deeds of trust and other liens securing the payment of money (except for the lien(s) of real estate taxes and assessments for the current calendar year which shall be prorated to the Closing Date) to be fully satisfied, released and discharged of record on or prior to the Closing Date without necessity of Buyer's objection.

3.2 Title Insurance. Buyer may obtain, at its sole cost and expense, a Standard or Extended Coverage Owner's Policy of title insurance issued by Title Company in the amount of the Purchase Price, dated the date of Closing, insuring Buyer's title to the Real Property subject to no exceptions other than the standard printed exceptions and the Permitted Exceptions (the "**Title Policy**"). Buyer shall be responsible for the cost of any survey work that Buyer or the Title Company requires.

3.3 Due Diligence Documents. Within five (5) days after mutual execution of this Agreement, Seller shall deliver to Buyer all documents regarding the Real Property within Seller's possession or control, including without limitation, the following, if any:

a) all environmental reports, wetlands or sensitive area studies, surveys, soil and geotechnical reports regarding the Real Property;

b) all notices, correspondence and other documents to or from any governmental agencies regarding the Real Property; and

c) all studies, reports, investigations and agreements related to the actual or potential development and construction on the Real Property, including without limitation any Phase I or Phase II environmental reports or soil reports.

3.4 Conveyance of Real Property. At Closing Seller shall convey to Buyer title to the Real Property by execution and delivery of a bargain and sale deed to the Real Property, subject only to the Permitted Exceptions (the "**Deed**").

Article IV. CONDITIONS PRECEDENT TO CLOSING

Buyer's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

4.1 Performance by Seller. Seller shall have performed all material obligations required by this Agreement to be performed by it.

4.2 Representations and Warranties True. The representations and warranties of Seller contained herein shall be true and correct in all material respects.

4.3 Property Inspection. Prior to Closing Buyer shall have the right to inspect and approve the condition of the Real Property, in its sole and absolute discretion (the "**Property Inspection**"), including, without limitation, the conducting of soil tests (including borings), toxic and hazardous waste studies, surveys, engineering and other compliance matters. If the Property Inspection indicates, in Buyer's sole and absolute discretion, that the Real Property is not suitable for Buyer's intended purposes, Buyer may terminate this Agreement prior to Closing by written notice to Seller. Such license is granted on the condition that Buyer keep the Real Property free and clear of any mechanics' liens and materialmen's liens arising out of any such activities. Buyer hereby agrees to indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable attorneys' fees and experts' fees, arising from or relating to Buyer's entry on and inspection of the Real Property, but Buyer will have no responsibility for any claims or liabilities arising from or relating to existing conditions on or affecting the Real Property. In addition, if this Agreement is terminated, Buyer shall repair any material damage to the Real Property caused by its entry thereon and shall restore the Real Property substantially to the condition in which it existed prior to such entry; provided, however, that Buyer shall have no obligation to repair any damage caused by the acts or omissions of Seller, its

agents or representatives or to remediate, contain, abate or control any pre-existing condition of the Real Property which existed prior to Buyer's entry thereon.

The conditions set forth in Sections 4.1 through 4.3 above are intended solely for the benefit of Buyer. If any of the foregoing conditions are not satisfied as of the Closing Date, Buyer shall have the right at its sole election either to waive the condition in question and proceed with the purchase of the Real Property or, in the alternative, to terminate this Agreement, whereupon the parties shall have no further obligations hereunder other than those obligations which survive the termination of this Agreement by their express terms.

Seller's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

4.4 Performance by Buyer. Buyer shall have performed all material obligations required by this Agreement and under the Option Agreement to be performed by it.

4.5 Representations and Warranties True. The representations and warranties of Buyer contained herein shall be true and correct in all material respects.

4.6 Seller's Acquisition. Seller shall have completed Seller's Acquisition.

The conditions set forth in Sections 4.4 through 4.6 above are intended solely for the benefit of Seller. If any of the foregoing conditions are not satisfied as of the Closing Date, Seller shall have the right at its sole election either to waive the condition in question and proceed with the sale or, in the alternative, to terminate this Agreement.

Article V. OPERATIONS PENDING CLOSING

At all times prior to the Closing or sooner termination of this Agreement, Seller agrees with respect to all or any portion of the Real Property: (a) not to further encumber the Real Property except as permitted by Section 7 of the Option Agreement; and (b) not to enter into any contracts or agreements to sell or otherwise transfer the Real Property which are prior to Buyer's rights hereunder or under the Option Agreement.

Article VI. CLOSING AND ESCROW

6.1 Closing. The Closing hereunder (the "**Closing**" or the "**Closing Date**") shall be held as provided in the Option Agreement and in accordance with the terms of this Agreement within sixty (60) days after the Effective Date. Delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company.

6.2 Delivery by Seller. On or prior to the Closing Date, Seller shall deposit with Escrow Holder the following:

(a) The duly executed and acknowledged Deed ready for recordation on the Closing Date together with a duly executed real estate excise tax affidavit;

(b) The FIRPTA Affidavit executed by Seller; and

(c) Such customary affidavits or indemnities as may be required to permit Title Company to issue the Title Policy to Buyer.

6.3 Delivery by Buyer. On or prior to the Closing Date Buyer shall deposit with Escrow Holder the following:

(a) The Purchase Price; and

(b) A duly executed counterpart of the real estate excise tax affidavit.

6.4 Title Policy; Other Instruments. Title Company shall issue the Title Policy at Closing or as soon thereafter as practicable. Seller and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder, Title Company or otherwise required to close the escrow and consummate the purchase and sale of the Real Property in accordance with the terms hereof.

6.5 Prorations. All revenues and all expenses of the Real Property including, but not limited to, real property taxes, drainage district service charges, water, sewer and utility charges, and other expenses normal to the operation and maintenance of the Real Property shall be pro rated as of the Closing Date.

6.6 Closing Costs and Expenses. All closing costs and expenses, including escrow and recording fees shall be shared equally between Buyer and Seller. Seller shall pay any real estate excise tax due in connection with the sale of the Real Property and Buyer shall pay the cost of recording the Deed.

Article VII. REPRESENTATIONS AND WARRANTIES

Seller and Buyer make the following representations and warranties:

7.1 Seller's Representations. Seller represents and warrants to Buyer as of the date of this Agreement:

a. Litigation. There is no litigation or proceeding pending against Seller, or to the best of Seller's knowledge pending against the Real Property or, to Seller's actual knowledge, threatened against Seller, which relate to the Real Property or the transaction contemplated by this Agreement.

b. No Prior Options, Sales or Assignments. Seller has not granted any options other than as set forth in the Option Agreement nor obligated itself in any

manner whatsoever to sell the Real Property or any portion thereof to any party other than Buyer.

c. Environmental Compliance. To the best of Seller's knowledge there are no Hazardous Substances or of any underground tanks on or adjacent to the Real Property, except as disclosed to Buyer. As used herein, "**Hazardous Substances**" shall mean asbestos (whether or not friable), petroleum and petroleum derivatives and products, and any substance, chemical, waste or other material which is listed, defined or otherwise identified as "hazardous" or "toxic" under any federal, state or local ordinance or law or any administrative agency rule or determination, except for cleaning solvents, paints, construction materials, lubricants and similar materials used in the ordinary course of business in substantial compliance with all applicable laws.

d. Authority. This Agreement and all documents to be executed by Seller at Closing have been duly authorized, executed and delivered by Seller and are binding on and enforceable against Seller in accordance with their terms. Seller has obtained all authorizations or approvals necessary for Seller to enter into and perform its obligations under this Agreement.

e. Parties in Possession. To Seller's actual knowledge, except as disclosed in the title commitment, there are no parties in possession or that have a right to possession of the Real Property.

f. Condemnation or Assessment; Access. To Seller's actual knowledge, there is no pending condemnation proceeding or local improvement district or assessment affecting the Real Property, nor, to Seller's knowledge, is there any such proceeding, L.I.D. or assessment contemplated by any governmental or quasi-governmental authority regarding the Real Property.

g. Compliance with Law. To the best of Seller's knowledge the Real Property is in material compliance with applicable laws, regulations and ordinances relating to the Real Property, Seller has not received nor is aware of any notification from any governmental authority requiring any work to be done on the Real Property or advising of any violation of any applicable law, ordinance, regulation, statute or rule relating to the Real Property.

At Closing, Seller shall deliver a certificate to Buyer dated as of the Closing Date and certifying as to the truth and accuracy of each of the representations and warranties contained in this Section 8.1 as of the Closing Date or the manner in which such representations and warranties are untrue or inaccurate in any material respect as of the Closing Date (the "**Seller's Closing Certificate**"). Seller's representations and warranties, except those set forth in (d) above, which shall survive for the period otherwise provided by law, shall survive Closing for a period of twenty-four (24) months and shall terminate as of the end of such period except to the extent that Buyer advises Seller in writing of an alleged breach thereof prior to such termination date.

7.2 Condition of the Property. The Buyer acknowledges that, except as set forth in the Deed and in this Agreement, neither the Seller nor any principal, agent, attorney, employee, broker or other representative of the Seller has made any representations or warranties of any kind whatsoever regarding the Real Property, either express or implied, and that the Buyer is not relying on any warranty, representation or covenant, express or implied, with respect to the Real Property, except as set forth in the Deed and in this Agreement. The Buyer further agrees that it is acquiring the Real Property in wholly an "AS-IS" "WHERE-IS" condition, with all faults, and waives all contrary rights and remedies available to it under applicable law.

7.3 Buyer's Representations. Buyer represents and warrants to Seller as of the Closing Date this Agreement and all documents to be executed by Buyer at Closing have been duly authorized, executed and delivered by Buyer and are binding on and enforceable against Buyer in accordance with their terms. Buyer has obtained authority or approvals necessary to enter into and perform its obligations under this Agreement.

Article VIII. CONDEMNATION

In the event that all or any material portion of the Real Property is the subject of a taking or condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing Date which would materially affect the use of the Real Property, Buyer may terminate this Agreement and all condemnation awards and payouts shall be the property of Seller. If Buyer does not elect to terminate this Agreement, then Seller shall assign to Buyer its rights to any condemnation proceeds resulting from such taking and shall not make any settlements without Buyer's prior written approval.

Article IX. POSSESSION

Possession of the Real Property shall be delivered to Buyer on the Closing Date.

Article X. DEFAULT; REMEDIES

10.1 Default by Buyer. If Buyer fails, without legal excuse, to complete the purchase of the Real Property in accordance with the terms of this Agreement or otherwise defaults hereunder after the exercise of the Option pursuant to the Option Agreement, Seller may (a) terminate this Agreement; or (b) sue for damages, in an amount not to exceed $25,000.

10.2 Default by Seller. If Seller fails, without legal excuse, to complete the sale of the Real Property in accordance with the terms of this Agreement or otherwise defaults hereunder, Buyer may elect to pursue any one or more of the following remedies: (a) terminate this Agreement; or (b) specifically enforce this Agreement.

10.3 Attorneys' Fees. In the event either party brings an action or any other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions hereof, the party substantially prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party in such amounts as shall be set by the court or in any arbitration proceeding, at trial and on appeal.

Article XI. MISCELLANEOUS

11.1 Brokers and Finders. Each party represents and warrants to the other that no broker or finder has been involved in this transaction. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection with this Agreement, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, hereby agrees to indemnify Seller against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Seller may sustain or incur by reason of such claim. Seller, if such claim is based upon any agreement alleged to have been made by Seller, hereby agrees to indemnify Buyer against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Buyer may sustain or incur by reason of such claim. Notwithstanding anything to the contrary herein, the provisions of this Section 11.1 shall survive the termination of this Agreement or the Closing.

11.2 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, (ii) sent by a nationally recognized overnight delivery service, (iii) electronically transmitted with confirmation sent by another method specified in this Section 11.2 or (iv) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Seller at:

Mr. Mike Nelson
Superintendent
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022

With a copy to:
Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

To Buyer:

Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120

Kirkland, WA 98033

With copies to:

Jami L. Kuzaro-Balint
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

And to:

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

11.3 Amendment, Waiver. No modification, termination or amendment of this Agreement may be made except by written agreement. No failure by Seller or Buyer to insist upon the strict performance of any covenant, agreement, or condition of this Agreement or to exercise any right or remedy shall constitute a wavier of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller's or Buyer's permitted successors and assigns.

11.4 Survival. All provisions of this Agreement which involve obligations, duties or rights to be performed after the Closing Date or the recording of the Deed, and all representations and warranties made in or to be made pursuant to this Agreement shall survive the Closing Date and/or the recording of the Deed only to the extent expressly provided herein.

11.5 Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

11.6 Merger of Prior Agreements; No Reliance. This Agreement, the School Agreement, the Option Agreement and the exhibits hereto constitute the final and complete agreement between the parties with respect to the purchase and sale of the Real Property pursuant to the Option Agreement and supersede all prior and contemporaneous agreements, letters of intent and understandings between the parties hereto relating to the subject matter of this Agreement. There are no oral or other agreements, including but not limited to any representations or warranties, which modify or affect this Agreement. Seller shall not be bound by, nor liable for, any warranties, representations or statements of fact or opinion made by any other person, partnership, corporation or other entity, including, without limitation, the Title Company, any surveyor and any consultants.

11.7 No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

11.8 Governing Law; Time. This Agreement and the rights of the parties hereto shall be governed by and construed in accordance with the internal laws of the State of Washington. "**Day**" as used herein means a calendar day. "**Business day**" means any day on which commercial banks are generally open for business. Any period of time which would otherwise end on a non-business day shall be extended to the next following business day. Time is of the essence of this Agreement.

11.9 Exhibits. The following exhibits are attached hereto or referenced herein and are incorporated in this Agreement:

EXHIBIT 1	-	Title Exceptions
EXHIBIT 2	-	Memorandum of Agreement

11.10 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provisions had been replaced with a valid, legal and enforceable provision as similar as possible to the provision replaced.

11.11 Counterparts. This Agreement and the documents to be delivered hereunder may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11.12 Assignment. Buyer's rights under this Agreement shall be assignable without the prior written consent of Seller. Seller's rights under this Agreement are not assignable without the prior written consent of Buyer. No such permitted assignment shall relieve Buyer or Seller of any obligation hereunder.

11.13 Venue/Waiver of Jury Trial. If an action must be brought to enforce the terms of this Agreement, such action shall be brought in King County Superior Court. All parties to this Agreement hereby waive the right to a jury trial in connection with this Agreement.

11.14 Time. Time is of the essence of this Agreement.

11.15 Attorneys' Fees. In any proceeding to enforce any provision of this Agreement, the substantially prevailing party shall be entitled to the payment of its attorneys'

fees and costs by the substantially nonprevailing party, including attorneys' fees and costs on appeal.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first above written.

[*Remainder of page intentionally left blank; signatures follow*]

Official Document

EXHIBIT 1
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT
Plum Creek Option Property, King County, Washington

Title Exceptions

Unofficial Document

EXHIBIT 2
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT
Plum Creek Option Property, King County, Washington

FORM OF MEMORANDUM OF OPTION

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Alston Courtnage & Bassetti LLP
1000 Second Avenue, Suite #3900
Seattle, WA 98104-1045
Attn: Aleana W. Harris

MEMORANDUM OF OPTION

Grantor:	ENUMCLAW SCHOOL DISTRICT NO. 216
Grantee:	**[BD LAWSON PARTNERS, LP or BD VILLAGE PARTNERS, LP]**
Legal Description:	Official Legal Description on Exhibit A attached hereto
Assessor's Tax Parcel ID#:	

THIS MEMORANDUM OF OPTION (this "Memorandum") is effective as of _____ to provide notice of that Option Agreement dated _____, 20____ ("Option Agreement") affecting the real property described on Exhibit A hereto ("Property").

1. Option to Purchase. Pursuant to the Option Agreement, Grantee has a right to acquire the Property upon the terms and conditions therein. The term of the option to purchase expires no later than the expiration of forty (40) years from the date hereof.

2. Purpose of Memorandum. This Memorandum is prepared for the purpose of recording the existence of the Option Agreement and shall not alter or amend the Option Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the respective dates of acknowledgment below, to be effective as of the date first written above.

Grantor's Signature Page for Memorandum of Option

ENUMCLAW SCHOOL DISTRICT

By_____

DATED:_____

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 _____ to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____ ____, 20____.

_____
Notary Public
Print/Type Name_____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT 2

Unofficial Document

Grantee's Signature Page for Memorandum of Option

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: _____

By _____
Name _____
Title _____

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED: _____

By _____
Name _____
Title _____

DATED: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT 2

EXHIBIT N
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

Middle School Site B

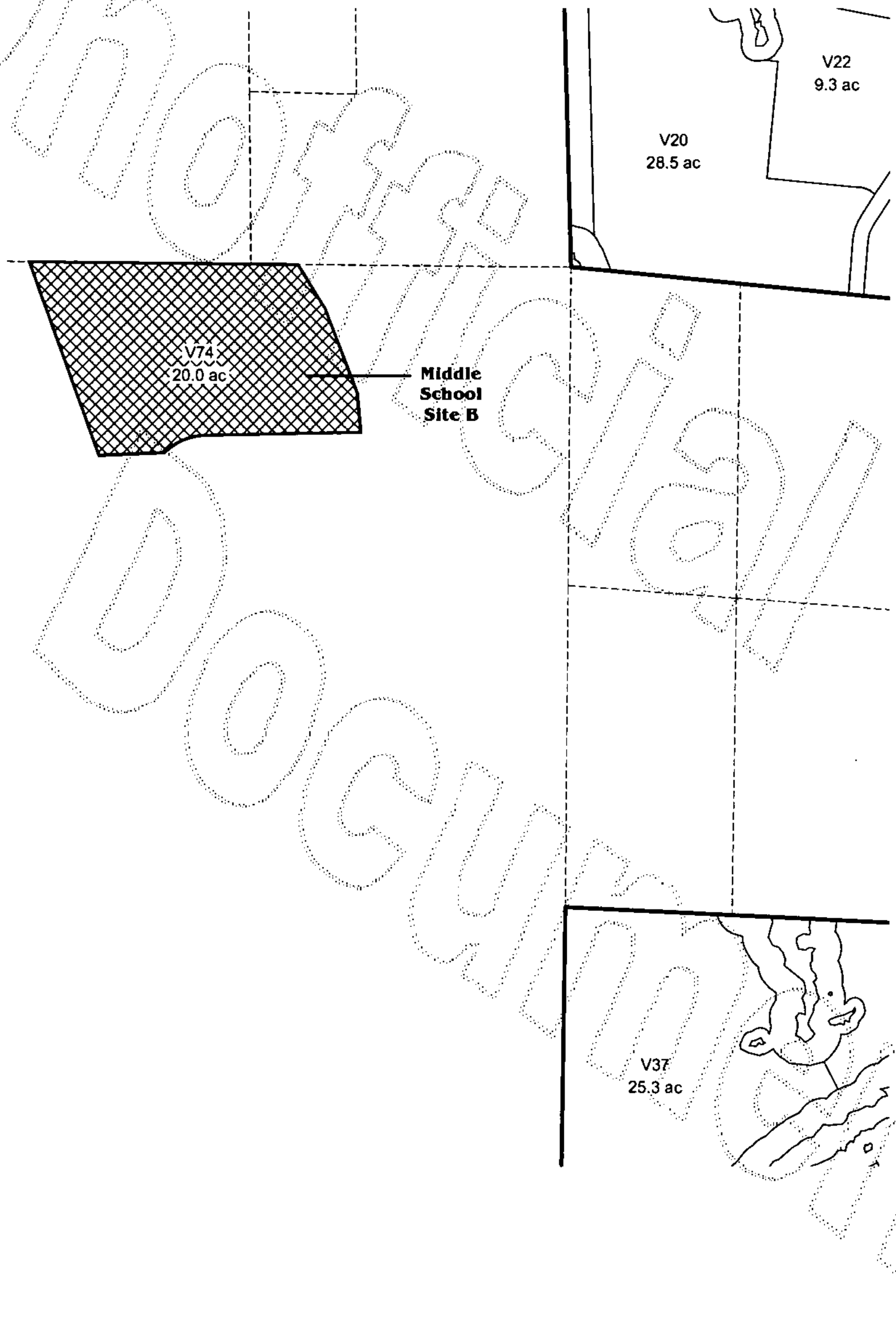

EXHIBIT N.1
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

LEGAL DESCRIPTION OF SECOND MIDDLE SCHOOL SITE

A portion of the property legally described as follows:

Parcel No. 2121069001: ALL OF SEC 21-21-6 LESS S 1/2 OF SW 1/4 THOF & LESS NW 1/4 OF SD SW 1/4 & LESS POR OF N 1/2 OF NW 1/4 OF SD SEC LY NLY OF C/L OF AUBURN-BLACK DIAMOND RD & LESS POR OF NE 1/4 OF SW 1/4 LY SWLY OF LN DAF - BEG AT NE COR OF SD SUBD TH WLY ALG N LN THOF 1025.97 FT TO TPOB OF SD DESC LN TH SELY TAP ON E LN OF SD SUBD LY 912.62 FT SLY FR NE COR THOF & TERMINUS OF SD DESC LN - AS PER KC DETERMINATION OF LEGAL LOT STATUS #L06M0010 APPROVED 2-23-06

Official Document

EXHIBIT O
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

LEGAL DESCRIPTION OF VILLAGES MPD PROJECT - Note: This includes property located in the MPD as approved by City of Black Diamond Ordinance 10-946 and specifically does not include any potential MPD expansion areas.

PARCEL B:

THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCELS C, D, AND E

ALL OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W. M., IN KING COUNTY, WASHINGTON;

EXCEPT THE NORTHEAST QUARTER THEREOF;

ALSO EXCEPT THAT PORTION OF THE NORTHWEST QUARTER THEREOF LYING NORTHERLY OF THE CENTERLINE OF MAPLE VALLEY-LAKE SAWYER ROAD;

ALSO EXCEPT THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER THEREOF.

PARCEL BDA:

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER;
THE SOUTH HALF OF THE NORTHEAST QUARTER;
THE SOUTHWEST QUARTER;
THE NORTH HALF OF THE SOUTHEAST QUARTER;
THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER;
THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 22, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL F – NORTH:

THAT PORTION OF SECTION 23, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST

QUARTER, LYING WESTERLY OF THE WESTERLY MARGIN OF THE ENUMCLAW-BLACK DIAMOND ROAD (SR 169) RIGHT OF WAY;

TOGETHER WITH:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTH HALF OF THE NORTHWEST QUARTER;

AND TOGETHER WITH:

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER;

AND TOGETHER WITH:

AND TOGETHER WITH:

THE SOUTH HALF OF THE NORTHEAST QUARTER LYING SOUTHWESTERLY OF THE SOUTHWESTERLY MARGIN OF ENUMCLAW-BLACK DIAMOND ROAD (SR 169) RIGHT OF WAY.

AND TOGETHER WITH:

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, AND THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER;

PARCEL G:

LOT A OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L05L0096 AS RECORDED UNDER RECORDING NO. 20051209900002, SITUATE IN SECTION 27, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON.

PARCEL GUIDETTI:

THAT PORTION OF THE EASTERLY 660 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21, NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING SOUTHERLY OF THE AUBURN-BLACK DIAMOND HIGHWAY;

EXCEPT THE EAST 381.24 FEET OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., LYING SOUTHERLY OF AUBURN-BLACK DIAMOND HIGHWAY AND THE EAST 90 FEET OF THE NORTH 165.70 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF

SECTION 15, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON;

(ALSO KNOWN AS PARCEL 1 UNDER SURVEY RECORDED UNDER RECORDING NUMBER 20030917900009.)

Official Document

EXHIBIT P
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

WHEN RECORDED RETURN TO:

Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104

Document Title: **DEED OF TRUST**

Grantor: BD Village Partners, LP

Grantee: 1. Enumclaw School District
2. Stewart Title Guaranty Company

Legal Description:

Abbreviated Legal Description:

Full Legal Description: See Exhibit A attached

Assessor's Tax Parcel Nos.:

Reference Nos. of Documents Released or Assigned: N/A

DEED OF TRUST

THIS DEED OF TRUST, made this ____ day of _____, 2____, between BD VILLAGE PARTNERS, LP, GRANTOR, whose address is 10220 NE Points Drive, Suite 120, Kirkland, WA 98033; STEWART TITLE GUARANTY COMPANY, TRUSTEE, whose address is 1420 Fifth Avenue, Suite 500, Seattle, WA 98101; and ENUMCLAW SCHOOL DISTRICT, BENEFICIARY, whose address is 2929 McDougall Avenue, Enumclaw, WA 98022.

WITNESSETH: Grantor hereby bargains, sells, and conveys to Trustee in trust, with power of sale, certain real property in King County, Washington, as legally described on attached Exhibit A, which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any way appertaining, and the rents, issues, and profits thereof.

This deed is for the purpose of securing performance of each agreement of Grantor herein contained, and Grantor's performance of its obligations under Section 7 of the Comprehensive School Mitigation Agreement dated _____, 2____, between Beneficiary, Grantor, BD Lawson Partners, LP and the City of Black Diamond and recorded under King County Recording No. _____ (the "School Agreement"), which obligations are incorporated herein by reference, and all renewals, modifications, and extensions thereof.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

1. To keep the property in good condition and repair; to permit no waste thereof; to restore promptly any building, structure, or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the property, including without limitation the City of Black Diamond Municipal Code.

2. To pay before delinquent all lawful taxes and assessments upon the property; and to keep the property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust.

3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than their replacement value. All policies shall be issued by such companies as the Beneficiary may reasonably approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the

Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale. Grantor shall furnish Beneficiary with evidence of the insurance coverage required under this paragraph.

4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

6. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances, or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

7. Grantor shall not place any temporary or permanent structures on the property without the prior written consent of Beneficiary, which shall not be unreasonably withheld or delayed. All temporary and permanent structures placed by Grantor on this property shall be removed by Grantor at Grantor's expense prior to conveyance of the property to Beneficiary pursuant to the School Agreement, unless Beneficiary allows such structure(s) to remain on the property following the conveyance.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to pay.

3. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

4. Upon default by Grantor in the performance of any agreement contained herein or in the performance of any of the obligations secured hereby, and following Grantor's failure to cure such default within thirty (30) days after written notice from

Beneficiary, all sums secured hereby shall immediately become due and payable, at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including a reasonable trustee's fee and attorney's fee; (b) to satisfy the obligations secured by this Deed of Trust; and (c) the surplus, if any, shall be distributed to the persons entitled thereto.

5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.

6. The power of sale conferred by this Deed of Trust and by the Deed of Trust act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

7. In the event of death, incapacity, disability, or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

8. This Deed of Trust applies to, inures to the benefit of, and is being in not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

9. Grantor acknowledges and agrees that the obligations which this Deed of Trust secures is personal to Grantor, and that Grantor's personal responsibility, financial capability and control of the collateral which is secured by this Deed of Trust are material inducements upon which Beneficiary has relied in accepting the Note from Grantor. If Grantor should sell, assign, alienate, encumber, transfer or contract to sell, assign, alienate, encumber or transfer title to or possession of any part of such collateral, then Beneficiary may, in its sole discretion, declare a default under this Deed of Trust, which default shall not be susceptible to cure.

10. This Deed of Trust shall terminate, and Beneficiary shall cause this Deed of Trust to be reconveyed, upon the occurrence of: (i) if Beneficiary does not receive School

Financing Approval (as that term is defined in the School Agreement) for construction of a high school on the property on or before the expiration of the term of the School Agreement; or (ii) Grantor identifying an alternate high school site not located at the property that is acceptable to Grantor and Beneficiary, and that satisfies the criteria of the Identified High School Site in the School Agreement.

[Grantor's signature appears on following page]

Unofficial Document

GRANTOR:

BD VILLAGE PARTNERS, LP

By YARROW BAY DEVELOPMENT LLC, its general partner

By BRNW INC., its member

By _____
Brian Ross, President

Unofficial Document

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared BRIAN ROSS, known to me to be the president of BRNW INC., member of YARROW BAY DEVELOPMENT LLC, general partner of BD VILLAGE PARTNERS, LP, the limited partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited partnership, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

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

_____
Signature

_____
Print Name
NOTARY PUBLIC in and for the State of Washington, residing at _____.
My commission expires _____.

EXHIBIT Q
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

OPTION AGREEMENT

This OPTION AGREEMENT (this "**Agreement**") is made as of _____, 20_____ (the "**Effective Date**") by and between **[BD VILLAGE PARTNERS, LP, a Washington limited partnership or BD LAWSON PARTNERS, LP, a Washington limited partnership],** and its successors and assigns ("**Seller**"), and ENUMCLAW SCHOOL DISTRICT NO. 216 ("**Buyer**").

3. Option. In consideration of the performance of Buyer's obligations hereunder and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller hereby grants to Buyer the exclusive right and option to purchase the real property, including all existing or future appurtenances and improvements located thereon situated in King County, Washington, and described on Exhibit A-1 and shown on Exhibit B-1 attached hereto and incorporated herein by this reference (collectively, the "**Option Property**"), for the option period hereinafter defined (the "**Option**").

4. Option Period. The term of the Option shall commence upon the Date of Termination of the Comprehensive School Mitigation Agreement entered into between Buyer, Seller and the City of Black Diamond and recorded under King County Recording Number: _____ and shall continue for a period of three (3) years (the "Option Period").

5. Exercise and Termination of Option. Buyer may exercise this Option during the Option Period upon providing written notice to Seller. If Buyer fails to exercise the Option within the Option Period, the Option shall immediately terminate and be of no further force and effect. Upon the termination or expiration of this Option, Buyer shall, within fourteen (14) business days after a request by Seller, execute, acknowledge and deliver to Seller a "Termination of Option" in recordable form and with content reasonably acceptable to Seller, evidencing the expiration and termination of this Option and to be recorded with the King County Recorder's Office.

6. Terms and Conditions of Purchase. If Buyer exercises the Option in accordance herewith:

(a) The Purchase Price shall be the lesser of the following:

(1) the current market value of the Option Property, based on an appraisal performed by an MAI, state certified appraiser with at least five (5) years of experience appraising land in King County, Washington, which is acceptable to Buyer and Seller, in each party's reasonable discretion, and the cost of such appraisal shall be equally shared between Buyer and Seller; and

(2) the amount of mitigation fees collected as of the date of Buyer's exercise of the Option pursuant to Section 9.7.3 of that Comprehensive School Mitigation Agreement dated _____, 2____, between Buyer, Seller, [BD Villages Partners LP or BD Lawson Partner LP] and the City of Black Diamond and recorded under King County Recording No. _____ (the "School Mitigation Agreement")"). Buyer and Seller agree that the term "collected" as used herein shall not include any mitigation fees used by Buyer to satisfy its obligations under Sections 9.7.2 of the School

Mitigation Agreement, as applicable, or those mitigation fees subject to the restrictions set forth in Section 9.7.1 of the School Mitigation Agreement.

(b) Closing of the purchase of the Option Property shall be governed by the terms of the Real Estate Purchase and Sale Agreement attached hereto as Exhibit C (the "**Purchase Agreement**"), and closing thereunder shall occur on a business day mutually acceptable to Seller and Buyer, but in no event later than the later of (i) ninety (90) days after Buyer's exercise of the Option; or thirty (30) days after receipt of the appraisal described in Section 4(a)(1) above. The Buyer and Seller shall execute the Purchase Agreement within ten (10) business day after the later of (1) Seller's receipt of Buyer's written notice that it is exercising the Option; or (2) Buyer and Seller's receipt of the above referenced appraisal.

7. Seller Covenants.

(a) Encumbrances and Operations. Buyer and Seller agree that Buyer's intended use of the Option Property is to construct, maintain and operate a high school, including the School Facilities (described in the School Agreement). During the Option Period and until Closing under the Purchase Agreement, Seller shall not encumber the Option Property or enter into any leases, easements, restrictions, encumbrances, licenses or other instruments or agreements affecting the Option Property without the prior written consent of the Buyer, which shall not unreasonably be withheld or delayed. Seller shall provide Buyer with written notice consistent with Section 6 herein of the need for such consent and Buyer shall have seven (7) business days to respond to Seller. In the event Buyer fails to respond to Seller's request for consent by the end of the 7 day period, Buyer shall be deemed to have provided the necessary consent. Any such document, if consented to by Buyer, shall constitute a Permitted Exception and shall not be subject to the title review process described in Section 3.1 of the Purchase Agreement. During the Option Period and until Closing under the Purchase Agreement, Seller shall not encumber the Option Property with or enter into any mortgages, deeds of trust, lien, and other encumbrances securing the payment of money, except to the extent such encumbrances will be paid in full or reconveyed by Seller prior to Closing under the Purchase Agreement. Nothing in this Section 5(a) shall be construed as to prevent Seller from constructing any building or other temporary or permanent structure(s) on the Option Property.

(b) Maintenance. Between the date of this Agreement and the Closing Date, Seller shall maintain and keep the Real Property in substantially the same condition as existed on the date of this Agreement.

(c) Performance of Obligations. From the date of this Agreement to the Closing Date, and except for those obligations assumed by Buyer, Seller will perform all of its monetary and non-monetary obligations under all indebtedness (whether for borrowed money or otherwise) and the liens securing same pertaining to the Option Property or any portion thereof, if any. Seller shall pay all taxes, if any, attributable to any period of time prior to the date of Closing.

(a) Liens. From the date of this Agreement to the Closing Date, Seller will not allow any lien to attach to the Option Property or any part thereof except the lien

for ad valorem taxes that are not due and payable and any liens that result from the activities of Buyer in connection with the Option Property, provided, however Seller shall not be in default under this Section 5(d) if a lien is filed as long as Seller causes such lien to be discharged or fully bonded around by the earlier of Closing of the portion of the Option Property affected by the lien, or fifteen (15) days after Buyer's written demand.

8. Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, (ii) sent by a nationally recognized overnight delivery service, (iii) electronically transmitted with confirmation sent by sender's fax machine or (iv) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Seller at:

Mr. Mike Nelson
Superintendent
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022

With a copy to:
Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

To Buyer:

Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

With copies to:

Jami L. Kuzaro-Balint
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

And to:

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

9. Governing Law; Attorneys' Fees. This Agreement shall be construed according to the laws of the state of Washington. In the event that either Buyer or Seller should find it necessary to employ an attorney to enforce any provision of this Agreement or to recover damages for the breach hereof (including proceedings in bankruptcy), the substantially prevailing party shall be entitled to be reimbursed for its court costs and attorneys' fees, at trial (including arbitration proceedings) and on appeal.

10. Default and Remedies.

(a) Default. If Buyer or Seller fails to perform any obligation or breaches any term, covenant or agreement in this Agreement that is not cured within twenty (20) days after receipt of written notice from the other Party (except for Seller's failure to Close on the Closing Date, which shall not be subject to any notice or cure period), such party will be in "Default" hereunder.

(b) Remedies. If Buyer is in Default hereunder, Seller may (a) terminate this Agreement; or (b) sue for damages, in an amount not to exceed $25,000. If Seller is in Default hereunder, Buyer may elect to pursue any one or more of the following remedies: (a) terminate this Agreement and sue for damages; (b) specifically enforce this Agreement; (c) sue for damages; or (d) seek any other remedy available in equity or in law.

(c) Attorneys' Fees. In the event either party brings an action or any other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions hereof, the party substantially prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party in such amounts as shall be set by the court or in any arbitration proceeding, at trial and on appeal.

11. Option Runs With Land. This Option shall run with and burden the Option Property and be binding upon Seller and its successors and assigns and shall benefit Buyer and its permitted successors and assigns. Buyer may assign its rights under this Agreement without Seller's consent (but with notice to Seller).

12. Relationship of Parties. This Agreement is solely intended to create the relationship of optionor (Seller) and optionee (Buyer). It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer or Seller, and nothing contained in this Agreement shall, create a relationship of lender and borrower between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

13. Memorandum of Option. Upon commencement of the Option Term, a memorandum of this Option in the form of Exhibit __ to the Purchase Agreement attached hereto shall be recorded.

IN WITNESS WHEREOF the parties have executed this Agreement on the respective dates of acknowledgment set forth below, to be effective as of the Effective Date.

[*Remainder of page intentionally left blank; signature pages follow*]

Unofficial Document

Seller's Signature Page for Option Agreement

ENUMCLAW SCHOOL DISTRICT

By_____

DATED:_____

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 _____ to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____ ____, 20____.

_____
Notary Public
Print/Type Name_____
My commission expires _____

(Use this space for notarial stamp/seal)

Unofficial Document

Buyer's Signature Page for Option Agreement

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: _____

By_____
Name _____
Title _____

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED:_____

By_____
Name _____
Title _____

DATED: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

Unofficial Document

Exhibit A-1

Unofficial Document

EXHIBIT B
To Option Agreement

DEPICTION OF THE OPTION PROPERTY

Exhibit B-1

EXHIBIT C
To Option Agreement

TERMS OF PURCHASE AND SALE AGREEMENT

Real Property Purchase and Sale Agreement
Option Property, King County, Washington

This Real Property Purchase and Sale Agreement ("**Agreement**") is effective as of the date the Option is exercised (the "**Effective Date**"), pursuant to that certain Option Agreement (as defined below) by and between ENUMCLAW SCHOOL DISTRICT NO. 216 ("**Seller**"), and **[BD LAWSON PARTNERS, LP, a Washington limited partnership or BD VILLAGE PARTNERS, LP, a Washington limited partnership]** ("**Buyer**").

Seller has granted Buyer the Option to purchase the Real Property pursuant to that certain Option Agreement between Buyer and Seller dated as of _____, 2____ ("**Option Agreement**"). The purpose of this Agreement is to provide for the closing of the purchase and sale of the Real Property following exercise of the Option pursuant to the Option Agreement.

All terms not defined herein shall have the definition ascribed to such term in the Option Agreement.

In consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

Article I. REAL PROPERTY

Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, the obligations of each of them subject to the terms and conditions set forth herein, the following:

1.1 Land. That certain real property located in King County, Washington and more particularly described on Exhibit A to the Option Agreement (the "**Land**").

1.2 Appurtenances. Seller's interest in all rights, privileges and easements, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under the Land, all development rights, air rights, water rights, all easements, rights-of-way, permits, licenses, plat approvals, improvements, structures, fixtures, appurtenances and other rights appurtenant to or used in connection with the Land and improvements (collectively, the "**Appurtenances**").

All of the items described in Sections 1.1 and 1.2 are herein collectively referred to as the "**Real Property**."

Article II. PURCHASE PRICE

2.1 Purchase Price. The purchase price for the Real Property (the "**Purchase Price**") shall be _____ ($_____). The Purchase Price shall be paid by Buyer in cash on the Closing Date (as defined below).

2.2 Escrow Holder. Chicago Title Insurance Company located in Seattle Washington ("**Escrow Holder**" in its capacity as escrow holder and "**Title Company**" in its capacity as title insurer) has been designated as Escrow Holder hereunder by mutual agreement of Seller and Buyer. Upon execution of this Agreement by the last of Seller and Buyer, Escrow Holder shall open a closing escrow for the benefit of Buyer and Seller in accordance with the terms of this Agreement.

Article III. TITLE

3.1 Title. Buyer hereby accepts and approves the exceptions to title (including any survey matters) (the "**Exceptions**") attached hereto as Exhibit 1 **[the special exceptions existing as of the date of Seller acquired the Real Property] and subsequent title exceptions approved by Buyer as described in Section 7 of the Option Agreement]**. Within five (5) days of the date of this Agreement, Seller shall deliver to Buyer a commitment for a 2006 ALTA owner's standard title insurance policy covering the Real Property, showing recorded matters pertaining to the Real Property and true, correct copies of all the title documents referred to in the title commitment as conditions or exceptions to title.

The term "**Permitted Exceptions**" as used hereafter means: (a) the Exceptions accepted by Buyer as provided above; (b) the lien of real estate taxes and assessments prorated to the Closing Date; (c) local, state and federal laws, ordinances and governmental regulations; and (d) any encumbrances recorded against the Real Property by Seller and approved by Buyer in accordance with Section 7 of the Option Agreement. Notwithstanding the foregoing, Seller shall cause, at Seller's sole expense, all mortgages, deeds of trust and other liens securing the payment of money (except for the lien(s) of real estate taxes and assessments for the current calendar year which shall be prorated to the Closing Date) to be fully satisfied, released and discharged of record on or prior to the Closing Date without necessity of Buyer's objection.

3.2 Title Insurance. Buyer may obtain, at its sole cost and expense, a Standard or Extended Coverage Owner's Policy of title insurance issued by Title Company in the amount of the Purchase Price, dated the date of Closing, insuring Buyer's title to the Real Property subject to no exceptions other than the standard printed exceptions and the Permitted Exceptions (the "**Title Policy**"). Buyer shall be responsible for the cost of any survey work that Buyer or the Title Company requires.

3.3 Due Diligence Documents. Within five (5) days after mutual execution of this Agreement, Seller shall deliver to Buyer all documents regarding the Real Property within Seller's possession or control, including without limitation, the following, if any:

c) all environmental reports, wetlands or sensitive area studies, surveys, soil and geotechnical reports regarding the Real Property;

d) all notices, correspondence and other documents to or from any governmental agencies regarding the Real Property; and

c) all studies, reports, investigations and agreements related to the actual or potential development and construction on the Real Property, including without limitation any Phase I or Phase II environmental reports or soil reports.

3.4 Conveyance of Real Property. At Closing Seller shall convey to Buyer title to the Real Property by execution and delivery of a statutory warranty deed to the Real Property, subject only to the Permitted Exceptions (the "**Deed**").

Article IV. CONDITIONS PRECEDENT TO CLOSING

Buyer's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

4.1 Performance by Seller. Seller shall have performed all material obligations required by this Agreement to be performed by it.

4.3 Representations and Warranties True. The representations and warranties of Seller contained herein shall be true and correct in all material respects.

4.3 Property Inspection. Prior to Closing Buyer shall have the right to inspect and approve the condition of the Real Property, in its sole and absolute discretion, of the physical condition of the Real Property (the "**Property Inspection**"), including, without limitation, the conducting of soil tests (including borings), toxic and hazardous waste studies, surveys, engineering and other compliance matters. If the Property Inspection indicates, in Buyer's sole and absolute discretion, that the Real Property is not suitable for Buyer's intended purposes, Buyer may terminate this Agreement prior to Closing by written notice to Seller. Such license is granted on the condition that Buyer keep the Real Property free and clear of any mechanics' liens and materialmen's liens arising out of any such activities. Buyer hereby agrees to indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable attorneys' fees and experts' fees, arising from or relating to Buyer's entry on and inspection of the Real Property, but Buyer will have no responsibility for any claims or liabilities arising from or relating to existing conditions on or affecting the Real Property. In addition, if this Agreement is terminated, Buyer shall repair any material damage to the Real Property caused by its entry thereon and shall restore the Real Property substantially to the condition in which it existed prior to such entry; provided, however, that Buyer shall have no obligation to repair any damage caused by the acts or omissions of Seller, its agents or representatives or to remediate, contain, abate or control any pre-existing condition of the Real Property which existed prior to Buyer's entry thereon.

The conditions set forth in Sections 4.1 through 4.3 above are intended solely for the benefit of Buyer. If any of the foregoing conditions are not satisfied as of the Closing Date, Buyer shall have the right at its sole election either to waive the condition in question and proceed with the purchase of the Real Property or, in the alternative, to terminate this Agreement, whereupon the parties shall have no further obligations hereunder other than those obligations which survive the termination of this Agreement by their express terms.

Seller's obligations under this Agreement are expressly conditioned on, and subject to satisfaction of, the following conditions precedent:

4.4 Performance by Buyer. Buyer shall have performed all material obligations required by this Agreement and under the Option Agreement to be performed by it.

4.5 Representations and Warranties True. The representations and warranties of Buyer contained herein shall be true and correct in all material respects.

4.6 Seller's Acquisition. Seller shall have completed Seller's Acquisition.

The conditions set forth in Sections 4.4 through 4.6 above are intended solely for the benefit of Seller. If any of the foregoing conditions are not satisfied as of the Closing Date, Seller shall have the right at its sole election either to waive the condition in question and proceed with the sale or, in the alternative, to terminate this Agreement.

Article V. OPERATIONS PENDING CLOSING

At all times prior to the Closing or sooner termination of this Agreement, Seller agrees with respect to all or any portion of the Real Property: (a) not to further encumber the Real Property except as permitted by Section 7 of the Option Agreement; and (b) not to enter into any contracts or agreements to sell or otherwise transfer the Real Property which are prior to Buyer's rights hereunder or under the Option Agreement.

Article VI. CLOSING AND ESCROW

6.1 Closing. The Closing hereunder (the "**Closing**" or the "**Closing Date**") shall be held as provided in the Option Agreement and in accordance with the terms of this Agreement within sixty (60) days after the Effective Date. Delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of the Title Company.

6.2 Delivery by Seller. On or prior to the Closing Date, Seller shall deposit with Escrow Holder the following:

(a) The duly executed and acknowledged Deed ready for recordation on the Closing Date together with a duly executed real estate excise tax affidavit;

(b) The FIRPTA Affidavit executed by Seller; and

(c) Such customary affidavits or indemnities as may be required to permit Title Company to issue the Title Policy to Buyer.

6.3 Delivery by Buyer. On or prior to the Closing Date Buyer shall deposit with Escrow Holder the following:

(a) The Purchase Price; and

(b) A duly executed counterpart of the real estate excise tax affidavit.

6.4 Title Policy; Other Instruments. Title Company shall issue the Title Policy at Closing or as soon thereafter as practicable. Seller and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder, Title Company or otherwise required to close the escrow and consummate the purchase and sale of the Real Property in accordance with the terms hereof.

6.5 Prorations. All revenues and all expenses of the Real Property including, but not limited to, real property taxes, drainage district service charges, water, sewer and utility charges, and other expenses normal to the operation and maintenance of the Real Property shall be pro rated as of the Closing Date.

6.6 Closing Costs and Expenses. All closing costs and expenses, including escrow and recording fees shall be shared equally between Buyer and Seller. Seller shall pay any real estate excise tax due in connection with the sale of the Real Property and Buyer shall pay the cost of recording the Deed.

Article VII. REPRESENTATIONS AND WARRANTIES

Seller and Buyer make the following representations and warranties:

7.1 Seller's Representations. Seller represents and warrants to Buyer as of the date of this Agreement:

a. Litigation. There is no litigation or proceeding pending against Seller, or to the best of Seller's knowledge pending against the Real Property or threatened against Seller, which relate to the Real Property or the transaction contemplated by this Agreement.

b. No Prior Options, Sales or Assignments. Seller has not granted any options nor obligated itself in any manner whatsoever to sell the Real Property or any portion thereof to any party other than Buyer.

c. Environmental Compliance. To the best of Seller's knowledge there are no Hazardous Substances or of any underground tanks on or adjacent to the Real Property, except as disclosed to Buyer. As used herein, "**Hazardous Substances**" shall mean asbestos (whether or not friable), petroleum and petroleum derivatives and products, and any substance, chemical, waste or other material which is listed, defined or otherwise identified as "hazardous" or "toxic" under any federal, state or local ordinance or

law or any administrative agency rule or determination, except for cleaning solvents, paints, construction materials, lubricants and similar materials used in the ordinary course of business in substantial compliance with all applicable laws.

d. Authority. This Agreement and all documents to be executed by Seller at Closing have been duly authorized, executed and delivered by Seller and are binding on and enforceable against Seller in accordance with their terms. Seller has obtained all authorizations or approvals necessary for Seller to enter into and perform its obligations under this Agreement.

e. Parties in Possession. To Seller's actual knowledge, except as disclosed in the title commitment, there are no parties in possession or that have a right to possession of the Real Property.

f. Condemnation or Assessment; Access. To Seller's actual knowledge, there is no pending condemnation proceeding or local improvement district or assessment affecting the Real Property, nor, to Seller's knowledge, is there any such proceeding, L.I.D. or assessment contemplated by any governmental or quasi-governmental authority regarding the Real Property.

g. Compliance with Law. To the best of Seller's knowledge the Real Property is in material compliance with applicable laws, regulations and ordinances relating to the Real Property, Seller has not received nor is aware of any notification from any governmental authority requiring any work to be done on the Real Property or advising of any violation of any applicable law, ordinance, regulation, statute or rule relating to the Real Property.

At Closing, Seller shall deliver a certificate to Buyer dated as of the Closing Date and certifying as to the truth and accuracy of each of the representations and warranties contained in this Section 8.1 as of the Closing Date or the manner in which such representations and warranties are untrue or inaccurate in any material respect as of the Closing Date (the "**Seller's Closing Certificate**"). Seller's representations and warranties, except those set forth in (d) above, which shall survive for the period otherwise provided by law, shall survive Closing for a period of twenty-four (24) months and shall terminate as of the end of such period except to the extent that Buyer advises Seller in writing of an alleged breach thereof prior to such termination date.

7.2 Condition of the Property. The Buyer acknowledges that, except as set forth in the Deed and in this Agreement, neither the Seller nor any principal, agent, attorney, employee, broker or other representative of the Seller has made any representations or warranties of any kind whatsoever regarding the Real Property, either express or implied, and that the Buyer is not relying on any warranty, representation or covenant, express or implied, with respect to the Real Property, except as set forth in the Deed and in this Agreement. The Buyer further agrees that it is acquiring the Real Property in wholly an "AS-IS" "WHERE-IS" condition, with all faults, and waives all contrary rights and remedies available to it under applicable law.

7.3 Buyer's Representations. Buyer represents and warrants to Seller as of the Closing Date this Agreement and all documents to be executed by Buyer at Closing have been duly authorized, executed and delivered by Buyer and are binding on and enforceable against Buyer in accordance with their terms. Buyer has obtained authority or approvals necessary to enter into and perform its obligations under this Agreement.

Article VIII. CONDEMNATION

In the event that all or any material portion of the Real Property is the subject of a taking or condemnation under the provisions of eminent domain law after the Effective Date but prior to the Closing Date which would materially affect the use of the Real Property, Buyer may terminate this Agreement and all condemnation awards and payouts shall be the property of Seller. If Buyer does not elect to terminate this Agreement, then Seller shall assign to Buyer its rights to any condemnation proceeds resulting from such taking and shall not make any settlements without Buyer's prior written approval.

Article IX. POSSESSION

Possession of the Real Property shall be delivered to Buyer on the Closing Date.

Article X. DEFAULT; REMEDIES

10.1 Default by Buyer. If Buyer fails, without legal excuse, to complete the purchase of the Real Property in accordance with the terms of this Agreement or otherwise defaults hereunder after the exercise of the Option pursuant to the Option Agreement, Seller may (a) terminate this Agreement; or (b) sue for damages, in an amount not to exceed $25,000.

10.2 Default by Seller. If Seller fails, without legal excuse, to complete the sale of the Real Property in accordance with the terms of this Agreement or otherwise defaults hereunder, Buyer may elect to pursue any one or more of the following remedies: (a) terminate this Agreement; or (b) specifically enforce this Agreement.

10.3 Attorneys' Fees. In the event either party brings an action or any other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions hereof, the party substantially prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party in such amounts as shall be set by the court or in any arbitration proceeding, at trial and on appeal.

Article XI. MISCELLANEOUS

11.1 Brokers and Finders. Each party represents and warrants to the other that no broker or finder has been involved in this transaction. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection with this Agreement, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, hereby agrees to indemnify Seller against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Seller may sustain or incur by reason of such claim. Seller, if such claim is based upon any

agreement alleged to have been made by Seller, hereby agrees to indemnify Buyer against any and all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) which Buyer may sustain or incur by reason of such claim. Notwithstanding anything to the contrary herein, the provisions of this Section 11.1 shall survive the termination of this Agreement or the Closing.

11.2 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, (ii) sent by a nationally recognized overnight delivery service, (iii) electronically transmitted with confirmation sent by another method specified in this Section 11.2 or (iv) mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Seller at:

Mr. Mike Nelson
Superintendent
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022

With a copy to:
Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104

To Buyer:

Brian Ross
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

With copies to:

Jami L. Kuzaro-Balint
Yarrow Bay Group
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

And to:

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1000 Second Avenue, Suite 3900
Seattle, WA 98104

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

11.3 Amendment, Waiver. No modification, termination or amendment of this Agreement may be made except by written agreement. No failure by Seller or Buyer to insist upon the strict performance of any covenant, agreement, or condition of this Agreement or to exercise any right or remedy shall constitute a wavier of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller's or Buyer's permitted successors and assigns.

11.4 Survival. All provisions of this Agreement which involve obligations, duties or rights to be performed after the Closing Date or the recording of the Deed, and all representations and warranties made in or to be made pursuant to this Agreement shall survive the Closing Date and/or the recording of the Deed only to the extent expressly provided herein.

11.5 Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

11.6 Merger of Prior Agreements; No Reliance. This Agreement, the School Agreement, the Option Agreement and the exhibits hereto constitute the final and complete agreement between the parties with respect to the purchase and sale of the Real Property pursuant to the Option Agreement and supersede all prior and contemporaneous agreements, letters of intent and understandings between the parties hereto relating to the subject matter of this Agreement. There are no oral or other agreements, including but not limited to any representations or warranties, which modify or affect this Agreement. Seller shall not be bound by, nor liable for, any warranties, representations or statements of fact or opinion made by any other person, partnership, corporation or other entity, including, without limitation, the Title Company, any surveyor and any consultants.

11.7 No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

11.8 Governing Law; Time. This Agreement and the rights of the parties hereto shall be governed by and construed in accordance with the internal laws of the State of Washington. "**Day**" as used herein means a calendar day. "**Business day**" means any day on which commercial banks are generally open for business. Any period of time which would otherwise end on a non-business day shall be extended to the next following business day. Time is of the essence of this Agreement.

11.9 Exhibits. The following exhibits are attached hereto or referenced herein and are incorporated in this Agreement:

EXHIBIT 1 - Title Exceptions

11.10 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provisions had been replaced with a valid, legal and enforceable provision as similar as possible to the provision replaced.

11.11 Counterparts. This Agreement and the documents to be delivered hereunder may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11.12 Assignment. Buyer's rights under this Agreement shall be assignable without the prior written consent of Seller. Seller's rights under this Agreement are not assignable without the prior written consent of Buyer. No such permitted assignment shall relieve Buyer or Seller of any obligation hereunder.

11.13 Venue/Waiver of Jury Trial. If an action must be brought to enforce the terms of this Agreement, such action shall be brought in King County Superior Court. All parties to this Agreement hereby waive the right to a jury trial in connection with this Agreement.

11.14 Time. Time is of the essence of this Agreement.

11.15 Attorneys' Fees. In any proceeding to enforce any provision of this Agreement, the substantially prevailing party shall be entitled to the payment of its attorneys' fees and costs by the substantially nonprevailing party, including attorneys' fees and costs on appeal.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year first above written.

[*Remainder of page intentionally left blank; signatures follow*]

Sample

Seller's Signature Page for Purchase and Sale Agreement

ENUMCLAW SCHOOL DISTRICT

By_____

DATED:_____

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 _____ to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____ ____, 20____.

_____
Notary Public
Print/Type Name_____
My commission expires _____

(Use this space for notarial stamp/seal)

Buyer's Signature Page for Purchase and Sale Agreement

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: _____

By_____
Name _____
Title _____

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED:_____

By_____
Name _____
Title _____

DATED: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT 1
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT
Plum Creek Option Property, King County, Washington

Title Exceptions

Unofficial Document

EXHIBIT 2
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT
Plum Creek Option Property, King County, Washington

FORM OF MEMORANDUM OF OPTION

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Alston Courtnage & Bassetti LLP
1000 Second Avenue, Suite #3900
Seattle, WA 98104-1045
Attn: Aleana W. Harris

MEMORANDUM OF OPTION

Grantor: BD VILLAGE PARTNERS, LP
Grantee: ENUMCLAW SCHOOL DISTRICT NO. 216
Legal Description: Official Legal Description on Exhibit A attached hereto
Assessor's Tax Parcel ID#:

THIS MEMORANDUM OF OPTION (this "Memorandum") is effective as of _____ to provide notice of that Option Agreement dated _____, 20____ ("Option Agreement") affecting the real property described on Exhibit A hereto ("Property").

1. Option to Purchase. Pursuant to the Option Agreement, Grantee has a right to acquire the Property upon the terms and conditions therein. The term of the option to purchase expires no later than the expiration of three (3) years from the date hereof.

2. Purpose of Memorandum. This Memorandum is prepared for the purpose of recording the existence of the Option Agreement and shall not alter or amend the Option Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the respective dates of acknowledgment below, to be effective as of the date first written above.

Grantor's Signature Page for Memorandum of Option

ENUMCLAW SCHOOL DISTRICT

By_____

DATED:_____

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 _____ to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____ ____, 20____.

_____
Notary Public
Print/Type Name_____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT 2

Unofficial Document

Grantee's Signature Page for Memorandum of Option

BD LAWSON PARTNERS, LP, a
Washington limited partnership

DATED: _____

By_____
Name _____
Title _____

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED:_____

By_____
Name _____
Title _____

DATED: _____

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT 2

EXHIBIT R
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

Developer's Provision of Site Information Reports Reference

Within Twenty (20) of the Agreement Effective Date, Developer shall provide to District the following reports:

1. Draft Environmental Impact Study for the Projects including technical reports.
2. Villages Phase I Environmental Assessment Study performed by Golder Associates Inc. dated August 25, 2006.
3. Lawson Hills Phase I and II Environmental Site Assessment performed by Golder Associates Inc. dated August 25, 2006.
4. Lawson Hills Additional Properties Environmental Site Assessment I and II performed by Golder Associates Inc. dated August 25, 2006.
5. Plum Creek Property Phase I Environmental Site Assessment performed by Golder Associates Inc. dated September 25, 2009.
6. Army Corp of Engineers Jurisdictional Decision dated November 14, 2008.
7. Johnston property voluntary remediation plan.

Do Not Sign

EXHIBIT S
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

WHEN RECORDED RETURN TO:

Name of Document:	Easement Agreement
Grantor:	Enumclaw School District
Grantee:	BD Village Partners, L.P.
Abbreviated Legal Description:	
Full Legal Description:	See attached Exhibit A.
Assessor's Tax Parcel Number(s):	
Reference Number of Documents Released or Assigned:	N/A

Unofficial Document

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of _____, 200___, by between the Enumclaw School District ("Grantor"), and BD Village Partners, L.P., a Washington limited partnership ("Grantee").

1. Background. Grantor and Grantee own adjacent property. The property owned by Grantor is legally described on attached Exhibit A hereto (the "Grantor's Property"). The property owned or to be owned by Grantee is legally described on attached Exhibit B hereto (the "Grantee's Property"). For valuable consideration, the receipt of which is acknowledged, Grantor wishes to grant to Grantee a temporary construction and permanent utility easement on the terms set forth below in the locations legally described and depicted on the diagram attached hereto at Exhibits C-1, C-2 and C-3 (the "Easements").

2. Grant of Temporary Construction Easement. Grantor grants to Grantee a nonexclusive, temporary easement ___ feet wide over the area more particularly described on Exhibit C-1 and shown on Exhibit C-3 to install, maintain, repair and replace a _____ no larger than _____ inches in diameter and related improvements (collectively, the "Improvements"), subject to the terms and conditions of this Agreement (the "Temporary Construction Easement"). The Temporary Construction Easement shall commence upon mutual execution of this Agreement and shall expire on _____.

3. Installation of Improvements. The Improvements shall be installed by Grantee in accordance with the plans prepared by a licensed engineer.

4. Grant of Permanent Easement. Grantor hereby grants to Grantee, its successors and assigns, a perpetual, non-exclusive easement for the operation, maintenance, and repair of an _____ on and under that portion of the Easement Area designated and legally described on attached Exhibit C-2 as the _____ foot (__) Permanent Utility Easement. This easement includes the limited right of ingress to and egress from and across the adjacent property of Grantor, but only to the extent necessary to operate, maintain, repair, and remove any _____ within the easement area.

5. Use and Maintenance of Easement Areas. Grantor may continue to use the Easement areas for all purposes which will not interfere with the exercise of the rights granted to Grantee hereunder, including altering the surface of the Easement areas. During the term of the respective Easements, Grantor agrees not to construct or to permit a party other than Grantee to construct any improvements or plant any shrubs or trees within the Easement areas.

6. Maintenance. Grantee shall at its sole cost and expense maintain in a safe condition all Improvements installed within the Permanent Utility Easement area by Grantee or its agents or contractors, provided that Grantor shall repair any damage to any utility improvements which are caused by the acts or omissions of Grantor or its agents or contractors.

7. Compliance with Laws. Grantee shall comply at all times with all laws, statutes, ordinances, rules and regulations now or hereafter in effect regarding Grantee's installation, use and operation of any utility improvements installed in the Easement Parcel by, or for the benefit of, Grantee.

8. Agreement to Dedicate. Grantor agrees that upon completion of the Improvements and without additional charge to Grantor, Grantee or _____ (the "District"), the Grantor will join with Grantee in the dedication of the Improvements to the District. Grantor agrees to cooperate with Grantee and to execute any documents to effectuate this dedication that are reasonably required by the District or Grantee.

9. Indemnity. Grantee shall indemnify, defend and hold Grantor harmless from any liability, loss, claim and expense (including attorneys' fees) asserted against or incurred by Grantor as a result of the acts or omissions of Grantee or its agents or contractors in the use and exercise of Grantee's rights hereunder. This paragraph shall not apply to any liability, loss, claim or expense (including attorneys' fees) caused by or resulting from the acts or omissions of Grantor or its agents or contractors.

I0. Default. If Grantee defaults in the observance or performance of any of the covenants under this Agreement, Grantor shall be entitled to observe and perform such covenants to the extent necessary to protect the property of Grantor or to protect or preserve the health or safety of Grantor and its licensees and invitees, and to charge Grantee the cost thereof, together with interest from the date such expense is incurred and demand is made on Grantee for payment at the rate of I2% per annum. If there is a dispute concerning this Agreement, the prevailing party shall be entitled to payment by the other party of the prevailing party's reasonable attorneys' fees

11. Restoration. In the event the Grantor's Property (including Temporary Construction Easement and Permanent Utility Easement areas), or any portions thereof, are in any manner disturbed by the activities of the Grantee or its contractors or agents relating to, or arising from, the exercise of any of the Grantee's rights under this Agreement, the Grantee shall promptly remove all debris and restore Grantor's Property to the to the condition in which such existed at the commencement of such activities.

12. Relocation. Grantor reserves the right to, at Grantor's sole cost and expense, relocate the Improvements and the Permanent Utility Easement to another location on Grantor's Property, subject to the Grantee's and the District's approval, which shall not be unreasonably withheld, by mutual written agreement of Grantor and the Grantee, and upon such further relocation, the Permanent Utility Easement as relocated shall automatically be

deemed to be the new easement area. Any such relocation work shall be done in a good and workmanlike manner and in compliance with all applicable laws. As a part of any relocation of the Improvements and Permanent Utility Easement, this Agreement shall be revised or amended to reflect the location of the easement.

13. Successors and Assigns. This Agreement runs with the land, burden Grantor's Property and benefit Grantee's Property and all terms, covenants and conditions hereof shall extend to the benefit of and be binding upon, the successive successors, heirs and assigns of the parties hereto.

GRANTOR: **GRANTEE:**

Official Document

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT T
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into as of this ___day of _____, 200_ between [*BD Village Partners, L.P./BD Lawson Partners, L.P./ Enumclaw School District*] ("Owner"), and [*BD Village Partners, L.P./BD Lawson Partners, L.P./ Enumclaw School District*] ("Licensee").

RECITALS

A. Owner is the owner of real property located in King County, as described more particularly in Exhibit I (the "Land").

B. Licensee would like to obtain a license for ingress/egress across the Land for the limited purpose of accessing property owned by Licensee which property is located adjacent to Owner's land.

AGREEMENT

For valuable consideration, the receipt and sufficiency of which are acknowledged, Owner and Licensee agree as follows:

1. Grant of License. Owner grants to Licensee, and Licensee accepts from Owner, a revocable license for ingress/egress across the Land on the terms and conditions set forth herein. This license is for a term of ____ (____) _____ commencing upon ___ _____ and terminating on _____, but may be revoked by Owner at any time upon written notice for Licensee's breach of the terms hereof.

2. Use. Licensee may access the Land only for the limited purpose set forth above.

3. Compliance With Laws. Licensee shall access the Land in compliance with all applicable laws; shall repair any damage to the Land caused by Licensee's entry thereon; shall not permit any noxious odors or hazardous, toxic or dangerous substances to be emitted from, deposited on or released under the Land by or at the behest of Licensee; shall comply with all reasonable rules and regulations issued by Owner with respect to the Land; and shall refrain from entering the Land at any time after the expiration of the License term.

4. Condition of Space. Licensee accepts the Land in an AS IS, WHERE IS condition WITHOUT WARRANTIES BY OWNER OF ANY KIND OR NATURE, EXPRESS OR IMPLIED. Licensee may not alter or improve the Land without Owner's prior written consent which may be withheld in Owner's sole and absolute discretion.

5. Release. Licensee agrees that Owner shall not be liable under any circumstances for, and releases Owner and its insurers from all liability or any injury to any person (including death) or for any loss of or damage to any property (including Licensee's

property) occurring on or about the Land, regardless of cause, except for Owner's intentional acts, gross negligence and/or willful misconduct.

6. Indemnification. Licensee shall indemnify, defend and hold Owner harmless from all injury, death, loss, claim or damage to any person or property, including Licensee's property, (i) arising from, related to or in connection with the Land and (ii) occasioned by any act or omission or breach of this Agreement or applicable law by Licensee, its agents, employees and contractors.

7. Transfers. Licensee may not transfer its rights under this License Agreement or permit anyone else to access the Land without Owner's prior written consent which may be withheld in Owner's sole and absolute discretion.

8. Disclaimer. Licensee for its self, its successors and assigns acknowledges that its use of the Land is and has always been permissive, with the consent of Owner or the then current owner. Licensee hereby disclaims any ownership interest in the Land and acknowledges that this license grants access rights only, not ownership rights in the Land.

9. Attorneys' Fees. In the event that either party must commence any action at law or otherwise to enforce the terms of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys fees and costs.

10. Notices. All notices required or permitted hereunder shall be in writing and shall be delivered personally or sent by registered or certified mail to the addresses set forth below the signature lines of this Agreement or to such other address as a party shall from time to time advise in writing.

11. Complete Agreement. This Agreement sets forth the complete agreement of the parties with respect to the license of the Land, and it cannot be amended or modified except by a further agreement signed by the parties.

[Signatures on following page]

Document

OWNER

_____

By: _____
Its: _____

Address: _____
_____
_____

LICENSEE

_____

Address:

_____

Name: _____

Address: _____
_____

Address _____
_____

Unofficial Document

EXHIBIT U
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

WHEN RECORDED RETURN TO:

Name of Document:	Easement Agreement
Grantor:	BD Village Partners, L.P.
Grantee:	Enumclaw School District
Abbreviated Legal Description:	
Full Legal Description:	See attached Exhibit A.
Assessor's Tax Parcel Number(s):	
Reference Number of Documents Released or Assigned:	N/A

Unofficial Document

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of _____, 200___, by between the BD Village Partners, L.P., a Washington limited partnership ("Grantor"), and Enumclaw School District ("Grantee").

1. Background. Grantor and Grantee own adjacent property. The property owned by Grantor is legally described on attached Exhibit A hereto (the "Grantor's Property"). The property owned or to be owned by Grantee is legally described on attached Exhibit B hereto (the "Grantee's Property"). For valuable consideration, the receipt of which is acknowledged, Grantor wishes to grant to Grantee a temporary construction and permanent utility easement on the terms set forth below in the locations legally described and depicted on the diagram attached hereto at Exhibits C-1, C-2 and C-3 (the "Easements").

2. Grant of Temporary Construction Easement. Grantor grants to Grantee a nonexclusive, temporary easement ___ feet wide over the area more particularly described on Exhibit C-1 and shown on Exhibit C-3 to install, maintain, repair and replace a _____ no larger than _____ inches in diameter and related improvements (collectively, the "Improvements"), subject to the terms and conditions of this Agreement (the "Temporary Construction Easement"). The Temporary Construction Easement shall commence upon mutual execution of this Agreement and shall expire on _____.

3. Installation of Improvements. The Improvements shall be installed by Grantee in accordance with the plans prepared by a licensed engineer.

4. Grant of Permanent Easement. Grantor hereby grants to Grantee, its successors and assigns, a perpetual, non-exclusive easement for the operation, maintenance, and repair of an _____ on and under that portion of the Easement Area designated and legally described on attached Exhibit C-2 as the _____ foot (__) Permanent Utility Easement. This easement includes the limited right of ingress to and egress from and across the adjacent property of Grantor, but only to the extent necessary to operate, maintain, repair, and remove any _____ within the easement area.

5. Use and Maintenance of Easement Areas. Grantor may continue to use the Easement areas for all purposes which will not interfere with the exercise of the rights granted to Grantee hereunder, including altering the surface of the Easement areas. During the term of the respective Easements, Grantor agrees not to construct or to permit a party other than Grantee to construct any improvements or plant any shrubs or trees within the Easement areas.

6. Maintenance. Grantee shall at its sole cost and expense maintain in a safe condition all Improvements installed within the Permanent Utility Easement area by Grantee or its agents or contractors, provided that Grantor shall repair any damage to any utility improvements which are caused by the acts or omissions of Grantor or its agents or contractors.

7. Compliance with Laws. Grantee shall comply at all times with all laws, statutes, ordinances, rules and regulations now or hereafter in effect regarding Grantee's installation, use and operation of any utility improvements installed in the Easement Parcel by, or for the benefit of, Grantee.

8. Agreement to Dedicate. Grantor agrees that upon completion of the Improvements and without additional charge to Grantor, Grantee or _____ (the "District"), the Grantor will join with Grantee in the dedication of the Improvements to the District. Grantor agrees to cooperate with Grantee and to execute any documents to effectuate this dedication that are reasonably required by the District or Grantee.

9. Indemnity. Grantee shall indemnify, defend and hold Grantor harmless from any liability, loss, claim and expense (including attorneys' fees) asserted against or incurred by Grantor as a result of the acts or omissions of Grantee or its agents or contractors in the use and exercise of Grantee's rights hereunder. This paragraph shall not apply to any liability, loss, claim or expense (including attorneys' fees) caused by or resulting from the acts or omissions of Grantor or its agents or contractors.

10. Default. If Grantee defaults in the observance or performance of any of the covenants under this Agreement, Grantor shall be entitled to observe and perform such covenants to the extent necessary to protect the property of Grantor or to protect or preserve the health or safety of Grantor and its licensees and invitees, and to charge Grantee the cost thereof, together with interest from the date such expense is incurred and demand is made on Grantee for payment at the rate of 12% per annum. If there is a dispute concerning this Agreement, the prevailing party shall be entitled to payment by the other party of the prevailing party's reasonable attorneys' fees

11. Restoration. In the event the Grantor's Property (including Temporary Construction Easement and Permanent Utility Easement areas), or any portions thereof, are in any manner disturbed by the activities of the Grantee or its contractors or agents relating to, or arising from, the exercise of any of the Grantee's rights under this Agreement, the Grantee shall promptly remove all debris and restore Grantor's Property to the to the condition in which such existed at the commencement of such activities.

12. Relocation. Grantor reserves the right to, at Grantor's sole cost and expense, relocate the Improvements and the Permanent Utility Easement to another location on Grantor's Property, subject to the Grantee's and the District's approval, which shall not be unreasonably withheld, by mutual written agreement of Grantor and the Grantee, and upon such further relocation, the Permanent Utility Easement as relocated shall automatically be

deemed to be the new easement area. Any such relocation work shall be done in a good and workmanlike manner and in compliance with all applicable laws. As a part of any relocation of the Improvements and Permanent Utility Easement, this Agreement shall be revised or amended to reflect the location of the easement.

13. Successors and Assigns. This Agreement runs with the land, burden Grantor's Property and benefit Grantee's Property and all terms, covenants and conditions hereof shall extend to the benefit of and be binding upon, the successive successors, heirs and assigns of the parties hereto.

GRANTOR: **GRANTEE:**

Official Document

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

STATE OF _____)
) ss.
COUNTY OF _____)

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

Dated: _____

_____
Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT V
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Official Document

American Arbitration Association

REQUEST FOR MEDIATION

To:
(name of Party upon whom the request is made)
Address:
City and State:
Telephone: Fax:

The undersigned Party to an agreement contained in a written contract, dated _____, providing for mediation under the Commercial Mediation Rules of the American Arbitration Association, hereby requests mediation thereunder. (Attach the mediation clause or quote it hereunder.)

NATURE OF DISPUTE: (Attach additional sheets if necessary.)

THE CLAIM OR RELIEF SOUGHT: (the amount, if any)

TYPE OF BUSINESS: Filing Party _____ Responding Party _____
MEDIATION LOCALE REQUESTED: _____
(City and State)

You are hereby notified that copies of our mediation agreement and of this request are being filed with the American Arbitration Association at its _____ office, with the request that it commence the administration of the mediation.

Signed_____ Title_____

Name of Filing Party:
Address:
City and State: ZIP Code:
Telephone: Fax:
Name of Representative:
Representative's Address:
City and State: Zip Code:
Telephone: Fax:

To institute proceedings, please send three copies of this request with the administrative fee, as provided for in the rules, to the AAA. Send the original request to the responding Party.

EXHIBIT W
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

WHEN RECORDED RETURN TO:

Denise L. Stiffarm
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104

Document Title: **DEED OF TRUST**

Grantor: [BD Village Partners, LP or BD Lawson Partners, LP]

Grantee: 1. Enumclaw School District
2. Stewart Title Guaranty Company

Legal Description:

Abbreviated Legal Description:

Full Legal Description: See Exhibit A attached

Assessor's Tax Parcel Nos.:

Reference Nos. of Documents Released or Assigned: N/A

DEED OF TRUST

THIS DEED OF TRUST, made this ____ day of _____, _____, between [BD VILLAGE PARTNERS, LP or BD LAWSON PARTNERS, LP], GRANTOR, whose address is 10220 NE Points Drive, Suite 120, Kirkland, WA 98033; STEWART TITLE GUARANTY COMPANY, TRUSTEE, whose address is 1420 Fifth Avenue, Suite 500, Seattle, WA 98101; and ENUMCLAW SCHOOL DISTRICT, BENEFICIARY, whose address is 2929 McDougall Avenue, Enumclaw, WA 98022.

WITNESSETH: Grantor hereby bargains, sells, and conveys to Trustee in trust, with power of sale, certain real property in King County, Washington, as legally described on attached Exhibit A, which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any way appertaining, and the rents, issues, and profits thereof.

This deed is for the purpose of securing performance of each agreement of Grantor herein contained, and Grantor's performance of its obligations under Section 10.7.2 of the Comprehensive School Mitigation Agreement dated _____, _____, between Beneficiary, Grantor, [BD Village Partners, LP or BD Lawson Partners, LP] and the City of Black Diamond and recorded under King County Recording No. _____ (the "School Agreement"), which obligations are incorporated herein by reference, and all renewals, modifications, and extensions thereof.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

8. To keep the property in good condition and repair; to permit no waste thereof; at Grantor's option to restore or remove promptly any building, structure, or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the property, including without limitation the City of Black Diamond Municipal Code and/or the King County Code, as applicable.

9. To pay before delinquent all lawful taxes and assessments upon the property; and to keep the property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust.

10. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all reasonable costs and expenses actually incurred, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

11. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and reasonable Trustee's and reasonable attorney's fees actually incurred, as provided by statute.

12. Should Grantor fail to pay when due any taxes, assessments, liens, encumbrances, or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at a rate of six percent (6%) per annum, shall be added to and become a part of the debt secured in this Deed of Trust.

13. Grantor shall not place any permanent structures on the property without the prior written consent of Beneficiary, which shall not be unreasonably withheld or delayed. All temporary and permanent structures placed by Grantor on this property shall be removed by Grantor at Grantor's expense prior to conveyance of the property to Beneficiary pursuant to the School Agreement, unless Beneficiary allows such structure(s) to remain on the property following the conveyance.

IT IS MUTUALLY AGREED THAT:

9. In the event any portion of the property is taken or damaged in an eminent domain proceeding except by Beneficiary, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

10. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to pay.

11. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

12. Upon default by Grantor in the performance of any agreement contained herein or in the performance of any of the obligations secured hereby, and following Grantor's failure to cure such default within thirty (30) days after written notice from Beneficiary, unless the default may not reasonably be cured within thirty (30) days, then such additional time as is reasonably necessary, provided that Grantor commences to cure the default within the 30-day period and diligently pursues the cure to completion, all sums secured hereby shall immediately become due and payable, at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including a reasonable trustee's fee and reasonable attorney's fee; (b) to satisfy the obligations secured by this Deed of Trust; and (c) the surplus, if any, shall be distributed to the persons entitled thereto.

13. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which

recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.

14. The power of sale conferred by this Deed of Trust and by the Deed of Trust act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

15. In the event of death, incapacity, disability, or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

16. This Deed of Trust applies to, inures to the benefit of, and is being in not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

9. Grantor acknowledges and agrees that the obligations which this Deed of Trust secures is personal to Grantor, and that Grantor's personal responsibility, financial capability and control of the collateral which is secured by this Deed of Trust are material inducements upon which Beneficiary has relied in agreeing to advance Mitigation Fee Credits to Grantor as provided in Section 10.7.2 of the School Agreement. If Grantor should sell, assign, alienate, encumber, transfer or contract to sell, assign, alienate, encumber or transfer title to or possession of any part of such collateral, then Beneficiary may, in its sole discretion, declare a default under this Deed of Trust, which default shall not be susceptible to cure.

10. This Deed of Trust shall terminate, and Beneficiary shall cause this Deed of Trust to be reconveyed, upon the occurrence of: (i) Grantor's conveyance of the property to the Beneficiary; or (ii) Grantor's repayment to Beneficiary of advanced Mitigation Fee Credits received for the property, all as set forth in the School Agreement.

[Grantor's signature appears on following page]

Sample

GRANTOR:

[BD VILLAGE PARTNERS, LP or BD LAWSON PARTNERS, LP]

By YARROW BAY DEVELOPMENT LLC, its general partner

By BRNW INC., its member

By _____

Brian Ross, President

Unofficial Document

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared BRIAN ROSS, known to me to be the president of BRNW INC., member of YARROW BAY DEVELOPMENT LLC, general partner of [BD VILLAGE PARTNERS, LP or BD LAWSON PARTNERS, LP], the limited partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited partnership, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

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

_____
Signature

_____
Print Name
NOTARY PUBLIC in and for the State of Washington, residing at _____.
My commission expires _____.

Acknowledgment