78.

Public Comment: Cindy Proctor, turned in at Public Hearing with CD

December 11, 2014
Hearing Examiner
Subject: PP2C Public Comments PLN13-0028
Cindy Proctor 2950 Sun Mountain DR (Mailing 718 Griffin Ave PMB#241) Enumclaw 98022

The State Subdivision Act (chapter 58.17 RCW) has long **required** that the county or city adopt findings that "adequate provision" has been made for potable water, sanitary sewer, roads, streets **and schools** in order to approve a preliminary plat. The City has failed to analyze the ongoing provisions for adequate school facilities or to make assertive findings for plat approval that appropriate public school facilities are in place to accommodate the expected impacts of the new developments. Instead the City has deferred to the original Comprehensive School Mitigation Agreement (CSMA), without analyzing whether the CSMA is being appropriately implemented as needed for adequate mitigation.

The City misconstrues the intent of the law when they cite in the staff report *"No school-related facilities are proposed as part of Plat 2C. These conditions do not apply at the preliminary plat stage."* [pg 114]. This statement makes no sense, as the statue isn't written to apply only when there is a school building within the plat, it written based on the impacts of potential students within the plat; and there will be students in PP2C. It is also important to remember that this statute is in the negative. "A proposed subdivision . . . shall not be approved unless the city . . . legislature body-makes written findings that: (a) appropriate provisions are made for . . . schools and school grounds . . ."

**Schools**

**There has been a material change in the underlying conditions of facts that bring the entire project into non-compliance with the conditions of approval (COAs) and the mitigation agreement.**

First, during the initial MPD permit review the City did not disclose to the City Council, Hearing Examiner or Public that over 8.06 acres of buildable MPD low-density housing are within the Auburn School District (ASD.)[1] To date the ASD has not agreed to any land

[1] Ex1

EXHIBIT 28

transfers and recently requested that the City approve school impact fees to adequately mitigate impacts from the MPD developments.[2] When I inquired with the Mayor Gordon as to why this substantial development section was omitted from the original MPD approval process I was told that he was advised by MDRT that, "It didn't really matter because the dwelling units are within Parcel G[3] of the Villages and are not *really* buildable lots because they are steep slope; Yarrow Bay doesn't really intend to build there. Unfortunately for the City and the Applicant, that isn't a legal justification especially since the City Council approved a binding site plan for the MPD with Parcel G noted as Low Density Housing and these units are required as part of the overall analysis related to school capacity, fiscal analysis, open space, or 4-1 calculations. The City staff cannot just arbitrarily now say, it doesn't matter. If as the City says, there is no intention to build on the sites it would require an amendment to the site plan to reflect this major reallocation of residential units or there must be mitigation to the ASD.

In addition to the new information regarding the Auburn School District, there has been material changes in assumptions around the Comprehensive School Mitigation Agreement (CSMA) which states that 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 including the siting of all proposed school sites and sidewalks and safe access to schools.

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. The Parties agreed that adequate school facilities to serve the Projects would 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.[4]

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[2] Ex2
[3] Ex3
[4] Ex4 CSMA

There have been material changes that compromise the validity of the CSMA as an agreement that provide adequate mitigation. During the EIS the City and the Applicant argued that environmental review related to the seven school sites was premature because the school sites were only identified and not delineated. The City's consultant agreed that the additional 70 acres of rural school sites would have an impact and that they had not been analyzed.[5] Now an implementing project is triggering project review **at the same time** that all underlying appeals are exhausted thus requiring that all elementary school(s), middle school(s) and High School to be delineated and their impacts analyzed.[6] [7]

> "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."

The FEIS did not address the proposed school sites in rural areas and Appellants argued it was premature and too conceptual; the timing of the PP2C with the triggering of the CSMA critical milestones, at a minimum, should require a supplemental SEIS and should be done for delineated sites not in the initial FEIS review to determine the ongoing impact on student accessibility, walkable schools, fiscal impact to the school, and adequate school siting. Two important facts have changed since the programmatic CSMA was executed, they are as follows:

1. **Rural school sites are no longer permitted.** The CSMA included proposed siting based on acreage and proposed locations; three of rural schools sites are no longer allowed at the site consistent with the CSMA due to the recent King County School Siting Task Force siting recommendations that were unanimously approved (of which ESD Superintendent Mike Nelson signed off on.)[8]

   School Site Enumclaw A & D [CMSA Middle School site 1 and Elementary School D]:

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[5] Ex5 FEIS Hearing, Graham testimony, p 944:10-25
[6] Ex4 CSMA p 16, 6.1.1
[7] Ex6 ESD CSMA Milestone Tracking
[8] Ex7 http://www.kingcounty.gov/elected/executive/constantine/initiatives/school-siting-task-force.aspx

1a. Find alternative site/s in the UGA

1b. Place all school buildings and impervious surfaces on the urban side of the UGB and place ball fields/playfields on the rural side of the UGB.

Site specific (1a): This joint site lies on the south-eastern boundary of the Black Diamond UGA and a master-planned development (MPD) that has yet to be constructed. The identified need of the school district is associated primarily with the population projections of the MPD and with students residing outside of the MPD but in the northern part of the district; the sites are planned for an elementary and a middle school. The fee title to both sites is held by the developer, with the district's property interest recorded as an encumbrance on title, and would only be conveyed to the school district if the MPD materializes. The Task Force recommends that no sewer be extended to the rural portion of the site and that the City of Black Diamond and county work with the developer and the school district to site all schools associated with the MPD completely within the UGA. The Black Diamond City Council supported this solution in a resolution passed 3-1-12. The Black Diamond City Council previously approved the Comprehensive School Mitigation Agreement identifying Enumclaw Sites A, B, and D as agreed-upon school sites.

a. Site specific (1b): The Enumclaw School District and the developer have identified as an alternative to 1a the placement of a portion of the proposed school-related facilities on rural lands. **If attempts to site each of these schools fully within the UGA are unsuccessful,** alternative 1b may be contemplated. Alternative 1b consists of siting all school buildings, storm water detention and other support facilities, and all parking and impervious surfaces *within* the UGA and limiting any development in the adjacent rural area to ball fields/playfields. The Task Force further recommends maintaining significant forest buffers between the ball fields/playfields and adjacent rural lands including the Black Diamond Natural Area. Recommendation of this urban/rural alternative by the Task Force is meant to address the unique circumstances of the Enumclaw A & D sites and is not to be construed as a precedent for locating schools on adjacent rural lands. Consequently, it is not recommended for any other sites.[9] **[The Applicant has provided absolutely no evidence or documentation of work or analysis to site schools fully within the UGA; nor has anything been submitted to King County]**

School Site Enumclaw B [CMSA Middle School site 2]:

1b. Find alternative site in the UGA

1c. Site specific: The site is in the rural area west of the Black Diamond UGA and a master-planned development (MPD) that has been approved but is yet to be constructed. The identified need of the school district is associated with the population projections of the MPD; the site is planned for a middle school. The fee title for the site is held by the developer, with the district's property interest recorded as an encumbrance on title, and would only be conveyed to the school

[9] Ex7 School Siting Task Force Final Report and Recommendations, March 31, 2012, p. 16

> district if the MPD materializes. The Task Force recommends that no sewer be extended to the site and that the City of Black Diamond and the county work with the developer and the school district to site schools associated with the MPD in the UGA.[10]

In 2012 the School Siting Task Force recommendations were embodied in King County's Countywide Planning Policies (CPPs). The CPPs provide a countywide vision and serve as a framework for each jurisdiction to develop its own comprehensive plan, which must be consistent with the overall vision for the future of King County. CPPs DP-50, PF-12, PF-18, and PF-19 contain specific school siting policies and references to the School Siting Task Force Final Report and Recommendations. The entire Final report is provided as Appendix 5 to the 2012 King County CPPs (as amended December 3, 2012).

Furthermore, when ESD Superintendent Michael Nelson testified at a recent hearing he stated the following about school siting, "We knew it was a master planned development. We wanted school sites that were designated in neighborhoods, not on the outskirts of -- of the development."[11]

Continued approvals of preliminary plats are detrimental to the MPD compliance as a whole and as related to the CSMA. The delineated High School site is in the bulk of The Villages Phase 1B. This is a major modification to the Site Plan. The Villages Development Agreement Table 4-1 shows that the Site Plan for Phase 1B consists of parcels V1 through V9. The delineated High School site eliminates residential parcels V1 through V6 resulting in a reduction of 263-446 dwelling units. Again this would require an amendment to the site plan to reflect this major reallocation of residential units. In addition the amount of commercial property is reduced.

MPD Condition of Approval 99 states: "An updated fiscal analysis shall be required for any proposal to locate a high school within any lands designated of Figure 3-1 (Land Use Plan)

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[10] Ex7 School Siting Task Force Final Report and Recommendations, March 31, 2012, p. 17
[11] Ex8 PSESD Transcripts Pg. 12 Ln:6

for commercial/office/retail use." Location of the High School site as now delineated requires that the fiscal analysis be updated.

Another more critical example is, the first Elementary School Site has been identified as a lot within Phase 1A of The Villages MPD. Phase 1A has received preliminary plat approval but not final plat approval. No individual preliminary lots within a plat or division can be conveyed until final plat approval. To do so would violate Chapter 58.17 RCW. And no school construction permits could be issued until after final plat approval.

This is consistent with the ESD Attorney, Denise Stiffarm's conversation with the King County Prosecutor's Office on 7/25/14 (notes provided by King County), where she affirms that the ESD is aware that no school sites can be conveyed prior to the final plat process.[12]

It appears that the only legal way to transfer the property is to keep it as part of Preliminary Plat 1A. That would mean that ESD would have to assume partial ownership of the preliminary plat. As a part owner that would make ESD responsible for all of the requirements of ownership when final plat approval is sought. As partial owner, ESD would need to sign the certificates required by BDMC 17.20.040(B) and provide necessary completion bonds and maintenance bonds per BDMC 17.20.050(B). The ESD would also be subject to defending any legal appeals of the final plat.

Contrary to the Developers position that nothing has changed and this is all still in the future, they are not in a position to give any formal or factual assurance of viable school sites based on the previous points made above, but also due to the fact that they have already bargained away Middle School site **"B"** within the Development Agreement for their Woodland Reserves Community within King County.

Lauren Smith, Regional Land Use Policy Advisor / Government Relations for the King County Executive Office, confirmed in an email that the Middle School site is permanently

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[12] Ex9

removed from the Woodland Reserve location per the following excerpt from the King County Yarrow Bay Woodland Reserve Development Agreement regarding the rural school site[13]:

*10. PROVISION OF SCHOOL ACREAGE IN THE CITY OF BLACK DIAMOND.*

*BD Villages agrees to offer additional acreage within the City of Black Diamond adjacent to Middle School Site A and Elementary School Site D to the Enumclaw School District in order to increase the options available to the District for siting a middle school. BD Villages shall work cooperatively and in a timely manner with the Enumclaw School District regarding this offer of additional acreage."*

She also confirmed that she has had conversations with the ESD and Yarrow Bay regarding the King County School Siting Task Force recommendations which will be followed for the two schools sites near the Green Valley Road. Lauren Smith 7/17/2014:

"I feel very confident in saying that the School District and Yarrow Bay are both aware of County's position and what our codes say. I have spoken with Denise Stiffarm and Megan Nelson many, many times about this topic, as recently as this week."

*"The County has every intention of holding Yarrow Bay to their commitment to find additional urban land so that the rural sites are not used for school buildings. I've heard no concerns from the School District that would lead me to believe they are not following through. As a back-up, I have also contacted our permitting department to make sure that the parcels that make up Sites A, B and D are marked in our database with the recommendations of the School Siting Task Force. If someone comes in for a permit, the limitations of those sites for school use will be clear."*

2. **Fiscal assumptions on proposed commercial revenue have materially changed.** The CSMA contemplated ESD obtaining approval of a land transfer of the North Triangle which is solely commercial revenue-producing land (the North Triangle)[14]; however on October 3, 2013 a hearing regarding the Transfer of Territory from Tahoma School District to Enumclaw School District by the Puget Sound Education School District (PSESD) unanimously denied the land transfer request, primarily because it was a money grab by the ESD from the Tahoma School District. I have attached as an exhibit the PSESD transcripts and highlighted many sections, however here are some key excerpts from the official transcripts that reflect the following changes of adequacy from the ESD:

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[13] Ex10-10d

[14] Ex11 FEIS specifically noted that the ESD would not have access to potential tax revenue in regards to the north triangle. It was clearly called out on page (11) of the April 9, 2009 Technical Memorandum prepared by Parametrix as part of its Master Plan Developments (MPDs) FEIS. (Ex X) The fact that the north triangle lay within the TSD was also clearly called out on within the body of the EIS.

a. **ESD School Board President Cassell testified** "We feel a really strong responsibility toward the people who elect us to represent them. And one of the aspects of this whole master planned development that is most likely going to be a challenge is to pass the laws that are necessary to build the schools that we will need to support our students…The revenue would not go to our -- their own children for the businesses that they would be frequenting. And I think that's -- that's a problem for us passing bonds. It's a potential issue that would carry forward in the future."[15]
b. **ESD Superintendent Michael Nelson testified** "And we come to you with a very genuine request of why we feel this parcel of land should be transferred to our school district, because it's our responsibility to take care of the kids that are going to be part of this MPD."
c. **ESD Attorney Hoge testified**, "So, you know, these students that we aren't sure we're going to be able to serve, are deeply involved. And they wouldn't be there but for the master planned community that includes the North Triangle."[16]
d. **TSD Attorney Ganson testified** "There is no authority for this proposition that this process can be used to obtain child-free and therefore obligation-free but revenue-rich property from a neighboring school district."[17]

> Ganson: "In their submissions, Enumclaw refers to a concern about the costs of housing these new students that will be coming to Enumclaw School District by virtue of these MPDs as something that will fall on the taxpayers residing in the Enumclaw School District. And that may be true. However, Tahoma would point out that that's really the bargain Enumclaw School District made when it signed on to its mitigation agreement with the developer, Yarrow Bay. And the proposition that it therefore falls on Tahoma School District's citizens and taxpayers to shore up Enumclaw School District's ability to pay for this need to house new students is really preposterous. Why should it fall on the taxpayers of the Tahoma School District to address this burden that is very local to the Enumclaw School District and the City of Black Diamond?"[18]
>
> **Ganson:** "Now, Enumclaw School District may well -- it appears to have a significant issue to grapple with in terms of funding. But we've heard -- we've heard them be pretty frank, to their credit, that a big part of this proposal is to be able to sell the ability to pass bonds to their voters, not only in Black Diamond, but down in Enumclaw. I would be concerned too."[19]

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[15]Ex8 PSESD Transcripts Pg. LN 16 14:25 Pg. 17 LN 12:16

[16]Ex8 PSESD Transcripts Pg. 73 LN 20:23

[17]Ex8 PSESD Transcript Pg. 45 LN 7:10

[18] Ex8 PSESD Transcripts Pg. 45 13:25, 46 LN 1:4

[19]Ex8 PSESD Transcripts Pg. 66 LN 18:25 Pg. 67 LN 1:2

Condition MPD Ordinance includes the following requirements:

1) The Applicant shall enter into a separate school mitigation agreement.
2) The agreement shall be approved by both the City and the School District.
3) The agreement shall be incorporated into the Development Agreement by reference.
4) The agreement shall provide adequate mitigation of impacts to school facilities.

These new facts clearly reflect a material change to the initial proposed mitigation. It is anticipated by this Citizen, that the Applicant (YarrowBay--YB) and the City will once again assert no further SEPA review at each plat/subdivision level is required as they noted in the previous SEPA briefings for PP1A:

The Applicant (YB) asserted that "the Comprehensive School Mitigation Agreement prohibits any further environmental review, based on Paragraph 3.1 of the Agreement that states that the Agreement constitutes "full, total, compete and sufficient mitigation" for school impacts and further that the City agrees that it will not seek or impose any additional mitigation measures or impact fees."

However, the Hearing Examiner has already addressed this assertion in the PP1A decision.[20]

"The Applicant cannot circumvent the requirements of SEPA by a contractual arrangement with the City. There are no SEPA statutes that authorize such an arrangement. RCW 43.21C.240 authorizes a City to forego SEPA review upon a determination that its development regulations adequately mitigate environmental impacts, but no such determination has been made in this case."

Further, RCW 43.21C.240 (2) requires that this determination be made "in the course of project review". It is debatable that the Agreement, which is not a development agreement governed by Chapter 36.70B or any development regulation adopted under Chapter 36.70A RCW, would qualify as a document executed "in the course of project review".

Additionally as a condition of approval the Hearing Examiner ruled:

"Finally, a condition of approval will require staff to consider the impacts of dividing final plat approval into divisions and condition the divisions as necessary to ensure that the connectivity of all infrastructure requirements is not adversely affected and that the sequencing will not adversely affect school mitigation. It is not immediately apparent how dividing final plat approval will impair the Applicant's obligations to provide mitigation under the CSMA, but

[20]Ex12 PP1A Hearing Examiner Decision dated 12/11/2012, p. 40

if the SEPA Appellants or the District have any specific concerns they can relay them to staff for their review of any proposed divisions."[21]

The Citizens should not have to re-raise the issue to the SEPA-Responsible Official and City staff reviewing the impacts of division-by-division approval on the schools at every step/every plat/subdivision; this should be automatic, as compliance is required at each project review under the law RCW 43.21C.240(2).

The City Staff and the SEPA-Responsible Officials cannot abdicate their responsibilities for compliance merely because there is a Tri-Party (CSMA). Although the authority to raise issues from the CSMA is granted to all signatories, the Citizens must rely on the City of Black Diamond to track compliance with the myriad of SEPA/COAs/Permit agreements and conditions and the fluid nature of items that cannot be vested, such as school adequacy and safety.

The Applicant cannot hide behind programmatic and hypothetical sites any longer as the MPDs are moving forward at a rapid pace and the CSMA critical milestones are being triggered. Based on the three material changes described above it is premature to move forward with a MDNS and a SEIS should be done in the area of fiscal, environmental and actual school siting requirements.

With this submission, the citizens have presented factual evidence that appropriate provisions *are no longer in place*. This places the burden upon the Applicant to prove by that either the School District has the existing capacity and resources to meet the additional demands caused by the subdivision, or they must provide alternative or additional "provisions,' to meet this new demand. The important thing to remember is that the Applicant must demonstrate through the evidence they present at this public hearing, facts, documentation, or expert testimony to support their position. The evidence cannot consist of **conjecture of future decisions.** It must be based upon facts as of today such as statistics, inventory of the facilities, student census, and costs of student services, etc. In addition, the evidence must be substantial. This means that there must be a sufficient quantum of evidence in the record to persuade a

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[21]Ex12, p. 104

reasonable person that the Applicant's position is true and that King County will reverse their position, will overturn their school recommendations, will change County Wide Planning Policies (CWPP), will amend the Woodland Reserve DA and that both the Tahoma and Auburn School Districts will turnover their districts land to the Enumclaw School District. Absence this factual information today, the plat cannot be approved.

The City of Black Diamond and the Hearing Examiner are bound by the legal standards of, RCW 43.21C.240 (2), RCW 58.17.110 and City Municipal Code Title 17 and Chapter 18.98; the COAs, and additional SEPA requirement upheld by the Hearing Examiner and the Court of Appeals.

Whereas, adequate school provision was a condition of approval under BDMC 18.98.080 (A) (14); whereas, the condition of approval has been violated; therefore, a (60) day violation and correction notice should be issued to the Applicant per BDMC 18.98.20 to prevent revocation of the MPD permit.

Respectfully
Cindy Proctor

BDMC 18.98.080 MPD permit—Conditions of approval.

A. A MPD permit shall not be approved unless it is found to meet the intent of the following criteria or that appropriate conditions are imposed so that the objectives of the criteria are met:

14. School sites shall be identified so that all school sites meet the walkable school standard set for in the comprehensive plan. The number and sizes of sites shall be designed to accommodate the total number of children that will reside in the MPD through full build-out, using school sizes based upon the applicable school district's adopted standard. The requirements of this provision may be met by a separate agreement entered into between the Applicant, the city and the applicable school district, which shall be incorporated into the MPD permit and development agreement by reference.

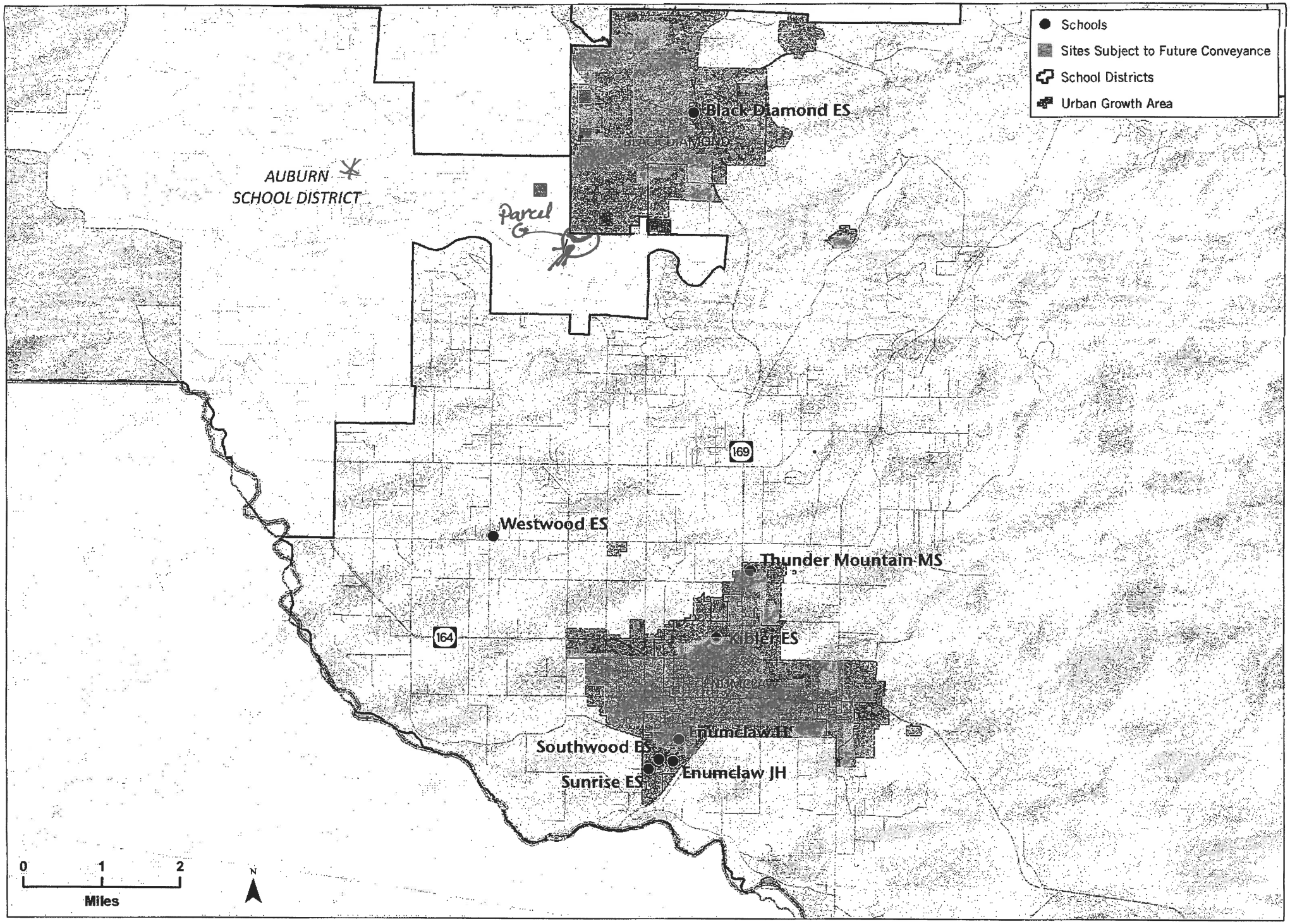
18.98.200 Revocation of MPD permit.

The city council may amend or revoke any or all conditions of MPD approval, after public hearing and notice under the following circumstances:

B. A condition of the MPD approval has been violated and the violation has not been corrected after sixty days' notice of the violation unless said violation can be corrected through the use of a duly posted performance or maintenance bond provided at the time of MPD approval.

Old

1. ASD_MAP_cp
2. Auburn_school_impact_request_cp
3. Villages Parcel G
4. CSMA_Recorded
5. FEIS Graham
6. ESD School milestone tracking_PDR
7. FinalReportAndRecommendations
8. 10-03-13 - PSESD - Tahoma-Enumclaw_highlights_
9. PDR King County Prosecutor
10. Email Lauren Smith King County_7.15.14
10a. Email Lauren Smith King County_7.7.14
10b. Email Lauren Smith King County_7.17.14
10c. Email Lauren Smith King County_8.18.14
10d. Woodland Reserves DA
11. Parametrix School Fiscal Techincal (Read PG 11)
12. HearingExaminerDecisionPhase1AThevillages
Misc Ex 2014 ESD impact fee request-Black Diamond
Misc Ex 07012014_Auburn_CapFacPlan2014-20
) (U:) Misc Ex bd_school_sites_CSMA_MPD_map
Misc Ex City Council Res.12-788
Misc Ex MPD Original Maps
Misc Ex School Map in the KC Woodland Reserve


Schools
Sites Subject to Future Conveyance
School Districts
Urban Growth Area
Black Diamond ES
AUBURN
SCHOOL DISTRICT
Parcel G
169
Westwood ES
Thunder Mountain MS
164
Kibler ES
Enumclaw ES
Southwood ES
Sunrise ES
Enumclaw JH
0
1
2
Miles
N

June 2011

AUBURN
SCHOOL DISTRICT
ENGAGE • EDUCATE • EMPOWER

June 25, 2014

Dave Gordon, Mayor
City of Black Diamond
24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

Dear Mayor Gordon,

The development planned to occur in the City of Black Diamond with two large Yarrow Bay projects brings this letter of request to you. Parts of the development titled as "Villages" are within the Auburn School District. Enclosed you will find a copy of the Auburn School District Capital Facilities Plan for 2014 through 2020. The Plan has been prepared and adopted by the Auburn School District Board of Directors on June 9, 2014, in conformance with the Growth Management statutes of the State of Washington.

The Auburn School District Board of Directors is requesting the plan be adopted by reference as part of the capital facilities element of the City of Black Diamond's Comprehensive Plan and that the school impact fees be set in accordance with the plan for the 2015 fiscal year.

King County, the City of Auburn and City of Kent have incorporated the Auburn School District Capital Facilities plan into their Comprehensive Plans and adopted ordinances requiring school impact fees on development within their respective jurisdictions. The district is aware that the City of Black Diamond currently does not have a school impact fee ordinance in effect for the Auburn School District. In the interest of equity, the Auburn School District Board of Directors believes it is appropriate to seek impact fees through all jurisdictions.

The Auburn School District respectfully requests your review of the Plan and asks for your assistance and guidance in pursuing the appropriate actions to make this a part of the City of Black Diamond's Comprehensive Plan and enable the collection of school impact fees.

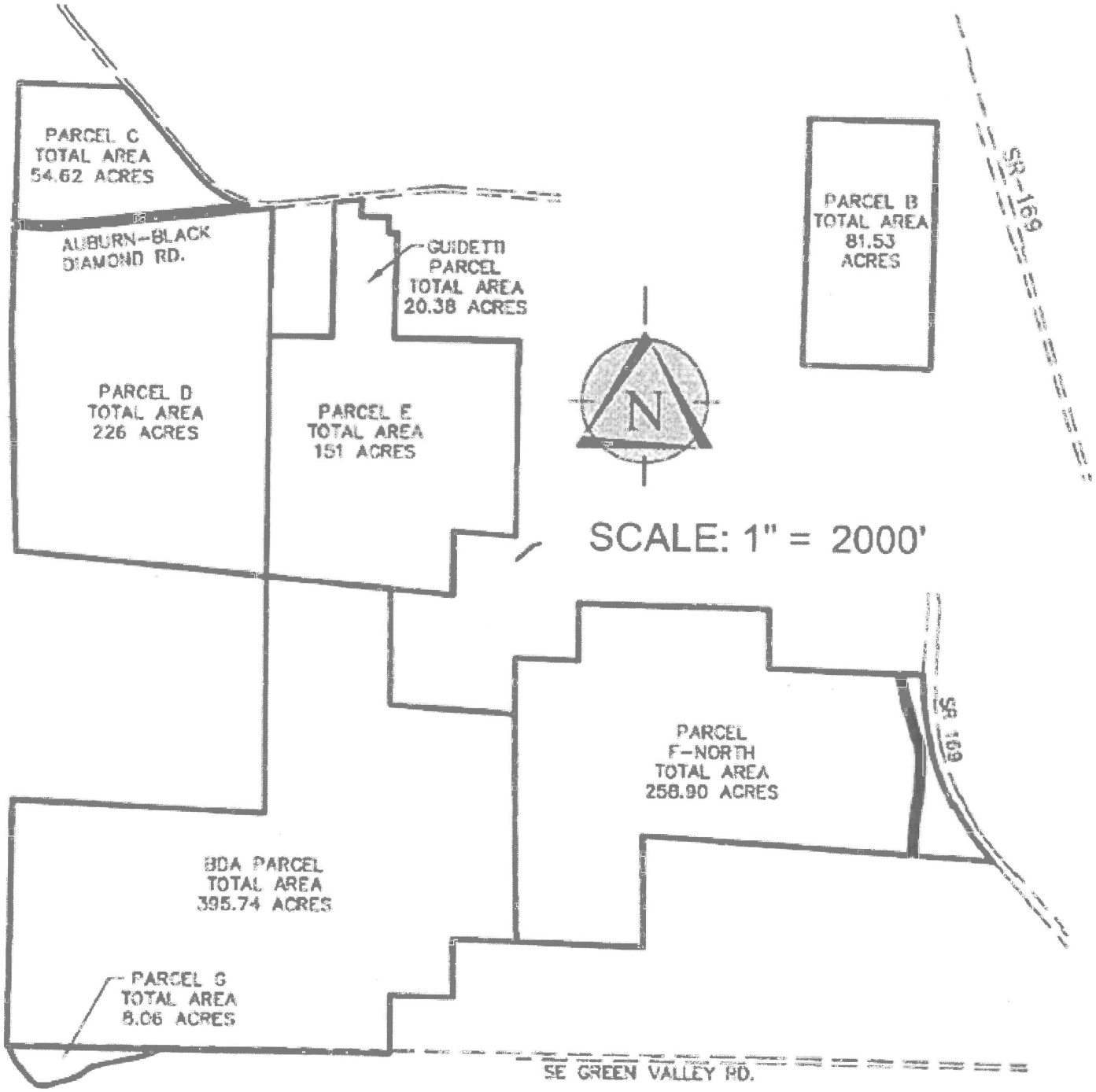
Please advise if additional information and procedures are necessary to facilitate this request.

Thank you for your assistance in this matter.

Sincerely,

Michael Newman
Deputy Superintendent
Business and Operations

Copy to:
Kip Herren, Superintendent, Auburn School District w/o enclosure
Denise Stiffarm, K&L Gates LLPw/o enclosure
Jeff Grose, Executive Director of Capital Projects w/o enclosure

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Land Development Consultants

# PARCEL NAMING EXHIBIT

# THE VILLAGES

MANAGER:
DESIGNED:
CADD:
CHECKED:
DATE: 04-06-11
SCALE: HORIZ.: 1"=20
VERT.:

JOB NUMBER
10-001

SHEET NUMBER
1 of 1

After Recording Return To:
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K & L GATES AG 277.00
PAGE-001 OF 218
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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 12-21-06; 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 #011-08-83 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

K:\203530\00007\22281_CF\22281O22MU

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. <u>Definitions</u>**. 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. <u>District's Covenants</u>.**

21.1 <u>On-Site Improvements</u>. 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

Official Document

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

Rebecca Olness, Mayor

ENUMCLAW SCHOOL DISTRICT

DATED: 1.6.2011 By Mike Nelson

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, Yamow Bay Development LLC

BD VILLAGE PARTNERS, LP,
a Washington limited partnership

DATED: 1-6-2011 By

Name Brian Ross, President, BRNW, Inc.

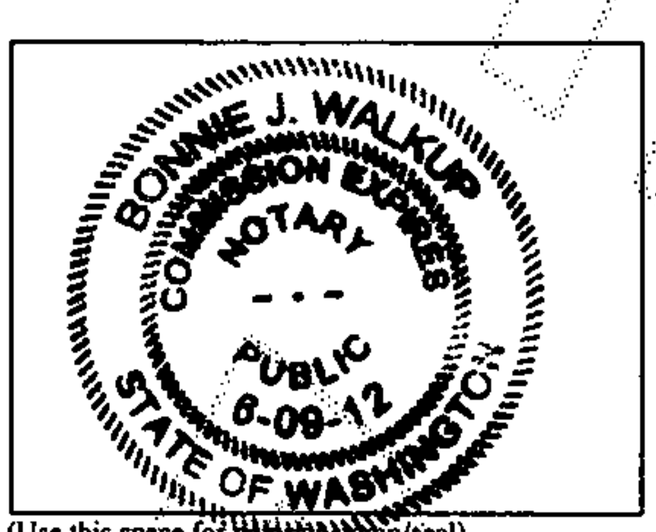
Title General Partner, Yamow Bay Development LLC

Unofficial Document

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



(Use this space for notarial stamp/seal)

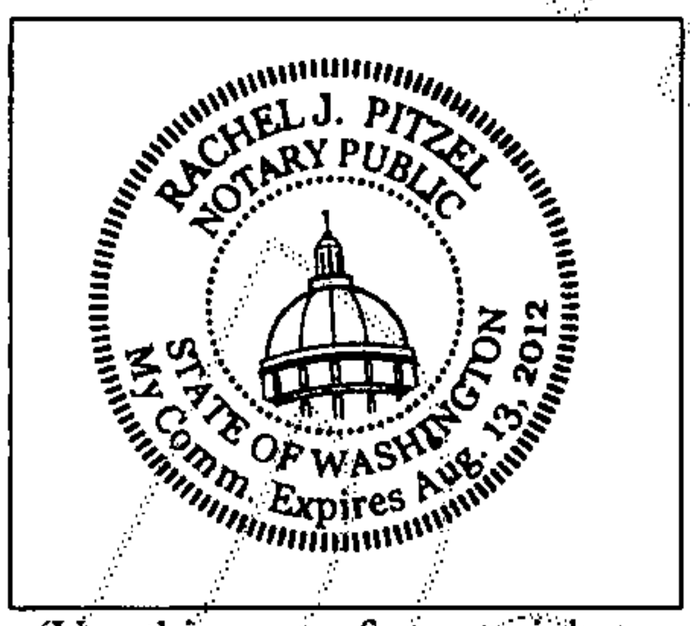
Bonnie J Walkup
Notary Public
Print/Type Name BONNIE J. WALKUP
My commission expires 06-09-2012

Unofficial Document

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

(Use this space for notarial stamp/seal)

Unofficial Document

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
06-05-11

(Use this space for notarial stamp/seal)

Unofficial Document

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 4/5/11

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

(Use this space for notarial stamp/seal)

Unofficial Document

# 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) |



Unofficial Document

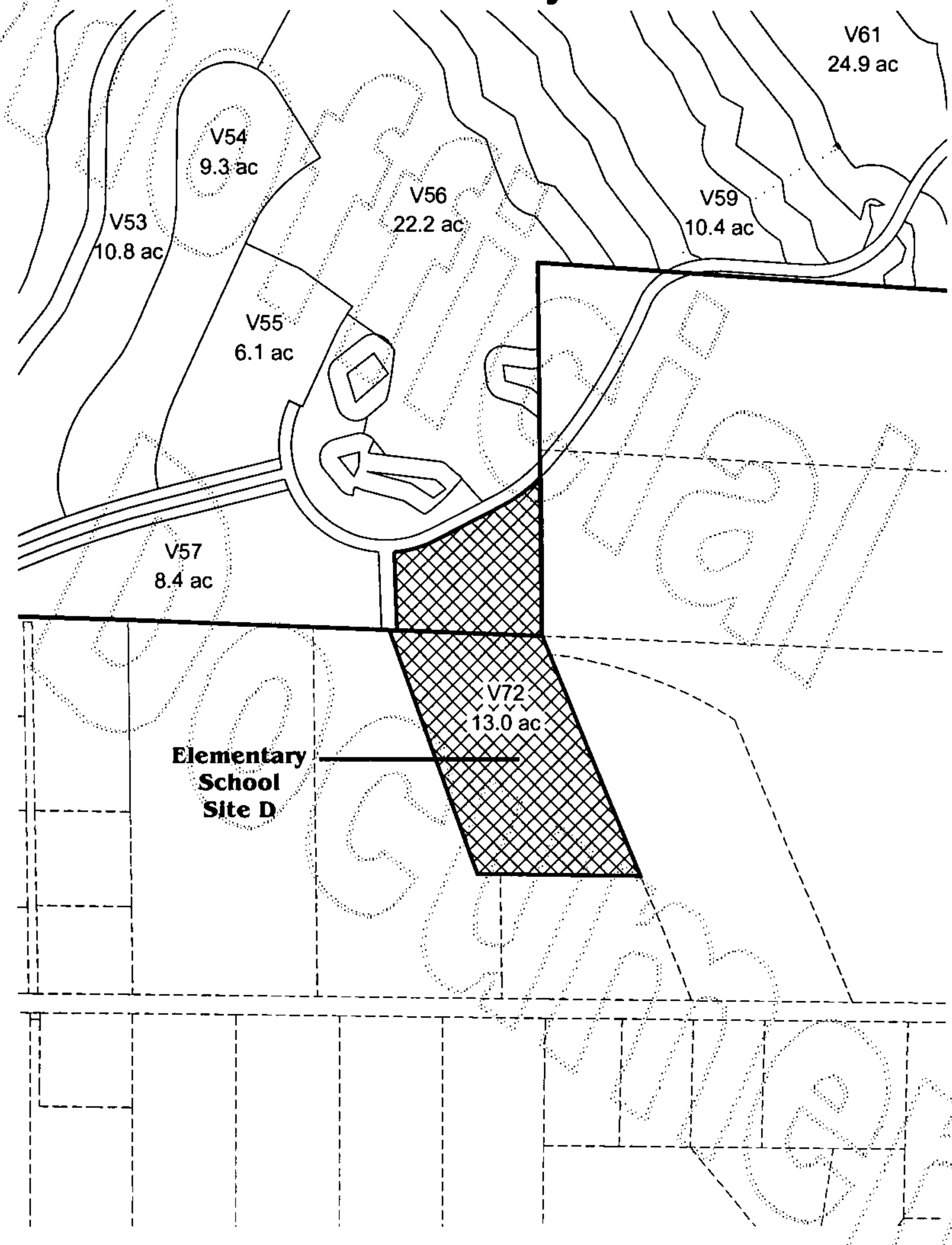
| | |
|---|---|
| P | High School Site Deed of Trust (7.1, 7.1.1b, 7.1.2b) |
| Q | High School Option Agreement (7.3) |
| R | Developer's Provision of Site Information Reports Reference (11.1) |
| S | Temporary Easements to Developer (18.1.3) |
| T | License Agreement (18.1.4; 18.2.5) |
| U | Temporary 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) |

Unofficial Document

# 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

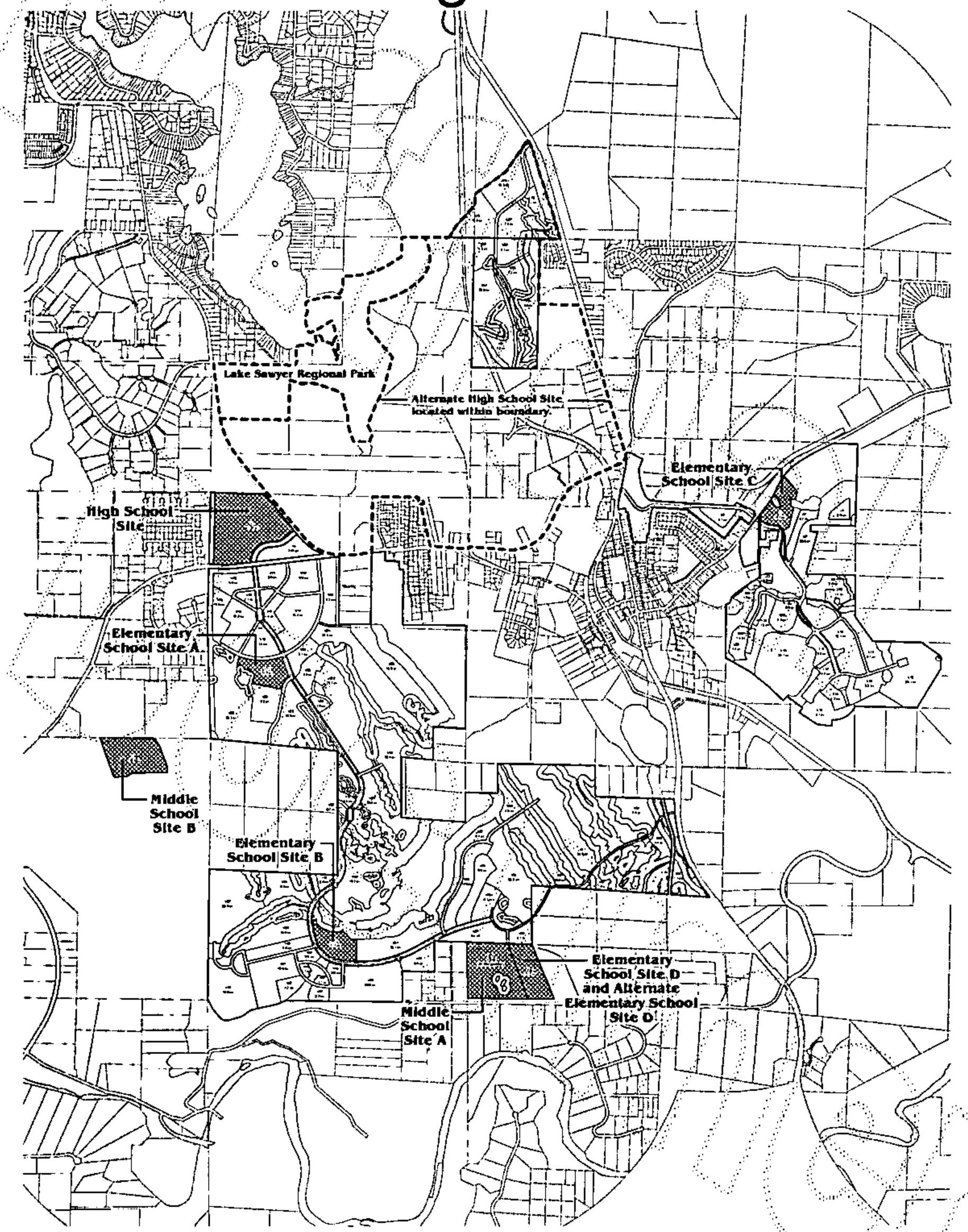
**Parcel No. 2321069062:** LOT C OF KCLLA #L09L0029 REC # 20090924900013 SD LLA BEING LOCATED IN FOLG PORS OF SEC 23-21-6 - S 1/2 OF SW 1/4 TGW NE 1/4 OF SD SW 1/4 TGW N 1/2 OF SE 1/4 TGW POR OF SE 1/4 OF NE 1/4 LY BET RDS

Unofficial Document

# EXHIBIT B
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

# Alternate High School Sites



# EXHIBIT C
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

## DEED RESTRICTION

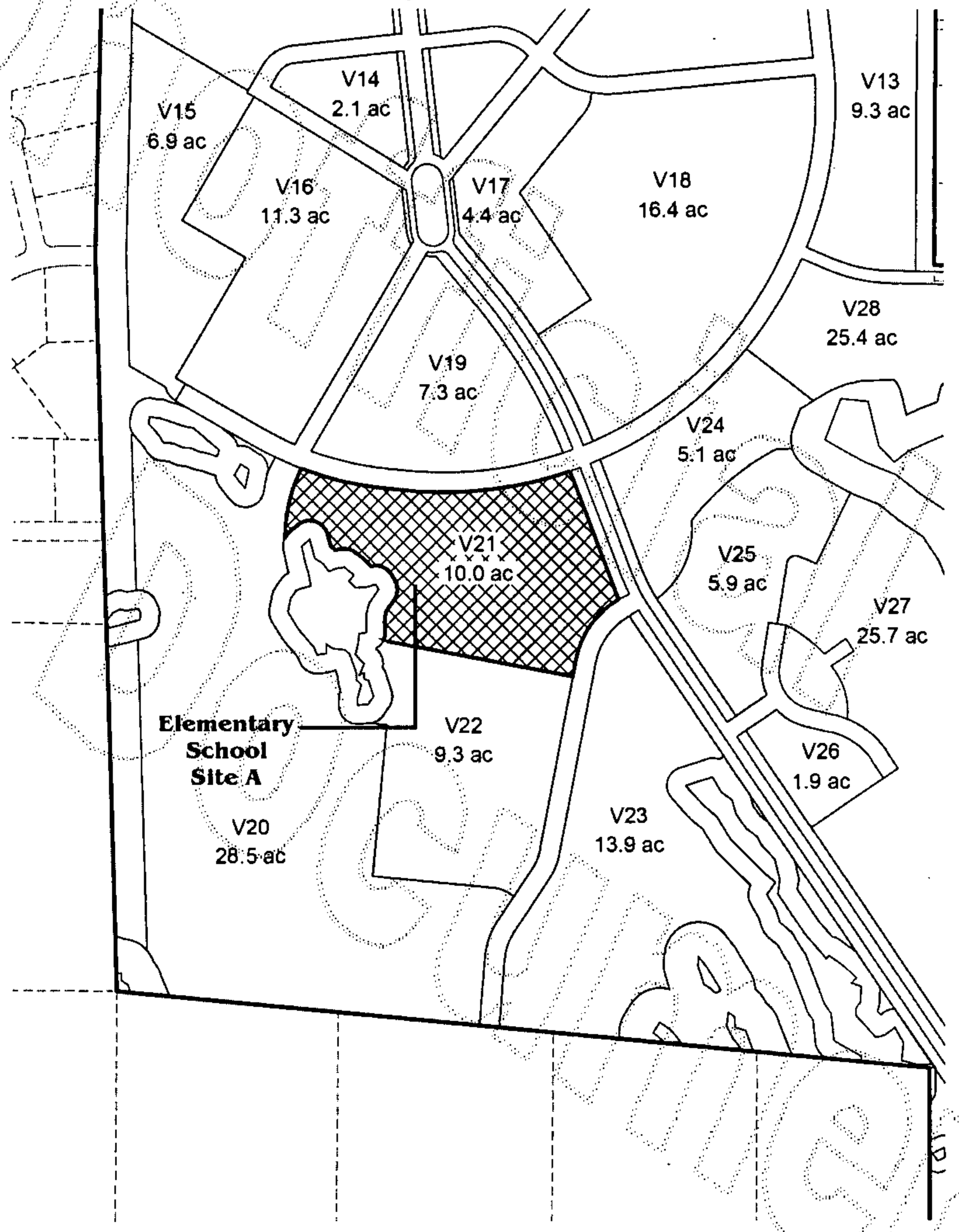
The entire property conveyed to grantee under this deed shall be continually used as a School Facility by the grantee, or by grantee's successor in interest, for a period of forty years from the date of recording of this deed with the King County Recorder's Office, provided that if the entire property 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.

Working Document

# 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

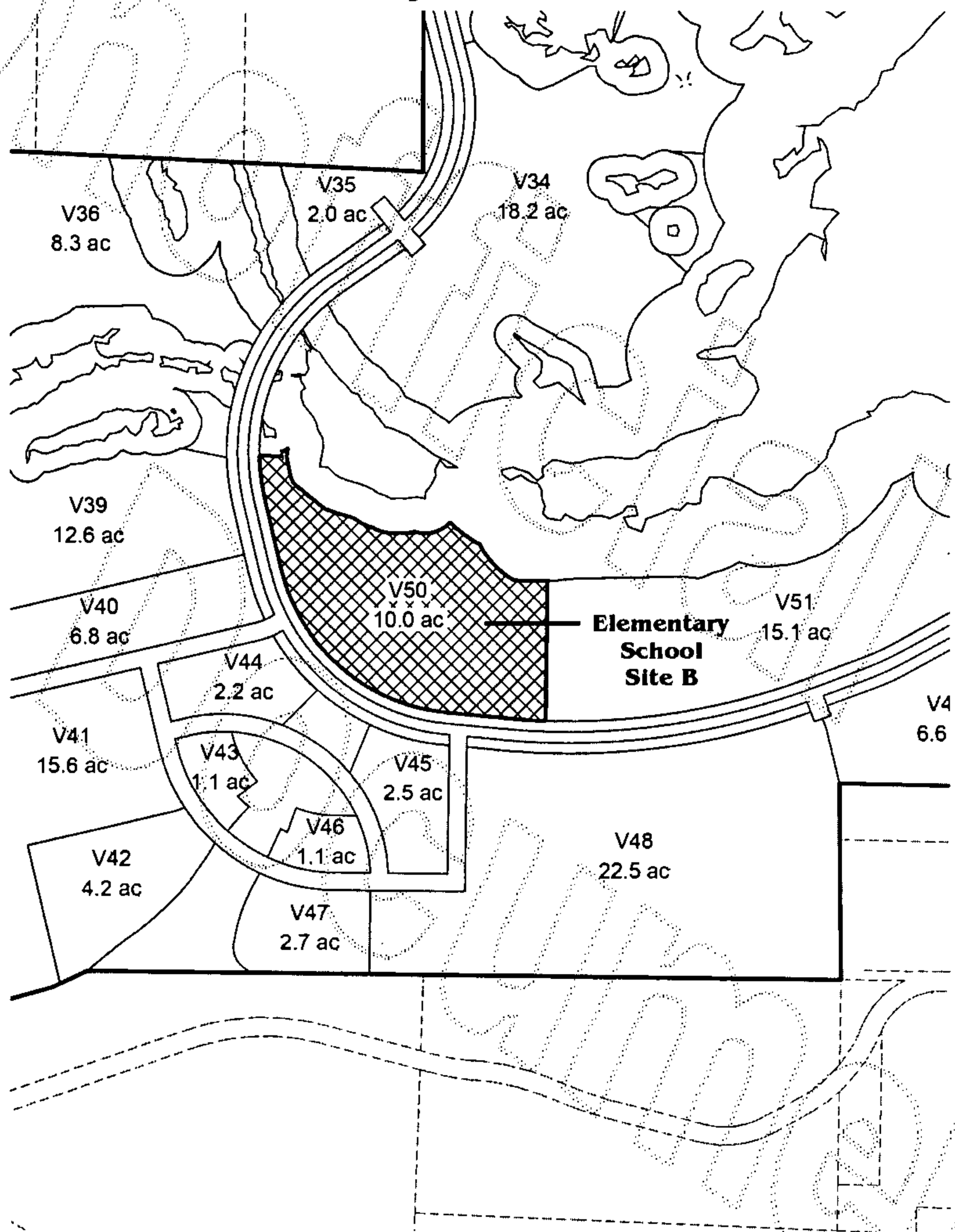
**Parcel No. 1521069105**: N 1/2 OF SW 1/4 OF SW 1/4 & S 80 FT OF NW 1/4 OF SW 1/4 OF SEC 15-21-6 LESS E 80 FT OF SD NW 1/4 OF SW 1/4 & LESS E 80 FT OF SD SW 1/4 OF SW 1/4 & LESS S 40 FT OF SD N 1/2 OF SW 1/4 OF SW 1/4 - AKA PCL 14 OF KC SUBD EXEMPTION FILE #L96M0039 (RE-APPROVAL) DATED 2-2-2001

Unofficial Document

# EXHIBIT E
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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

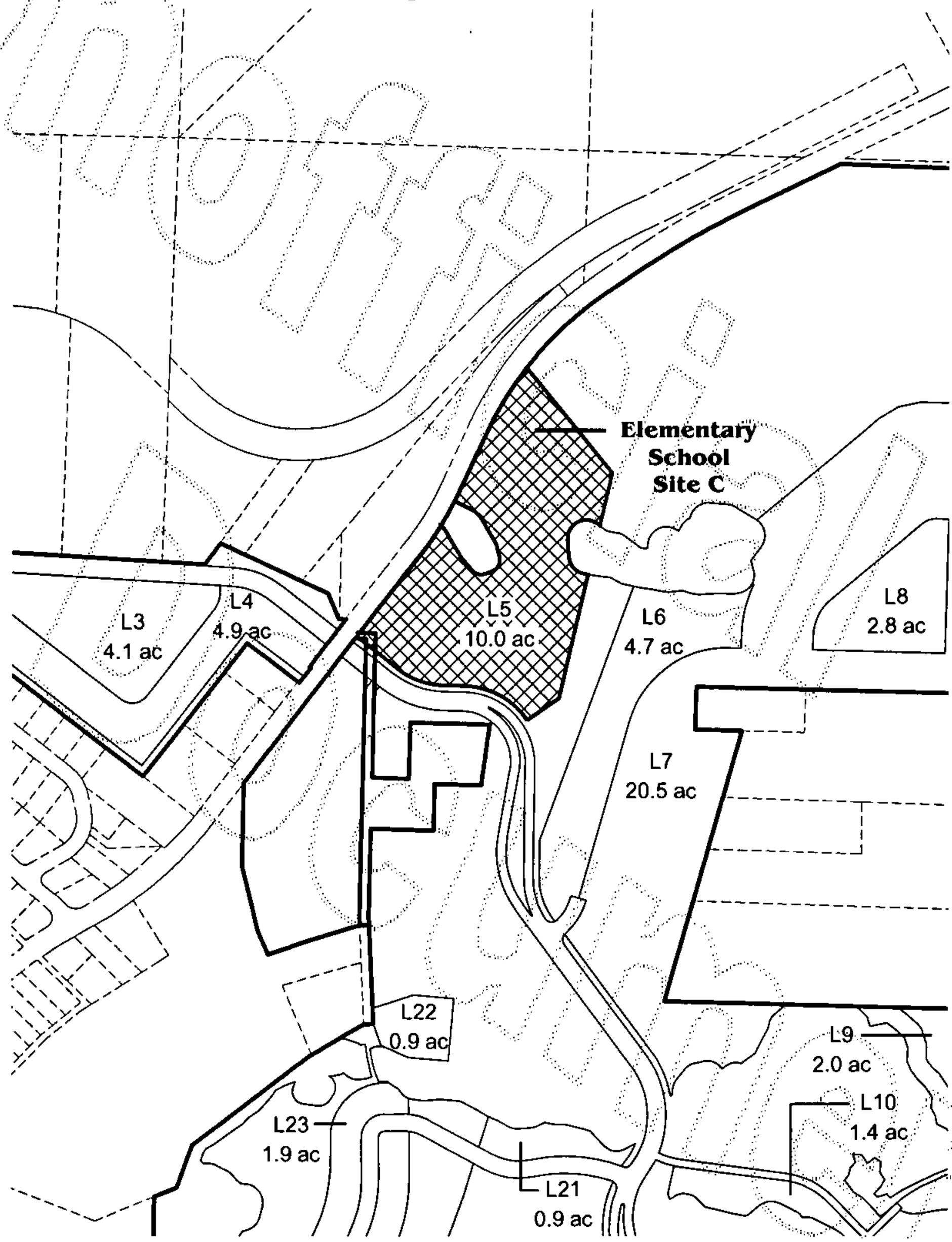
**Parcel No. 2221069044**: E 1/2 OF SE 1/4 OF SW 1/4 SEC 22-21-06 - LESS CO RD

Unofficial 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 5 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

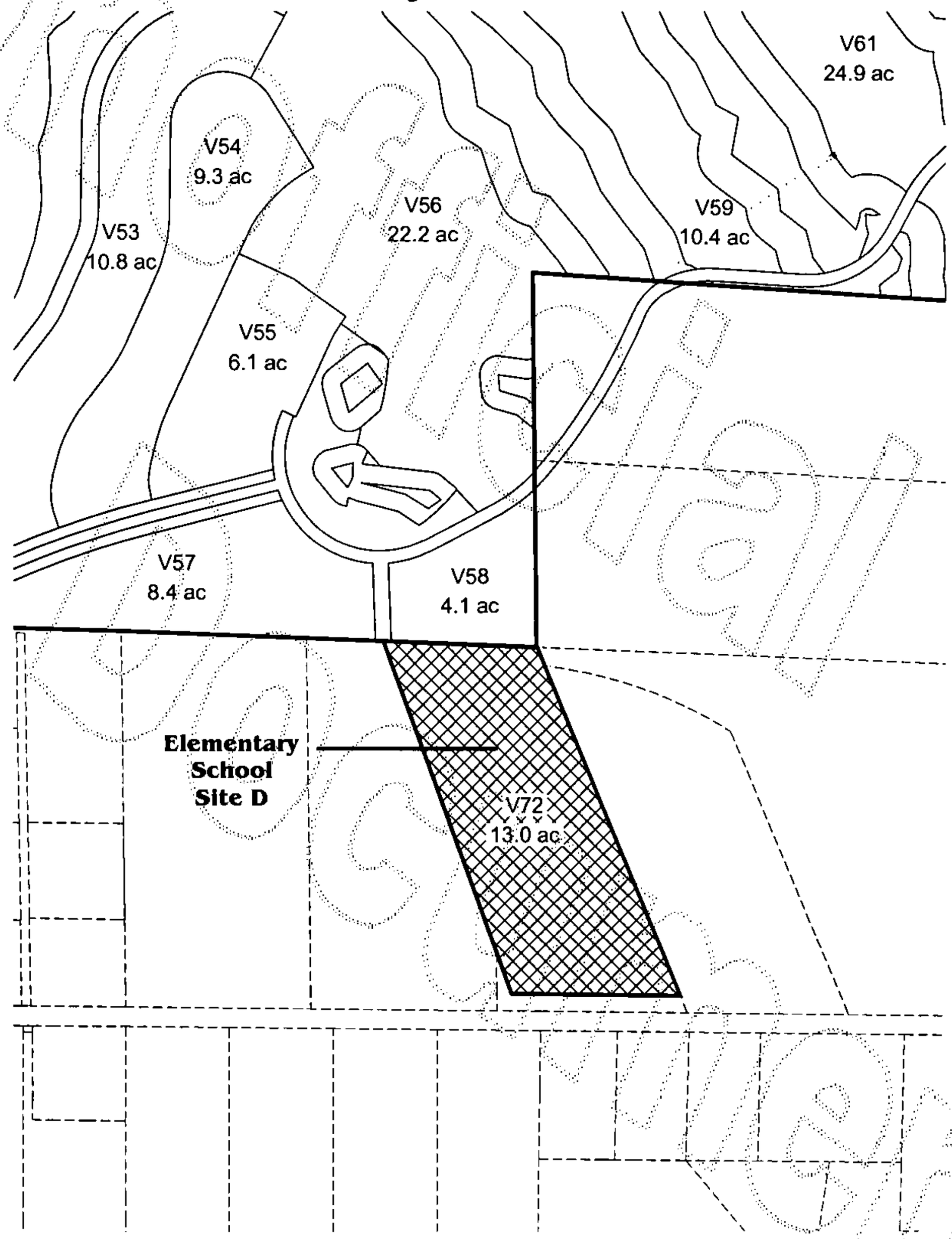
**Parcel No. 1321069033**: S 1/2 OF FOL-BEG 472.70 FT S & 807.97 FT E OF NW COR OF SEC TH N 00-33-00 E 469.94 FT TH N 36-49-00 E 311.26 FT TH S 89-48-42 E 725.85 FT TH S 00-33-00 W 719.72 FT TH N 89-48-42 W 910.01 FT TO BEG LESS C/M RGTS LESS N 56.27 FT OF W 270 FT THOF TGW S 23.74 FT OF E 640 FT OF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

Unofficial 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

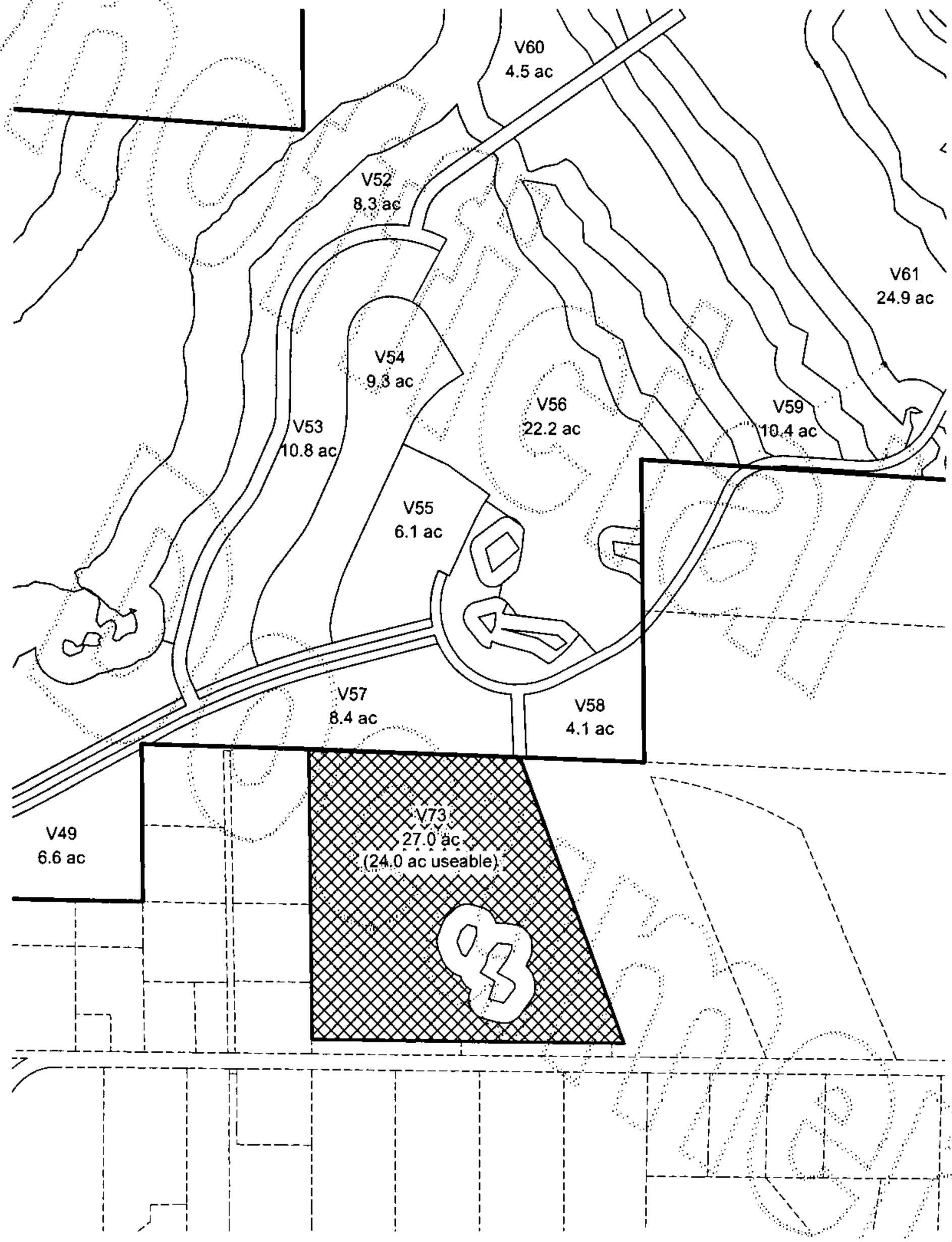
**Parcel No. 2321069064**: S 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 20 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Unofficial Document

# EXHIBIT H
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

# Middle School Site A



# EXHIBIT H.1
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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

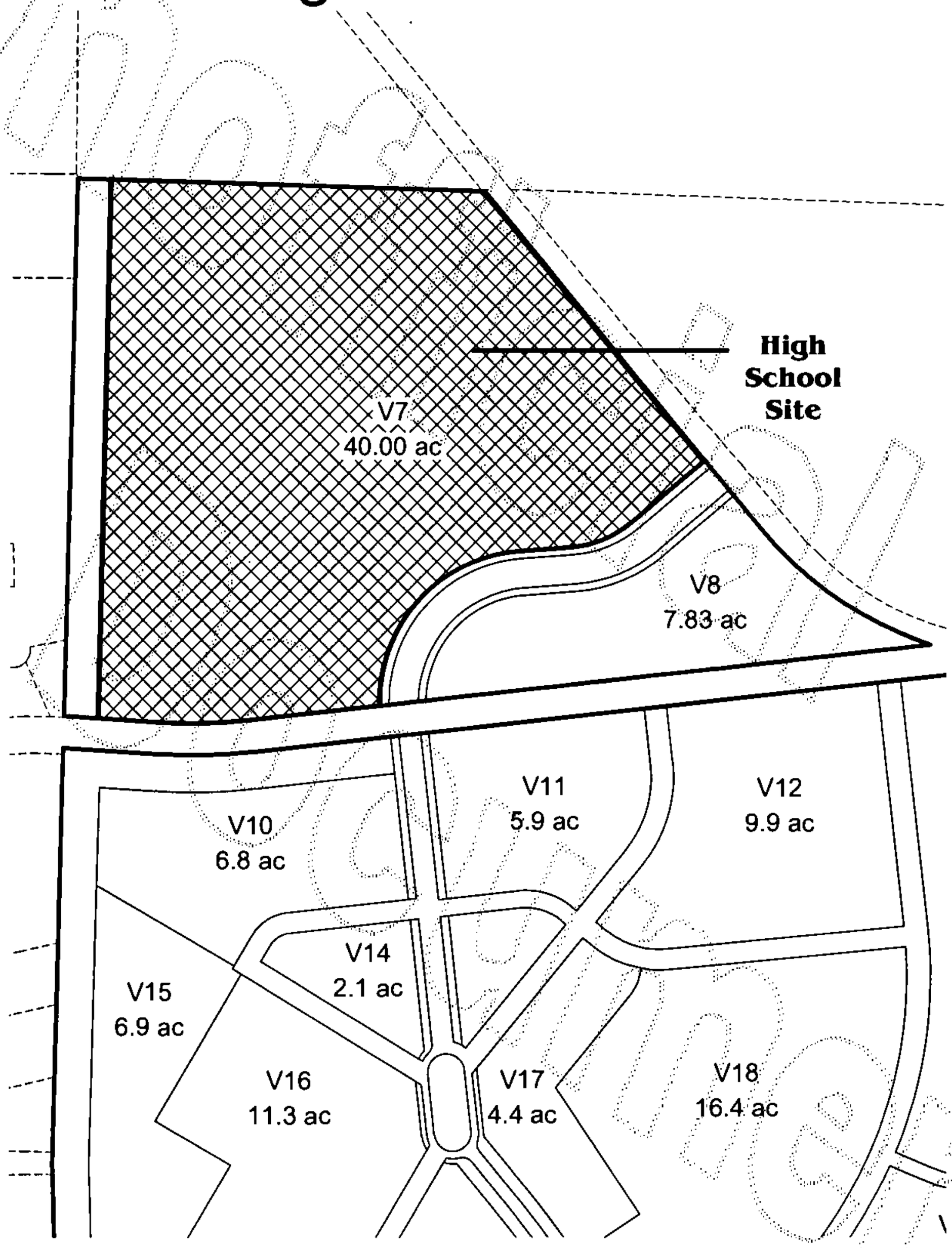
**Parcel No. 2321069064**: S 1/2 OF SW 1/4 OF SW 1/4 OF SEC 23-21-6 - AKA PCL 20 OF KC SUBD EXEMPTION #L96M0041 (REV) DATED 5-24-01

Unofficial Document

# EXHIBIT I
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

# High School Site




Unofficial Draft

# EXHIBIT I.1
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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

Unofficial Document

# EXHIBIT J
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

**EXHIBIT J**
**RESERVED**

Unofficial Document

# EXHIBIT K
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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 473.50 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°37'50" 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

Unofficial 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: _____

Copy

# EXHIBIT M
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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*]

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)

***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)

Unofficial Document

Unofficial Document

EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

Unofficial Document

EXHIBIT B
To Option Agreement

DEPICTION OF THE OPTION PROPERTY

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*]

Unofficial 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)

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)

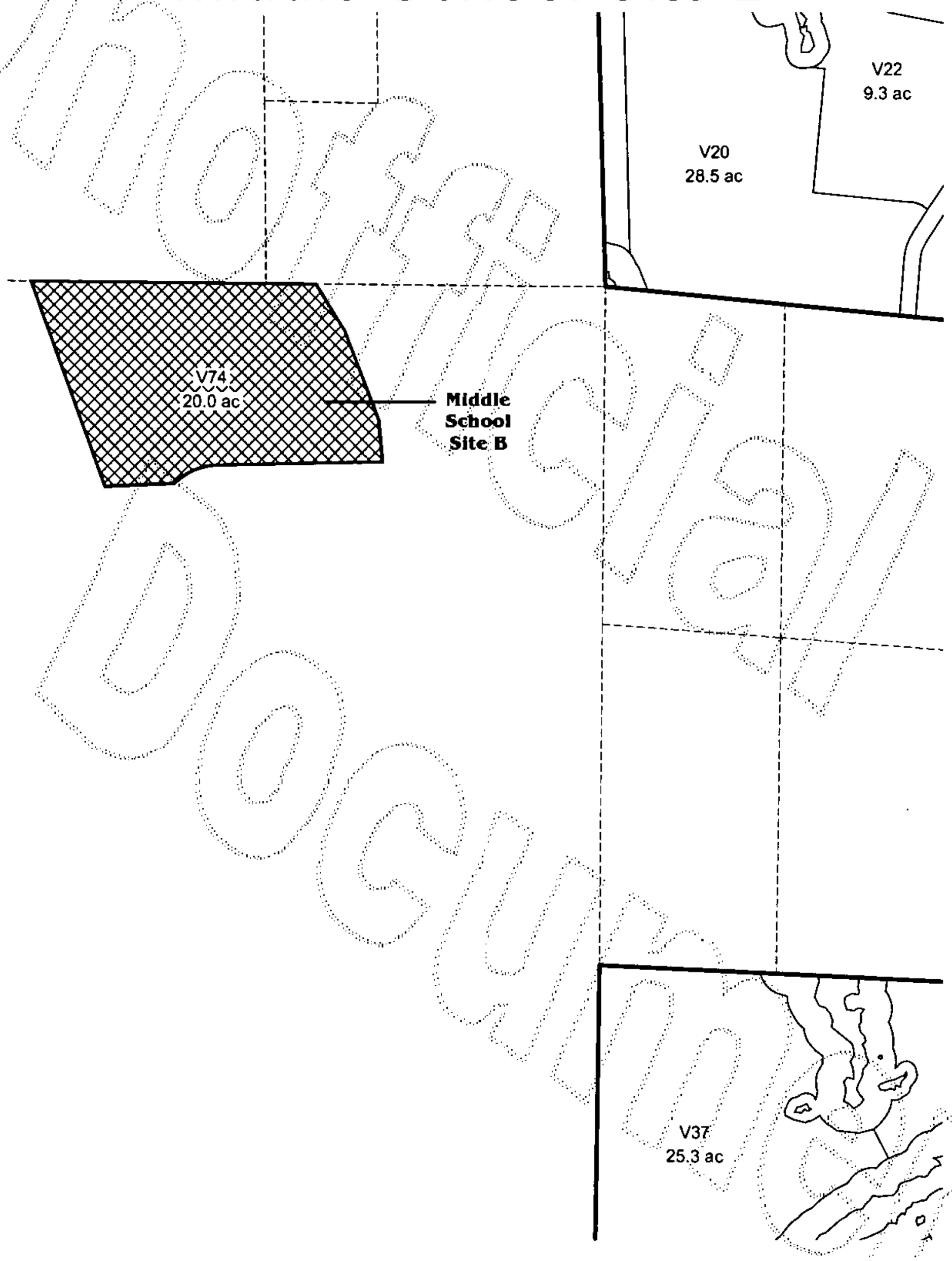
EXHIBIT 2

Unofficial Document

# EXHIBIT N
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial Document

# Middle School Site B




Unofficial Document

# EXHIBIT N.1
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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

Unofficial Document

# EXHIBIT O
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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:

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.)

Unofficial Document

# EXHIBIT P
## 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**

Unofficial Document

**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]***

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GRANTOR:

BD VILLAGE PARTNERS, LP

By YARROW BAY DEVELOPMENT LLC, its general partner

By BRNW INC., its member

By_____
Brian Ross, President

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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 _____.

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# EXHIBIT Q
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

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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*]

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***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)

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EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

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**EXHIBIT B**
**To Option Agreement**

**DEPICTION OF THE OPTION PROPERTY**

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.



Draft Copy

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*]

Confidential

Unofficial Document

***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)



Unofficial 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: 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)

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

Unofficial Document

# 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.

Official Document

# EXHIBIT S
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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.

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:**

Unofficial 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)

Sample

# 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:**

Unofficial 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)

Sample Not Official

# EXHIBIT V
## COMPREHENSIVE SCHOOL MITIGATION AGREEMENT

Unofficial 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.

Unofficial Copy

# 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**

Unofficial Copy

**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]***

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 _____.

Unofficial Document

1 them?

2 A. Again, this -- I wasn't involved in this specific

3 creation of this map. I'm sure that the City has been

4 involved in that but I have not been.

5 Q. So if you're a council member or you're a member

6 of the public and you're reading this, could you please

7 identify to me how the public would know that -- how many

8 acres did you identify for schools again? I'm sorry. About

9 120?

10 A. I think for alternative two, I think it was 150

11 acres.

12 Q. Okay. So of that 150 acres that you say that they

13 need for schools, I'm telling you that this map identifies

14 almost 70 acres of it outside of the project area -- outside

15 of the project area you have identified in the DEIS. So

16 that's 70 additional acres of school site area being used.

17 Would that have altered your miti- -- would that be an

18 impact?

19 A. It would be an impact for those school sites for

20 siting of those schools, but again, we -- my understanding

21 is that we develop -- and I didn't do the school's analysis

22 so I'm not an expert on the school's analysis, but is that

23 the schools could be provided based on the MPD ordinance

24 through a separate disagreement and we were not part of

25 analyzing any separate agreement.

**COMPREHENSIVE SCHOOL MITIGATION AGREEMENT**
**ENUMCLAW SCHOOL DISTRICT/BD LAWSON PARTNERS-BD VILLAGE PARTNERS/CITY OF BLACK DIAMOND**
**KEY DATES/IMPLEMENTATION POINTS**

| EVENT | DATE (IF KNOWN) | IMPLEMENTATION POINT/ KEY INFORMATION | STATUS |
|---|---|---|---|
| **Agreement Effective Date** (§ 2.7) | January 24, 2011 | n/a | Done |
| **Agreement Term** (§ 30) | Runs through January 24, 2026, subject to automatic extensions | Agreement Term is automatically extended to coincide with the end of the vesting period of the MPDs. Because the MPD vesting period expires on September 14, 2025, the Agreement Term will automatically run longer to January 24, 2026.<br><br>However, if the vesting period is extended five years per BDMC 18.98.195(E)), the Agreement Term will automatically extend to September 14, 2030.<br><br>The Agreement Term also automatically extends for an additional 4 years following the approval and recording of the final plat for the last plat in either MPD.<br><br>The District also has the right to extend the Agreement for an additional year if a the Board has adopted a resolution to present a bond proposal for the construction of a school on a school site that otherwise meets the conveyance conditions in Section 6. | Pending |
| **Delineation of School Site Boundaries** (§ 6.1.1) | Thirty days after MPD approval and resolution of all appeals. ***No later than July 3, 2014 (Yarrow Bay could complete earlier and trigger CP)*** | Boundaries delineated and legal description created for each Identified School Site. | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.
*June 2014*

| | | | |
|---|---|---|---|
| **Each School Site Established as Separate Legal Lot** (§ 6.1.2) | No later than one year after MPD approval and resolution of all appeals "unless otherwise required [by the Agreement]." ***No later than July 3, 2015*** | Will require action to legally separate school site from surrounding property.<br><br>§6.2.3 requires that, if the 1st elementary school and 1st middle school site are not separate legal lots within 180 days of MPD Approval (not dependent on expiration of appeals), the Developer must submit a boundary line adjustment or short plat to the City to create legal lots. | Pending<br><br>Complete. Elementary A and the 1st Middle School are separate legal lots. |
| **District's Election of Maximum Elementary Site Size** (§ 5.2.3). | Any time prior to the District's receipt of the building permit for construction of the first elementary school. | Election of maximum site size relates to Elementary Sites A, B, and C (three 12.5 acres vs. four 10 acre sites). If the District makes this election, the District would effectively release the developer from the obligation to convey Site D. | Pending |
| **Conveyance of 1st Elementary Site** (§ 6.2.1) | 180 days of the later of MPD approval and resolution of all appeals OR when elementary is a separate legal lot. ***Est. December 29, 2014 following waiver of Contingency Period*** | Developer conveys 10 acres but continues to reserve 2.5 if District elects maximum site size in future per § 5.2.3.<br><br>1st Elementary School is currently a separate legal lot; however, District to perform feasibility prior to conveyance. | Pending |
| **Conveyance of 1st Middle School Site** (§ 6.2.2) | Within 60 days of MPD approval and resolution of all appeals AND when 1st MS site is a separate legal lot AND District receives bond approval to construct a school on that site. | Conveyance occurs at end of Agreement term if there is final plat approval for at least 1,600 dwelling units (or 1,400 DUs if final plat approval includes less than 10% multi-family units). | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

| | | | |
|---|---|---|---|
| **Conveyance of 2nd Elementary School Site** (§ 6.3.1) | When District receives bond approval AND City has approved final plat for 1,750 DUs (1,450 if less than 10% are MF units). | Conveyance occurs at end of Agreement term if City has granted final plat approval for 1,750 DUs (1,450 if less than 10% are MF units). | Pending |
| **Conveyance of 3rd Elementary School Site** (§ 6.3.2) | When District receives bond approval AND City has approved final plat for 3,000 DUs (2,700 if less than 10% are MF units). | No automatic conveyance at end of Agreement term. | Pending |
| **Conveyance of 4th Elementary School Site** (§ 6.3.3) [if applicable – right to conveyance ceases if District opts for larger elementary school sites per § 5.2.3) ] | When District receives bond approval AND City has approved final plat for 4,500 DUs (4,000 if less than 10% are MF units). | No automatic conveyance at end of Agreement term. | Pending |
| **Conveyance of 2nd Middle School Site** (§ 6.3.4) | When District's boundaries are modified to include site AND District receives bond approval. | No automatic conveyance at end of Agreement term. | Pending |
| **2nd Middle School Site Boundary** (§ 6.5) | No later than 90 days after Agreement Effective Date | District presents proposal to Auburn SD to amend boundaries to include 2nd MS site within the ESD. | District sent proposal on April 22, 2011; no further action; resolution pending |
| **Request for Mitigation Fees in lieu of 2nd Middle School** | After 1st Middle School is occupied and before end of Agreement Term. | If boundary is not changed per § 6.5, Developer is required to pay mitigation fees (reduced as required based on previously received fees) to the District in an amount equal to the Actual School Site Value when the District receives bond approval to build a 2nd middle school OR, at the District's request, any time after occupancy of the 1st middle school. | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

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| **Rural Elementary School Site D** (§ 6.6.2) | | If District is unable to obtain permits needed to build a school on the site, District has 60 days to elect to build the school on Alternative Elem Site D or sell the site. Election must be made no later than 18 mos after closing on the site. | Pending |
| **Elementary School Site C – Lawson Hills** (§ 6.7.1) | Prior to expiration of Contingency Period<br>***Est. December 29, 2014*** | District must accept or reject Site C as an elementary school site. | Pending |
| **Acceptance of Site C and Related Site Work** (§ 6.7.1(a), (b) & (c)) | Within 30 days of receipt of District's notice accepting Site C<br>***Est. no later than January 28, 2015*** | If District accepts Site C, Developer must select option of either:<br>• funding the necessary site work with payment due at the time the District awards a contract for construction of school facilities on the site; or<br>• performing the site work prior to conveyance of the site to the District. | Pending |
| **Rejection of Site C** (§ 6.7.2(a), (b) & (c)) | Within 30 days of receipt of District's notice rejecting Site C<br>***Est. no later than January 28, 2015*** | If District rejects Site C, Developer must select option of either:<br>• Paying the District $4.5 million at the time building permits for 375 single family DUs in the Lawson Hills MPD (or a combination of SF/MF DUs where the SGR would yield at least 160 elementary students); or<br>• Identifying an alternative site in or adjacent to the Lawson Hills MPD. | Pending |
| **Elementary Site A - Site Work** (§ 6.8) | Within 20 business days of Developer's notice<br>***Est. conveyance soon after December 29, 2014; site work complete within 1 year thereafter*** | District must inspect Developer's site work and provide notice of approval/disapproval. Work must be performed prior to site conveyance or, if first of sites to be conveyed, within one year after conveyance. | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

| | | | |
|---|---|---|---|
| **High School Deed of Trust** (§ 7.1) | Within 5 days of boundary delineation pursuant to § 6.1.1 ***Est. July 8, 2014*** | Developer must record deed of trust in favor of District on High School Site. | Pending |
| **Developer Selection of Identified High School Site** (§ 7.2) | January 24, 2021 | Developer must select the Identified High School site; if no site selected, the High School Site is automatically deemed to be the Identified High School Site. | Pending |
| **High School Site Conveyance - During Agreement Term** (§ 7.3.1) | Receipt of School Financing Approval but no earlier than January 24, 2021 | Closing to occur within 180 days of receipt of School Financing Approval. | Pending |
| **High School Option Agreement** (§ 7.3.2) | End of Agreement Term (minimum outside date is January 24, 2026; but term automatically extends per § 30). | If High School site has not been conveyed during the Agreement Term, the High School Option Agreement (Exhibit Q) must be recorded at the end of the Agreement Term. | Pending |
| **City Consideration of Impact Fee Ordinance** (§ 9.1) | July 25, 2011 | City is required to consider impact fee ordinance in good faith. | City has neither considered nor taken action. District has requested in writing in 2011, 2012, and 2013. |
| **Mitigation Fees Set at Initial Level** (§ 9.2) | January 24, 2011 through January 24, 2016 | SF - $4,676; MF - $1,501 | Operating in place. |
| **Mitigation Fees Set at Enhanced Level** (§ 9.2) | January 25, 2016 through build out | Floor: SF - $7,783; MF - $2,502<br>*Ceiling: SF - $12,452; MF - $4,003<br><br>*subject to City of Black Diamond adopting a school impact fee that exceeds the floor. | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

| | | | |
|---|---|---|---|
| **Collection of Mitigation Fees** (§ 9.3) | At building permit issuance for each dwelling unit. | Collected by the City and transferred to the District. | Pending start of unit construction |
| **Valuation of Individual School Sites** (§ 10.4.1 - § 10.4.8) | Within 5 days after School Board adopts bond resolution relating to school construction on a site. | District must provide Valuation Notice to the Developer with contact information for District's intended appraiser. | Pending; will be repeated with each school site |
| | Within 10 days after receipt of the District's Valuation Notice | Developer provides the District with contact information for District's intended appraiser. | Pending; will be repeated with each school site |
| | Within 60 days of the District's delivery of Valuation Notice | Each party's Appraised Value must be delivered to the other party. | Pending; will be repeated with each school site |
| | Earlier of the following: two failed bond passage measures or 1 year from appraisal determination | Effective period of Agreed School Site Value | Pending; will be repeated with each school site |
| **Contingency Period** (§ 11.1 - § 11.6) | Runs for 180 days from the date that Developer delineates boundaries for each site per § 6.1.1 ***Est. July 3, 2014 to December 29, 2014*** | Period of Contingency Period | Pending |
| | Within 20 days of Developer's delineation of boundaries for each site per § 6.1.1 ***Est. July 23, 2014*** | Developer provides District with site information and District's right to enter each site (subject to 5 business day's written notice to Developer) for investigative purposes commences. | Pending |
| | Prior to end of Contingency Period ***Est. December 29, 2014*** | District provides Developer with notice of whether or not the District waives contingencies for each site. | Pending |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

| | | | |
|---|---|---|---|
| | Within 15 days of delivery of Nonwaiver | Parties meet to discuss alternative sites. | Pending - *only applies to sites where District does not waive contingency* |
| | Within 60 days after delivery of Nonwaiver | If no agreed alternative site is identified, the parties amend the Agreement to exclude the rejected site and obligate the Developer to pay the District mitigation fees equal to the Actual School Site Value, with payment due at the time the Developer would have conveyed the unacceptable school site to the District 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 SGR is equal to 33% of the agreed school capacity of the school that would have been constructed on the identified school site. | Pending - *only applies to sites where District does not waive contingency* |
| **Initial Title Review** (§ 12.1 - § 12.3) | Within 20 days of Developer's delineation of boundaries for each site per § 6.1.1 ***Est. July 23, 2014*** | Developer delivers Title Report | Pending |
| | Within 90 days after Developer's delivery of Title Report | District must notify Developer of any title objections | Pending - follows date of delivery |
| | Within 15 days after receipt of District's title objections | Developer must remove title objections or notify District that objections will not be removed | Pending - *only applies if District has title objections* |



*Estimates will be removed and actual dates identified once applicable triggers met.

| | | | |
|---|---|---|---|
| | Within 10 days after receipt of Developer's notice | District must inform Developer of decision to either reject conveyance of site or waive previous objection. If a site is rejected, parties follow process in § 11.6 | Pending - *only applies if District has title objections* |
| **Supplemental Title Commitment** (§ 12.4) | Within 20 days following receipt of District's Valuation Notice per § 10.4 | Developer must deliver Supplemental Title Commitment | Pending following delivery of Valuation Notice |
| | Within 10 days after receipt of Supplemental Commitment | District must notify Developer of any title objections | Pending following delivery of Valuation Notice |
| | Within 15 days after receipt of District's title objections | Developer must remove title objections or notify District that objections will not be removed | Pending following delivery of Valuation Notice - *only applies if District has title objections* |
| | Within 10 days after receipt of Developer's notice | District must inform Developer of decision to either reject conveyance of site or waive previous objection. If a site is rejected, parties follow process in § 11.6 | Pending following delivery of Valuation Notice - *only applies if District has title objections* |
| **Covenants, Conditions and Restrictions** (§ 12.1 - § 12.3) | Prior to recording of CC&Rs | Developer must provide the District with a copy of the proposed CC&Rs for review and comment.<br><br>The District has 30 days to object. | Pending. |



*Estimates will be removed and actual dates identified once applicable triggers met.

| | | | |
|---|---|---|---|
| **Covenants, Conditions and Restrictions** (§ 12.1 - § 12.3) | Prior to Building Permit Application for a school | District provides the Developer with a copy of the school plans. | Pending |
| | 45 days following receipt of school plans | Developer must provide notice to the District if the Developer believes there are conflicts with the CC&Rs or design guidelines. | Pending following delivery of school plans |
| | Within 10 days of receipt of Developer's notice | District and Developer meet to resolve design conflicts. If no resolution, the Dispute Resolution provisions in § 13.2.2 are triggered. | Pending - *only applies if Developer provides notice of conflict* |
| **Deed Restriction** (§ 14.1) | 40 years from the date of site conveyance | With the exception of Elem Site D, both Middle School sites, and the high school sites, conveyed school sites must be used only for school purposes for 40 years following conveyance. | Pending site conveyance |
| **Easements** (§ 21.3) | 10 business days after receipt of Developer proposal | District must review and approve Developer proposed easements affecting school sites (with understanding that no easement will materially interfere with District's ability to construct a school on any school site).<br><br>If easement requires Board approval [ALL WILL], District will consider at next regular Board meeting. | Pending |
| **Other Work by Developer** (§ 21.6) | 7 days after receipt of Developer proposal | District must review Developer's request to perform Other Work (as defined in Agreement) at school sites. District has discretion with regard to whether to allow and, if allowed, whether to require separate use license. | Pending |
| **Defaults** (§ 26) | 20 days after receipt of notice | Any default under the Agreement must be cured within this time period. Additional time (up to 90 days) may be granted for nonmonetary defaults. | Pending - *only occurs in event of default* |



*Estimates will be removed and actual dates identified once applicable triggers met.

*June 2014*

| | | | |
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| | | | |
| | | | |
| | | | |



*Estimates will be removed and actual dates identified once applicable triggers met.

K&L|GATES

K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104-1158

Tax ID No. 25 0921018

T 206.623.7580 www.klgates.com

Enumclaw School District No. 414
Attn: Mr. Mike Nelson, Superintendent
2929 McDougall Avenue
Enumclaw, WA 98022-7499

---

For Professional Services Rendered From **October 1, 2013 through December 31, 2013**:

**2035300.00007 - Implementation of the School Mitigation Agreement and Monitoring of the Yarrow Bay Master Planned Development Activities:** review Yarrow Bay quarterly report and assess information in same; review and analyze City of Black Diamond information regarding preliminary plats related to the Master Planned Developments; review and analyze City of Black Diamond information regarding site plan amendments related to the MPD permits; review notes and information from City of Black Diamond Community Development staff; review SEPA comments related to the Master Planned Developments; update status of appeals relating to the Master Planned Developments; work on issues related to implementation of the School Mitigation Agreement; prepare status updates; telephone conferences with M. Nelson and T. Madden; initiate, review and respond to information requests from Yarrow Bay's in-house attorney; telephone conferences with Yarrow Bay's in-house legal counsel; telephone conferences with King County staff; review and analyze Yarrow Bay's rural plat development proposal; monitor King County's review of Yarrow Bay's rural plat development proposal; draft master document of key implementation points for the School Mitigation Agreement; initiate, review, and respond to notes to M. Nelson; travel to and participate in conferences in Enumclaw with M. Nelson and T. Madden.

| **Name** | **Hours** |
|---|---|
| D.L. Stiffarm | 20.90 |
| **Total:** | **20.90** |

**Total Amount Due This Matter: $8,046.50**

This invoice reflects fees and costs not previously billed. Past due balances, if any, will be shown on a separate statement of account at the beginning of the next month. Payment is due in U.S. dollars upon receipt. Funds may be wired to our account number 153557906580 US Bank, Private Financial Services, 1420 5th Ave. Suite 2100, Seattle, WA 98101, ABA Routing Number 125000105.

K&L|GATES

K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104-1158

Tax ID No. 25 0921018

T 206.623.7580 www.klgates.com

Enumclaw School District No. 414
Attn: Mr. Mike Nelson, Superintendent
2929 McDougall Avenue
Enumclaw, WA 98022-7499

---

For Professional Services Rendered From **January 1, 2014 to March 31, 2014**:

**2035300.00007 - Implementation of the School Mitigation Agreement and Monitoring of the Yarrow Bay Master Planned Development Activities:** review Yarrow Bay quarterly report and assess information in same; update status of appeals related to the Master Planned Developments; review Court of Appeals decision regarding the Master Planned Developments; monitor King County's review of Yarrow Bay's rural plat development proposal; review issues related to potential further appeals related to the Yarrow Bay Master Planned Development proposals and impacts to due diligence matters; draft notes to NAC Architects regarding due diligence planning; work on issues related to implementation of the School Mitigation Agreement; telephone conferences with M. Nelson and T. Madden; draft note to and telephone conference with Yarrow Bay's in-house legal counsel; initiate, review, and respond to notes to M. Nelson.

| **Name** | **Hours** |
|---|---|
| D.L. Stiffarm | 4.10 |
| **Total:** | **4.10** |

**Total Amount Due This Matter: $1,619.50**

This invoice reflects fees and costs not previously billed. Past due balances, if any, will be shown on a separate statement of account at the beginning of the next month. Payment is due in U.S. dollars upon receipt. Funds may be wired to our account number 153557906580 US Bank, Private Financial Services, 1420 5th Ave. Suite 2100, Seattle, WA 98101, ABA Routing Number 125000105.

K&L|GATES

K&L Gates LLP
925 Fourth Avenue
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T 206.623.7580 www.klgates.com

Enumclaw School District No. 414
Attn: Mr. Mike Nelson, Superintendent
2929 McDougall Avenue
Enumclaw, WA 98022-7499

---

For Professional Services Rendered From **April 1, 2014 to May 31, 2014**:

**2035300.00007 - Implementation of the School Mitigation Agreement and Monitoring of the Yarrow Bay Master Planned Development Activities:** review Yarrow Bay quarterly report and assess information in same; update status of appeals related to the Master Planned Developments; review proposed grading plan for Lawson Hills School Site; coordinate review of same with NAC Architects; work on issues related to implementation of the School Mitigation Agreement; telephone conferences with M. Nelson.

| **Name** | **Hours** |
|---|---|
| D.L. Stiffarm | 3.0 |
| **Total:** | **3.0** |

**Total Amount Due This Matter: $1,185.00**

This invoice reflects fees and costs not previously billed. Past due balances, if any, will be shown on a separate statement of account at the beginning of the next month. Payment is due in U.S. dollars upon receipt. Funds may be wired to our account number 153557906580 US Bank, Private Financial Services, 1420 5th Ave. Suite 2100, Seattle, WA 98101, ABA Routing Number 125000105.

# King County School Siting Task Force

*Final Report and Recommendations*

*to the King County Executive*

March 31, 2012

King County

March 31, 2012

Dow Constantine, King County Executive
King County Chinook Building
401 Fifth Avenue, Suite 800
Seattle, WA 98104

Dear Executive Constantine,

With this letter we transmit to you the final report and recommendations of the School Siting Task Force. The critical issues of quality education, efficient use of taxpayer dollars, equitability, preservation of rural character, and sustainable growth made consideration of undeveloped rural school sites and all other future school siting a complex and important undertaking.

Together, we have worked diligently since December to craft these recommendations. We represent diverse perspectives and through our discussions we have reached agreement on specific solutions and recommendations that we believe to be in the best interests of all King County residents, particularly our schoolchildren. We are pleased to present to you these recommendations informed by accepted data collected by our Technical Advisory Committee.

We would be happy to serve as a resource in any way we can as you consider these recommendations. We look forward to your review, and we stand ready to assist in their implementation.

Thank you for the opportunity to serve on the Task Force. We look forward to having these recommendations incorporated in future planning.

Sincerely,

King County School Siting Task Force members

*(signatures on reverse)*

King County School Siting Task Force Members:

Louise Miller, Chair

Julie Ainsworth-Taylor

Kimberly Allen

Leonard Bauer

Cynthia Berne

John Chaney

Carrie S. Cihak

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Mark Cross

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Kip Herren

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Roberta Lewandowski

John Holman for Pete Lewis

Bruce Lorig

Dean Mack

Mike Maryanski

Erika Morgan

Mike Nelson

Rebecca Olness

Peter Rimbos

Dave Russell

Brian Saelens

Albert Spencer

John Starbard

Richard Stedry

Bob Sternoff

Cynthia Welti

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APPENDICES (Attached)

- A. Task Force Membership ..... Attached
- B. Framing Work Group Membership ..... attached
- C. Technical Advisory Committee Membership ..... attached
- D. Map of 18 Undeveloped School Sites ..... attached
- E. GMPC Motion 11-2 ..... attached

APPENDICES (ON CD)

- F. Matrix of Technical Information on Undeveloped Sites ..... on attached CD
- G. Maps of Undeveloped Sites ..... on attached CD
- H. Demographic Information ..... on attached CD
- I. Enrollment Projections ..... on attached CD
- J. Public Health Aspects of School Siting ..... on attached CD
- K. Technical Advisory Committee Work (13 Tasks) ..... on attached CD
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- N. Excerpt from PSRC Issue Paper on Rural Areas ..... on attached CD
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T. INTERVIEW SUMMARY ..... ON ATTACHED CD
U. PUBLIC COMMENTS..... ON ATTACHED CD

## SECTION 1: Acknowledgements

The School Siting Task Force thanks the King County Executive and the Growth Management Planning Council for the opportunity to provide input on an issue critical to supporting K-12 education and to preserving natural resources, public health, and quality of life in King County.

The Task Force would especially like to thank its members who agreed to serve on the Framing Work Group. This group met on multiple occasions throughout the process, generally twice between each Task Force meeting, to develop and frame issues and meeting approaches for the full Task Force. Without the considerable efforts of this group, the Task Force would not have been able to accomplish its work.

The Task Force also thanks the Technical Advisory Committee (TAC), whose members worked throughout January, February, and March of 2012 to gather data and information on the undeveloped rural school sites and to compile additional information relevant to future school siting.

The Task Force also acknowledges the many members of the public who submitted comments and/or attended one or more Task Force or TAC meetings. Their contributions provided valuable insight for the Task Force's consideration.

Finally, the Task Force thanks Triangle Associates for their exemplary support throughout the process.

See Appendices A, B, and C for Task Force, Framing Work Group, and TAC membership.

## SECTION 2: Glossary of Terms and Acronyms

**Comprehensive Plan**

A generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to 36.70A RCW. *(Washington State Growth Management Act)*

**Countywide Planning Policies (CPPs)**

A written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to the Growth Management Act. *(Washington State Growth Management Act)*

**Growth Management Act (GMA)**

The GMA was enacted in 1990 in response to rapid population growth and concerns with suburban sprawl, environmental protection, quality of life, and related issues. The GMA requires the fastest growing counties and the cities within them to plan for growth. The GMA provides a framework for regional coordination; counties planning under the GMA are required to adopt county-wide planning policies to guide plan adoption within the county and to establish urban growth areas (UGAs). Local comprehensive plans must include the following elements: land use, housing, capital facilities, utilities,

transportation, and, for counties, a rural element. (*Municipal Research and Services Center of Washington*)

**Growth Management Planning Council (GMPC)**

The GMPC, which was established by an Interlocal agreement, is a 15-member council of elected officials from Seattle, Bellevue, suburban cities and King County. The GMPC has been responsible for the preparation and recommendation of the Countywide Planning Policies to the Metropolitan King County Council, which then adopts the policies and sends them to the cities for ratification. *(King County Comprehensive Plan)*

**Identified Need**

Identified need exists if a school district has determined the type of school needed and a timeframe for development on one of the 18 undeveloped school sites. *(Source: School Siting Task Force)*

**Multi-County Planning Policies**

An official statement, adopted by two or more counties, used to provide guidance for regional decision-making, as well as a common framework for countywide planning policies and local comprehensive plans. *(Puget Sound Regional Council)*

**Nonconformance**

Any use, improvement or structure established in conformance with King County rules and regulations in effect at the time of establishment that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code, due to changes in the code or its application to the subject property. *(King County Code)*

**Regional Growth Strategy**

An approach for distributing population and employment growth within the four-county central Puget Sound region (King, Kitsap, Pierce, Snohomish). *(Puget Sound Regional Council)*

**Rural Area**

Outside the urban growth area, rural lands contain a mix of low-density residential development, agriculture, forests, open space and natural areas, as well as recreation uses. Counties and adjacent small towns provide a limited number of public services to rural residents. *(Puget Sound Regional Council)*

**Rural Character**

Rural Character refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

a. In which open space, the natural landscape, and vegetation predominate over the built environment;
b. That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

c. That provide visual landscapes that are traditionally found in rural areas and communities;
d. That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
e. That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
f. That generally do not require the extension of urban governmental services; and
g. That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas
(*Washington State Growth Management Act*)

**Rural Cities**

A free-standing municipality that is physically separated from other cities and towns by designated rural lands. Also referred to as "Cities in the Rural Area." The incorporated rural cities are Black Diamond, Carnation, Duvall, Enumclaw, North Bend, Skykomish and Snoqualmie. *(Puget Sound Regional Council, King County Comprehensive Plan)*

**Rural Towns**

Rural towns are unincorporated areas governed directly by King County. They provide a focal point for community groups such as chambers of commerce or community councils to participate in public affairs. The purposes of rural town designations within the County's Comprehensive Plan are to recognize existing concentrations of higher density and economic activity in rural areas and to allow modest growth of residential and economic uses to keep them economically viable into the future. Rural towns in King County include Alpental, Fall City and Vashon. *(King County Comprehensive Plan)*

**Rural Zoning**

The rural zone is meant to provide an area-wide, long-term, rural character and to minimize land use conflicts with nearby agricultural, forest or mineral extraction production districts. These purposes are accomplished by: 1) limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and are able to be adequately supported by rural service levels; 2) allowing small scale farming and forestry activities and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character; and 3) increasing required setbacks to minimize conflicts with adjacent agriculture, forest or mineral zones. *(King County Comprehensive Plan)*

**Tightline Sewer**

A sewer trunk line designed and intended specifically to serve only a particular facility or place, and whose pipe diameter should be sized appropriately to ensure service only to that facility or place. It may occur outside the local service area for sewers, but does not amend the local service area. *(King County Comprehensive Plan)*

**Unincorporated Area**

Unincorporated areas are those areas outside any city and under King County's jurisdiction. *(King County Comprehensive Plan)*

**Urban Growth Area (UGA)**

The area formally designated by a county, in consultation with its cities, to accommodate future development and growth. Given that cities are urban, each city is within a county-designated urban growth area. Cities may not annex lands outside an urban growth area, nor may they formally identify additions to the urban growth area independently of the county designation process. Development that is urban in character is to occur within the designated urban growth area, preferably in cities. Development outside the designated urban growth area is to be rural in character. *(Puget Sound Regional Council)*

**VISION 2040**

VISION 2040 is the growth management, environmental, economic, and transportation vision for the central Puget Sound region. It consists of an environmental framework, a regional growth strategy, policies to guide growth and development, actions to implement, and measures to track progress. *(Puget Sound Regional Council)*

# SECTION 3: Overview and Background Information

## *Overview*

The Washington State Growth Management Act (GMA) requires counties and cities to work together to plan for growth. In King County, the Growth Management Planning Council (GMPC) is the countywide planning body through which the County and cities collaborate. The GMPC is comprised of elected officials from King County, Seattle, Bellevue, the Suburban Cities Association, and special purpose districts. The GMPC develops and recommends Countywide Planning Policies (CPPs) to the King County Council where they are reviewed, adopted, and sent to the cities for final ratification. The CPPs were initially adopted in 1992; certain elements of the policies have been updated over the years.

In 2010 and 2011, the GMPC undertook the first comprehensive evaluation of the CPPs since their initial adoption. A full set of updated policies is required to bring the CPPs into compliance with the multicounty planning policies (VISION 2040) adopted by the Puget Sound Regional Council in 2008. VISION 2040 is the regional growth strategy for the four-county region including King, Kitsap, Pierce and Snohomish Counties.

On September 21, 2011 the GMPC completed its review and voted to recommend an updated set of CPPs to the King County Council. However, they could not reach consensus on policies governing the siting of public facilities and services. At issue was whether public schools serving primarily urban populations should be sited in rural areas, and whether such facilities should be served by sewers. The recent update of VISION 2040 included policies stating that schools and other community facilities serving primarily urban populations should be sited in the urban growth area, and that urban services (sewers) should not be provided in rural areas. In the interest of consistency, the GMPC was considering adding similar policies to the CPPs.

While the GMA is clear that sewers are not permitted in rural areas (except in limited circumstances), the CPPs have since 1992 contained a policy that allows public schools to be served by sewer when a finding is made that no alternative technologies are feasible. King County implements this policy by authorizing a tightline sewer connection after the finding is made.

This potential change in policy was of concern to school districts, many of which owned or had an interest in undeveloped rural properties. While some had acquired their properties before the adoption of the GMA and CPPs, most had not. Those school districts purchasing land after 1992 did so under a regulatory framework that permitted schools in rural areas and that allowed a tightline sewer if needed. At the time, with rising land costs in urban areas and rapid growth, choosing less expensive rural sites seemed the most judicious use of limited taxpayer funds. Many school districts pointed out the difficulty of finding large parcels in urban areas, and the importance of siting schools so that they are convenient for all students, including those in rural areas. School districts leaders testified that they do not distinguish between the urban and rural portions of their service areas; their planning takes into account the needs of their districts as a whole.

The policy debate generated testimony from rural residents, many of whom expressed concerns about the impacts of siting schools in rural areas, including traffic congestion, environmental degradation, and loss of rural character. They pointed out that while initial land costs might be lower in rural areas, the total costs to society of siting schools in non-urban areas might be greater. In addition to the impacts of transporting large numbers of urban students to schools in rural areas, the cost of transportation investments needed to support new schools are borne only by unincorporated area residents. These community impacts and financial burdens are not shared equally by residents in incorporated areas. Much of the testimony from rural residents questioned the fairness and sustainability of siting in rural areas infrastructure supporting primarily urban development.

In order to address these concerns, to acknowledge the changing environment and to support school districts in their obligation to provide quality education for the children of King County, the GMPC agreed to set aside the policies related to siting public facilities and postpone their consideration until a task force made up of school districts, cities, King County, rural residents, and other experts could study the issue and report back to the King County Executive.

## *GMPC Guidance for the Task Force*

The GMPC established guidance for formation of the School Siting Task Force in their Motion 11-2 (Appendix E) on September 21, 2011.

The Task Force was given the Mission to:

> *Develop recommendations to better align city, county, and school districts' planning for future school facilities in order to provide quality education for all children and maximize health, environmental, programmatic, fiscal, and social objectives.*
> *-GMPC Motion 11-2, School Siting Task Force Work Plan, Task Force Mission*

To fulfill this Mission, the GMPC recommended a specific scope of work. As described in GMPC Motion 11-2, the Task Force's primary task is "*to evaluate the current inventory of rural properties owned by King County school districts*" and to make recommendations as to their use or disposition. Collectively, the Task Force identified 18 undeveloped sites in rural areas. To further support the fulfillment of its Mission, it was anticipated that the Task Force might recommend legislative and other strategies.

The GMPC established a set of eight principles to guide the Task Force in its work. All of the solutions recommended by the Task Force in this Report reflect the Guiding Principles established by GMPC:

- *Academic Excellence*: Educational facilities should promote and support the academic achievement of students.
- *Equitable*: All children should have access to quality educational facilities.
- *Financially Sustainable*: School siting should be financially sustainable for each impacted jurisdiction (school districts, cities, county unincorporated areas, and sewer/water districts) and make the most efficient use of total tax dollars.
- *Support Sustainable Growth*: Planning for school facilities shall comply with state law and be integrated with other regional and local planning, including land use, transportation, environment, and public health.
- *Community Assets*: Schools should unite the communities in which they are located and be compatible with community character.
- *Based on existing data and evidence*: The Task Force process shall utilize recent demographic, buildable lands inventory, and other relevant data and information.
- *Public Engagement*: The Task Force process should include robust community engagement with impacted communities. Meetings will be transparent and open to the public for observation. The Task Force shall provide opportunities for public comment.
- *Best Practice and Innovation*: Lasting recommendations should serve the region well for years to come and support education, health, environmental, programmatic, fiscal, and social objectives.

# SECTION 4: The Task Force Process

## *Appointing the Task Force*

The GMPC designated categories of membership in Motion 11-2, but did not specify individual members. Task Force members were appointed by the King County Executive (see Appendix A).

## *Hiring a Facilitator*

Public Health - Seattle King County hired Triangle Associates as the independent facilitator to help coordinate the work of the Task Force, including conducting initial assessment interviews of all Task Force members, organizing Task Force meetings, facilitating development of recommendations by the Task Force and providing support through drafting and production of the Task Force's Final Report and Recommendations.

## *Structure and Roles of the Task Force*

The Task Force established two workgroups to assist in the effort: the Technical Advisory Committee, (also recommended by the GMPC) and the Framing Work Group. Both are described below.

## *Technical Advisory Committee*

The Technical Advisory Committee (TAC) was comprised of representatives from King County, the Puget Sound Regional Council, school districts, water and sewer districts, and the Suburban Cities Association. A membership list is included in Appendix C. The TAC met throughout the beginning and middle stages of the Task Force process; its role was to provide data and information to support Task Force decision making. TAC meetings were open to the public and included dialogue with those who attended. Meeting summaries (Appendix P) were developed to provide a record of their work.

The primary work product of the TAC involved compiling a matrix containing information related to the 18 undeveloped school sites (Appendix F). In addition to populating the matrix with site-specific information, the TAC was asked to collect data and information in several other areas of inquiry, which collectively were referred to as the "13 Tasks". This included subject areas such as demographic trends and school enrollment projections. A complete list of the 13 tasks is included as Appendix F.

The TAC work and products enabled swift evaluation of, and development of solutions for, specific sites by the Task Force. The breadth and detail of the data compiled by the TAC, and that Committee's timely response to Task Force requests, played a critical role in the accomplishments of the Task Force.

## *Framing Work Group*

Due to the short timeline for the Task Force to complete its work, the Task Force created a Framing Work Group (Appendix B) to frame issues for its consideration. Prior to each meeting of the full Task Force, the Framing Work Group met to review information gathered by the TAC and to discuss how best to organize information and issues for discussion. Doing so helped the Task Force have focused and substantive discussions and stay on task to meet their deadlines.

The Framing Work Group made recommendations on process to the Task Force; however, all decision-making power remained with the full Task Force. Framing Work Group members were appointed by the Task Force Chair from the general Task Force roster. The group met on average twice between each Task Force meeting, and meeting summaries (Appendix P) were included in the materials that the Task Force received.

## *Meeting Structure and Process*

The Task Force met six times from December 2011 through March 2012, using the process schematic (Appendix R) as a visual guide for navigating its work effort:

1. The first meeting, December 14, 2011, focused on introducing Task Force members, establishing a process for the work effort, and hearing Task Force member perspectives on hopes and desired outcomes from the process.

2. The second meeting, January 25, 2012, focused on learning information from the TAC and creating a set of interests (Appendix S) based on the Task Force's Guiding Principles as established in the GMPC Motion 11-2. The Task Force also agreed upon a set of Operating Protocols (Appendix Q).

3. On February 16, 2012, the Task Force held a 4-hour workshop to begin developing solutions for the 18 undeveloped rural school sites and for future school siting. The Technical Advisory Committee presented data on each of the 18 sites, and each school district was given the opportunity to present additional information on their sites. The Task Force reached consensus on an approach for evaluating sites that was developed by the Framing Work Group. This approach involved identifying the critical or "threshold" factors that would allow Task Force members to create four categories into which the 18 sites would eventually be sorted. The first step was to brainstorm potential solutions for each category.

4. On March 1, 2012, the Task Force met for the fourth time, also in a 4-hour workshop. Working in small groups, Task Force members accepted possible solutions for the four categories of sites. They then sorted the 18 sites into the four categories and also considered future school siting. The Task Force reached consensus agreement on several items, including:
    - The "Solutions Set and Criteria" document (Document 1 in the Recommendations section), with agreement that a few items needed additional definition, clarification, and confirmation at its next meeting
    - The placement of all school sites in appropriate quadrants of the solutions table

5. On March 15, 2012, the Task Force accepted by 100% consensus:
    - A final version of the "Solutions Set and Criteria" document
    - Recommended and prioritized solutions for 12 specific sites
    - The following technical documents: Matrix of school sites, list of 13 tasks, population and demographic information, enrollment trends by school district, public health aspects of school siting.
    - Recommendations to the Growth Management Planning Council and Washington State legislature related to school siting

6. On March 29, 2012, the Task Force accepted the Recommendations Report to be submitted to the King County Executive.

## *Decision Making: A Consensus Approach*

At the second Task Force meeting, the Task Force members accepted the Operating Protocols (Appendix Q). This document established roles for all non-Task Force members involved in the process, clarified communications protocols and workgroup composition, and defined a specific decision-making approach.

The Task Force defined consensus as obtaining the full acceptance of all members; short of that, decisions and recommendations would move forward with the approval of at least 70% of the Task Force members present, with at least one member from each primary interest group (county, cities, school districts, and residents) voting in favor to accept a document or decision.

## *Public Process*

The GMPC Motion stated that the Task Force process should include robust public engagement. All Task Force meetings and TAC meetings were open to the public. All written materials (agendas, meeting summaries, and other information) were made available on the Task Force website, and public comments were accepted throughout the process at Task Force meetings, through the Task Force website and via email. Comments from the public were summarized by the facilitator at the beginning of every Task Force meeting, and the compiled comments were emailed to Task Force members after each meeting (see Appendix U).

## *Information Considered by the Task Force*

As Task Force members studied the issues associated with siting schools in rural areas, they considered a range of data and information. The majority of this information was provided by the TAC. It included the following documents, reports and policy frameworks, many of which are included in the appendices to this Report.

- **18 undeveloped rural school sites**. The TAC prepared a matrix containing factual information related to each of the 18 sites including: general site information (e.g., zoning, acreage, assessed value), land use and transportation considerations (e.g., landscape position, distance to UGA, distance to sewer/water connection, environmental features), and the school districts' plans (e.g., intended use, development timeline). School districts were given the opportunity to correct and/or augment the information about their school sites.

- **Planning context.** King County staff provided the Task Force with a brief history of the land use planning in two areas where many of the undeveloped sites are located: the Bear-Evans Corridor and the Soos Creek Basin. The county's land use strategy in both areas employed zoning and development regulations on an area-wide basis so the cumulative impact of development would not cause environmental degradation. A summary of this history is included as Appendix O.

- **GMA policy framework**. There is a strong policy basis in Washington State for focusing growth in urban areas, protecting rural areas and the environment, and the efficient provision of government services and facilities. The growth management framework considered by the Task Force included GMA, VISION 2040, the Countywide Planning Policies, King County Comprehensive Plan and King County Code. Relevant portions of these documents can be found in Appendix M.

- **Demographic information.** The Task Force was presented with information from the 2010 census that identified population trends in the urban and rural portions of each school district, and

also district-wide. Significant demographic shifts have occurred in the past decade: from 2000 to 2010, the overall rural population in King County declined by 1%, and the rural population under the age of 18 declined by 18.4%. During the same time, the urban population saw an overall increase of 12.1% and under-18 increase of 8.3%. This information can be found in Appendix H.

- **School district enrollment projections.** The Task Force was presented with information related to current and projected school enrollment, which illustrates that district populations will continue to grow to varying degrees and that urban students will continue to comprise the majority of those populations. The anticipated enrollment for students from rural areas generally failed to materialize in the vicinities of the sites owned by school districts. The enrollment projections can be found in Appendix I.

- **Funding for school construction**. Although there was no formal presentation on this topic, it came up on several occasions and was an important consideration for the Task Force. The State of Washington does not provide funding to school districts for acquisition of properties; school districts must rely on their own funding sources (through bonds, levies, grants, and donations). Once properties are acquired, school districts can apply for state assistance for school construction as part of a state match program.

- **Current criteria and process for school siting**. Using both state regulations and locally adopted standards, school districts consider many factors when locating a site to develop a public school facility. Following guidance set forth by the Office of the Superintendent of Public Instruction and the Washington Administrative Code (392-342-020 WAC), districts look at site quality, cost, projected enrollment, distance to students/ transportation, and timing of school construction. The WAC guidelines can be found in Appendix L.

- **Funding for county road maintenance**. The TAC determined that the cost for upgrading, operating and maintaining county roads to serve future schools on the 18 undeveloped sites could range from $30-35 million over 20 years. This is important to consider because the County road fund has become severely strained, and because that cost would be borne solely by unincorporated area residents through the county road levy. In addition to cost of road infrastructure and tax equity issue, there are climate impacts associated with transporting large numbers of students to schools in rural areas, in the form of increased greenhouse gas emissions.

- **Public health aspects of school siting.** One member of the TAC and one member of the Task Force presented information on the public health aspects of school siting. In recent years, best practices in school siting have evolved to reflect a more community-centered approach, placing schools in urban areas where children can walk to school and where school facilities can serve as community assets. The major themes identified in this research (included in Appendix J) include:

    a. School siting determines the proximity of schools to a student's home and larger community and can affect whether children achieve and maintain good health,
    b. Physical activity is key to children's health,
    c. School travel impacts children's health in multiple ways, and

d. Education policy is also health policy.

### *Task Force Report*

This Report was drafted by the independent facilitation team. The Framing Work Group refined the initial draft document, which the Task Force considered at the March 15th meeting. Between the March 15th and March 29th meetings, the Framing Work Group, project team, and facilitation team refined iterations of the Report, with a final draft presented to the Task Force at its last meeting on March 29, 2012. The Task Force accepted the document, with revisions, at that meeting. The facilitation team made final revisions based on Task Force input before submitting this Report to the King County Executive.

## SECTION 5: Recommendations

### *Introduction*

The GMPC and King County Executive requested that the Task Force recommend solutions for the 18 undeveloped rural sites and guidelines for future school siting. The Task Force analyzed data and information to create and prioritize specific solutions for each of the sites and to develop recommendations for future sites. These are encapsulated below in *Recommended Solutions for Undeveloped Sites* and *Recommendations for Future School Siting*, respectively. Throughout the process, Task Force members identified other recommendations in support of its Mission; the other recommendations are listed under *Recommendations for Future School Siting.*

### *Recommended Solutions for Undeveloped Rural Sites*

The Task Force focused the major part of its effort on the 18 undeveloped sites, seeking logical and sustainable solutions. Once the Task Force process was underway, the Task Force surveyed all the school districts to ensure the Task Force's scope included the universe of undeveloped rural property with a school district interest. No other undeveloped rural sites were identified by the school districts.

The Task Force, with guidance from the Framing Work Group, decided to use a "threshold" approach for determining solutions for each of the 18 undeveloped sites. This threshold approach identified two specific criteria; a site must possess one or the other in order to be considered for development. After some refinement, the Task Force accepted the following criteria for decision making:

1) **Does the school district have an identified need for a school site?** *(Identified need exists if a district has identified a type of school and a time frame in which the school is needed.)*

2) **Does the site border the Urban Growth Area (UGA) or have an existing sewer connection?** *(Bordering the UGA means the site is directly contiguous to the UGA. An existing sewer connection means sewer line is on site. This does not include sites with sewer on an adjacent parcel or across the street.)*

Based on these criteria, the Task Force accepted the threshold approach for sorting the 18 sites and created the *Solutions Table*, which separated the school sites into four quadrants:

- **Box A**, in the upper left corner, includes sites that border the UGA and/or have an existing sewer connection and for which school districts have an identified need.
- **Box B**, in the upper right corner, includes sites that do not border the UGA and have no sewer connection and for which school districts have an identified need.
- **Box C**, in the lower left corner, includes sites for which school districts do not have an identified need and that border the UGA and/or have an existing sewer connection on site.
- **Box D**, in the lower right corner, includes sites for which school districts do not have an identified need and that do not border the UGA and have no existing sewer connection on site.

Any and all other undeveloped rural school sites (those not among the 18 recognized sites) fall into "future school siting" in Box E of the Solutions Table. Future school siting issues are addressed in greater detail in the section entitled *Recommendations for Future School Siting.*

The Task Force then developed possible solutions for each box and ranked these possible solutions in order of preference, recognizing that circumstances for specific sites within each category might merit a different order.

The recommended Solutions Set and Criteria are shown here as Document 1.

## Document 1—Solutions Set and Criteria

### Existing Undeveloped School Sites in the Rural Area

***Assumptions for Solution Set:***

- For any solution that would result in a school district not being permitted to use a site for a school, the Task Force recommends options through which the school district could receive fair and appropriate value.
- All solutions resulting in site development should mitigate impacts and provide community benefits.
- Any solutions that involve a change in the UGA or allow/prohibit sewer service shall be governed by the laws, policies, and/or administrative procedure(s) in place at the time.
- Additional solutions may apply; detailed analysis may be required to determine optimal solution for any site.
- All sites, site conditions, and identified needs are included in the Matrix. School districts were asked to bring forward any additional sites and no other sites emerged so the full and final list of specific sites is shown in Documents 2-3.

**NOTE: Solution Sets in each box is listed in priority order.**

| | **Site borders UGA or has sewer connection.** *"Sewer connection" defined as having sewer on site already (not adjacent).* | **Site does not border UGA and has no sewer connection.** |
|---|---|---|
| **School district has an identified need for a school site.**<br><br>*"Identified need" exists if district has identified a type of school and a time frame in which they need the school.* | *A*<br>1. Find an alternative site in the UGA<br>2. Allow school district to connect to existing sewer<br>3. Incorporate site into adjacent UGA<br><br>*Prohibit: Extending additional sewer outside UGA* | *B*<br>1. Find an alternative site in the UGA<br>2. Find an alternative site bordering UGA (*if this occurs,* see *Box A for possible solutions*)<br>3. Sell, or hold with the understanding that any future development must be consistent with Vision 2040 as implemented by King County Code<br><br>*Prohibit: Moving UGA; tight-line sewer* |
| **School district does not have an identified need for a school site.** | *C*<br>1. Find an alternative site in the UGA<br>2. If the site is of value to the county, cities or community, facilitate the purchase, sale, or land swap of property<br>3. Sell, or hold with the understanding that any future development must be consistent with Vision 2040 as implemented by King County Code<br><br>*Prohibit: Moving UGA; new sewer connections* | *D*<br>1. If the site is of value to the county, cities or community, facilitate the purchase, sale, or land swap of property<br>2. Find an alternative site in the UGA<br>3. Sell, or hold with the understanding that any future development must be consistent with Vision 2040 as implemented by King County Code<br><br>*Prohibit: Moving UGA; tight-line sewer* |

### All Other Undeveloped School Sites (Future)

| | |
|---|---|
| **Future School Siting** | *E*<br>All future school siting should be consistent with Vision 2040. |

Once the Task Force accepted these criteria and categories plus the prioritized solution sets for each quadrant, members considered each undeveloped school site. At the March 1st meeting, the Task Force reached consensus agreement for the placement of each site in accordance with the accepted criteria.

The accepted placement of each rural school site is shown below as Document 2.

## Document 2—Site Categorization

Task Force breakout groups identified the sites in each category. The full Task Force reached 100% Consensus on March 1, 2012 on the following site categorization:

### Existing Undeveloped Sites in the Rural Area (18 sites)

| | **Site borders UGA or has sewer connection.** | **Site does not border UGA and has no sewer connection.** |
|---|---|---|
| **School district has an identified need for a school site** | *A*<br>Sites:<br>Enumclaw A, D<br>Lake Washington 2, 4<br>Snoqualmie Valley 1<br>Tahoma 1 | *B*<br>Sites:<br>Enumclaw B<br>Issaquah 1 |
| **School district does not have an identified need for a school site** | *C*<br>Sites:<br>Kent 4 | *D*<br>Sites:<br>Auburn 1, 2, 3<br>Kent 1, 2, 3<br>Lake Washington 1, 3<br>Northshore 1 |

### All Other Undeveloped School Sites (Future)

| | |
|---|---|
| **Future School Siting** | *E*<br>All future school siting should be consistent with Vision 2040. |

Once the Task Force accepted the threshold criteria and site categories, developed the basic solution sets for each quadrant, and placed the school sites in categories based on the threshold criteria, members brainstormed possible solutions for each site. Task Force members developed a preferred solution for each site, with a prioritized list of additional solutions. Where appropriate, they included notes, considerations, and rationale to support each site's recommended solution(s).

The Task Force recognized that VISION 2040, the CPPs, the King County Comprehensive Plan, and the King County Code will ultimately govern what happens on both current undeveloped school sites and on any other future school sites in rural areas. In addition, school districts will control the timing and specific actions within that framework. The involvement of cities is needed to facilitate siting within urban areas.

Document 3 below shows the recommended solution(s) for each school site, along with site-specific considerations.

Document 3—Site-Specific Solutions

## Box A

| | SITE BORDERS UGA or HAS SEWER CONNECTION |
|---|---|
| **School district has an identified need for a school site.** | **<u>Overview:</u>**<br><br>In general, while the Task Force's preference is to find alternative sites in the UGA, the Task Force finds that for the sites in Box A the particular site conditions and circumstances facing the impacted school districts may warrant other solutions. Thus the recommended solutions vary by site. For any recommendations that allow for development on a site, the Task Force recommends that the district work with the county and community to minimize impacts on the rural surroundings and rural residents.<br><br>Because of the identified need by the school districts, the Task Force recommends that these sites receive prioritized attention from city, county and school district decision makers.<br><br>**<u>Sites and their Solutions</u>:**<br><br>**Snoqualmie Valley 1**<br>1. Allow school district to connect to existing sewer<br>*Site specific: The high percentage of floodplain land in this school district makes finding an alternate site very challenging. The site does not have significant conservation value. The site has an existing school, which was developed with the intent that another school would be built on the site. The district has undertaken site preparation for the addition of an elementary school on the site. The school district invested in the Local Improvement District that enabled the sewer to reach the site.*<br><br>**Tahoma 1**<br>1. Find alternative site in the UGA<br>2. Allow school district to connect to existing sewer<br>*Site specific: The Task Force encourages the district to work with the county and cities in the district to explore opportunities for finding an alternative site in the UGA that would meet the pressing need for additional capacity that development of another school would provide. If no viable alternative site that fits within the district's financial plans can be expeditiously found, the availability of sewer and an existing school on the site present compelling reasons for development of the site to meet the district's needs. The site does have conservation value and the Task Force recommends that any new development on the site occur adjacent to the existing school so that impacts to the site's forest cover are minimized.*<br><br>**Lake Washington 2**<br>1. Find alternative site in the UGA<br>2. Incorporate site into adjacent UGA<br>*Site specific: The site borders the Redmond watershed and has conservation value. The Task Force therefore encourages the school district, the county and the City of Redmond to find an alternative site within the UGA that would meet the district's need for additional capacity that development of another school would provide. The parties should identify other partners and funding mechanisms that would allow for purchase of the property (perhaps in conjunction with the Lake Washington 1 site) for permanent conservation as well as provide resources to the district for purchase of an alternative site. If no viable alternative site can be expeditiously identified, the Task Force recommends that the school district develop the site in a manner that preserves as much of the conservation value of the site as* |

*possible. This may be accomplished through, for example, incorporation of a small developable portion of the site (about five acres) into the UGA for a small environmental school* while placing the remainder of the site into permanent conservation. The district should also work closely with the county and community to minimize other impacts, such as transportation. The Task Force does not recommend extension of sewer to any portion of that site that remains outside of the UGA. If the site is proposed for incorporation into the UGA, it shall go through the King County docket process.*

**Environmental School will have sustainable or "green" buildings and grounds (refer to State RCW 39.35D, "High Performance Public Buildings – Guidelines for School Districts").*

**Lake Washington 4**

1. Allow school district to connect to existing sewer

*Site specific: The Task Force recognizes the school district's need for additional capacity in the eastern portion of the district, which straddles the City of Redmond, the rural area, and an unincorporated urban "island" surrounded by rural area. The site is part of a large parcel on which there is an existing elementary and middle school, both already connected to sewer. The undeveloped portion of the site was previously used as a mink farm and portions of the site are cleared. The Task Force recommends that the district work closely with King County and the community to minimize both existing and additional impacts on the area surrounding the parcel, particularly the transportation impacts related to several facilities being located or developed on the site.*

**Enumclaw A & D:**

1a. Find alternative site/s in the UGA

1b. Place all school buildings and impervious surfaces on the *urban* side of the UGB and place ballfields/playfields on the *rural* side of the UGB.

*Site specific (1a): This joint site lies on the south-eastern boundary of the Black Diamond UGA and a master-planned development (MPD) that has yet to be constructed. The identified need of the school district is associated primarily with the population projections of the MPD and with students residing outside of the MPD but in the northern part of the district; the sites are planned for an elementary and a middle school. The fee title to both sites is held by the developer, with the district's property interest recorded as an encumbrance on title, and would only be conveyed to the school district if the MPD materializes. The Task Force recommends that no sewer be extended to the rural portion of the site and that the City of Black Diamond and county work with the developer and the school district to site all schools associated with the MPD completely within the UGA. The Black Diamond City Council supported this solution in a resolution passed 3-1-12. The Black Diamond City Council previously approved the Comprehensive School Mitigation Agreement identifying Enumclaw Sites A, B, and D as agreed-upon school sites.*

*Site specific (1b): The Enumclaw School District and the developer have identified as an alternative to 1a the placement of a portion of the proposed school-related facilities on rural lands. If attempts to site each of these schools fully within the UGA are unsuccessful, alternative 1b may be contemplated. Alternative 1b consists of siting all school buildings, storm water detention and other support facilities, and all parking and impervious surfaces within the UGA and limiting any development in the adjacent rural area to ballfields/playfields. The Task Force further recommends maintaining significant forest buffers between the ballfields/playfields and adjacent rural lands including the Black Diamond Natural Area. Recommendation of this urban/rural alternative by the Task Force is meant to address the unique circumstances of the Enumclaw A & D sites and is not to be construed as a precedent for locating schools on adjacent rural lands. Consequently, it is not recommended for any other sites.*

# Box B

| | SITE DOES NOT BORDER UGA and HAS NO SEWER CONNECTION |
|---|---|
| **School district has an identified need for a school site.** | **<u>Overview:</u>**<br><br>The Task Force recommends that alternative sites in the UGA be found for all sites in this box and that sewer not be extended to these sites. Because of the identified need by the school districts and the recommendation to find alternative sites, the Task Force recommends that these sites receive prioritized attention by school district, county and city decision makers.<br><br>**<u>Sites and their Solutions</u>:**<br><br>**Issaquah 1**<br>1. Find alternative site in the UGA<br>*Site specific: The site is a large parcel (80 acres) on May Valley Road between Squak Mountain to the north and Cedar Hills Landfill to the south. The site has conservation value. The Task Force recommends that the school district work expeditiously with King County, the City of Issaquah and the City of Renton. These partners shall work diligently to find an alternative site within the UGA that would meet the school district's need for additional capacity that development of another school would provide. The county, cities and school district should identify other partners and funding mechanisms that may allow for purchase of the property for permanent conservation or other rural-related uses while also providing resources to the district for purchase of an alternative site.*<br><br>**Enumclaw B:**<br>1. Find alternative site in the UGA<br>*Site specific: The site is in the rural area west of the Black Diamond UGA and a master-planned development (MPD) that has been approved but is yet to be constructed. The identified need of the school district is associated with the population projections of the MPD; the site is planned for a middle school. The fee title for the site is held by the developer, with the district's property interest recorded as an encumbrance on title, and would only be conveyed to the school district if the MPD materializes. The Task Force recommends that no sewer be extended to the site and that the City of Black Diamond and the county work with the developer and the school district to site schools associated with the MPD in the UGA.* |

## Box C

| | SITE BORDERS UGA or HAS SEWER CONNECTION |
|---|---|
| **School district does not have an identified need for a school site.** | **<u>Overview:</u>**<br><br>Because the site in this box is not associated with an identified need, the Task Force recommends that the school district plan to develop the site consistent with Vision 2040 or manage the site as part of its capital portfolio.<br><br>**<u>Site and its solution</u>:**<br><br>**Kent 4**<br>1. Sell, or hold with the understanding that any future development must be consistent with Vision 2040 as implemented by King County code. |

# Box D

| | SITE DOES NOT BORDER UGA and HAS NO SEWER CONNECTION |
|---|---|
| **School district does not have an identified need for a school site.** | **<u>Overview:</u>**<br><br>Because sites in this box are not associated with an identified need, the Task Force recommends that school districts plan to develop the sites consistent with Vision 2040 or manage the sites as part of their capital portfolio. The Task Force also recommends that while the school districts will ultimately determine how sites are handled, the county, cities, and other interested parties should investigate whether sites may be suitable for permanent conservation or other public purposes; if so, these entities should work to facilitate the acquisition of the properties for the identified public purposes.<br><br>**<u>Solutions for sites with conservation value:</u>**<br><br>1. If the site is of value to the county, cities or community, facilitate the purchase, sale, or land swap of property<br><br>The Task Force recommends that the county, cities and school districts investigate whether the properties may be appropriate for permanent conservation or acquisition for other public purposes.<br>• **Auburn 1**: *The site has value for flood hazard reduction*.<br>• **Kent 3**: *The site has forestland of value for environmental, social, and potentially economic benefits.*<br>• **Lake Washington 1**: *The site has value for flood hazard reduction and regionally significant aquatic or terrestrial natural resources. Facilitating the sale of the property into conservation may assist with solutions for other Lake Washington sites in Box A.*<br>• **Northshore 1**: *The site has forestland of value for environmental, social, and potentially economic benefits.*<br><br>**<u>Solutions for sites without identified conservation value:</u>**<br><br>**Auburn 3, Kent 1, and Lake Washington 3**<br>1. Sell, or hold understanding that any future development must be consistent with Vision 2040.<br>*The Task Force recommends that school districts plan to develop the sites consistent with Vision 2040 or manage the sites as part of their capital portfolio.*<br><br>**<u>Solution for Auburn 2:</u>**<br><br>**Auburn 2**: *The site has an existing elementary school, but no sewer extension. The school district plans to redevelop the existing elementary school or build a middle school to replace the elementary school. No time frame has been specified. The Task Force recommends that the school district be allowed to redevelop, if no sewer connection is needed and as allowed by development regulations in place at the time of development.* |

*Note: In developing the above recommendations for schools sites, Task Force members reached out to all school districts whose service area includes rural land, even those districts not represented on the Task Force. To make sure the solutions recommended by the Task Force would encompass all known sites and create lasting solutions, school districts were asked if they owned or had interest in any rural sites not already under consideration in this process. School district representatives stated there were no additional rural sites needing to be addressed at this time. Therefore, no other sites are included and all future school siting should be guided by the recommendations below.*

## Recommendations for Future School Siting

The Puget Sound Regional Council (PSRC) comprehensively updated VISION 2040 in 2008. In preparation for the update, the PSRC developed an issue paper regarding Rural Areas that included a discussion on Special Purpose Districts and Institutional Uses (Appendix N). The issue paper noted that special purpose district planning is disconnected from GMA, and that many facilities (including schools) had expanded into rural areas, taking advantage of relatively low land values and large tracts of land. The issue paper recommended that policies be established that provide regional guidance on siting special purpose districts within rural areas. Thus, the following policies were established and incorporated into VISION 2040:

> **MPP-PS-4** Do not provide urban services in rural areas. Design services for limited access when they are needed to solve isolated health and sanitation problems, so as not to increase the development potential of the surrounding rural area.
>
> **MPP-PS-5** Encourage the design of public facilities and utilities in rural areas to be at a size and scale appropriate to rural locations, so as not to increase development pressure.
>
> **MPP-PS-21** Site schools, institutions, and other community facilities that primarily serve urban populations within the urban growth area in locations where they will promote the local desired growth plan.
>
> **MPP-PS-22** Locate schools, institutions, and other community facilities serving rural residents in neighboring cities and towns and design those facilities in keeping with the size and scale of the local community.

Also in 2008, VISION 2040 incorporated new policies integrating public health considerations into land use and transportation planning, and addressing climate change through the regional growth strategy (reducing greenhouse gas emissions by focusing growth in urban centers).

Consistent with all of the above, VISION 2040 now encourages the siting of public facilities in urban areas, and states that *"Schools should be encouraged to become the cornerstone of their communities by locating in more urban settings and designing facilities to better integrate with their urban neighborhoods."*

Given the adopted policies in VISION 2040 and after consideration of the wide range of technical information presented, the Task Force recommends that all future school siting be consistent with VISION 2040.

## Box E

**The Task Force recommends that all future school siting be consistent with VISION 2040.**

In support of this recommendation, the Task Force further recommends:

1. The Growth Management Planning Council (GMPC) should develop policies and adopt a work program that commits jurisdictions to working together to identify future school sites within the UGA. These policies shall direct jurisdictions to use zoning and other land use tools to ensure a sufficient supply of land for siting schools.
2. King County should work with the school districts, community representatives, and other stakeholders to address any future redevelopment of existing schools on rural sites to accommodate school districts' needs while protecting rural character.
3. The Growth Management Planning Council should add a school district representative to its membership.
4. The Puget Sound Regional Council should collaborate with counties and cities in working with school districts to ensure coordination in regional (4-county) growth management discussions (per VISION 2040 PS-Action-6).
5. The Washington State Legislature and the Office of the Superintendent of Public Instruction should examine, together with the State Department of Commerce, how state laws, guidelines, policies and administrative procedures can influence school siting decisions, including:
    a. Reconsideration of existing transportation policies and funding that incentivize busing and siting schools away from population centers
    b. Identifying new funding for school land acquisition, including incentives for purchases, land swaps, and other avenues for obtaining land inside the UGA
    c. Revising existing guidelines for school siting such that districts who build on small sites in urban areas are eligible for state match funds
    d. Increasing the compensation to school districts for the construction costs of schools sited within the UGA

*Note: The Task Force did not specifically consider redevelopment of existing schools on sites in the rural area. Redevelopment issues were not included in the Task Force scope of work. Information emerged late in the Task Force process regarding redevelopment and will be passed on to appropriate officials for consideration at a future date. Redevelopment is addressed in #2 in Box E.*

**Communicating Task Force Findings to Stakeholders**

To help communicate its findings, Task Force members are available to speak with interested parties (school boards, city councils, etc.) to discuss its work, its process, and its recommendations.

## SECTION 6: IMPLEMENTING TASK FORCE RECOMMENDATIONS AND NEXT STEPS

Implementation of these recommendations will require additional work by and ongoing coordination between King County, the cities, school districts, and other stakeholders. For this reason, the Task Force has recommended including school districts in regional planning bodies.

Recognizing that the Task Force's recommendations will require school districts to reconsider their real estate portfolios and/or financial plans, one of the first implementation items should be to explore the recommended solutions for specific sites, including:

- Finding alternative sites in the UGA
- Exploring land swaps for undeveloped sites
- Exploring acquisition of undeveloped rural sites for public purposes, including conservation, recreation, or other rural-based uses

The Task Force suggests that this work commence immediately, and defers to the King County Executive on identifying the appropriate forum(s).

### *Next Steps*

The following are the next formal steps in the development of new policies to support the Task Force's recommendations:

1. The King County Executive will review this Task Force Report and propose new Countywide Planning Policies for Growth Management Planning Council (GMPC) consideration
2. The GMPC will review the Executive's proposal, and recommend new Countywide Planning Policies to the King County Council for their consideration
3. The King County Council will review the GMPC's recommendation, adopt new Countywide Planning Policies, and send them to the cities for ratification
4. The King County Council will adopt new Comprehensive Plan policies and development regulations that are consistent with the new Countywide Planning Policies

## Appendices (Attached)

A. Task Force Membership

B. Framing Work Group Membership

C. Technical Advisory Committee Membership

D. Map of 18 Undeveloped School Sites

E. GMPC Motion 11-2

## Appendices (on CD)

F. Matrix of Technical Information on Undeveloped Sites

G. Maps of Undeveloped Sites

H. Demographic Information

I. Enrollment Projections

J. Public Health Aspects of School Siting

K. Technical Advisory Committee Work (13 Tasks)

L. State School Siting Guidelines

M. Existing Policy and Regulatory Framework

N. Excerpt from PSRC Issue Paper on Rural Areas

O. Land Use Planning Overview

P. Meeting Summaries

Q. Operating Protocols

R. Process Schematic

S. Task Force Member Interests

T. Interview Summary

U. Public Comments

PUGET SOUND EDUCATIONAL SERVICE DISTRICT

REGIONAL COMMITTEE

ON SCHOOL DISTRICT ORGANIZATION

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| | |
|---|---|
| In Re:<br><br>Transfer of Territory from Tahoma School District to Enumclaw School District | ) |

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**VERBATIM RECORD OF PROCEEDINGS**

October 3, 2013

Renton, Washington


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16

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1 BE IT REMEMBERED that on Thursday,
2 October 3, 2013, at 800 Oakesdale Avenue Southwest,
3 Renton, Washington, at 6:00 p.m., before the **Puget**
4 **Sound Educational Service District Regional Committee**
5 **on School District Organization**, the following
6 proceedings were had, to wit:
7
8 <<<<<< >>>>>>
9
10 CHAIRMAN ROLLINS: It is 6 p.m.
11 Good evening, everyone. I'd like to call to order
12 this meeting of the Regional Committee on School
13 District Organization for the Puget Sound Educational
14 Service District. My name is Dan Rollins. I'm
15 Chairman of the Committee. And I do declare a quorum.
16 I'd first like to start by introducing our
17 Committee members. Starting on my right is Dan
18 Pflugrath and then Laurie Koehler. To my left, Larry
19 Wilcox, Dawn Warren. Anne Shaw is assistant attorney
20 general and provides our -- is legal counsel for the
21 Committee. Jane Murray is the assistant fiscal
22 officer for financial services here at ESD. And
23 sitting in the front row is Dr. Thomas Dramer. Dramer.
24 He provides consultation work for the Committee as
25 needed.

MS. MURRAY: Dan, they can't hear you quite well. Maybe bring the microphone closer?

UNIDENTIFIED SPEAKER: No, the microphone's not on.

CHAIRMAN ROLLINS: No, it's on. Got told it's a new mic, and I got to talk closer. Want me to start over again? I'll say it again, nice and loudly, that we do have a quorum, so we are able to continue.

I would ask Enumclaw to introduce their speakers.

MR. NELSON: For our presentation?

CHAIRMAN ROLLINS: Or just introduce yourselves, please, at this time.

MR. NELSON: My name is Mike Nelson. I'm superintendent of the Enumclaw School District.

MR. HOGE: Mike Hoge. I'm an attorney for the district.

MS. BARRICK: Lorraine Barrick. I'm a financial consultant.

MR. MADDEN: Tim Madden, director of business and operations for the district.

MS. BERRYHILL: Stephanie Berryhill, human resources for Enumclaw School District.

MR. NELSON: Do you just want speakers?

1 CHAIRMAN ROLLINS: Yeah.
2 MR. MADDEN: I'll retract mine.
3 MR. CASSELL: Corey Cassell, board
4 president.
5 CHAIRMAN ROLLINS: Thank you.
6 Tahoma District, introduce your speakers, please.
7 MR. GANSON: Yes. Jeff Ganson.
8 I'm an attorney for the school district. And also
9 speaking this evening will be the board president,
10 Tim Adam, and district financial consultant Debra
11 Aungst.
12 CHAIRMAN ROLLINS: Thank you. And
13 we will have public -- the testimony opportunity for
14 members of the public, and you'll introduce yourselves
15 at that time.
16 The purpose -- let's see. Before we get to that,
17 we need to approve meetings [sic] of our last hearing.
18 MS. KOEHLER: Move approval of the
19 meeting minutes of April 24th and June 12th Committee
20 hearing.
21 MR. PFLUGRATH: Second the motion.
22 CHAIRMAN ROLLINS: Moved and
23 seconded. Any discussion on our minutes from
24 previous meetings?
25 MS. KOEHLER: No.

1 MS. WARREN: No.
2 MR. PFLUGRATH: No.
3 CHAIRMAN ROLLINS: All in favor?
4 (All say "aye.")
5
6 CHAIRMAN ROLLINS: Opposed? Okay.
7 That's passed.
8 So now we get to the purpose of this hearing this
9 evening. And I would like to thank everyone in the
10 audience for coming tonight. We appreciate your
11 participation. Sometimes these can be difficult.
12 Sometimes they're not quite so bad. But in every one
13 of them, we try our best to follow the statutes, do
14 what's best for the citizens and students of our
15 state.
16 So for this meeting, the purpose of this public
17 hearing is for the Regional Committee members to hear
18 testimony and discuss whether or not to transfer
19 territory from the Tahoma School District to the
20 Enumclaw School District. This hearing on the
21 proposed territory is undertaken by the Regional
22 Committee on School District Organization under the
23 Revised Code of Washington 28A.315.095.
24 We will start with Enumclaw School District, to
25 be followed by Tahoma. We will offer rebuttal time

1 for both districts after that. We will then take a
2 recess and move to the citizen testimony portion.
3 Assuming that the time frame fits, we will then close
4 the public hearing portion and begin our deliberations.
5 So with no further ado, Enumclaw, take it away.
6 MR. NELSON: Thank you.
7 Good evening. My name is Mike Nelson. I'm
8 superintendent of the Enumclaw School District. And
9 I have the privilege of serving 4,200 students,
10 currently 4,200 -- about 4,200 students in our school
11 district. And I've come to this position after
12 being -- serving for eight years as assistant
13 superintendent.
14 I was also born and raised in Enumclaw. My
15 grandparents actually immigrated from Italy and
16 settled in the Black Diamond area originally and then
17 moved to the Enumclaw side of the district. My
18 children are third-generation graduates of the
19 Enumclaw High School. My grandparents came with an
20 eighth-grade and fourth-grade education. And their
21 goal, more than anything, was to have their -- their
22 children graduate from high school, and were able to
23 do that and moved -- and my parents, their goal was
24 that all three of us graduate from high school and
25 college, and we were able to do that. And now my

1 children are -- one is completed, and one will
2 complete in May.
3 And I share that story as a historical beginning
4 toward the partnership between Enumclaw and Black
5 Diamond and the historical essence of what we have
6 become as a school district of two cities and one
7 district.
8 Historically, there were many school districts in
9 our state, particularly in our region of the county
10 and of the ESD. The Black Diamond School District
11 became a part of the Enumclaw School District in
12 1975. They were a K-8 school district, and their
13 students always moved to the Enumclaw School District
14 for high school.
15 During that time, since '75, the city of Black
16 Diamond was designated as a future growth in King
17 County; a BDUGAA, as known as in our school district.
18 And Yarrow Bay Holdings has been working with the
19 City of Black Diamond since the year 2000 around
20 putting together a master planned development. This
21 master planned development includes -- is a huge
22 development that includes two master plans. The
23 first one is The Villages, which encompasses 3,600
24 single-family, 1,200 multifamily homes, and Lawson
25 Hills, 930 single-family and 320 multifamily homes.

1 The impact to the school, with near -- over 6,000
2 units, is huge. And so if you just were to take a
3 look at those units at one snapshot of time, what
4 those units represent in terms of students, we would
5 have 837 high school, 680 middle school, and 2,025
6 more elementary students. If all those homes were to
7 magically be built in place and all the statistics
8 were correct, that's what it would be. We worked
9 with our mitigation that it happened over time, so
10 those numbers look different over the 20-year period
11 of the development.
12 We do -- we do know, in law, that a developer
13 can't be held responsible for a hundred percent of
14 the impacts. But we worked with the City of Black
15 Diamond to develop the most comprehensive, long-term
16 mitigation plan possible. In that plan, the school
17 board of directors set out a series of values. And
18 those values really -- really revolved around the
19 long-term infrastructure of the plan, the
20 sustainability and security for the school district
21 within that plan.
22 And what I mean by that is, we looked at other
23 mitigation plans and saw that many were shortsighted.
24 It put a lot in the beginning, but then we didn't
25 realize what happened in the last 10 to 20 years of

1 that development, and so really set that out as a
2 value before we even began the mitigation process.
3 We knew it was a master planned development. We
4 wanted school sites that were designated in
5 neighborhoods, not on the outskirts of -- of the
6 development. And we wanted flexibility as things
7 changed and school size change. We have a value in
8 our school district of small school size. Knowing
9 that that may change in 20 years, knowing that our
10 board of directors may not be the ones sitting in the
11 chair when the buildings were built, we wanted some
12 flexibility built within the agreement.
13 The agreement, in itself, sets up strong, complex
14 structure of both school impact fees and seven school
15 sites: Four elementary, two middle, and a high
16 school site. My reason for setting that is, that
17 mitigation sets -- is a process within itself. So
18 the school mitigation is one process that we needed
19 to go through.
20 So these two master planned developments, if I
21 were just to describe them quickly to you, is -- are
22 the Lawson Hills and The Villages both have a
23 contiguous core, and then also both have parts that
24 are not tied to that contiguous core, that are the
25 business and light industrial sections of -- of

1 lands. These satellite parcels, is how I'm going to
2 describe them, form an arrow. The first one is a
3 rectangle parcel, which currently is within the
4 Enumclaw School District, which is tied to The
5 Villages. The second is a triangular parcel of land
6 that does not currently lie within the Enumclaw
7 School District but lies within the Tahoma School
8 District.
9 If I were to show you these two pieces on the
10 screen, you can see in the Lawson Hills development,
11 what I'm talking about in terms of this contiguous
12 core, which is the main part of the development, and
13 then you see the arrow that's not even in the photo
14 of this satellite business part, so -- and then same
15 here for The Villages. You see the core of The
16 Villages, and then you see this rectangular portion
17 of the development. In this particular picture, you
18 can actually see the arrow that I'm talking in
19 reference just a few minutes ago.
20 So if you were to take a look at our school
21 district, this white area actually is the Director
22 Area 4, where the school district comprised of five
23 board members. This is Director Area 4. And you can
24 see the white area which encompasses both master
25 planned developments, with the exception of the

1 triangular parcel which is shaded in black at the top
2 of the screen.
3 So that triangle parcel -- so if you think back,
4 in 1975, Black Diamond became a part -- Black Diamond
5 School District became a part of the Enumclaw School
6 District. In 2005, that parcel was part of the
7 annexation into the city of Black Diamond in December
8 of 2005. It is currently undeveloped. There's no
9 residents. There's no students that reside in that
10 parcel. And that parcel is the parcel that is
11 connected to the Lawson Hills development.
12 When I think about -- if I were to go back, when
13 I think about those parcels, I think of, you know, a
14 mathematical equation. When you think of The
15 Villages, the core, the core piece, you know, A is to
16 A, the rectangle portion, as B is to the triangle
17 portion. And in a master planned development, all of
18 the both residential and the commercial are important
19 for the -- within the students of the school district.
20 So the revenue from that commercial is just as
21 important to serving a master planned development as
22 is the residential.
23 And what I talked about in terms of the school
24 mitigation and the reason for opening of the school
25 mitigation is, sometimes there's the confusion of

1 what's the legal process the school districts must go
2 through in order to take different steps when a large
3 development comes into your school district. We
4 follow that process in the school mitigation. We
5 actually worked in -- working with the City of Black
6 Diamond and Yarrow Bay and the school district to
7 define a fine comprehensive plan.
8 Now, in this part of the process, we have to, in
9 terms of law, work through the transfer-of-land
10 process. Because we feel, in terms of if we go back
11 to those two pieces of -- connecting the commercial
12 to the core part of it is important. So we began
13 that process in spring of 2012.
14 And so our board of directors really -- we work
15 together in terms of saying that that master planned
16 development should reside, you know, within one --
17 one school district. And the importance of, in a
18 true master planned community, all of the -- all of
19 the codes from, you know, in boundaries and how the
20 focus of our legislators in developing the RCWs
21 around this carries out that master planned
22 developments, the idea behind it is, it's all --
23 everybody working together in order to make that
24 happen for a school district and then ultimately for
25 the kids and staff within that school district.

1 We're going to -- this is a second point to this,
2 is the importance to us. Growth is occurring in
3 Tahoma, and their assessed valuation is increasing at
4 a much higher rate than within the Enumclaw School
5 District. And our belief is that's going to continue
6 even during the build-out of the master planned
7 development. But again, it's our responsibility to
8 be -- take responsibility for all the new students
9 that will reside within that master planned
10 development. And it's important for us as a school
11 system to have all the revenues that tie directly to
12 those master planned developments.
13 At this time, I'd like to just bring up our
14 school board president, Corey Cassell. Corey is
15 representing our board of directors to speak to these
16 points.
17 MR. CASSELL: Ladies and gentlemen
18 of the Committee, thank you. I just wanted to come
19 here tonight and speak on behalf of the board members
20 who are with me, with regard to our responsibility.
21 We feel a really strong responsibility toward the
22 people who elect us to represent them. And one of
23 the aspects of this whole master planned development
24 that is most likely going to be a challenge is to
25 pass the laws that are necessary to build the schools

1 that we will need to support our students.
2 One of the reasons that we have taken this action
3 is to support that effort. And we believe that if
4 we don't make this -- this move, if we don't try to
5 acquire this land, Black Diamond residents will most
6 likely be the patrons of those businesses that are
7 potentially going to be developed in that area, they
8 will be the ones who will frequent those
9 establishments, and we believe it will be a significant
10 challenge for us to explain why their money is not
11 going to their own children.
12 The revenue would not go to our -- their own
13 children for the businesses that they would be
14 frequenting. And I think that's -- that's a problem
15 for us passing bonds. It's a potential issue that
16 would carry forward in the future. Thank you.
17 MR. NELSON: And I think what Corey
18 is -- has shared is also tying what I shared earlier,
19 is in the mitigation, and the reason that I started
20 with the mitigation agreement and not have any
21 confusion around that is, you know, you can't rely on
22 and have a law that the developer paid a hundred
23 percent. So we know that we are going to be also
24 working with our taxpayers within our community and
25 tied to state match funds in order to pull off future

1 building in the build-out of the schools and the
2 sites that we've acquired along with the school
3 mitigation fees.
4 I wanted to just, kind of in closing, bring up a
5 couple pieces of information, just to make sure that
6 it's made public, is: You know, there was a similar
7 situation with Northwest Landing in the Steilacoom
8 School District, where the majority of some
9 businesses, the business land of it was in the Clover
10 Park School District.
11 And the people who were serving in your capacity
12 at that time, where the master planned development
13 was in Steilacoom and the commercial was in Clover
14 Park, made the decision that that land followed to
15 the MPDs. The people who were in the Steilacoom
16 School District have the responsibility of the kids
17 and the education of those kids, feeling that that
18 business and that commercial property should be in
19 that same school district. And that transfer was
20 approved. That transfer is in much more large -- a
21 large amount compared to what our request is, that 88
22 parcels representing over $229 million at that time.
23 The other piece of information is, oftentimes we
24 as school districts -- and it's not been a part of
25 our school district, but there is transfers that

1 occur for a variety of reasons, and a variety of
2 solid reasons and good reasons. And we believe our
3 transfer is for a very good reason and because of the
4 tie to the MPDs. Just in 2010, Tahoma had a
5 conversation with Kent around the same purpose. And
6 it made good sense and good reasons. Didn't even
7 need to come to you as a Regional Committee.
8 This is not a process, as you know, that is not
9 uncommon. It's not necessarily common, but it's not
10 uncommon as well. Currently the parcel that we're
11 requesting is worth 1.9 million. This parcel was
12 worth 3.1.
13 And just ending with the kids. These are kids of
14 Black Diamond Elementary. They're focusing on
15 creating, you know, chains of kindness and the
16 importance of that in education. And our -- our
17 process is very genuine. We come to you with a --
18 you know, an open process of what we've been through
19 in our school mitigation, what we are going through
20 in this land transfer process. And we come to you
21 with a very genuine request of why we feel this
22 parcel of land should be transferred to our school
23 district, because it's our responsibility to take
24 care of the kids that are going to be part of this
25 MPD.

1 So that concludes my portion of the presentation.
2 And at this point, I'd like to present Mike Hoge.
3 MR. WILCOX: Thank you.
4 MR. HOGE: Chairman Rollins and
5 members of the Committee, thanks for making the time
6 tonight to reconsider the Enumclaw School District's
7 proposal to transfer territory. This is a matter
8 that we think is very important to the future of
9 schools and students in Enumclaw.
10 My name's Mike Hoge. I'm an attorney in Seattle
11 who does mostly school law. That's been my niche of
12 mine for three-plus decades, including a lot of school
13 finance work. My role tonight is to assist
14 Superintendent Nelson and Board President Cassell in
15 making a few hopefully helpful points and to
16 introduce a couple of excellent resources on some of
17 the financial aspects of the district's proposal.
18 I think you could tell from Superintendent
19 Nelson's thoughtful presentation how careful and
20 comprehensive and forward-looking he and the school
21 district have tried to be in this matter. And as an
22 aside, I'd like you to know that his compatriots,
23 other school administrators in the state, recognize
24 his leadership abilities, and they've elected him to
25 be the president of the Washington Association of

1 School Administrators.
2 I've passed out a set of maps to you and to
3 Mr. Ganson, Tahoma's attorney, just because they have
4 helped me to try to get a handle on -- they're just
5 exactly what we're talking about here. The first in
6 this series of, I think, five different maps just
7 shows the cities in King County. The second one
8 shows all the school districts in King County. The
9 third one zooms in a bit and begins to show Black
10 Diamond. You can see how big the Enumclaw School
11 District is in relation to the city of Black Diamond.
12 But in this third slide, you can begin to see a
13 little point on top of Black Diamond. That's the
14 North Triangle we're talking about here.
15 The fourth slide zoomed in a little farther and
16 makes that area that is the subject of the transfer
17 proposal more clear. And the fifth slide just shows
18 the two master planned developments, Lawson Hills and
19 The Villages. And as Mr. Nelson described, these are
20 really big compared to the current size of Black
21 Diamond. It's a major development in the area. And
22 I just hope those maps can serve as a resource.
23 The proposal that's before you, as we see, is the
24 last logical step in the long process that
25 Superintendent Nelson described in land-use planning

1 and decisions that have been carried out by King
2 County, the City of Black Diamond, and the developer
3 of these master planned communities. We think that
4 Enumclaw's proposal seems only to appropriately react
5 to and finalize this long process which has been
6 carried out for the most part by these other parties,
7 and to do so in a sensible manner that is consistent
8 with the criteria that our legislature has outlined
9 for the Committee to use in making decisions like
10 this.
11 Touching on a few of the more relevant criteria,
12 we believe the proposal to transfer territory is the
13 best balance for addressing the needs of schools and
14 students in the area. It makes for more logical
15 district service boundaries and recognizes the major
16 changes and economic patterns in southeast King
17 County. It improves educational opportunities by
18 better matching resources to needs. And,
19 importantly, as Superintendent Nelson started to
20 describe, it follows the legislature's most recent
21 guidance to consider the impacts of our state's
22 Growth Management Act, urban growth areas, city
23 boundaries, as well as master planned communities in
24 drawing school district boundaries.
25 Question 8 on the Committee's questionnaire to

1 the school districts asked, does current or proposed
2 urban growth areas, city boundaries, or any master
3 planned communities impact the proposed areas to be
4 transferred? And Tahoma's answer was "no." But that
5 Question 8 is taken, of course, from the legislature's
6 2008 revision to the school reorganization statute.
7 And that's the revision that added the criteria of
8 impacts of the Growth Management Act, urban growth
9 areas, and city boundaries to the master planned
10 community criteria that was already in the law as of
11 1999.
12 Enumclaw's proposal is prompted, in part, by the
13 recent legislative guidance. We understand the
14 legislature to be expressing a preference for school
15 district service boundaries that are consistent with
16 decisions made under the Growth Management Act. And
17 these decisions that we're dealing with the aftermath
18 of have been made in that fashion. With city
19 boundaries, this would make the boundaries of the
20 north side of Black Diamond, city of Black Diamond,
21 consistent with the north side of the Enumclaw School
22 District.
23 So our proposal is consistent with these
24 considerations. In fact, it's virtually dictated by
25 them. The effects of the master planned communities

1 or MPDs, master planned developments, on Enumclaw's
2 enrollment is going to be enormous. And it's going
3 to be difficult to contend with. It's for this
4 reason that Enumclaw began the formal stages of this
5 process shortly after the Washington courts gave
6 green lights to the MPDs by turning away legal
7 challenges to them.
8 Tahoma has taken a couple of other positions that
9 may warrant comment. First on -- Tahoma indicates
10 that Enumclaw's modestly higher revenues per student
11 should -- should count against the proposal. But the
12 main reason for Enumclaw's slightly higher revenue
13 per student is that Tahoma students are significantly
14 more affluent and have fewer special needs. Both
15 state and federal school-funding systems are designed
16 to target special needs with appropriate additional
17 funds.
18 Exhibit D, for instance, of Tahoma's materials
19 shows that Enumclaw has twice the low-income students
20 as a percentage -- 30 percent to 15 percent -- as
21 Tahoma, as measured by eligibility for free and
22 reduced lunch, or meals.
23 Similarly, you know, those parity considerations
24 produce higher revenues for remediation programs from
25 state and federal government. The same Tahoma

1 information shows that Enumclaw has higher -- higher
2 proportions of special-education students and
3 bilingual students.
4 Transportation is kind of along the same lines.
5 A less dense, more rural district like Enumclaw is
6 going to have less-efficient transportation patterns
7 and higher per-pupil transportation costs on a
8 student-mile basis in a more dense, more urban area.
9 So these are the types of considerations that add
10 up doing exactly what our funding systems are
11 designed to do, by funding extra for meals, learning
12 remediation programs, special ed, bilingual,
13 transportation, and the like.
14 But, you know, an important part of that whole
15 issue is that it won't change a bit one way or the
16 other with the transfer. You know, there's no
17 students in the area proposed for transfer. All of
18 the revenues are going to -- in the future are going
19 to flow to Enumclaw and to Tahoma according to
20 exactly the same formulas as today, and they won't be
21 affected by the transfer.
22 The other main factor that Tahoma argues should
23 weigh against the transfer is the assessed valuation
24 per student. Yet, as you'll see soon, as recently as
25 2007, the district's AV, assessed valuation per

1 student, was virtually identical. And it's only been
2 with the recession that Enumclaw's continued
3 enrollment declined and Tahoma's continued enrollment
4 increases, that Enumclaw has edged ahead on that
5 measure, even though the gap is forecast to start
6 falling, narrowing in 2014.
7 The immediate effect of the transfer on AV per
8 student is trivial, of course. About -- you know,
9 the $2 million of the present assessed value of the
10 territory in question is about one-twentieth of one
11 percent of Tahoma's roughly four billion in assessed
12 valuation. So this is a small matter compared to the
13 considerations that led to the same result in other
14 cases.
15 One other observation that may be worth making in
16 this connection is that, when we talk about assessed
17 valuation per student, we're not talking about any
18 direct funding mechanism. We're talking, rather,
19 about a measure of how difficult it is to pass M&O
20 levies, capital levies, and bond issues.
21 Assessed valuation per student is a proxy of
22 sorts for dollars per thousand, or the rate of
23 property taxation the voters are asked to approve
24 when they consider levies and bond issues. Levies,
25 as we know, take 50 percent approval; bond issues

1 take 60. The proposal to transfer the North Triangle
2 is in the context of Enumclaw's needing to pass a
3 major bond issue with the broad support of its entire
4 community, both Enumclaw and Black Diamond, to house
5 the large numbers of incoming students that will come
6 as the master planned developments are built out.
7 Other sources of funds, such as school sites as
8 mitigation or impact fees, don't come anywhere close
9 to covering the capital costs of new facilities that
10 will be necessary to house these students. And, of
11 course, in order to -- as Superintendent Nelson said,
12 in order to even qualify for state matching funds to
13 help with those costs, the district must first pass a
14 bond issue.
15 Tahoma's heavy reliance on this factor in its
16 submissions prompted us to seek professional expert
17 review to examine more carefully our understanding
18 that the factor favors the transfer. So we engaged
19 two outstanding, experienced, high-skilled, high-
20 integrity individuals that we knew from past projects
21 to work together to get a handle on the likely future
22 AV-per-student effects with the transfer or without
23 the transfer.
24 Reid Shockey, of Shockey Planning Group in
25 Everett, and Lorraine Barrick, of Lorraine Barrick,

1 LLP [sic], a CPA in Seattle, were the two people we
2 would like to share with you their summaries of their
3 joint work. Mr. Shockey, who cannot be here tonight,
4 owing to a prior commitment, has outlined in a letter
5 I'm going to hand to you and Mr. Ganson pretty soon,
6 outlines his professional experience and describes
7 his work. And we also have a short video to show
8 you, in which he summarizes his letter.
9 If anybody can help me. Here we go. So I will
10 pass out the letter. I may need some help in getting
11 to the screen.
12 MS. SHAW: Mr. Hoge?
13 MR. HOGE: Yeah.
14 MS. SHAW: Do you have another copy
15 of this video for the court reporter?
16 MR. HOGE: I have -- yes, I can
17 make one.
18 MS. SHAW: He's going to need --
19 MR. HOGE: Sure. I'm happy to
20 provide a copy electronically, if that would help.
21 So here's Mr. Shockey's testimony.
22 (Pre-recorded video testimony
23 of Reid Shockey presented
24 as follows.)
25 ////

1 MR. SHOCKEY (VIA PRE-RECORDED VIDEO):
2 Good evening, members of the Committee. My name is
3 Reid Shockey. I am president of the Shockey Planning
4 Group. My office is located at 2716 Colby Avenue in
5 Everett, Washington. First, my apologies for not
6 appearing in person this evening. I had a longstanding
7 commitment that takes me outside of the state.
8 I have provided planning services for local
9 communities, school districts, and private parties
10 since starting my company in 1980. Prior to that, I
11 was community development director for the City of
12 Everett. As a consultant to several school districts
13 over the years, I have prepared capital facilities
14 plans based on my projections of population,
15 enrollment, growth trends, student generation rates,
16 and other factors.
17 You have before you a letter that I have
18 submitted on behalf of my client, the Enumclaw School
19 District. It supplements the presentation you will
20 hear in a moment from Lorraine Barrick related to the
21 North Triangle transfer. Ms. Barrick and I worked
22 together on the assessed valuation and demographic
23 analysis that she will present. These projections
24 are based on reports, plans, databases, and
25 interviews which are listed in the letter I've

1 submitted. In the next few minutes, I would like to
2 summarize the letter and outline the results.
3 You will read that both Enumclaw and Tahoma
4 School Districts can expect continuous growth over
5 the coming decades. This growth will occur at a
6 faster rate than King County as a whole. The demand
7 for housing in this area will be strong. The amount
8 of growth will only be limited by the land available
9 within each community. The boundaries of development
10 are set by our state's Growth Management Act.
11 Designated urban growth boundaries are tightly drawn
12 around the cities of Enumclaw, Black Diamond, and
13 Maple Valley. The pace of new growth will be
14 affected by the amount of buildable lands available
15 within these boundaries.
16 Looking back as growth has occurred over the past
17 20 years, the pressure was felt more the closer
18 communities were to Seattle, Bellevue, and Renton.
19 Growth was more rapid in Maple Valley, less so in
20 Black Diamond and Enumclaw. This growth obviously
21 used land, and the land supply diminished as growth
22 occurred. Growth is more constrained now in Maple
23 Valley than areas to the south because of this.
24 So, in 2013, looking ahead to 2020 and 2030 as
25 required by the Growth Management Act, new

1 residential growth will occur at a higher rate for
2 Black Diamond because of the availability of
3 buildable land. Adding the 6,050 dwelling units in
4 the Lawson Hills and Villages developments will add
5 considerably to the population and school
6 enrollments. Both developments lie within the
7 Enumclaw School District.
8 About half of the projected residential growth in
9 Maple Valley will occur in the so-called "Donut Hole,"
10 or Summit Place. This is growth that was anticipated
11 by the City and the Tahoma School District, where
12 Summit Place is located. So, in summary, growth --
13 and growth as expected in the Tahoma School District,
14 significant residential growth in the Enumclaw School
15 District.
16 I want to turn now to the topic of assessed
17 valuation. Enrollment from this new growth creates
18 cost to a district to educate the students.
19 Offsetting revenues are created by assessed
20 valuation. Change in the assessed valuation per
21 student is a good measure of whether a new
22 development is a net cost or benefit to the quality
23 of education in a particular district.
24 Commercial development is an obvious benefit to
25 school districts because it creates revenue without

1 creating cost. In its comprehensive plan, the
2 community of Black Diamond notes that commercial
3 development has historically lagged behind Maple
4 Valley. For the future, both Maple Valley and Black
5 Diamond expect positive commercial growth in each of
6 their communities. The rate of growth, again, favors
7 Maple Valley.
8 Now, let me elaborate. Baseline projections --
9 that is, normal growth, if you will, without
10 considering new master planned developments -- will
11 reflect more historical patterns of retail growth in
12 Black Diamond. For the non-master planned development
13 areas, Black Diamond's policy is to grow its
14 commercial base in a manner that preserves its
15 small-town character. That's in their comprehensive
16 plan.
17 In Maple Valley, a higher level of new commercial
18 valuation is indicated by its comprehensive plan,
19 which calls for conversion of more traditional
20 commercial areas into higher-value, high-tech
21 business and office parks. So from a policy
22 standpoint, baseline commercial growth -- that growth
23 without the master planned development -- favors
24 increasing valuation in the Tahoma School District.
25 Now the question of how the three new master

1 planned developments will add to this baseline growth.
2 Putting aside for the moment the North Triangle, both
3 districts will see additions to their commercial land
4 base from master planned developments. Tahoma School
5 District will see commercial development revenues as
6 part of Summit Place, and The Villages will produce
7 commercial revenue for the Enumclaw School District.
8 There will be a general balance between new students
9 and new tax base from those two master planned
10 developments in each district.
11 The North Triangle portion of Lawson Hills,
12 however, is the one commercial area that will provide
13 appreciable valuation to its local school district,
14 Tahoma, while all of the Lawson Hills students will
15 attend Enumclaw schools. This difference is explored
16 in Ms. Barrick's analysis. It is based on the plans
17 and projections summarized in my letter. They put
18 numbers behind the analysis. They show the effect of
19 the master planned developments on the valuation per
20 student. They support the case for a transfer of the
21 North Triangle.
22 With the transfer, assessed valuation will be in
23 better balance. Without the transfer, Tahoma's
24 valuation per student will rise faster because it
25 will receive the tax base while Enumclaw receives the

1 students. Ms. Barrick will elaborate on this
2 conclusion in a moment.
3 Again, my apologies for not being able to attend
4 your hearing tonight, but thank you for listening.
5 (Video presentation
6 concluded.)
7
8 MR. HOGE: So just in case it
9 helps, Mr. Shockey referred a couple times to the
10 master planned development in Maple Valley. If you
11 can look at the maps that I passed out a little while
12 ago, I'd like to show you where that is. It's
13 sometimes called "Donut" -- "Donut Hole," sometimes
14 called Summit Pit, now called Summit Place. It's a
15 County-owned area that's been a gravel pit.
16 The last slide, the one that shows the master
17 planned developments in Black Diamond, also shows the
18 "Donut Hole" in Maple Valley. You can see a square
19 area. The "Donut Hole" is surrounded by Maple
20 Valley. It's only been, as Mr. Shockey mentioned,
21 within the past few weeks that King County and Maple
22 Valley have reached an agreement to let that master
23 planned community go ahead. And for anybody who
24 wonders, as I did, why is a little bit of Kent over
25 here to the east of Maple Valley, that's apparently

1 part of the Kent watershed.
2 So, as Mr. Shockey said, Lorraine Barrick will
3 follow up on his remarks. Ms. Barrick has 25-plus
4 years' experience in accounting and finance. In
5 addition to being a CPA, she's especially accredited
6 or certified in business valuations, financial
7 forensics, appraising, and fraud examination. Along
8 with Arthur Andersen in the past, she focused
9 principally on economic and financial analysis and
10 business valuation.
11 Since founding her own firm, she has, among other
12 things, performed financial and economic assessments,
13 prepared projections of economic and financial
14 results, and analyzed economic data in a wide range
15 of settings, including government, nonprofit, and
16 for-profit sectors.
17 So I'd like to ask Ms. Barrick to come up now.
18 And while she's doing that, I will pass out a copy of
19 the PowerPoint that she will be showing you on the
20 screen.
21 MS. BARRICK: Good evening, ladies
22 and gentlemen. My name is Lorraine Barrick. And I'm
23 here to talk to you for a few minutes tonight about
24 assessed valuation per student in both Tahoma and
25 Enumclaw School Districts.

1 In preparing our analysis -- in preparing our
2 analysis, I worked with Reid Shockey, the gentleman
3 whose presentation you just heard. And the purpose
4 of this analysis was really threefold: First, we
5 wanted to look at the future of assessed valuation
6 per student in both Enumclaw and Tahoma. Secondly,
7 we wanted to consider the impacts of the master planned
8 developments, the MPDs, on assessed value per student
9 in the districts. And finally, we wanted to consider
10 how the transfer of the North Triangle from the
11 Tahoma School District to the Enumclaw School
12 District will impact the assessed valuation per
13 student in each school district.
14 I'd like to begin by just reviewing the historical
15 assessed valuation per student in each of these school
16 districts. And I've done that by preparing a chart
17 for you here. Enumclaw is in red, and Tahoma is green.
18 I've presented the historical assessed valuation per
19 student for 2007 through 2014 projected. And what
20 you see here is that the assessed valuation per student
21 has really been relatively consistent between the two
22 school districts; in fact, in some years, nearly
23 indistinguishable. But on the other hand, Enumclaw
24 has been slightly ahead in the assessed valuation per
25 student in the recent years.

1 Although I do note, that if you look at 2013 and
2 compare it to 2014, you see that Tahoma has closed
3 the gap more than halfway. And that really is
4 because the assessed values in Tahoma for 2014 have
5 grown much more rapidly than Enumclaw's.
6 Now, looking forward to the future, there are
7 really two drivers of change in your assessed
8 valuation per student. First, you have, of course,
9 changes in student enrollment. That's the
10 denominator in this equation. And then you have
11 changes in the assessed value. And I'd like to begin
12 by looking at future changes in student enrollment.
13 Our analysis indicates that population growth
14 trends, including the impacts of the MDPs, indicate
15 that Enumclaw will gain students more rapidly than
16 Tahoma. In this next illustration, I show you the
17 actual 2010 Enumclaw and Tahoma student enrollment.
18 Again, Enumclaw is in red, and Tahoma is in green.
19 And I show you a snapshot of the future based on our
20 analysis. I show you 2015, year 2020, year 2025, and
21 year 2030. And what you see here is that, while both
22 school districts' enrollment is growing, Enumclaw is
23 growing at a much more rapid pace. All else being
24 equal, of course, this is going to reduce the assessed
25 value per student in Enumclaw.

1 In fact, if we just look at Enumclaw for a minute
2 and the impact that everyone's been talking about of
3 the MPDs at Enumclaw, you see that because of that
4 MPD, because it's so extensive, the Enumclaw School
5 District is going to experience substantial growth in
6 student enrollment; as Mr. Nelson said, approximately
7 3,542 students. And this represents a very
8 significant change for Enumclaw.
9 I've tried to put it in a graphic form to help
10 you get a feel for that, by putting 2014 projected
11 enrollment for Enumclaw in dark red on the bottom --
12 that's 4,474 students for the 2014 year -- and then
13 putting on top of that the new students that will
14 come in because of the MPDs. And what you can see
15 from this graph, is that while it doesn't double the
16 size of the school district, it does increase it by
17 about 80 percent. And this is really why the
18 assessed values contributed by these MPDs are so
19 important to the Enumclaw School District.
20 Turning to the assessed value of these MPDs per
21 student, I note that, when you look at it in today's
22 dollars, when you look at the assessed value of these
23 MPDs per new student, what you see is that the
24 assessed value per student of the MPD is slightly
25 lower than the existing assessed valuation per

1 student in Enumclaw.
2 And what I mean by that is, in the first -- in
3 the first column here, what I have is just the 2014
4 assessed valuation per student per Enumclaw per their
5 published statistics. In the second column, I've
6 calculated the assessed valuation per student of the
7 Enumclaw MPDs. And the way we do that is simply to
8 add up all of the assessed value estimates for the
9 MPDs -- and this is excluding the North Triangle --
10 and dividing by the number of new students, that
11 3,542 students that you saw before.
12 And what you see is that the assessed valuation
13 per student without the North Triangle is slightly
14 lower -- $548,478 -- slightly lower than the 2014
15 assessed valuation per student in Enumclaw. This can
16 be anticipated to drag down the assessed valuation
17 per student in Enumclaw.
18 On the other hand, if you look at the same
19 analysis, but you add the assessed valuation, the
20 future assessed valuation, once it's built, out of
21 the North -- excuse me -- the North Triangle to the
22 equation for Enumclaw, what you see is the assessed
23 value per student of the Enumclaw MPDs, including the
24 North Triangle, is almost exactly the same as the
25 2014 assessed valuation per student in Enumclaw,

1 meaning that that -- those MPDs, the assessed
2 valuation from those MPDs, is consistent with the
3 current assessed valuations per student in Enumclaw.
4 Another important finding from our analysis shows
5 that, over time, given two things, given both
6 Tahoma's more rapidly growing assessed valuations and
7 Enumclaw's more rapidly growing student enrollment,
8 Tahoma's assessed valuation per student will overtake
9 Enumclaw's assessed valuation per student, either
10 with or without the transfer of the North Triangle.
11 Without the transfer of the North Triangle, this
12 is likely to take place in approximately 2019, about
13 six years from now. In this graph, I've given you
14 the projected assessed value per student without the
15 transfer, for Enumclaw in red again and for Tahoma in
16 green. And what you can see is that, in 2014, they
17 both start out at just under $600,000 per student,
18 Enumclaw slightly ahead again. And Enumclaw stays
19 slightly ahead for a couple years.
20 But Enumclaw's assessed valuation per student is
21 growing more slowly than Tahoma's. So you see that,
22 in a few years, Tahoma actually overtakes Enumclaw
23 and continues to grow at a more substantial rate.
24 The end of my study, 2030, shows that there is, in
25 fact, a significant difference in assessed valuation

1 per student.
2 With the transfer of the North Triangle, you
3 still see the same effect, because Tahoma is growing
4 at a more rapid rate. But what you see is that
5 Tahoma overtakes Enumclaw a little farther out, in
6 about the year 2021. And at the end of the day, in
7 2030, the difference between the assessed valuation
8 per student in Enumclaw and the assessed valuation
9 per student in Tahoma is not as great; in other
10 words, the difference is smaller.
11 Just focusing on the end year -- 2030 was the end
12 of the study -- I'd like to show you the differential.
13 And here I've presented a graph of the 2030 assessed
14 valuation per student. Enumclaw is red; Tahoma is
15 green. And I've presented two scenarios. In the
16 first scenario, we have projected assessed value per
17 student without the transfer of the North Triangle.
18 In the second scenario, we have the assessed
19 valuation per student with the transfer of the North
20 Triangle. And what you see is that, again, Enumclaw
21 is behind at this point, behind Tahoma, by a
22 substantial amount. But the important point is that,
23 with the transfer of the North Triangle, the
24 difference is not as great.
25 To wrap up on this point, I'd just like to

1 reiterate that the study shows the trends in student
2 enrollment, growth in assessed value, and the impact
3 of the MPDs in both Enumclaw and Tahoma, indicate
4 that any disparity in the assessed valuation per
5 student will not be made worse by the transfer of the
6 North Triangle. In fact, it's reasonable to expect
7 that with or without the transfer of the North
8 Triangle, the assessed valuations per student in
9 Tahoma will overtake those in Enumclaw within the
10 next 10 years. Thank you.
11 MR. HOGE: And unless there are
12 questions from the Committee, that's all from us for
13 now. Just in summary, the transfer will really help
14 Enumclaw deal with the challenges of serving its
15 students. It won't hurt Tahoma. And it will follow
16 the legislature's policy guidance. Thank you.
17 CHAIRMAN ROLLINS: Any Committee
18 members' questions?
19 MS. WARREN: Not yet.
20 MR. PFLUGRATH: Not yet.
21 MR. WILCOX: Not yet.
22 CHAIRMAN ROLLINS: Tahoma, your mic.
23 MR. GANSON: Thank you, members of
24 the Committee, for the opportunity to present the
25 Tahoma School District's position with respect to the

1 transfer proposal. I will be speaking for a few
2 moments and then calling on the district's financial
3 consultant, Debra Aungst, to provide some financial
4 information. And then, in closing, we will hear from
5 the district's board president, Tim Adam.
6 I wanted to start in presenting the Tahoma School
7 District's position with some observations with
8 regard to some of the Enumclaw School District's
9 submissions. And there's some things that were
10 reinforced in their presentation this evening. And
11 one of those things is, Enumclaw appears to
12 acknowledge, right up front, that the North Triangle
13 that's at issue in this hearing is not at the core of
14 the MPD, of the Lawson Hills MPD. It is a distant
15 outlier from that MPD that is not only distant in
16 location, but very distinct in the type of use,
17 most markedly in the fact that it will not have
18 students in it ever, according to the current plan.
19 The second acknowledgment that we see from
20 Enumclaw is that this proposal is all about money.
21 Receipt of revenue from the commercial portion of
22 this MPD is what this hearing and what this proposal
23 is about. It is nothing to do with any sort of
24 regional perspective on how to provide public
25 education in a way that's most efficient from a

1 regional or a statewide perspective. It's simply
2 about shifting revenues or source of revenue from one
3 school district to another.
4 And then briefly in terms of Enumclaw's written
5 submissions and their arguments in favor of their
6 proposal, and we'll get into this in more detail.
7 Enumclaw places heavy reliance on the Growth Management
8 Act and the supposed proposition that the GMA or the
9 standards that bind this Committee in making its
10 decision somehow mandate that the boundaries between
11 MPD or a city and a school district need to match up.
12 But as you'll see, this proposal wouldn't even
13 accomplish that goal even if that were a mandate of the
14 Growth Management Act or a mandate of 28A.315 governing
15 this proceeding.
16 There's nothing about the current boundaries that
17 is inconsistent with the Growth Management Act or is
18 inconsistent with 28A.315. There's no problem to
19 remedy here in terms of the Growth Management Act.
20 And Tahoma would submit that a great deal of reliance
21 is misplaced on these notions of boundary or growth
22 management issues.
23 Also in Enumclaw's submissions is, again, this
24 statement that Enumclaw needs their revenues. And
25 so, again, that's what this proposal is about. And

1 the problem with that, is that this is not an
2 interest that is contemplated by any of the factors
3 that bind your decision in this proceeding. Not one
4 of those factors that we will review encompasses an
5 interest in gaining revenue at the expense of a
6 neighboring school district.
7 There is no authority for this proposition that
8 this process can be used to obtain child-free and
9 therefore obligation-free but revenue-rich property
10 from a neighboring school district. And Tahoma would
11 submit that allowing this process to be used in that
12 way would set a dangerous precedent.
13 And finally, in their submissions, Enumclaw
14 refers to a concern about the costs of housing these
15 new students that will be coming to Enumclaw School
16 District by virtue of these MPDs as something that
17 will fall on the taxpayers residing in the Enumclaw
18 School District. And that may be true. However,
19 Tahoma would point out that that's really the bargain
20 Enumclaw School District made when it signed on to its
21 mitigation agreement with the developer, Yarrow Bay.
22 And the proposition that it therefore falls on
23 Tahoma School District's citizens and taxpayers to
24 shore up Enumclaw School District's ability to pay
25 for this need to house new students is really

1 preposterous. Why should it fall on the taxpayers of
2 the Tahoma School District to address this burden
3 that is very local to the Enumclaw School District
4 and the City of Black Diamond? And again, these
5 notions find no home in any of the factors that bind
6 the Committee's decision.
7 And just one last point on that -- on the issue
8 of the taxpayers. There is an existing disparity.
9 And we've heard from Enumclaw's financial consultants,
10 who are making some projections about what might
11 exist in 2020 or 2030. But the fact is, today, facts
12 on the ground today are that there is a disparity in
13 per-pupil valuation, assessed valuation between these
14 two school districts, in Enumclaw School District's
15 favor. And there is no way to argue that that isn't
16 the case.
17 And the factors that bind your decision-making
18 require, if anything, that disparities be reduced,
19 not increased. And there's no way to argue that
20 shifting this property from Tahoma School District to
21 Enumclaw School District would not have that direct
22 impact of increasing the existing disparity between
23 the two school districts.
24 We're going to burden you perhaps with more maps.
25 I think there's some value in just making a few

1 observations. This map shows you the -- on the left,
2 you have the city of Maple Valley -- I'm sorry -- the
3 city of Black Diamond's city boundaries outlined in
4 black, and on the right you have superimposed the
5 school district boundaries. So in the upper right,
6 you have, in kind of a beige color, Tahoma School
7 District, and of course to the south, the Enumclaw
8 School District.
9 And one thing that we'd like the Committee to
10 observe is that -- I'll try to point it out -- this
11 portion right here, this is the North Triangle. And
12 that's city of Black Diamond and Tahoma School
13 District. This portion right here on the east shore
14 of Lake Sawyer is also city of Black Diamond and also
15 in the Tahoma School District.
16 And that's why we say that, to the extent the
17 purpose -- purported purpose of this proposal is to
18 ensure that the boundaries match between the city of
19 Black Diamond and the school districts it encompasses,
20 this doesn't achieve that purpose. But what you can
21 also readily see is that there are roads in that
22 portion to the east of Lake Sayer. That's built out.
23 That isn't additional revenue. The North Triangle
24 obviously is additional revenue.
25 This is just a little closer in view of the North

1 Triangle and its location. An aerial view of the
2 North Triangle reveals, obviously, that it's currently
3 undeveloped. There are no students there.
4 This is a topographic view of the North Triangle.
5 And what it shows you is that you do have a hillside
6 that traverses the property. And so in the -- on the
7 western portion of the North Triangle is lower than
8 the southeastern portion of the North Triangle, which
9 is higher. And what is important about that is, the
10 development, the commercial development that will
11 occur there in the North Triangle, will largely be
12 occurring, as we'll see in future maps, in that lower
13 portion of the property closer to the -- the core of
14 the Tahoma School District.
15 Here is an aerial view that reveals current
16 population centers surrounding the North Triangle.
17 And so, again, you have -- you have, just to the
18 southeast -- this is in the city of Black Diamond and
19 in the Enumclaw School District -- a fairly small bit
20 of residential development. You have some more
21 residential development deeper into the city of Black
22 Diamond in these areas. You also have residential
23 development here that's also in the city of Black
24 Diamond, but in the Tahoma School District. And you
25 have a ready connection to the North Triangle along

1 these roads right here.
2 And the -- I suppose the point to make about this
3 is that, to the extent the argument or portion of the
4 argument is that, you know, the residents of the
5 Lawson Hills MPD will be shopping in the North
6 Triangle, that's equally true of the residents living
7 on the east shore of Lake Sawyer who are city of
8 Black Diamond residents but live in the Tahoma School
9 District, and not proposed under this proposal to
10 shift into the Enumclaw School District. You'd think
11 that undermines the suggestion that the only people
12 shopping in the North Triangle will be Enumclaw
13 School District residents.
14 This is a larger overview of the Lawson Hills MPD.
15 And to assist the Committee, so here is the North
16 Triangle. This is what Yarrow Bay calls the main
17 property. This is the main portion of the Lawson
18 Hills MPD. The residential development will occur in
19 this piece here. What you see over here is open
20 space. It's part of the MPD, but it's green. It's
21 open space.
22 So this is the residential development. These
23 residents would have to travel a series of roads,
24 some distance, more or less across a portion of the
25 city of Black Diamond, to reach the North Triangle.

1 You'll observe that residents who would be staying in
2 the Tahoma School District are far closer to the
3 North Triangle.
4 Here you have an overview of the Lawson Hills
5 development. And you'll see that that portion of the
6 main property in green, that's open space. And so
7 not until you see the orange and the beige colors are
8 you getting into residential development.
9 This is simply a closer view of the North
10 Triangle, along with the neighboring -- the largely
11 commercial development that's attached to The
12 Villages MPD, a distinct, separate MPD. And a point
13 to observe is that, this commercial development in
14 that southern half of that portion that's attached to
15 The Villages, currently the increase in assessed
16 valuation from that property will be going to the
17 Enumclaw School District no matter what.
18 And with that, I will turn the discussion over to
19 Ms. Debra Aungst. Debra is a retired school district
20 administrator with deep experience in school finance
21 matters. She has been the deputy superintendent of
22 Puyallup School District and also that district's
23 assistant superintendent for management services,
24 assistant superintendent for business services in the
25 Renton School District, and business manager in the

1 Renton School District.
2 She's also served as an adjunct professor in the
3 superintendent and principal certification programs
4 at both Seattle Pacific University and the City
5 University of Seattle, teaching school finance and
6 resource management. And she's here to assist the
7 Committee in understanding the current financial
8 situation and the implications of this transfer
9 proposal.
10 MS. AUNGST: Thank you, Jeff.
11 Thank you to the Committee for allowing me the
12 opportunity to share some information with you on the
13 financial front. It's true the assessed valuation
14 per student in the Enumclaw School District is higher
15 than it is in the Tahoma School District. And more
16 importantly, it has consistently been higher. There
17 is a pattern of that happening.
18 Now, it may change in the future, but all of that
19 is speculation and all of that is projection. And I
20 don't have sufficient information to understand or
21 believe or necessarily know what's going to be
22 happening out in 20 or 30 years. But I know what it
23 is today, and that is the information that I know
24 that the Committee needs to be spending time on.
25 Yes, the transfer of $1.9 million worth of

1 assessed valuation becomes important. Now, it
2 becomes important for school districts for a variety
3 of reasons, and I can understand that. One of them,
4 and I certainly understand the position of the
5 Enumclaw School District: They want to pass some
6 bonds. But the bottom line is, this is property that
7 is currently in the Tahoma School District and is
8 serving those students. So what I'd like to be able
9 to share with you is some more perspective from the
10 school district.
11 When we look at -- let's see if I know how to --
12 is this going to work? There we go. There we go.
13 When we look at a variety of measures to determine
14 how much financial wherewithal each of the school
15 district has, one of the measures is assessed
16 valuation. And as you probably know, assessed
17 valuation, divided by the tax -- taxes across the
18 system, will give taxpayers the tax rate. So when
19 you look at this chart, what you know is that
20 currently the tax rate that is paid by Tahoma School
21 District taxpayers is proportionately higher because
22 they are more property-poor than in Enumclaw School
23 District.
24 Another measurement that we might take a look at
25 is what's called the maintenance and operations levy

1 base. And what this represents is a school district's
2 capacity to ask its voters for a supplemental financial
3 levy for their general fund. And what we know is
4 that the same pattern is true. In the Tahoma School
5 District, their levy base is lower than in the Enumclaw
6 School District by almost 10 percent. And that means
7 that on a per-student basis, there are more maintenance
8 and operations local dollars going to the students in
9 the Enumclaw School District than in Tahoma. So now
10 we're not in capital fund; we're in the general fund.
11 Another way to look at relative financial
12 wherewithal is the revenue per student. And as
13 indicated by some of the testimony from the Enumclaw
14 School District, yes, they do have some factors that
15 do drive some additional revenue. But I've also
16 worked in many districts, more recently in the
17 Puyallup School District, where we call ourselves, we
18 are grant-poor. And what that means is that school
19 districts that may appear to be affluent, if only
20 measured by free and reduced lunches, are oftentimes
21 really revenue-poor because they cannot attract the
22 same quantity or volume of grant dollars that are
23 coming into a school district. And this is one
24 measurement that shows that.
25 Another measurement for financial comparison is

1 the amount of fund balance available at the end of a
2 given year per -- on a per-student basis. And the
3 same pattern is true.
4 Now, what happens if the North Triangle transfer
5 is authorized by this Committee? What ends up
6 happening is that the Tahoma School District tax
7 rates are going to rise and Enumclaw School District
8 tax rates are going to decrease. Almost twice as
9 much decrease as -- increase as there is a decrease
10 in the other district. And what that means is about
11 to a 150 percent swing between these two.
12 Another way to look at that is how many students
13 are going to be impacted by that. So you can see in
14 the current enrollment proje -- or enrollment data
15 that Tahoma has not quite twice as many students as
16 the Enumclaw School District. So, in other words,
17 twice as many kids are going to be negatively
18 impacted as positively impacted. And in some
19 regards, that feels a little bit like taking from the
20 poor to give to the rich.
21 So if we're looking at the financial comparisons,
22 what we know is that a school district, Tahoma, that
23 is financially in a lesser position, is going to be
24 negatively impacted. And Enumclaw School District,
25 that is financially in a better position, is going to

1 be positively impacted. And those are the facts that
2 we have today.
3 We do know that there is going to be commercial
4 growth in both areas if the transfer is not approved.
5 There will be commercial growth both -- in both of
6 these districts. And over time, those things are
7 going to have some impact. We have seen some
8 studies -- I haven't seen any of the underlying data;
9 I haven't seen any of the underlying assumptions --
10 that sometime out into the future, these factors are
11 going to change. But we don't know that information.
12 What we do know is the data that we have available to
13 us today to look at. And those are the factors that
14 this Committee needs to be basing its decision upon.
15 MR. GANSON: At the end of all of
16 this testimony, the Committee will be faced with
17 making a decision. And all of you know this. Your
18 decision is bound by a legal standard. Your judgment
19 must be based on -- to the -- whether and to the
20 extent a number of factors are furthered by the
21 proposal. And if the factors aren't furthered by the
22 proposal, the proposal must be denied. If the
23 proposal absolutely defeats important factors, then
24 we think the proposal must be denied.
25 The first factor to look at is this issue of

1 balance of local petition requests and the needs of
2 the statewide community at large in a manner that
3 advances the best interest of public education in the
4 affected school districts and communities. And a
5 couple of observations here.
6 This factor, and many of the others, is explicitly
7 saying that the job of the Committee is to look at
8 transfer proposals not from the perspective of a
9 single school district and what it needs and would
10 like for its future, but rather, from a regional
11 and/or a statewide perspective, what does the transfer
12 accomplish on a regional basis or on a statewide basis
13 in terms of bettering the efficiency and effectiveness
14 of public-education delivery in this state.
15 And for a number of reasons, this proposal
16 doesn't do any of that. There are no students
17 involved in the property at issue in this transfer
18 proposal, and there never will be. And so this
19 proposal certainly doesn't accomplish anything in
20 terms of furthering the efficient delivery of public
21 education or giving students a better experience
22 because that's available by shifting school districts.
23 And Enumclaw made reference to a 2010 transfer of
24 property that was, in fact, initiated by -- it was
25 initiated by citizens and supported by the Tahoma

1 School District, wherein the district did support the
2 transfer of property from Tahoma School District to
3 the Kent School District. But that situation
4 actually provides a good illustration of when these
5 things make sense.
6 That transfer involved students in the subject
7 territory who had to be transported to Tahoma schools
8 through the Kent School District. It was the only
9 way to get to their school within the Tahoma School
10 District, and by schools that were closer in the Kent
11 School District than their destinations in the Tahoma
12 School District. That's a proposal that makes sense.
13 It was good for the students. It -- it made delivery
14 of education to those students more efficient on a
15 regional basis. Pull back from the interests of one
16 school district or the other, and look at it from the
17 perspective of what's good for all, and that's a good
18 example of one that meets these standards. The
19 proposal you have in front of you, it doesn't do
20 anything like that.
21 The statutory factors ask you to look at whether
22 the proposal does anything in terms of responsibly
23 serving all of the affected citizens and students.
24 And again, this is a factor that's saying transfers
25 should be mutually beneficial. It's saying that the

1 transfer process is not intended to be used in a,
2 what you might call a predatory fashion to shift
3 revenue from one school district to another and pit
4 one school district against another. That accomplishes
5 nothing from a regional perspective. It is not
6 mutually beneficial to the affected citizens. Some
7 affected citizens lose in this sort of a proposal,
8 very demonstrably.
9 This factor also speaks to logical service
10 boundaries. And that's something that Enumclaw has
11 relied on heavily. But how can that factor be
12 furthered by a proposal that involves land that will
13 never be served by public schools, never be students
14 in this -- in this property? So talking about
15 logical service boundaries really is irrelevant in
16 petitions such as this one. This is a factor that
17 can't support Enumclaw's proposal.
18 The next factor speaks to enhancing educational
19 opportunities of pupils in the territory by reducing
20 the existing disparities among the affected school
21 districts in their ability to provide operating and
22 capital funds. Putting aside the fact that no
23 students' educational opportunities will be bettered
24 by this proposal, because there are no students in
25 that territory, the bigger point is that you have

1 embedded in this factor the goal, the interest of
2 reducing existing disparities.
3 And you'll note that the factor doesn't speak to
4 future speculative disparities, assuming -- assuming
5 growth patterns that we can't know. It speaks to
6 existing disparities. And that's what the Committee
7 needs to be focused on: What is the situation today?
8 This is a factor that simply can't support this
9 proposal. In fact, it rather demands denial of the
10 proposal because it so clearly is underlined by this
11 proposal in exacerbating an existing disparity.
12 The next factor speaks to promoting wiser use of
13 public funds through improvement in the school
14 district system of the ESDs and the State. Again,
15 this factor is very clearly focused on a regional
16 perspective of transfer proposals. This proposal
17 accomplishes nothing on a regional basis. Benefits
18 one school district and harms the other. It's a
19 factor that can't support this transfer proposal.
20 Another factor refers to student educational
21 opportunities, as measured by things like graduation
22 rates and performance on mandated assessments, the
23 HSPE/MSP, and of course assessments of dropout rates.
24 Well, this is a factor that can't support this
25 proposal, because there are no students in this

1 territory. But even if there were, Tahoma students
2 have enjoyed better educational outcomes than
3 Enumclaw in nearly every category, despite being --
4 despite the district being, in comparison, revenue-
5 poor. This is a factor that simply can't support
6 this proposal.
7 The next factor speaks to safety and welfare of
8 students, of pupils. This obviously has no
9 application to this situation, there being no pupils
10 in the territory. It's a factor that cannot support
11 this proposal.
12 The next factor speaks to history and
13 relationship of the property affected to the students
14 and the community affected. And this is the one
15 that, I believe, Enumclaw places heavier reliance on,
16 because it references the Growth Management Act and
17 urban growth areas and city boundaries and MPDs.
18 But all of those references tie back to the
19 history and relationship of the property affected to
20 the students and communities affected. And as
21 Enumclaw acknowledged, the North Triangle, it's been
22 part of the Tahoma School District for years. And it
23 only was annexed to the city of Black Diamond in
24 2005. There is no long history or relationship
25 between this property and residents of the Enumclaw

1 School District, and more obviously so when you
2 observe that it's undeveloped property. It's never
3 had any interaction with that community. Only
4 recently became part of that city.
5 If you try to pull back and look at other sort of
6 growth management issues that this factor might try
7 to contemplate, one can see an argument that this
8 portion of the MPD contributed students. And this
9 argument might make a little more sense. But as it
10 stands, the argument is essentially a non sequitur.
11 The argument, as I understand it, goes that one
12 portion of the MPD, the main portion, but somewhat
13 distant from the North Triangle, will contribute
14 students to the Enumclaw School District. And the
15 argument seems to go that Enumclaw should get the
16 revenue from that increase in assessed value as that
17 property develops. Tahoma would have no argument
18 with that. But it should also obtain the revenue
19 from portions of the development that are remote,
20 distant, and outside of the district presently and
21 will never contribute any impacts to the school
22 district, to the Enumclaw School District.
23 We would submit that that is not what this factor
24 is about. There are no current inconsistencies in
25 the growth management boundaries. There is certainly

1 no obligation the boundaries match, the city
2 boundaries and school district boundaries match.
3 In fact, if you think about that, that proposition
4 that these boundaries ought to match, the result of
5 that would be that one school district should have
6 the urban -- the city area that is encompassed by --
7 by the urban growth area, where urban growth will
8 happen, where increases in assessed valuation will
9 happen, and the neighboring school district should
10 have none of that; should be only limited to the rural
11 areas, where by law, under the Growth Management Act,
12 urban growth cannot happen. And that would seem to
13 be a pretty absurd result if one of the core interests
14 in these factors is reducing disparities between school
15 districts and their ability to serve their students.
16 The next factor speaks to geographic
17 accessibility. That's a nonissue in this situation,
18 because there are no students. This is another
19 factor that can't support this proposal.
20 And the last factor speaks to a review of the
21 funding sources of the affected school districts, and
22 it speaks to reduction in disparities again, so we
23 see that goal again. And it speaks to improvements
24 in the economies in the administration and operation
25 of schools. If we start there, well, again, there

1 are no students in this area. So nothing about this
2 proposal improves economies in the administration and
3 operation of schools in view from a regional
4 perspective. It has no -- it has no impact on that.
5 So this factor doesn't -- that portion of this factor
6 can't support this proposal.
7 The more important part of the factor
8 affirmatively talks about reducing disparities in
9 per-pupil valuation. And again, this is referring to
10 disparities in the here and now, the kind that
11 demonstrably exist today and will exist in the future
12 until some significant unexplained shift in growth
13 patterns occurs to -- to close that gap. Speculation
14 about that gap closing is just that, speculation.
15 The fact is, today you have a disparity that would be
16 increased, not decreased, by this proposal. This
17 factor can only argue in favor of denying this
18 proposal.
19 Now, Enumclaw has some arguments here, and you've
20 heard them here this evening. The suggestion is that
21 Tahoma is experiencing considerable development, and
22 thus, the total assessed valuation is increasing
23 rapidly and substantially. Well, frankly, we don't
24 know where they get this. There's no support for
25 that in the record before you. And let's talk about

1 that.
2 So this is the Tahoma School District boundary.
3 You'll see that, like Enumclaw School District, it is
4 a school district that encompasses quite a large
5 territory. Here's the city of Maple Valley right
6 here. This is the city of Maple Valley. And there's
7 the "Donut Hole" that Mr. Hoge referenced.
8 The next slide shows the urban growth area
9 boundary. You'll see that it's a tight line around
10 the city of Maple Valley. The only exception being,
11 there's a little piece of unincorporated King County
12 that is in an urban growth area. But otherwise,
13 there's a tight UGA line around the city of Maple
14 Valley. Why is that important? Well, two points:
15 One, it means that in all that other area, urban
16 growth is not going to happen. There'll be no
17 significant growth, no significant increase in
18 assessed valuation in any of that area.
19 The second point would be that, in actual point
20 of fact, unlike the city of Black Diamond, the city
21 of Maple Valley is quite built out. The -- just with
22 respect to the "Donut Hole," there is no MPD there.
23 There is a nascent agreement regarding annexation of
24 that King County property to the city of Maple
25 Valley. There are no -- there's no development under

1 way there. And the rest of the city is largely built
2 out.
3 And the speculative forecasts about what's going
4 to happen, this rapid increase in the assessed
5 valuation in the city of Maple Valley, hinge on
6 redevelopment, recharacterization of property in the
7 city of Maple Valley that's already developed.
8 That's highly speculative and not something that
9 should be guiding this Committee's decision in this
10 case.
11 The second thing that Enumclaw tends to argue
12 about, about this -- and this is their response to
13 the checklist question addressed at this very factor
14 of reducing disparities. And they make the rather
15 remarkable claim that the net effect of this transfer
16 is likely to be positive over time in terms of this
17 disparity between the two school districts. Now,
18 putting all speculation about what might happen in
19 2020 or 2030 aside, can't possibly argue that
20 shifting this property from the Enumclaw School
21 District to the -- I'm sorry -- from the Tahoma
22 School District to the Enumclaw School District will
23 do anything but increase the existing disparity
24 between the two school districts.
25 Now, there might come a time in the future when

1 development patterns have changed and there's been
2 some rapid development in the Tahoma School District
3 and that district's assessed values have gone up.
4 And at that point in time, if there developed a
5 disparity between the two school districts that ran
6 the other way, that was in the Tahoma School District's
7 favor, then Enumclaw might have an argument. Today
8 they don't. This factor can't support approval of
9 this proposal.
10 In fact, none of these factors that we've
11 reviewed are furthered by this proposal. Important
12 ones are directly undermined by the proposal.
13 Purposes of this process are to improve delivery on a
14 regional scale. This proposal doesn't do anything in
15 furtherance of that goal. And it undermines some of
16 the purposes of the transfer process in terms of
17 reducing disparities.
18 Now, Enumclaw School District may well -- it
19 appears to have a significant issue to grapple with
20 in terms of funding. But we've heard -- we've heard
21 them be pretty frank, to their credit, that a big
22 part of this proposal is to be able to sell the
23 ability to pass bonds to their voters, not only in
24 Black Diamond, but down in Enumclaw. I would be
25 concerned too. None of these factors contemplate

1 that interest, and that's the interest that's driving
2 this proposal. This process should not be used in
3 that way, to further that sort of interest.
4 With that, the district will complete its
5 presentation with remarks from the district's board
6 president, Tim Adam.
7 MR. ADAM: Good evening, members of
8 the Committee. My name is Tim Adam. I'm president
9 of the Board of Directors for the Tahoma School
10 District, joined by a couple of my colleagues here
11 tonight on the board. And collectively, we represent
12 over 54 years of experience on the board,
13 representing the community of Maple Valley.
14 I don't have any prepared presentation or remarks
15 tonight, because I'm going to speak from the heart
16 and just be very brief in my comments. But we see
17 this as a very simple issue. We're fairly open,
18 honest, transparent as a group, but we're
19 laser-focused on the students and on education and
20 our community. That's evidenced by a $195 million
21 bond measure we're trying to push through to our
22 community for election on November 5th.
23 We want to build a new high school and regional
24 learning center, and we are busting at the seams at
25 our schools right now. And we have what we believe

1 is world-class students with their achievement that
2 they've represented by being in the top ten percent
3 of all districts in the state. We have world-class
4 curriculum, world-class teachers. And we're trying
5 to catch up with a world-class facility, make sure
6 that we are able to provide that for our students.
7 We don't want to see areas of potential revenue
8 to support that go away. But these boundaries for
9 our neighboring school districts have existed for
10 many years, much longer than any of us in this room
11 have been in these positions or elected offices.
12 There have been exceptions -- yes, there have --
13 but only based on what's best for the students and
14 their parents and families. We have made some
15 exceptions with Kent School District and recently
16 with Issaquah, where a new home was built or a
17 neighborhood was expanded. And those students want
18 to go to school with their neighbors or with their
19 neighborhood kids, and it made good sense. It was
20 the right thing to do for our students and for their
21 families, and the students were going to get a better
22 education as a result, so we have made some
23 modifications to our boundaries, but not one like
24 this.
25 This would be -- would be precedent-setting in

1 our minds. There are no students involved in this
2 commercial growth or this tip of the arrow, if you
3 will. It's just commercial property, going to be
4 developed. And as has been said, people will shop
5 there from Black Diamond. People that live in the
6 Maple Valley area or in the Tahoma School District,
7 near Lake Sawyer, just a couple miles away, will shop
8 there. But there's no students involved. And that's
9 what we're all in this game for, is it's all about
10 proper education and the best education for our
11 students.
12 The boundaries are where they are. And our task
13 as administrators in the district and as school board
14 members is to do the best we can, provide the best
15 education we can with the resources that we have
16 available to us within our boundaries. City councils
17 do the same thing with their urban growth areas and
18 what their boundaries are and their tax base, and
19 they're tasked with doing the best job that they can
20 within those boundaries.
21 And if students were involved, I would have a
22 different opinion, but they aren't. This is strictly
23 commercial property. Happens to extend -- I'll tell
24 you, quite honestly, if we had a large developer that
25 was doling out a project that extended into Issaquah,

1 Kent, or into the Enumclaw School District, we would
2 not be having this conversation. If the roles were
3 reversed, we would not be having this conversation
4 tonight and using your valuable time. We just
5 wouldn't be. It's not about the students. This is
6 about money. And that's not the way we play and the
7 way that we run our school district.
8 And so I urge you, as you make this decision, to
9 consider those things. I know there's a lot of legal
10 issues and statute -- or different issues to consider,
11 but it's pretty simple to us. And I urge you to do
12 the smart thing, to do what makes good common sense,
13 and do the right thing. Thank you.
14 CHAIRMAN ROLLINS: Okay. Thank you,
15 both. 7:41. And we'd now like to provide rebuttal
16 time. I would ask for a single speaker from each
17 district to provide any rebuttal information. Let's
18 try to keep it at five minutes. If you need an extra
19 minute or so, we'll -- I think we can squeeze that
20 in, but let's try to keep it tight, please. Enumclaw,
21 you can go first.
22 MR. HOGE: Thank you. Well, so
23 much could be said at this point. I'll try to keep
24 it within my instructions and make a few perhaps
25 less-than-cosmic points. But then one point that I

1 think is really important -- and I'm not sure it's --
2 that we've got straight across yet.
3 So just hitting briefly on a couple of things we
4 just heard, I think Mr. Ganson said that, you know,
5 Enumclaw is stuck with the present arrangement
6 because that's what it signed up for in the
7 mitigation agreement. And so I want to just stress,
8 as I think we have done in our materials, that
9 Enumclaw didn't get the best deal it could in the
10 mitigation agreement, but that doesn't mean that it's
11 foreclosed from pursuing its opportunities under the
12 legislature's guidance to us in this area.
13 I think I heard Tahoma say that, you know, this
14 whole proposal is inconsistent because there's other
15 areas besides the North Triangle that are in other
16 districts, and Enumclaw isn't pursuing those. There
17 have been cases in the recent past when Enumclaw
18 spoke with Auburn about taking -- having territory
19 transferred from Auburn. King County put the kibosh
20 on that.
21 But I think the important thing here is that, you
22 know, when we talk about the statutory factors,
23 Growth Management Act, master planned developments,
24 urban growth areas, city boundaries, this North
25 Triangle area is the only one of the other areas that

1 Mr. Ganson was speaking of that meets all those
2 criteria. And the -- we do think that the master
3 planned community consideration is a very important
4 one, even though the size of this is, you know,
5 trivial compared other cases where the Committee has
6 transferred land.
7 The finance person for Tahoma made a comment
8 about the levy base in Tahoma being less than
9 Enumclaw's. But that's -- you know, the response to
10 that is the same as what I was saying about the state
11 and federal revenues. The levy base is determine by
12 the state and local and federal revenue. So if to
13 meet a higher incidence of special student needs or
14 to address the higher costs that are inherent in
15 operating in a rural environment, a less dense
16 environment, some extra revenues are received from
17 the state and federal governments to address those
18 needs, then it follows naturally that the levy -- the
19 allowable levy is a little higher, and on the
20 rationale that a portion of the levy will be
21 addressing those same needs.
22 An issue of the tax rates. You know, just to
23 restate the obvious: This is a trivial, trivial
24 disparity in the present tax rates we're talking
25 about are in the effect of the transfer, if as

1 Enumclaw -- or Tahoma insists, we must focus only on
2 the here and now. We can make -- you know, by using
3 very small scales, we can make small differences look
4 larger by cutting off the bottom three-quarters of
5 bar graphs. Same thing. But this is very, very
6 small potatoes at present, as insisted by Tahoma,
7 compared to cases that have been handled in the past.
8 But I think the most important thing I want to
9 mention, because we've heard it so many times, that
10 students are not involved, students are not involved.
11 But that misunderstands, I think, the whole point of
12 master planned communities. The students are
13 involved. Because there wouldn't be any students in
14 these new residential areas but for the master planned
15 community, which must include the commercial areas.
16 Students are involved because the residential
17 development is allowed because it's part of a master
18 planned community that must include the commercial
19 areas.
20 So, you know, these students that we aren't sure
21 we're going to be able to serve, are deeply involved.
22 And they wouldn't be there but for the master planned
23 community that includes the North Triangle. And
24 that's what we think the legislature was getting at
25 when it added to the already existing part of the

1 guidance about master planned communities when it
2 added to take into account the Growth Management Act
3 and similar factors in addition to the master planned
4 communities. So these master planned communities
5 were decided upon under the Growth Management Act,
6 and we think the legislature has recognized that as
7 an important factor. Thank you.
8 CHAIRMAN ROLLINS: Thank you.
9 Enumclaw -- or Tahoma. Sorry.
10 MR. GANSON: Very briefly. I don't
11 think we'd be here if the impact of this transfer
12 were trivial. None of us would be here. It's not
13 trivial. And we're here for a reason, and that's to
14 talk about money, and specifically, shifting tax
15 sources from one school district to another. And
16 that isn't -- that isn't what this process is here to
17 accomplish. It's certainly not here to accomplish
18 that when doing so directly undermines factors that
19 explicitly require you to look at reducing existing
20 disparities, not widening them.
21 Now, because there's such heavy reliance on this
22 factor of -- that references the Growth Management
23 Act and references urban growth areas, city boundaries,
24 MPDs, or master planned communities, I think it's
25 worth spending just a moment looking at what this

1 language says. It requires the Committee to review
2 the history and the relationship of the property
3 affected, the North Triangle, to the students and
4 communities affected.
5 And while there may someday develop a relationship
6 between students who live in the Lawson Hills MPD or
7 other parts of the Enumclaw School District and the
8 North Triangle, that doesn't exist today. There's no
9 history. There is no relationship there. This
10 doesn't talk about the relationship of one parcel of
11 property to another in terms of who owns it, Yarrow
12 Bay Development. It talks about relationship between
13 this property and students and people. And there is
14 no such relationship today that would support this
15 transfer proposal. That could develop.
16 But as we see, there are residents of the Tahoma
17 School District who are also residents of the city of
18 Black Diamond who live just as close to the North
19 Triangle as any resident of the city of Black Diamond,
20 and closer than any resident of any of the MPDs will
21 ever live to this -- or the Lawson Hills MPD, in
22 particular, to the North Triangle.
23 So even if we were to speculate about the sort of
24 relationship that might develop between the North
25 Triangle and the other portions of the Lawson Hills

1 MPD or other portions of the Enumclaw School District,
2 there's a -- there's a built-in relationship right
3 now with existing populations in the Tahoma School
4 District that will stay in the Tahoma School District
5 under this proposal and that North Triangle.
6 The residents of the -- of the Tahoma School
7 District that live in the city of Maple -- in the
8 city of Black Diamond and will continue to be
9 residents of the Tahoma School District are just as
10 likely to have a relationship with the North Triangle
11 property as any residents in the Enumclaw School
12 District.
13 The district thanks you and simply asks that the
14 Committee be guided by the statutory factors. Thank
15 you.
16 CHAIRMAN ROLLINS: Does any
17 Committee member have a question for either group
18 before we take a break?
19 MR. WILCOX: I'd like a break.
20 CHAIRMAN ROLLINS: Okay. It's
21 7:51. I would like to resume at 8:05, please. For
22 the citizens that have signed up to speak, I have --
23 I have five names listed. If any of you are part of
24 a group, I would appreciate if you could speak as a
25 group rather than the individual people. And I'd be

1 happy to give you more time as a group than as an
2 individual.
3 However, if all five of you would like to speak,
4 I'm fine with that. We are pleased and we welcome
5 your comments. Since we only have five people, we
6 can probably do -- we can probably do ten minutes per
7 person. If you can keep it shorter, we would
8 appreciate it, because we would like to try to wrap
9 this up tonight. And that, let's all take a break.
10 (Pause in proceedings from
11 7:52 p.m. to 8:05 p.m.)
12
13 CHAIRMAN ROLLINS: Thank you, all.
14 I appreciate that. So, as I said, we have five
15 citizens' names. I will ask you to come to the
16 podium here and speak in the microphone. First state
17 your name for the court reporter. And then I'll give
18 you ten minutes. If you can keep it shorter, I'd
19 appreciate it. I'd also ask: Please do your best
20 not to just repeat the same thing someone else said.
21 That's -- keep the repetition down, and we can
22 hopefully be home before midnight.
23 First name I had was Bob Edelman.
24 MR. EDELMAN: Good evening. For
25 the -- for the record, my name is Bob Edelman. That's

1 E-d-e-l-m-a-n. I'm a resident of Black Diamond and
2 the Tahoma School District, speaking in opposition to
3 the Enumclaw School District's petition to transfer
4 property from my school district simply to obtain
5 income from potential development of that property.
6 And I stress the word "potential." You were told
7 earlier that core challenges are done; they're not --
8 the MPDs are presently -- and their underlying
9 environmental impact statement, are presently being
10 considered by the court of appeals.
11 In its petition, the Enumclaw School District
12 makes a number of unsupported claims. It gives no
13 evidence that there is a legislative preference or
14 emphasis for matching school district boundaries to
15 master planned development boundaries. There's
16 certainly no statutes that require such boundary
17 adjustments to match either cities or MPDs. They
18 also claim that the transfer will make the school
19 district boundaries more consistent with city
20 boundaries. This is a patently false statement, and
21 I believe that was shown earlier, that they're --
22 Tahoma School District is -- also serves the city of
23 Black Diamond. Kent School District serves the city
24 of Black Diamond.
25 In fact, less than half of the students residing

1 in Black Diamond are in the Enumclaw School District.
2 And that bears repeating. Less than half of the
3 students in the city of Black Diamond are in the
4 Enumclaw School District. The rest are in the Kent
5 and Tahoma School Districts.
6 The petition also claims that the transfer,
7 quote, "will permit the revenues from the master
8 planned communities to be used to serve the many new
9 students within them," unquote. The fact is that the
10 master planned communities presently are undeveloped
11 and have no students within them. Not just the North
12 Triangle; the entire master planned development is
13 undeveloped, and it won't be for some time. Further,
14 the master planned developments are intended to be
15 part of the city of Black Diamond, not separate
16 enclaves.
17 Transferring the North Triangle to the Enumclaw
18 School District does absolutely nothing to enhance
19 student education. The property is planned for
20 development as commercial property sometime in the
21 next 20 years. There are no residents in that
22 property, and none are planned. Enumclaw School
23 District is simply attempting to rob the Tahoma
24 School District of potential future revenues, should
25 the property ever be developed. Please reject their

1 petition.
2 And I have written copies of my comments.
3 CHAIRMAN ROLLINS: Thank you very
4 much.
5 Next on my list was -- next on the list was Cindy
6 Proctor.
7 MS. PROCTOR: My name's Cindy
8 Proctor. And I reside in the Enumclaw School
9 District, and I live in the city of Enumclaw. And
10 I'm here to oppose Enumclaw School District's request
11 to transfer land from Tahoma to Enumclaw. Thank you,
12 all, for staying late tonight. I know we're all kind
13 of tired, and I will try to be as efficient as
14 possible.
15 I also, like Mr. Nelson, am a lifelong resident
16 of the Enumclaw School District. My father, cousins,
17 brothers, and nieces and nephews all attended Enumclaw
18 schools. My aunt is a retired Enumclaw School District
19 teacher. My cousin currently works in the Enumclaw
20 School District. And close family friends work within
21 the school district. I love my town, I love my
22 community, and I love my schools. And I've always
23 supported the school through thick and thin.
24 And I wanted to give that little bit of
25 background, because I don't want a perception of, Oh,

it's one of those; there's always somebody who's always "no" to the school bonds and "no" to the schools. And that's not the case. I've been an advocate for my school district. I've supported the bonds through thick and thin. And when I say "thin," I mean the Gates initiative, which my daughter was part of, which a lot of -- really stressed our community. The Thunder Mountain Middle School bond, we were told that that school was needed, that all this growth was coming. We issued the bonds for this new school, and it's been operating under capacity for years now.

So coming here today is really hard to speak out against my school district. The responsibility of educating our children falls on all of us as a society and what we value. We must prioritize how we'll go about building our schools. The responsibility of adequate mitigation of schools within larger developments falls on the master developer. It's not the responsibility of the Tahoma School District nor is it the responsibility of my school district, Enumclaw. This is solely about an urban land development and the increased profits for a master developer through reduction of impact mitigation fees.

1 Local MPDs that built out have not provided the
2 increased capital bond approval, and they only have
3 to look at the Lake Washington School District and
4 the Redmond Ridge MPD, or even worse, look at the
5 Snoqualmie Valley School District, the Snoqualmie
6 Ridge MPD, with five consecutive bond failures. The
7 master developers come in and sell this concept that
8 we're going to have these great houses and people are
9 going to invest, they're going to pass the bonds.
10 The reality is, those MPDs are burdened with massive
11 fees and infrastructure costs, and the homeowners
12 can't pay more taxes.
13 The school district talked a lot about the school
14 mitigation agreement and the thoughtfulness of the
15 participation and public participation. And I was
16 really saddened to see, I think it's Ms. [Sic] Shockey
17 and the analyst that was on the -- on the video.
18 Because during the entire EIS process, I begged my
19 school district. I went to school board meetings. I
20 went to public hearings. I said, Where is your
21 analysis? What are you doing? The EIS clearly
22 stated that all this land was in Tahoma. The EIS
23 clearly stated that the school district, Enumclaw
24 School District, was going to have a problem, because
25 they had the students and not the commercial land.

1 It was -- when we talk about the public
2 participation, the first time that the public heard
3 about the tri-party agreement and it was presented to
4 them was on November 5th, 2009. And it was a tri-
5 party public hearing with the Black Diamond City
6 Council and the Enumclaw School District and Yarrow
7 Bay.
8 That's the first time that the Black Diamond City
9 Council had ever seen the agreement. The negotiations,
10 in fact, did not take place in public, did not take
11 place with City council members who represent their
12 constituents. It took place with attorneys, of which
13 the City attorney was terminated and is no longer
14 with the City, for improper use on this MPD and under
15 a special investigation.
16 So the following week, November 19th, we were
17 supposed to have a public hearing on the tri-party
18 agreement. It was canceled by the City of Black
19 Diamond. And in January of 2010, they converted it
20 from an ordinance to a resolution to bypass the
21 public hearing process, and the City council voted on
22 it with only three weeks' time over the Christmas
23 holidays.
24 And the reason this is important is, it goes to
25 the public participation. Because that agreement,

1 once it was signed, was irrevocable, was signed by
2 all parties. So when we went before the hearing
3 examiner, the hearing examiner stated that, although
4 the mitigation agreement, relatively speaking, is
5 good, unfortunately a relatively good agreement may
6 not be sufficient to assure adequate mitigation.
7 This is the hearing examiner to the school board
8 president was at this hearing. He said the record
9 makes it abundantly clear that relying on bond
10 measures funded by persons residing in Enumclaw
11 borders is wishful thinking. This is a land-use
12 attorney. This is the hearing examiner.
13 He goes on to say that the schools will be well
14 over capacity, the bonds will fail during the first
15 few years of build-out, and King County is not likely
16 to approve permits in the rural areas. He goes on to
17 say that the council and the school district have put
18 themselves in a difficult situation because of the
19 irrevocable school agreement. And he cites Section
20 3.1 of the tri-party agreement, which it was called
21 back then. It's a Comprehensive School Mitigation
22 Agreement now.
23 And I would write that section down, 3.1.
24 Because in Section 3.1, it reads that the Yarrow Bay,
25 the Lawson MPD, The Villages MPD, it says that with

1 respect to the Lawson Hills project, this agreement
2 shall constitute full, total, complete, and sufficient
3 mitigation for the impact of a full build-out. It
4 goes on to say that the district and the City hereby
5 covenant and agree that they will seek no other
6 mitigation measures. They agree to this. They agree
7 to this. They signed it. And then after the fact,
8 they're trying to get additional mitigation by taking
9 Tahoma's land.
10 The Comprehensive School Mitigation Agreement is
11 not a good document, and our district gained very
12 little from it. The City of Black Diamond learned
13 from the Cascadia and the Sumner School District
14 issue with school siting. And so school siting was
15 proactively put in the municipal code. The MPDs
16 could not have been approved without siting for the
17 schools. It had to be there, or no MPD. The school
18 siting was mandated. The sites -- I'm sorry. I'm
19 getting old. My bifocals are not working too well
20 here.
21 The sites are not free. We pay fair market value
22 for them. There's no CPI, a very low mitigation
23 credit for the first five years, which is the
24 anticipated most aggressive build-out period, even
25 though taxpayers ask for this consideration from our

1 school district. I'll tell you that construction
2 costs have gone up 11 percent in the last 36 months,
3 and that -- -- and these all are public facilities
4 that have to be LEED certified.
5 What's even more discouraging to me is that my
6 school district spent $386,000 of our general levy
7 funds for legal costs, including being here tonight,
8 for this mitigation agreement. And either Tahoma
9 should have been part of the mitigation agreement --
10 they knew full well from the EIS that the land was in
11 Tahoma.
12 They could have put a clause in the mitigation
13 agreement that said, In the event that the Tahoma
14 School District does not agree to the land transfer
15 of the commercial triangle, our mitigation credits
16 will double, will triple, whatever. There could have
17 been a mechanism, and they had full control. They
18 had full control of this agreement. And nobody would
19 step up.
20 And I want to apologize to Superintendent
21 Maryanski, the Tahoma board, and the Tahoma citizens.
22 I'm embarrassed. But I'm also disappointed that my
23 school district has to do this. You guys need to go
24 to Olympia, and you need to get an adequate public
25 facilities ordinance passed, where nobody can build

1 anything once schools go beyond capacity. This is a
2 broader issue that is hurting all of our communities
3 and hurting our education. Thank you.
4 CHAIRMAN ROLLINS: Thank you very
5 much.
6 Peter Rimbos. Pronounce that right.
7 MR. RIMBOS: Hello. My name's
8 Peter Rimbos, R-i-m-b-o-s. I'm a 34-year resident of
9 the greater Maple Valley area. I live in the rural
10 part --
11 UNIDENTIFIED SPEAKER: Peter.
12 MR. RIMBOS: -- of the area.
13 UNIDENTIFIED SPEAKER: We can't
14 hear you, Peter.
15 MR. RIMBOS: You can't hear me.
16 UNIDENTIFIED SPEAKER: There.
17 MR. RIMBOS: How's that? Okay.
18 I live in the rural area outside of Maple Valley,
19 and I'm here to discuss this land transfer. I'd like
20 you to deny what I call a precedent-setting land
21 transfer.
22 One of the Enumclaw School District's main
23 arguments is that the city of Black Diamond should be
24 served by one school district. We, quote, "make more
25 sensible the district boundaries to the benefit of

1 the cities," unquote, and, quote, "that the new
2 master planned developments not be sundered," unquote.
3 However, facts expose at least two flaws in this
4 argument: (1) the city already is served by multiple
5 school districts -- as you've heard tonight, three --
6 including the Tahoma School District; and (2) the
7 Enumclaw School District negotiated and signed the
8 Comprehensive School Mitigation Agreement, which in
9 fact sundered the proposed master planned developments
10 by calling for three schools to be sited outside of
11 the city and outside the master planned developments.
12 The Enumclaw School District then argued
13 vociferously during deliberations of King County
14 Executive Constantine's School Siting Task Force,
15 that it wanted to site those three schools outside
16 the city in rural King County. I was a member of
17 that task force. They met in late 2011 and early
18 2012 to address potential school district sites in
19 the unincorporated rural area. As the Educational
20 School District understands, King County policies
21 preclude extending sewers or tight-lining to existing
22 sewer systems to such properties, effectively denying
23 permits for middle and high schools in the
24 unincorporated rural area. On the task force, I
25 devoted most of my efforts towards all the potential

1 school sites that Enumclaw and Tahoma School
2 Districts are looking at.
3 So, we have the Enumclaw School District arguing
4 that current countywide planning policies call for
5 schools to be located within the urban growth area.
6 However, the Enumclaw School District previously
7 argued before the City of Black Diamond's hearing
8 examiner, in defending its Comprehensive School
9 Mitigation Agreement, and before the School Siting
10 Task Force, that schools could be sited outside the
11 urban growth area.
12 Because of these contradictory positions, I
13 request the School District, the Educational School
14 District, give no consideration to the Comprehensive
15 School Mitigation Agreement nor any master planned
16 development circumstances, and should look only at
17 the facts of the case and the requirements under the
18 RCWs regarding petition for land transfer.
19 To further rebut the Enumclaw School District's
20 argument, there are two MPDs proposed for the city of
21 Black Diamond: The Villages and Lawson Hills, as
22 you've heard. The land subject to the petition is
23 located within the proposed Lawson Hills master planned
24 development. Since there are significantly fewer
25 residences proposed for the Lawson Hills MPD -- 1,250

1 versus 4,800, about one-to-four -- it has a
2 proportionally higher percentage of commercial
3 properties.
4 Consequently, the vast majority of the students
5 to be served would come from the proposed Villages
6 MPD, not the Lawson Hills MPD. If only The Villages
7 master planned development is built -- and it's the
8 first one up for building; Phase 1A is going through
9 a process right now for The Villages -- if only The
10 Villages master planned development is built, then
11 the land subject to the petition tonight would not
12 provide the Enumclaw School District any revenues to
13 help it meet the, quote, "tremendous fiscal
14 challenge," unquote, it claims it will face when it
15 tries to pass a series of major bond issues to build
16 and maintain a plethora of new schools.
17 I respectfully request the Educational School
18 District consider the concerns that I and others have
19 detailed tonight and deny the requested precedent-
20 setting boundary line adjustment before you. Thank
21 you.
22 CHAIRMAN ROLLINS: Thank you very
23 much. Thank you.
24 Cindy Wheeler.
25 MS. WHEELER: Good evening. My

1 name is Cindy Wheeler. And I appreciate the chance
2 to speak tonight. I've come a long way and stayed
3 late into what is the usually family time. So I know
4 you guys have as well, so I appreciate that.
5 I am a Black Diamond resident and a Tahoma School
6 District taxpayer and parent. And there are many of
7 us who share that designation. And as a matter of
8 fact, in adjoining neighborhoods to mine, there are
9 Tahoma School District taxpayers and parents who are
10 unincorporated King County, but they are my same side
11 of the road. So there is a large number of us out
12 there who are residing in either the city of Black
13 Diamond or in a little puddle of unincorporated King
14 County, but we are taxpayers in the Tahoma District.
15 As a Black Diamond resident, I currently shop in
16 Black Diamond and even Enumclaw. Those of us who are
17 both Black Diamond residents and Tahoma taxpayers
18 will be active consumers for those future commercial
19 businesses that will someday be developed on the 53
20 acres of currently undeveloped commercial land that
21 has always belonged to the Tahoma School District and
22 whose tax revenue rightly belongs to the Tahoma
23 School District.
24 No changes in boundary lines should be granted in
25 this unprecedented action. The potential for

1 creating a precedent where such requests are brought
2 forth for greed and gain, rather than a betterment of
3 any district or any students, is huge. And that
4 dangerous precedent must not be ignored or
5 overlooked.
6 The city of Black Diamond actually has four
7 school districts within its city limits. If you look
8 at the map, there's a teeny tiny piece that is the
9 Auburn School District, there's the Kent School
10 District, the Tahoma School District, and the
11 Enumclaw School District.
12 When the master planned developments were
13 submitted and the environmental impact statements
14 began and were put out for review and the SEPA
15 process was begun, the City of Black Diamond's
16 records show that all of three school districts that
17 were affected -- Auburn not being one of those,
18 right? -- so Enumclaw, Tahoma, and Kent were all sent
19 copies of the EIS, both the draft and the final, as
20 affected agencies for review and for comment. Those
21 plans, the maps, and the EIS documents made it clear
22 that The Villages master planned development, which
23 is the larger one with the 4,800 homes, would have
24 the schools built in the Enumclaw School District but
25 that some of the commercial land in The Villages was

1 actually owned by the Kent School District. And
2 that's on Page 11 of the Parametrix school analysis
3 that's part of The Villages EIS.
4 Similarly, the plans, maps, and EIS documents for
5 the Lawson Hills project -- that's that smaller of
6 the projects with 1,200 homes proposed -- made it
7 quite clear that the schools would again be built in
8 the Enumclaw School District but that some of the
9 commercial land was owned by Tahoma School District
10 and always had been.
11 Despite notice and copies provided to the
12 Enumclaw School District as an affected agency, they
13 submitted no comments to either the draft EIS in
14 September 2009 or the final EIS in December 2009 that
15 expressed any issue or concerns with property
16 boundaries or ownership. None.
17 In March of 2010, held concurrently with an EIS
18 appeal that was brought forward by several citizens,
19 there were also public hearings on the master planned
20 developments, themselves. Again, Enumclaw was given
21 preferred notice as an affected agency and were given
22 the opportunity to review and comment on the plans,
23 maps, and impacts to their district. And Enumclaw
24 expresses nothing during that hearing but acceptance
25 of the MPD as presented.

1 As the Comprehensive School Mitigation was being
2 drawn up and reviewed by Yarrow Bay's attorney, the
3 City of Black Diamond's City staff and attorneys, and
4 Enumclaw School District and their attorneys, no
5 comments or references are made to adjustments to any
6 boundaries.
7 The Enumclaw School District, as was already
8 noted, spends over $300,000 of their district's
9 general taxpayer funds for legal advice during this
10 process, for review and guidance during a lengthy
11 process that results in a consent by all three of
12 those parties and a signed legal contract. In fact,
13 in public hearings for the development agreement for
14 the two master planned developments, the Enumclaw
15 School Board sends a representative member to testify
16 on behalf of their board. And what they say to Phil
17 Olbrechts, the hearing examiner for the City of Black
18 Diamond, is not only are they very pleased with their
19 Comprehensive Mitigation Agreement, but they think it
20 is one of the best school agreements in the state of
21 Washington.
22 So that is the strong opinion that Enumclaw
23 School District puts on the record with all of the
24 facts of the boundary lines, school impacts and
25 property ownership clearly known, delineated, and

1 presented for years. Based on the amount of taxpayer
2 money expended by Enumclaw on legal guidance and
3 advice for that process, one would also hope, right,
4 that they thoroughly reviewed, analyzed, and understood
5 the impacts to the Enumclaw School District. $300,000
6 is a lot of money to spend to say you didn't like the
7 agreement you signed.
8 In my opinion, as a Tahoma School taxpayer and a
9 Black Diamond resident, I think in truth, if it was
10 going to be a Comprehensive School Mitigation
11 Agreement, in all fairness, it should have been
12 between the City of Black Diamond, the developer
13 Yarrow Bay, and all three known school districts,
14 whose property were within the master planned
15 developments. That would be a Comprehensive School
16 Mitigation Agreement to me.
17 All three of those school districts are
18 identified as affected agencies at the EIS stage.
19 Now, EIS, environmental impact, the whole point of it
20 is where the impacts of the development, master
21 planned or not, are to be identified but also
22 mitigated. And so we have the three parties who are
23 all identified as being impacted, but they're not all
24 invited to that table to have a Comprehensive School
25 Mitigation.

1 So this was not done. Neither the Kent School
2 District nor Tahoma were invited to be parties to the
3 negotiations, formation, or acceptance of this
4 Comprehensive School Mitigation Agreement. As signed
5 and reported, that agreement also does not make any
6 changes or impacts to either Kent or Tahoma's
7 districts. It is therefore improper for Enumclaw to
8 take this action, then, now nearly three years after
9 committing to terms that fully accepted existing
10 conditions that were well known to them in the
11 mitigation agreement, an agreement that they held up
12 as one of the best in the state.
13 And what is the reason for this action by
14 Enumclaw? There is nothing underlying this but
15 greed. In truth, if Enumclaw were truly -- and still
16 it would be belatedly and unfairly -- trying to
17 rectify the sunderings that were rent by the MPDs
18 from their original submission -- because those MPDs,
19 from the beginning, had this shattered, broken,
20 satellite, however you want to say it. But it was
21 rent and sundered in the original MPD submissions.
22 And if Enumclaw were really now belatedly going
23 to try and rectify those sunderings, then Enumclaw
24 should have two petitions before this Board, one to
25 adjust the boundary lines with the Kent School

1 District and one with the Tahoma School District.
2 Because, again, Parametrix shows in their EIS that
3 Kent is included in this.
4 Currently, the information on the master planned
5 developments -- and I say that somewhat ironically,
6 because it has now been 4.5 years since the master
7 plans were submitted, and yet there are many things
8 we don't know. We don't know all the school sites.
9 We don't know the sewer plan. There's so many things
10 that are unknown.
11 But in the current iteration of the master plans
12 floating around, the land in the Kent School District,
13 associated with The Villages MPD, is being shown as
14 likely to have sewer storage units on it. So maybe
15 that's why Enumclaw has no interest in absorbing that
16 land.
17 However, with the Tahoma property, the Enumclaw
18 School District sees that there is nothing in
19 covering it and there's nothing but money to be
20 gained from that. This is wrong, and it's
21 unprecedented. In truth, this land is really
22 unlikely to be developed for more than the next 15
23 years. And everything is speculation. But the
24 Enumclaw School District has no solid basis on which
25 to base this request. Their motives, again, are just

1 greed.
2 The Enumclaw School District has been inaccurate
3 consistently in its presentation of the facts of this
4 matter. And I find that upsetting, especially as a
5 parent who demands excellence in facts and
6 presentations from my school district.
7 The numbers have been completely blended at all
8 times. And it's important to know this property is
9 associated with only Lawson Hills, which is only to
10 have 1,200 homes, if it's ever even built. At this
11 point, no preliminary plats have been put in. Again,
12 4.5 years later, no preliminary plats have been
13 applied for in Lawson Hills, only in The Villages.
14 And no clearing and grading permits have been filed
15 for Lawson Hills, only in The Villages property.
16 Enumclaw School District has consistently said it
17 will have tens of thousands of students and thus
18 should be given this 35 acres. In truth, Enumclaw
19 School District will only have the impact of students
20 from 1,200 homes from the Lawson Hills development
21 and the Tahoma land they seek to take is 53 acres in
22 size. Enumclaw School District is well aware that
23 they already have more dollars per head for students
24 in their district than Tahoma does.
25 Tahoma is a district I'm very proud of and have

1 two very good students in. This is a district who
2 consistently turns out a constitutional debate team
3 that has represented the state of Washington at
4 nationals for 18 out of the last 23 years. This is
5 Tahoma, who had 167 students earn the designation of
6 AP Scholar this year alone. 18 of those are Advanced
7 Placement National Scholars from the American College
8 Board.
9 CHAIRMAN ROLLINS: Can you wrap it
10 up, please?
11 MS. WHEELER: These are students
12 who are already challenged and don't deserve to have
13 any more challenge. The Enumclaw School District
14 boundary adjustment request is unjustified, and if
15 allowed, creates an unlawful precedent for legally
16 binding agreements to be executed that affect legal
17 property owners who have been completely excluded and
18 excised from the agreement process; in this case, the
19 Comprehensive School Mitigation Agreement process.
20 That would be absurd. Do not approve absurdity.
21 Thank you.
22 CHAIRMAN ROLLINS: Thank you.
23 And Todd Mitchell. Am I reading this right?
24 MR. MITCHELL: Yeah.
25 CHAIRMAN ROLLINS: Thank you.

1 MR. MITCHELL: Good evening, members
2 of the Council. I will truly make this brief. I am
3 here representing the Greater Maple Valley
4 Unincorporated Council. All right? Greater Maple
5 Valley Unincorporated Area Council is wholly made up
6 of residents of unincorporated Tahoma School District.
7 All right? Those are the people that we represent.
8 What we do on a -- as an elected body of King County
9 government to represent these individuals, what we do
10 is we look out for the best interests of the --
11 things going on in our areas.
12 We have looked over this issue. We've found that
13 it is definitely not in the best interest of the
14 residents of Tahoma School District for this transfer
15 to take place. We, as a matter of fact, find that it
16 is -- negatively impacts the citizens of the Tahoma
17 School District.
18 So to go along with the written submission that
19 we put in, we just felt that it was important that we
20 came here and we expressed our opposition to this
21 transfer of the property. But thank you very much
22 for your time tonight, and I appreciate whatever your
23 deliberations come out to. Thank you.
24 CHAIRMAN ROLLINS: Thank you.
25 Before I close the public hearing portion of

1 this, I want to offer both districts one last final-
2 comments period. You can use it to restate your
3 points, rebut any information that you had. Because
4 of the information and with the time that we've
5 tasked, I would appreciate if you could keep it to
6 five minutes, and I'll give you a couple more beyond
7 that if necessary. Enumclaw.
8 MR. NELSON: I stand before you as
9 a superintendent of 4,200 students, with a school
10 district that is going to grow substantially. We as
11 a school district tried to be as proactive in our
12 planning once we knew two master planned developments
13 were entering or school district.
14 There's clearly two separate processes that need
15 to occur in this case of two master planned
16 developments. The first was a mitigation agreement
17 in which we entered with Yarrow Bay Holdings and the
18 City of Black Diamond. The hearing examiner has no
19 say to transfer land between school districts.
20 That's between two school boards. And if two school
21 boards can't come to agreement, there's legal
22 processes in which we are here tonight. To try to
23 blend the two is not appropriate.
24 We tried to hit through the mitigation part of
25 the agreement first. And as our attorney stated,

1 when decisions started to come down that looked like
2 the process was going to -- the master planned
3 developments were more in line to possibly happen --
4 they're still in process -- but when decisions came
5 down that made us feel it was time to go through the
6 second part of the process, we began that. And as we
7 clearly stated, that occurred in April of 2012.
8 The School Mitigation Agreement was presented for
9 the first time in October of 2009. Our board of
10 directors did not approve it for one full year until
11 December of 2010. The City of Black Diamond did not
12 approve it until January of 2011. Full chance for
13 public comment and for ample opportunity for people
14 to review and see it. We've not removed that from
15 the home page of our website.
16 From our calculations, it's not true that more
17 than half of the students from Black Diamond are at
18 other school districts. It is true that the first
19 five years of a mitigation agreement is a lower
20 impact fee. That mitigation agreement was signed in
21 January of 2011. Three years will pass in January
22 2014 without any homes. Is that mitigation agreement
23 going to be a good one? Yes. Because the higher
24 impact fees are going to happen, not in five years,
25 but in two.

1 Traffic patterns indicate from the draft EIS that
2 people leave Black Diamond and shop in Covington and
3 Maple Valley. To change patterns of the thought
4 process of Maple Valley and Lake Sawyer coming back
5 to the triangle would have to take a complete change
6 of culture in terms of what the draft EIS says.
7 There's no land in the Kent School District in the
8 master planned developments.
9 And we do believe this is an issue about kids.
10 We believe this is an issue about 3,500 kids that are
11 going to come to our school district in what is
12 called master planned development. We're not going
13 after Lake Sawyer, which is also -- which has been
14 since Black Diamond came into our district, Lake
15 Sawyer is also now part of city of Black Diamond
16 since the time it became our school district, just
17 like the triangle portion. That was our point.
18 Our point in -- in the -- coming here before you
19 is that the master planned development should reside
20 in one school district, and the triangle portion is a
21 key part of that master planned development by
22 Tahoma. We thank you for your time and respect your
23 decision.
24 CHAIRMAN ROLLINS: Thank you.
25 Tahoma, any final words?

1 MR. GANSON: Unless there are
2 questions from the Committee, the district feels like
3 it's been heard by the Committee.
4 CHAIRMAN ROLLINS: Okay. Thank you.
5 At this time, I declare the public hearing closed,
6 and we are now in a public meeting. What that means
7 is that we will receive no more public testimony. We
8 do have the option of a Committee member asking a
9 question of a member of the public or proponent or
10 opponent, but we will entertain no further testimony.
11 I'd also like to go over the guidelines of how we
12 work through the question list. As some of you -- as
13 you've all heard, there's a state statute that requires
14 us to go through a list of questions, basically. It
15 used to be a list of eight or nine, and now it's up
16 to 16 or 18 or 21.
17 MR. WILCOX: 21.
18 CHAIRMAN ROLLINS: It just keeps
19 growing.
20 MS. KOEHLER: 21.
21 CHAIRMAN ROLLINS: And there's
22 subsections to some of the questions. What I want to
23 point out is that there is no weighting factor to any
24 single one of these areas of discussion. You can't
25 assign a point value. You can't say, Well, we got 15

1 of the 21 questions, so it should pass. That is not
2 how this process works.
3 We discuss each question on an individual basis,
4 we form our own opinions, and then we place in our
5 judgment a value on that particular area of discussion.
6 It may be that one of these areas may be something
7 that has a very high value, and obviously there's
8 going to be some in here that have absolutely no
9 meaning whatsoever for the discussion. But we have
10 to go through all of them. That is mandated by our
11 requirements.
12 So we will now go through our question list and
13 have our discussions. Does any Committee member have
14 any questions before we begin?
15 MS. KOEHLER: No.
16 CHAIRMAN ROLLINS: Okay. Question
17 No. 1: Will approval of the proposed transfer,
18 balance both local requests and the needs of the
19 statewide community at large, in a manner that
20 advances the best interests of public education in
21 the affected school districts, communities,
22 educational service districts, and the states [sic]?
23 And these will all be referenced to RCW 28A.315.
24 This particular piece is 015(2)(a).
25 Discussion, Committee. Yes, sir.

1 MR. WILCOX: Yeah, thank you.
2 First of all, I'd like to thank both districts and
3 all the people that spoke tonight to come before us
4 and talk about a very difficult and very serious
5 issue. There's no question about it. I've been in
6 education for 35 years, and this is one of the
7 bigger -- one of the biggest ones I've been involved
8 with.
9 I have a couple real quick questions, just
10 clarification. I think I know the answer already.
11 One is: Enumclaw, in 1975, you and Black Diamond
12 incorporated, right? Okay. And most the students at
13 that particular time were going to Enumclaw school,
14 right? Today, do you have an interdistrict transfer?
15 Or how's that work, once again? Some students are
16 going to Tacoma [sic] right now and some are going to
17 Enum -- would you talk about that or explain a little
18 bit, please?
19 MR. NELSON: The interdistrict --
20 MR. WILCOX: Do you understand what
21 I'm --
22 MR. NELSON: Interdistrict waivers
23 we have between school districts.
24 MR. WILCOX: Okay. And one gentleman
25 said that less than half actually attend the Enumclaw

1 School District; is that...?
2 MR. NELSON: I believe he was
3 referencing half of the students within the city of
4 Black Diamond.
5 MR. WILCOX: In Black Diamond.
6 Okay, fine. Thank.
7 And the other question real quickly is that, now,
8 one side says -- this is for Tacoma -- or Tahoma.
9 Excuse me. I'm from DuPont, so I live right next to
10 Tacoma. Excuse me. This is for Tahoma. One side
11 says there's nothing in Tahoma developing. The other
12 side said yes, there is something developing.
13 Could you elaborate just real quickly about what
14 is happening in your city as far as development? Is
15 there any development at all? I'm not quite sure
16 what's happening.
17 MR. MARYANSKI: Yes, there's
18 development in the city of Maple Valley. What we're
19 learning from the City is that they're very concerned
20 because it's being builted out. And currently their
21 major source of revenue is through home building.
22 And they have identified potentially about 800 new
23 building lots in the city, and when those are built
24 out, there's a concern.
25 There still is the "Donut Hole" that was referred

1 to by both parties, that is there is no agreement as
2 to what will be built there. The City is looking to
3 diversify the tax rolls and has a vision, but that
4 vision is not on a piece of paper yet or an agreement
5 with King County.
6 MR. WILCOX: All right. Thank you,
7 both of you. Thank you.
8 MS. MURRAY: Can you state your name,
9 please?
10 MR. MARYANSKI: Mike Maryanski,
11 superintendent.
12 MS. MURRAY: Oh. Thank you.
13 CHAIRMAN ROLLINS: Dan, any
14 discussion on this?
15 MR. PFLUGRATH: (Shakes head.)
16 CHAIRMAN ROLLINS: Now, what's the
17 Committee's view of the question? Does it balance --
18 does it provide a balance between the needs as
19 listed?
20 MS. KOEHLER: Does it provide a
21 balance? Will approval of the proposed transfer,
22 balance both local requests and the needs of the
23 statewide community? I say "no." I don't see the --
24 it's really hard for me to balance this when we're
25 looking at property and not thinking about students.

1 And this is something that -- I've been on this
2 Committee for 15 years, 20 years. And so when I'm
3 thinking of this, it's just land. It's not when
4 we -- when we considered this before, it's always
5 been with students, and students in mind and their
6 best interests and what's going to work.
7 So when I look at this, I say, no, I don't see
8 that that -- approval will be, you know, balance
9 both -- I mean, it's just -- it's very hard for me to
10 differentiate, so -- and I have to -- I can't answer
11 just "yes" or "no." Okay? Does that answer the
12 question?
13 CHAIRMAN ROLLINS: Yeah. Dawn?
14 MS. WARREN: My opinion on this is,
15 you know, there are no students directly involved in
16 the property. I see it as, you know, causing a
17 greater disparity with Tahoma and penalizing Tahoma
18 on that issue.
19 CHAIRMAN ROLLINS: Dan?
20 MR. PFLUGRATH: Yeah, one of the
21 things that wasn't mentioned was what the timeline
22 is. I understand, as commercial properties develop,
23 it lowers the tax rates overall, and that does have
24 an impact on being able to pass bonds. But it was
25 heard here a little bit earlier that the development

1 that's going to be on tap first, which they're
2 already starting to start work on, is far removed
3 from this location.
4 Therefore, I don't see -- again, I am not a land
5 developer. I don't know as much about the Growth
6 Management Act as I'd like to. But I don't see that
7 that piece of property is going to contribute to your
8 ability, Enumclaw's ability to pass the bonds until
9 it gets developed. There's nothing there, so the
10 land value that's going to the basis for the -- for
11 the bond is not going to contribute anything for
12 probably -- well, I don't know how long it will take
13 to develop that.
14 When you need to be able to pass the bonds, which
15 is over the next four or five years, is a
16 contributing thing. So I don't see how that question
17 can have any bearing on being able to make a favorable
18 comment on that for Enumclaw School District.
19 CHAIRMAN ROLLINS: Okay. Larry,
20 any comments on that?
21 MR. WILCOX: Yeah. I have a problem
22 with it being with no students. Because education is
23 about students. And this is what -- and I realize
24 where you're coming from, Enumclaw. Because you're
25 getting 3,500 new students, once again. But to raise

1 money and bonds, once again, I think is the direct
2 responsibility of each district. And I think pulling
3 this little area out from Tahoma doesn't really serve
4 that much purpose. So, yeah, I really don't think
5 that we're serving a great purpose -- or a great
6 purpose here.
7 CHAIRMAN ROLLINS: Okay. Anyone
8 else? Discussions on No. 1?
9 MS. KOEHLER: No.
10 CHAIRMAN ROLLINS: Remember, we're
11 just discussing the different points right now.
12 MS. KOEHLER: Right.
13 CHAIRMAN ROLLINS: Okay. Let's
14 move to No. 2: Will approval of the proposed
15 transfer responsibly serve all of the affected
16 citizens and students by contributing to logical
17 service boundaries? And that's .15(2) -- (2)(b).
18 Again.
19 MR. PFLUGRATH: There's no students
20 to serve in that area and will never be.
21 MS. KOEHLER: And it pretty much
22 goes with whatever we discussed with the first one.
23 MR. WILCOX: Mm-hmm.
24 MS. KOEHLER: Certainly applies
25 with the second one. And, I think, talk about being

1 redundant. I think we'd be repeating ourselves
2 again --
3 CHAIRMAN ROLLINS: Yeah.
4 MS. KOEHLER: -- with the same
5 logical answers.
6 CHAIRMAN ROLLINS: Mm-hmm. Okay.
7 Anyone else on No. 2?
8 All right. No. 3: Will approval of the proposed
9 transfer responsibly serve all of the affected
10 citizens and students by recognizing a changing
11 economic pattern within the educational service
12 districts of the state? And this is .015(2)(B).
13 And, now, remember, this piece, we're talking
14 about all affected citizens and students. And that
15 would apply to the entire districts, both districts,
16 not just the piece which has no students.
17 MS. KOEHLER: Is it going to make
18 an impact? Well, it could, if you decide that you
19 can transfer territory because someone decided that
20 there is right next to -- I mean, we have a lot of
21 territories that have developments in -- both in a
22 school district and in a city, and they cross
23 boundaries. And could this set a precedent? Yeah,
24 maybe it might. I don't know. But it could -- it
25 could affect other service districts in the state.

1 It could. Will it? I don't think so.
2 CHAIRMAN ROLLINS: But is there a
3 changing economic pattern? There's obviously a
4 changing pattern of the populated area that's going
5 to come with time with these. But does that make an
6 economic pattern change? I'm not sure I see it.
7 MR. PFLUGRATH: The fact that it's
8 zoned does not necessarily mean that there's going to
9 be economic impact short term or long term. That
10 really depends upon what the City councils do in both
11 districts, where they develop.
12 MS. KOEHLER: City council.
13 CHAIRMAN ROLLINS: And even if they
14 zone it that way, you got to have someone come in and
15 actually do something.
16 MR. PFLUGRATH: And without that
17 northern area being developed early on, I mean, it's
18 going to be years and years and years before that has
19 an impact that would affect the outcome of that
20 question.
21 MS. WARREN: I think the short
22 term, it would have a -- it would have a negative
23 impact on Tahoma. We'd be seeing their base.
24 MR. PFLUGRATH: Absolutely. But is
25 it a big impact? Probably. I mean, it's not a huge

1 impact that -- that one would really get -- I mean,
2 it's the future revenue that is at issue, not the
3 short term.
4 MS. KOEHLER: You want to take it
5 away, yes, of course, every one of these questions,
6 you're going to say it's going to negatively impact
7 Tahoma because it's taking away revenue. And that --
8 so that is on every one of them. I'll say that. So
9 yes, I agree with you. It does. It does impact them
10 negatively.
11 CHAIRMAN ROLLINS: Okay. Question
12 No. 4: Will approval of the proposed transfer
13 enhance the educational opportunities of pupils in
14 the territory by reducing -- well, we can stop there
15 right now. There are no students, so this question
16 is not applicable. So we don't need to discuss that
17 particular question.
18 Will approval of the proposed transfer promote a
19 wiser use of public funds through improvement in the
20 school district system of the educational service
21 districts and the state? That's .015(2)(D).
22 Well, it changes the use of the public funds. Is
23 it a wiser use? That's a discussion point.
24 MR. WILCOX: Yeah, one quick
25 comment. I notice in the meetings you had, and there

1 was quite a few people once again in Enumclaw that
2 opposed this, and some of the people up here tonight
3 oppose it from the standpoint of land use, use of
4 parks, roads, and congestion and et cetera, et
5 cetera, to go along with this land use -- go along
6 with this master plan, plus getting the north
7 territory -- or North Triangle -- excuse me -- and
8 the bond. I just -- you know, I don't -- I don't see
9 a wiser use for the public funds, no.
10 CHAIRMAN ROLLINS: Anyone else?
11 Comments?
12 MS. KOEHLER: No, I have nothing.
13 CHAIRMAN ROLLINS: No. 6 deals with
14 student educational opportunities. And again,
15 because we're not dealing with students. But we have
16 to consider, if we accept Enumclaw's position that
17 this might make passing bonds difficult, then there
18 could be an impact on educational opportunities in
19 the Enumclaw District if this did not pass. So that
20 particular question might still have some application
21 even though there are no students in the proposed
22 territory.
23 MS. KOEHLER: Okay. So my question
24 is: Wouldn't it have a negative impact on the
25 students in Tahoma? I mean, it would have a positive

1 impact on the students in Enumclaw. Then, again,
2 wouldn't it have a negative impact on Tahoma's
3 ability to pass bonds and --
4 CHAIRMAN ROLLINS: That's certainly
5 a possibility.
6 MS. KOEHLER: Right.
7 CHAIRMAN ROLLINS: Yeah.
8 MS. KOEHLER: I mean, I'm just
9 drawing both sides of the equation out.
10 CHAIRMAN ROLLINS: You can look at
11 both sides, yes.
12 MR. PFLUGRATH: And the percentage
13 for Tahoma is greater, I mean, has a greater impact,
14 negative impact, than it would have positive impact
15 the other direction.
16 MS. WARREN: I think it's shifting,
17 not improving.
18 CHAIRMAN ROLLINS: Any other
19 considerations on No. 6? We have considered that.
20 No. 7: Will approval of the proposed transfer
21 affect the safety and welfare of pupils in the area
22 proposed for transfer?
23 MR. WILCOX: There's no students.
24 MS. KOEHLER: There's no students.
25 CHAIRMAN ROLLINS: We don't have to

1 consider that particular one.
2 No. 8: Do current or proposed urban growth
3 areas, city boundaries, or master planned communities
4 impact the proposed area to be transferred? And the
5 answer to that, of course, is "yes."
6 MS. KOEHLER: Yes.
7 CHAIRMAN ROLLINS: But is it -- is
8 it something that really -- that really matters?
9 MS. KOEHLER: It matters a great
10 deal to Enumclaw and a great deal to Tahoma. So yes,
11 it does.
12 CHAIRMAN ROLLINS: I got my ESD hat
13 on.
14 MS. KOEHLER: I know you do. But
15 it does matter. And that's what they're asking us:
16 Does it matter? Yes. It does matter, right?
17 MS. WARREN: Mm-hmm.
18 CHAIRMAN ROLLINS: Okay. Now, you
19 know, there's been several times that city boundaries
20 have come up in discussions.
21 MS. KOEHLER: Right.
22 CHAIRMAN ROLLINS: And we have
23 seen -- you and I, since we've been on the Committee
24 long enough, we've seen multiple requests to change
25 because of city boundaries. And I go back to, what

1 does -- what does it do for the students?
2 When Auburn and Dieringer got together to look at
3 the Lakeland Hills master planned development, which
4 I happen to live in, it was initially decided between
5 the two districts that it was better to match the
6 city boundaries because Auburn grew into Pierce
7 County and it made a better fit for the students.
8 It's not that Dieringer didn't want the students, but
9 it made better sense for the students. And again, in
10 this particular area, we have no students.
11 MS. KOEHLER: We have no students.
12 But they didn't mention students in here.
13 CHAIRMAN ROLLINS: No, they don't.
14 MS. KOEHLER: So it just -- they
15 want you to answer "yes" or "no." And we've discussed
16 it. And the answer is "yes" on this particular
17 question.
18 CHAIRMAN ROLLINS: Yeah.
19 MR. WILCOX: Definitely.
20 MS. WARREN: Yes, it does impact it.
21 MR. WILCOX: It impacts.
22 MS. KOEHLER: It does definitely
23 impact.
24 MR. WILCOX: Mm-hmm.
25 MS. KOEHLER: That's (4)(c),

1 205(4)(c).
2 CHAIRMAN ROLLINS: Yes. Thank you.
3 I never read that part, did I?
4 MS. KOEHLER: I did for you.
5 MR. PFLUGRATH: I agree.
6 CHAIRMAN ROLLINS: No. 9: Are
7 there any other facts pertaining to the history and
8 relationship of the proposed transfer area to the
9 students and communities affected that should be
10 considered? .205(4)(c).
11 Well, again, there are no students --
12 MS. KOEHLER: There are no students.
13 CHAIRMAN ROLLINS: -- to be
14 considered. And as mentioned historically, this has
15 been Tahoma property. It's within the Tahoma
16 boundaries. Judging by the terrain map that they've
17 shown us, I can -- I have a pretty good feeling,
18 myself, that unless there's some particular commercial
19 enterprise down in that lower section, people aren't
20 going to travel down there, will stay up on the
21 higher part.
22 That -- that happened with me. When they -- when
23 they built out my neighborhood, we originally had no
24 commercial on the top. We had to go into -- down the
25 hill and into the lower part. Once they built the

1 commercial up there on top, the vast majority of my
2 purchases has remained up there, because it's simpler.
3 We don't want to go up and down a hill if we don't
4 have to. So history -- you know, when there's no
5 history. And like they say, the city limits --
6 MS. KOEHLER: The students --
7 CHAIRMAN ROLLINS: The city limits
8 only switched eight years ago.
9 MS. WARREN: 2005.
10 MS. KOEHLER: So it's not a major
11 history.
12 CHAIRMAN ROLLINS: Right.
13 MS. KOEHLER: Okay.
14 CHAIRMAN ROLLINS: Any other
15 discussion there? Okay.
16 MS. WARREN: Hmm-mm.
17 CHAIRMAN ROLLINS: Okay. I think
18 we're going to get -- we're now into Question 10:
19 Will geographic accessibility warrant a favorable
20 consideration of the recommendation for a change?
21 And this has subset questions. They all deal
22 with the transportation of students. And since there
23 are no students, I believe we can pretty much forego
24 all sections of Question 10. Any other thoughts on
25 that?

1 MS. WARREN: No.
2 MR. WILCOX: No.
3 MS. WARREN: It's not applicable.
4 MR. WILCOX: Nope.
5 MS. KOEHLER: So it's not
6 applicable. It's considering transportation.
7 CHAIRMAN ROLLINS: Correct.
8 So then Question 11 discusses transportation
9 costs, which go hand in hand. So, again, there's
10 really nothing to consider for any section of
11 Question 11.
12 We're up to Question 12, which is the number of
13 school-age children. So we don't have to discuss that.
14 Question 13: What is the assessed valuation of
15 the property located in each school district and in
16 each part of --
17 MS. WARREN: Excuse me. Could I
18 interrupt you?
19 CHAIRMAN ROLLINS: Oh, yes.
20 MS. WARREN: Could you go back to
21 11c?
22 CHAIRMAN ROLLINS: Oh, certainly.
23 Did I overlook something?
24 MS. WARREN: Yep.
25 MR. WILCOX: Mm-hmm.

1 CHAIRMAN ROLLINS: Ah, why didn't
2 that -- why did I go over the "Transportation Costs"?
3 You're right.
4 MR. WILCOX: Yeah. 11c, yeah.
5 CHAIRMAN ROLLINS: Yeah. C.
6 Actually, it's "c" and "d." Neither one of them deal
7 with transportation.
8 MS. WARREN: Right. I think we
9 need to have discussion on that.
10 MR. WILCOX: Yeah. That's a "yes."
11 CHAIRMAN ROLLINS: Thank you for
12 catching that, Dawn. That was -- I didn't -- I
13 didn't look that closely at them. I'm sorry. So
14 let's go back to 11c: Will approval of the proposed
15 transfer result in a reduction in disparities in
16 per-pupil valuation when all funding sources are
17 considered?
18 Well, both sides have already admitted that,
19 based on current numbers, it will increase the
20 disparity.
21 MR. WILCOX: Increase the disparity.
22 CHAIRMAN ROLLINS: There's
23 speculation that that will change in the future. But
24 that's just speculation.
25 MS. WARREN: But again, it's

1 speculation. We don't have the hard --
2 MR. WILCOX: Yeah.
3 MS. WARREN: -- numbers.
4 CHAIRMAN ROLLINS: Mm-hmm. No
5 guarantees. Comment, Dan?
6 MR. PFLUGRATH: No, I agree with --
7 there's not enough basis for the speculation at this
8 time, anyway. I think the current numbers -- over
9 the next four or five years, the current numbers will
10 probably be the same.
11 CHAIRMAN ROLLINS: Yeah. So 11d:
12 Will approval of the proposed transfer result in an
13 improvement in the economies of administration and
14 operation of schools? 205(4)(e).
15 MR. WILCOX: Total speculation on
16 that.
17 CHAIRMAN ROLLINS: Yeah.
18 MR. WILCOX: There's no --
19 CHAIRMAN ROLLINS: I don't think
20 there's an answer to that.
21 MR. WILCOX: There's no hard
22 evidence on that.
23 MS. KOEHLER: We didn't really have
24 a discussion about or hear about that.
25 CHAIRMAN ROLLINS: Yeah.

1 MS. KOEHLER: Because obviously
2 it's all in the future.
3 CHAIRMAN ROLLINS: Yeah. That's
4 all -- yeah, I just don't think there's an answer to
5 that one.
6 MR. WILCOX: You can't answer that.
7 CHAIRMAN ROLLINS: Not with the
8 information we have. And the fact that, again,
9 there's no students involved, so there are no
10 increase in teachers, no facilities, counselors, any
11 of that.
12 Any other questions on "d" then?
13 MS. KOEHLER: Okay with it?
14 MS. WARREN: Mm-hmm.
15 CHAIRMAN ROLLINS: Okay. So No. 12
16 we skip, number of school-age children.
17 MR. WILCOX: I have a question on
18 that real quick.
19 CHAIRMAN ROLLINS: Yeah.
20 MR. WILCOX: Yeah, Enumclaw has one
21 set enrollment, and Tahoma has another set
22 enrollment. So, for example, Enumclaw says they have
23 almost 4,000 -- or, well, 4,200, and Tahoma has 71.
24 And Tacoma [sic] comes back and says --
25 MS. KOEHLER: Tahoma.

1 MS. WARREN: -- no, Enumclaw had 45
2 and Tacoma [sic] has 77. Why the -- what are we
3 basing this on?
4 MR. HOGE: I think that's because
5 Enumclaw was using the annual average enrollments in
6 the district, and Tahoma, as it said in some of its
7 papers, was using the October 1st numbers, and those
8 numbers are generally higher than the average of them.
9 MR. WILCOX: Thank you. Thank you.
10 CHAIRMAN ROLLINS: I remember that
11 when I was PTA president at St. Helens.
12 Okay. So number 13 then: What is the assessed
13 valuation of the property located in each school
14 district and in each part of a district involved or
15 affected by the proposed transfer?
16 So we saw those numbers as just under two
17 million; was that correct?
18 MR. WILCOX: Mm-hmm.
19 MS. WARREN: 1,973,000.
20 MR. WILCOX: Yep. 1-9-7-3.
21 CHAIRMAN ROLLINS: And varied for --
22 overall value for either district was a minuscule
23 percentage.
24 MR. WILCOX: About one percent?
25 CHAIRMAN ROLLINS: Not even close

1 to one percent.
2 MR. WILCOX: Yeah. Real tiny.
3 MS. KOEHLER: Right. Right now.
4 CHAIRMAN ROLLINS: Right now.
5 MS. KOEHLER: Okay. So --
6 CHAIRMAN ROLLINS: That's correct.
7 MS. KOEHLER: That's the whole key,
8 is that right now it's minuscule.
9 CHAIRMAN ROLLINS: Yeah. Mm-hmm.
10 MS. KOEHLER: It's the possibilities.
11 CHAIRMAN ROLLINS: It's the way
12 it's worded: What is the assessed valuation? So
13 that is right now.
14 MS. KOEHLER: So it's minuscule.
15 Sounds like a lot of money to me.
16 CHAIRMAN ROLLINS: Yeah. I'd take
17 the check.
18 MS. KOEHLER: Paid two million
19 bucks. But other than that...(Pause.)
20 CHAIRMAN ROLLINS: No. 14: Is
21 there any bonded indebtedness of any school district
22 involved or affected by the proposed transfer
23 incurred? If so, what is its purpose?
24 We have to go back to --
25 MS. KOEHLER: Is there a bond and

1 indebtedness on land that's not --
2 CHAIRMAN ROLLINS: Probably not.
3 MR. PFLUGRATH: Somebody's paying
4 property tax, I would guess.
5 CHAIRMAN ROLLINS: Just a general
6 bond is for the entire district.
7 MS. KOEHLER: Not -- not -- I mean,
8 yeah, I guess the Tahoma School District's been
9 paying it since they've owned it.
10 CHAIRMAN ROLLINS: Well, the land
11 doesn't belong to the district, you know.
12 MS. KOEHLER: Well, and then the
13 County.
14 MR. PFLUGRATH: The property taxes
15 are going to Tahoma, right?
16 CHAIRMAN ROLLINS: Somebody's
17 paying the property taxes.
18 MR. PFLUGRATH: Their piece of the
19 property taxes.
20 MS. KOEHLER: Taxes. Tahoma.
21 CHAIRMAN ROLLINS: Yes. But I
22 guess my question for Tahoma is: What is your
23 current bond indebtedness?
24 MS. AUNGST: We're looking it up.
25 CHAIRMAN ROLLINS: You're looking

1 it up. Okay.
2 MS. AUNGST: I do believe that it
3 was a part of the responsive documents that were
4 turned in.
5 CHAIRMAN ROLLINS: It probably is.
6 MR. GANSON: It's on the checklist.
7 CHAIRMAN ROLLINS: I think I've got
8 it here.
9 MS. KOEHLER: Do our numbers
10 coincide? There it is. Assessed valuation.
11 CHAIRMAN ROLLINS: Levy capital
12 projects fund, 2.7 million for Tahoma, 1.2 million
13 for Enumclaw. Those numbers sound -- that's the
14 capital projects, and then -- actually, well, those --
15 all three of those are labeled levies now, not bonds.
16 MS. KOEHLER: It doesn't give me a
17 dollar amount.
18 MR. PFLUGRATH: I don't remember
19 seeing anything on the debt, but the piece of
20 properties -- at this point in time, is such a small
21 piece of that.
22 CHAIRMAN ROLLINS: Right.
23 MS. KOEHLER: It said Tahoma School
24 District has outstanding bond indebtedness, which is
25 incurred to pay for a combination of remodels,

1 additions, and new construction, Tahoma Junior High
2 School.
3 CHAIRMAN ROLLINS: Right.
4 MS. KOEHLER: So they have some
5 indebtedness.
6 CHAIRMAN ROLLINS: Yeah. Yeah,
7 this -- this chart doesn't have the bonds. It just
8 has the levies.
9 MS. KOEHLER: Yeah. That doesn't --
10 yeah, that doesn't count.
11 CHAIRMAN ROLLINS: No. But that
12 does make me curious. This valuation we have here
13 shows the estimated total impact on tax bill for a
14 hundred-thousand-dollar home was Tahoma going up 31
15 cents and Enumclaw going down 41 cents. But does
16 that only include the levies or does that include --
17 does that include the --
18 MS. MURRAY: That's everything.
19 CHAIRMAN ROLLINS: -- bonds? That
20 is everything?
21 MR. PFLUGRATH: Including the bonds?
22 MS. MURRAY: Mm-hmm.
23 CHAIRMAN ROLLINS: Yeah. So that --
24 yeah, that shows that's a negative impact to Tahoma,
25 but you'd need a slide rule with a lot of zeros --

1 MR. PFLUGRATH: Yeah.
2 CHAIRMAN ROLLINS: -- to calculate.
3 MS. KOEHLER: It does have
4 indebtedness.
5 CHAIRMAN ROLLINS: Yes, it does.
6 MS. KOEHLER: And it would impact
7 it. So what's its purpose?
8 CHAIRMAN ROLLINS: Well, what did
9 that say? New junior high school.
10 MS. KOEHLER: Yeah. Yeah. Paid
11 for a new junior high school and some other stuff.
12 CHAIRMAN ROLLINS: Okay. So No. 15.
13 No. 15: Is there any history or relationship of any
14 property, affected by the proposed transfer, to the
15 students and communities affected by the proposed
16 transfer?
17 And again --
18 MS. WARREN: No.
19 MR. WILCOX: No students.
20 CHAIRMAN ROLLINS: -- we're dealing
21 with specifically the proposed transfer. So since
22 there are no students and there never have been, then
23 there really is no history relationship as far as
24 that goes.
25 MS. KOEHLER: No.

1 CHAIRMAN ROLLINS: Any other thoughts
2 there?
3 MS. WARREN: Nope. Not on that one.
4 CHAIRMAN ROLLINS: Okay. No. 16:
5 Will the proposed transfer create any additional
6 burdens to the districts? That's .245(5).
7 Well, in the basic tax revenue, yes, obviously it
8 has -- it imposes a burden to Tahoma. As miniscule
9 as it is, it's still a burden. There's no -- because
10 there's no students, there's no cost involved.
11 MS. KOEHLER: No school pressure,
12 no transportation pressure.
13 CHAIRMAN ROLLINS: No administrative
14 costs whatsoever, really.
15 MS. KOEHLER: No.
16 CHAIRMAN ROLLINS: It doesn't
17 amount to anything. So the answer is, does it create
18 any additional burdens?
19 MS. KOEHLER: Yes.
20 MR. WILCOX: Yes.
21 CHAIRMAN ROLLINS: But it's --
22 MR. WILCOX: There's a loss of
23 revenue. It extends the disparity between the two
24 districts, and per-pupil expenditures are not in
25 favor of Tahoma.

1 CHAIRMAN ROLLINS: Right. Any
2 other discussion on 16?
3 Okay. No. 17: Describe the value, location, and
4 disposition of all improvements -- there are none, so
5 we can disregard Question 17. No improvements of any
6 kind on the property.
7 No. 18: Are there any other sources of funding
8 to consider that have not already been discussed
9 above? That's .245(7).
10 MR. WILCOX: Hmm-mm.
11 MS. WARREN: No.
12 MS. KOEHLER: What other funding?
13 What other sources of funding?
14 CHAIRMAN ROLLINS: They're going to
15 receive the mitigation fees.
16 MR. WILCOX: Yeah.
17 CHAIRMAN ROLLINS: I'm going to
18 make -- is my assumption correct here? If -- are
19 there any mitigation fees from the commercial
20 build-out on that property? Only on the residential
21 homes? So there's no --
22 MS. KOEHLER: Only on residential?
23 CHAIRMAN ROLLINS: There's nothing
24 to transfer. Leaving the property there has no -- it
25 won't affect how much you receive in the way of

1 impact fees.
2 Any other comments, Committee?
3 MS. KOEHLER: Hmm-mm.
4 CHAIRMAN ROLLINS: 19: Will the
5 proposed transfer result in any other positive income
6 [sic] that should be considered? And there is no RCW
7 for that one.
8 MS. KOEHLER: Well, as Enumclaw
9 stated, that they feel that if it was transferred,
10 that it would be very beneficial to them in helping
11 them --
12 CHAIRMAN ROLLINS: Mm-hmm.
13 MS. KOEHLER: -- pass levies and
14 bonds.
15 CHAIRMAN ROLLINS: Yeah. And to
16 look at the other side, you can always say that they
17 can always go to the voters and say, Okay, we tried
18 to get this and we were turned down, but we made our
19 best effort, so we were still looking out for you.
20 MS. KOEHLER: Right. But that's --
21 yes.
22 CHAIRMAN ROLLINS: Got to look at
23 both sides.
24 MS. KOEHLER: And Tahoma could --
25 they'd go, Wait a minute. You gave away -- you got

1 your property taken away from you. How's that going
2 to affect them passing it? So if you want to know,
3 yeah, could be positive; it also could be negative.
4 That was the bottom one, and I just answered it. I
5 was so quick. But I'm just saying, for one person,
6 it would be positive, and then for the other, it
7 would be negative.
8 CHAIRMAN ROLLINS: Yeah. And
9 that's probably it. The positive outcome is going to
10 depend on who the juror is.
11 MS. KOEHLER: I would say.
12 CHAIRMAN ROLLINS: Who's asking the
13 question.
14 MR. PFLUGRATH: Same for Question 20.
15 CHAIRMAN ROLLINS: Yeah.
16 MR. PFLUGRATH: Are there any
17 negative outcomes? And depending on which side you
18 look at that.
19 CHAIRMAN ROLLINS: Pretty much it's
20 the opposite side of the same coin. So, and again,
21 negative outcome could be that Enumclaw has more
22 difficulty passing their bonds, and if we did
23 transfer the property, it might make Tahoma's ability
24 to pass bonds more difficult. It can go both ways.
25 MS. KOEHLER: Right. So 21.

1 CHAIRMAN ROLLINS: Any other negative
2 outcome anyone wants to throw out there?
3 Okay. Final question, 21: Are there any other
4 factors, in the district's judgment, that are
5 important or essential to the making of an equitable
6 adjustment of assets and liabilities?
7 Well, there are no assets and liabilities to
8 adjust in this.
9 MR. WILCOX: No.
10 MS. WARREN: No.
11 MR. WILCOX: None.
12 CHAIRMAN ROLLINS: Jane, answer
13 that for me. Since there no properties, it's just
14 raw land. We would still have an asset change.
15 MS. MURRAY: It would just be that
16 assessed value of that area that would be.
17 MS. WARREN: It was shipped.
18 MS. MURRAY: It was shipped over to
19 the other school district so that their assessed
20 value would increase.
21 CHAIRMAN ROLLINS: But there's no
22 other impact whatsoever?
23 MS. MURRAY: Yeah. Nothing. No --
24 CHAIRMAN ROLLINS: Other than --
25 MS. MURRAY: No assets.

1 CHAIRMAN ROLLINS: -- the site
2 change, the site change for the two districts.
3 MS. MURRAY: Yeah.
4 CHAIRMAN ROLLINS: Okay. So there's
5 really no difficulty making an equitable adjustment,
6 because it's a simple matter of raw land.
7 MS. KOEHLER: It's the raw land
8 transfer.
9 CHAIRMAN ROLLINS: Okay. That
10 means we have discussed all 21 questions and their
11 various sub-questions.
12 Any final discussion before someone makes a
13 motion? What did I do with our motion sheet?
14 MS. MURRAY: Oh, here. There's two.
15 MS. SHAW: There's two motions.
16 CHAIRMAN ROLLINS: I've probably
17 got one here somewhere. Let me find it.
18 MS. SHAW: Dawn, we need a copy of
19 that signature sheet back. You got it?
20 CHAIRMAN ROLLINS: Single sheet.
21 There you go.
22 MR. WILCOX: I got several of
23 these. I was wondering why so many.
24 CHAIRMAN ROLLINS: Deal with the
25 government, you have paperwork.

MR. WILCOX: That's true.

MR. PFLUGRATH: Everybody have one? I have an extra one.

MR. WILCOX: Yeah, I got --

MS. KOEHLER: We got lots of extras laying around.

MR. PFLUGRATH: I think we got --

MR. WILCOX: Okay.

CHAIRMAN ROLLINS: So any further discussion under any area by a Committee member? Any last questions before someone makes a motion?

And we will -- we have two options. We have an option to motion to approve or a motion to deny. If we do move to approve and it passes, then we have to do the transfer of assets and liabilities as well.

So will someone make a motion?

MR. WILCOX: Yeah. I'll go ahead and make my motion here. I'd like to make a motion that we deny the petition.

MS. WARREN: I second that motion.

CHAIRMAN ROLLINS: It's been moved and seconded. And I will read the full text of the motion to deny:

After consideration of the factors pertinent to a transfer-of-territory petition, Puget Sound ESD

1 Regional Committee on School District Organization
2 moves that the transfer of territory from the Tahoma
3 School District to the Enumclaw School District be
4 denied on the basis that the evidence, rationale, and
5 the weight of the facts lead to denying the transfer
6 of territory.
7 Moved and seconded. Discussion by the Committee.
8 Anyone else have anything further to add?
9 Okay. Call for a vote.
10 MR. PFLUGRATH: I vote to deny.
11 MS. KOEHLER: Deny.
12 MS. WARREN: Deny.
13 MR. WILCOX: Deny.
14 CHAIRMAN ROLLINS: It's unanimous.
15 The Committee has voted to deny the transfer of
16 territory.
17 Jane, do we have any other matters to come before
18 the Committee?
19 MS. MURRAY: Hmm-mm. Not currently.
20 CHAIRMAN ROLLINS: Anyone want to
21 make a motion to adjourn?
22 MR. PFLUGRATH: I make a motion to
23 adjourn.
24 MR. WILCOX: Second.
25 CHAIRMAN ROLLINS: All in favor?

1 (All say "aye.")
2
3 CHAIRMAN ROLLINS: Again, thank you,
4 everyone, for your time, consideration you've given us.
5 This was a difficult one; I'll be honest with you.
6 MR. WILCOX: Very.
7 CHAIRMAN ROLLINS: My thoughts went
8 both directions for the past couple weeks. We've
9 given it a lot of thought. Thank you very much.
10 (Proceedings adjourned at
11 9:22 p.m.)
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STATE OF WASHINGTON )
) ss
County of Pierce )

I, John M.S. Botelho, CCR, a certified court reporter in the State of Washington, do hereby certify:

That the foregoing hearing before the **Puget Sound Educational Service District Regional Committee on School District Organization** was conducted in my presence and adjourned on **October 3, 2013**, and thereafter was transcribed under my direction; that the transcript is a full, true and complete transcript of the proceedings, transcribed to the best of my ability;

That I am not a relative, employee, attorney or counsel of any party to this matter or relative or employee of any such attorney or counsel and that I am not financially interested in the said matter or the outcome thereof;

That I am herewith securely sealing the said transcript and promptly delivering the same to **Jane Murray, Assistant Fiscal Officer.**

IN WITNESS WHEREOF, I have hereunto set my signature this 17th day of October, 2013.

_____
John M.S. Botelho, CCR
Certified Court Reporter No. 2976
(Certification expires 5/26/14.)

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From: Ethan.Rogers@kingcounty.gov
To: proct@msn.com
Subject: RE: Request for disclosure of public records - 8/4/2014
Date: Fri, 15 Aug 2014 20:38:13 +0000

Thank you again for your public disclosure request, as set forth (this time) in your e-mail of August 12, 2014, below. We have found one page of responsive documentation. It is attached. Darren Carnell also confirms that there were no conversations between the PAO and either Meagan Nelson or Nancy Rogers (or anyone from Cairncross and Hempelmann) about our response to the initial e-mail from Mr. Edelman.

This completes our response to your request. Thank you for your time.

Sincerely,

Ethan Rogers

D.P.A.

7/25

DC

## Call w/ Denise

- Deed of Trust re: high school site
  - not conveyed to Dist. — protects Dist's interest
  - Deed didn't transfer: protect Dist. during 10 yrs, notic off title if anything else happenee
  - parcel won't transfer till things happen under agmt; YB could w/in 10 yrs. ID another site
  - YB still tax payer on title; still listed as property owner
  - delineated, legal descrip.
  - But Nothing conveyed; still subject to ultimate plat process

extra layer of security // lis pend.

just secures Dist's interest

Mitigation Agmt on title RRO

notice: any futu develop

From: Lauren.Smith@kingcounty.gov
To: proct@msn.com
Subject: RE: School boundary delineations and legal descriptions.
Date: Tue, 15 Jul 2014 22:38:15 +0000

Hi Cindy,

The Reserve at Woodlands Development Agreement between King County and Yarrow Bay requires Yarrow Bay to offer additional acreage to the Enumclaw School District for a middle school (see language below). At the same time, Yarrow Bay is still required to delineate the sites that were included in the original Tri-Party Agreement. So, I wasn't surprised to learn they had done so.

The County has every intention of holding Yarrow Bay to their commitment to find additional urban land so that the rural sites are not used for school buildings. I've heard no concerns from the School District that would lead me to believe they are not following through. As a back-up, I have also contacted our permitting department to make sure that the parcels that make up Sites A, B and D are marked in our database with the recommendations of the School Siting Task Force. If someone comes in for a permit, the limitations of those sites for school use will be clear.

Happy to answer any other questions,

Lauren Smith

206-263-9606

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**10. PROVISION OF SCHOOL ACREAGE IN THE CITY OF BLACK DIAMOND**

BD Villages agrees to offer additional acreage within the City of Black Diamond adjacent to Middle School Site A and Elementary School Site D to the Enumclaw School District in order to increase the options available to the District for siting a middle school. BD Villages shall work cooperatively and in a timely manner with the Enumclaw School District regarding this offer of additional acreage.

**From:** "Smith, Lauren" <Lauren.Smith@kingcounty.gov>
**Subject: FW: ESD MS SITE "A"**
**Date:** July 7, 2014 at 8:17:57 AM PDT
**To:** 'Peter Rimbos' <primbos@comcast.net>
**Cc:** "Chan, Jim" <Jim.Chan@kingcounty.gov>

Peter,

I'm forwarding your email to Jim Chan at DPER in the hopes that he can tell us whether there has been any permit activity on Enumclaw sites A and D as shown on the map below (parcel numbers below).

As to your second question, King County will only permit uses that are consistent with the School Siting Task Force recommendations.

2321069065

2321069064

2321069063

2321069062

**From:** "Smith, Lauren" <Lauren.Smith@kingcounty.gov>
**Date:** July 17, 2014 at 12:48:28 PM PDT
**To:** 'Peter Rimbos' <primbos@comcast.net>
**Subject: RE: ESD-YB RA SCHOOL SITES**

Peter,

Thanks for your email. I understand the concern.

I feel very confident in saying that the School District and Yarrow Bay are both aware of County's position and what our codes say. I have spoken with Denise Stiffarm and Megan Nelson many, many times about this topic, as recently as this week.

Thank you,

lcs

On Aug 18, 2014, at 12:47 PM, "Smith, Lauren" <Lauren.Smith@kingcounty.gov> wrote:

http://mkcclegisearch.kingcounty.gov/View.ashx?M=F&ID=2900280&GUID=979EA7F4-77D7-41D8-B140-FB9E418CBFD3

It's the document called "Draft Development Agreement, dated January 27, 2014". It says draft because it was not executed until a several weeks later, but it's the final version.

# DRAFT
# DEVELOPMENT AGREEMENT
## Between
## KING COUNTY, WASHINGTON
## and
## BD VILLAGE PARTNERS, LP

This DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between KING COUNTY, a Washington home rule charter county ("County") and BD VILLAGE PARTNERS, LP, a Washington limited partnership ("BD Villages") pursuant to RCW 36.70B.170 in conjunction with a grading permit under King County Code Chapter 16.82.

## RECITALS

**A.** The County, BD Villages, Plum Creek Timber Company, and Plum Creek Land Company ("Plum Creek"), the predecessors in interest of BD Villages, have a long history of creating and protecting public open spaces in and around the City of Black Diamond, Washington ("City"). Their agreements and actions have, or will, permanently protect over 2,500 acres of open space in the County and the City. These open spaces are part of significant natural systems, including lakes, streams and wetlands. They are linked to provide open space corridors and trails throughout the area. The County, Plum Creek and BD Villages have, for over a decade, invested their time, staff resources and millions of dollars in creating and protecting the open space lands.

**B.** The Black Diamond Urban Growth Area Agreement ("BDUGAA") between the County, the City, Palmer Coking Coal Company, and Plum Creek was the first of the Black Diamond area open space agreements and was based on the "4 to 1 Principle." The BDUGAA was adopted by King County Ordinance 12534 on November 25, 1996. It established an agreement that for every 1 acre of urban development in the annexation areas of the City, 4 acres of open space would be protected inside the City and in adjacent areas of the County. The BDUGAA has been largely implemented and has created a legacy of regional open space that will last forever.

**C.** The Black Diamond Area Open Space Protection Agreement of June 2005 between the County, the City, Plum Creek, and Cascade Land Conservancy further implemented the open space provisions of the BDUGAA. In addition, it created additional open space in the County by permanently removing development rights from property known as Ravensdale Ridge. Moreover, it resulted in the transfer of the Lake Sawyer Regional Park from the County to the City along with a financial tool for development and maintenance of the Park.

**D.** The Open Space Agreement (as defined below) further implemented the open space provisions of the BDUGAA. In addition, it provided for potential protection of more

open space than was required by the "4 to 1 Principle" of the BDUGAA. This additional open space was all situated in the County in Sections 21 and 23. However, the Open Space Agreement provided that the protection of this additional open space could only be realized if the County and BD Villages worked together to agree on a formal Development Agreement that would, among other benefits, place the additional open space in tracts that were part of a County rural residential clustered subdivision. BD Villages is not required to place its land in Section 21 in a rural residential clustered subdivision but recognizes the benefits of doing so, which include creating substantially more open space in Section 21 and making more efficient use of the land than alterative types of development.

**E.** The Horseshoe Lake area of the County is nearby The Reserve at Woodlands (as defined below). For decades, there has been periodic flooding of Horseshoe Lake and the County has repeatedly had to undertake extraordinary measures, including major water pumping projects, to limit damage from the flooding. A permanent solution to the Horseshoe Lake flooding problems can be implemented if the County and BD Villages agree on a formal Development Agreement and BD Villages creates a regional stormwater facility within The Reserve at Woodlands (as defined below). Moreover, such a regional stormwater facility can be designed to create open space and riparian habitats that separate The Reserve at Woodlands subdivision from adjacent urban lands.

**F.** Recognizing the benefits of protecting more open space in the County, and recognizing the benefits of BD Villages proceeding with a rural residential clustered subdivision in lieu of alternative land development, and recognizing the benefits of a regional stormwater facility, and recognizing the benefit of an attractive and feasible alignment of the Green to Cedar Rivers Trail through the rural residential clustered subdivision, the County and BD Villages intend to take advantage of the provisions of the Open Space Agreement (as defined below) to enter into this Development Agreement.

**G.** The County and BD Villages recognize that the Muckleshoot Indian Tribe ("Tribe") has a variety of interests that must be addressed as development occurs under this Agreement. These interests specifically include water quality and water quantity as it relates to the Tribe's Keta Creek Hatchery facilities and to cultural resources in the area. The parties agree that there should be early and continuous coordination with the Muckleshoot Indian Tribe so that the Tribe's interests are considered throughout all phases of development that occurs under this Agreement.

**NOW THEREFORE**, in consideration of their mutual covenants as set forth herein and other good and valuable consideration, including but not limited to the authorization to proceed with grading in accordance with this Agreement and as authorized by the Grading Permit (as defined below), the adequacy, sufficiency, and receipt of which are hereby acknowledged, the County and BD Villages do hereby voluntarily agree as follows:

## AGREEMENT

## 1. DEFINITIONS.

**1.1** "**The Reserve at Woodlands**" means the 394 acres, more or less, owned by BD Villages in Section 21 of unincorporated King County and which is described on Exhibit 1, attached hereto. The Reserve at Woodlands is zoned RA-5 and RA-10 in the King County Code. Within the Reserve at Woodlands, BD Villages intends to develop a 77-lot rural residential clustered subdivision and Regional Stormwater Facility and associated improvements, as generally depicted on the Conceptual Site Plan attached hereto as Exhibit 2. The parties acknowledge that the site plan depicted in Exhibit 2 is only conceptual in nature and subject to modification provided such changes are consistent with the criteria set forth in this Agreement.

**1.2** "**King County Code Provisions**" means the County Code and other developmental regulations and standards in effect on the Effective Date (as defined below).

**1.3** "**Implementing Permit**" means a development permit subsequent to the execution of this Agreement, which implements and is otherwise consistent with this Agreement and the Grading Permit, including but not limited to construction permits, grading permits, variances, and land use permits. Some Implementing Permits will require State Environmental Policy Act, Ch. 43.21C RCW ("SEPA") review.

**1.4** "**Grading Permit**" means the grading permit for the Infiltration Facility described in Section 6.5.1.4 of this Agreement and approved by King County under permit number _____, and attached hereto as Exhibit 3.

**1.5** "**Open Space Agreement**" means that certain Open Space Agreement between King County and BD Village Partners, LP dated December 17, 2009, and attached hereto as Exhibit 4.

**1.6** "**Villages Master Planned Development**" or "**Villages MPD**" means that certain master planned development located in the City of Black Diamond and approved by the City pursuant to Black Diamond Ord. No. 10-946.

## 2. GENERAL PROVISIONS.

**2.1** **GOVERNING TERMS AND CONDITIONS.** The terms and conditions of this Agreement, the Grading Permit and the King County Code Provisions shall

govern development of The Reserve at Woodlands. Subsequently adopted standards which differ from those of the Grading Permit and King County Code Provisions shall apply to The Reserve at Woodlands only where necessary to address imminent public health and safety hazards. PROVIDED THAT building permit applications for lots or tracts within The Reserve at Woodlands shall be subject to those building code and fire code requirements in effect at the time complete building permit applications are submitted. It is FURTHER PROVIDED THAT any permits for Green to Cedar Rivers Trail construction and all related trail designs shall be subject to those King County Regional Trails System Development Guidelines and American Association of State Highway and Transportation Officials (AASHTO) guidelines in effect at the time complete applications are submitted for the aforementioned permits. It is THEN FURTHER PROVIDED THAT Implementing Permits shall be subject to the stormwater regulations (King County Code Title 9) and surface water design manual in effect at the time complete permit applications are submitted.

**2.2** **RECORDING.** This Agreement is intended to constitute and shall be recorded as a covenant running with the land, benefiting and burdening The Reserve at Woodlands.

**2.3** **BINDING ON SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of BD Villages and the County and to the successors and assigns of BD Villages and the County.

**2.4** **ASSIGNMENT.** The parties acknowledge that development of The Reserve at Woodlands may involve sale, conveyance, or assignment of portions of The Reserve at Woodlands to third parties who will own, develop and/or occupy portions of The Reserve at Woodlands and buildings thereon. BD Villages shall have the right from time to time to assign or transfer all or any portion of its retrospective interests, rights, or obligations under this Agreement or in The Reserve at Woodlands to other parties acquiring an interest or estate in all or any portion of The Reserve at Woodlands, including a transfer of all interests through foreclosure (judicial or nonjudicial) or by deed in lieu of foreclosure. Consent by the County shall not be required for any assignment or transfer of rights pursuant to this Agreement. However, BD Villages shall send notice of any such sale, conveyance, or assignment to the Director of the Department of Permitting and Environmental Review ("DPER") 30 days prior to the closing of such action. As part of its notice to DPER, BD Villages shall attest that it has provided a copy of this Agreement to the prospective purchaser or assignee.

In any such transfer or assignment, if the transferee or assignee agrees to assume the obligations herein pertaining to the property transferred or assigned, then the transferee or assignee shall be entitled to all interests and rights and be subject to all obligations under this Agreement, and BD Villages shall thereupon be

deemed released of liability under this Agreement for the property transferred or assigned, whether or not such release is expressly stated in such transfer or assignment; provided, however, that BD Villages shall remain liable for any breach that occurred prior to the transfer or assignment of rights to another party and for those portions of The Reserve at Woodlands still owned by BD Villages. BD Villages shall advise prospective transferees or assignees that obligations of this Agreement may apply to the property upon transfer or assignment.

**2.5** **GOVERNING LAW.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

**2.6** **INTERPRETATION.** The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the County's authority to enter into such agreements, and this Agreement shall be construed to reserve to the County that police power authority which is prohibited by law from being subject to a mutual agreement with consideration. The parties acknowledge the County has police powers, contracting authority, and other powers granted by the Washington State Constitution and by general law, including without limitation home-rule charter authority, statutory enabling legislation, and authority to enter into development agreements pursuant to the Development Agreement Statute (1995 Washington Laws, Ch. 347, Part V, §§ 501-06).

**2.7** **AMENDMENT.** This Agreement shall not be modified or amended without the express written approval of the County and BD Villages (or, if BD Villages no longer has any ownership interest in The Reserve at Woodlands, of BD Villages' successors and assigns).

**2.8** **INCORPORATION OF EXHIBITS.** Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 are incorporated herein by this reference as if fully set forth.

**2.9** **HEADINGS.** The headings in this Agreement are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

**2.10** **INTEGRATION.** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

**2.11** **TERM.** The King County Code Provisions, the Grading Permit and this Agreement shall govern development of The Reserve at Woodlands for fifteen years following the later of: (i) mutual execution of this Agreement by both parties; or (ii) the County's issuance of the Grading Permit (the "Effective Date"). This fifteen year term may be extended up to an additional five years at the request of BD Villages. Such an extension request must be in writing and

received by the County at least ninety (90) days prior to the Agreement's expiration date.

**2.12 WAIVER.** Notwithstanding any other provision of this Agreement, BD Villages' ability to implement the Grading Permit and develop The Reserve at Woodlands in accordance with future Implementing Permits is subject to the provisions of King County Code 20.24.240, and any development of The Reserve at Woodlands that BD Villages undertakes during any period in which the Grading Permit and future Implementing Permits are subject to judicial review is at BD Villages' own risk. BD Villages knowingly and voluntarily waives any right to assert any actual or potential claim for damages against King County based upon any portion of this Agreement being deemed unenforceable or invalid.

**2.13 CONSTRUCTION.** Both parties were represented by legal counsel throughout the negotiation, drafting, and revision of this Agreement. No presumption or rule that an ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

**2.14 NO THIRD-PARTY BENEFICIARY.** This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

**2.15 INDEMNIFICATION, HOLD HARMLESS, AND DUTY TO DEFEND.** Except as otherwise specifically provided elsewhere in this Agreement and any exhibits hereto, each party shall protect, defend, indemnify and hold harmless the other party and its officers, agents, and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, which are caused by or result from any negligent act or omission of the party or parties, the party or parties whose negligent action or omission gave rise to the claim shall defend all parties at the party's or parties' sole cost and expense; and if final judgment be rendered against the other party or parties and their officers, agents, and employees, the party or parties whose action or omission gave rise to the claim shall satisfy the same; provided that, in the event of concurrent negligence, each party shall indemnify and hold the other party or parties harmless only to the extent of each party's own negligence. The indemnification hereunder shall be for the benefit of the County as an entity, and not for members of the general public.

## 3. RURAL RESIDENTIAL CLUSTERED SUBDIVISION.

**3.1 GENERAL PROJECT ELEMENTS.** The Reserve at Woodlands subdivision shall be designed consistent with the County's rural residential clustered subdivision

regulations at KCC 21A.14.040. The total number of lots in The Reserve at Woodlands' shall not exceed 77.

**3.1.1.** The Reserve at Woodlands subdivision shall be served by on-site and community septic systems that use the best available technology that has been tested and determined effective by King County and the Washington State Department of Health to prevent the degradation of ground and surface water quality. A covenant shall be recorded against each lot at each phase of final plat restricting connection to any urban sewer system unless done consistent with King County Code Ch. 13.24.**3.1.2.** The Reserve at Woodlands subdivision shall be served by a public water system. Wells for domestic water or irrigation purposes shall not be allowed. A covenant shall be recorded against each lot at each phase of final plat requiring connection to a public water system and prohibiting wells for domestic water or irrigation purposes.

**3.1.3** In addition to any other requirements under Section 2.1 of this Agreement, the Reserve at Woodlands subdivision shall include best management practices that are recorded as covenants governing home construction and homeowner practices that are needed to reduce on-site water quality degradation. At a minimum, the best management practices shall (i) prohibit metal roofing; and (ii) require the distribution by the homeowner's association of educational materials approved by King County to homeowners regarding minimizing the use of pesticides, moss control, and fertilizers and information regarding natural alternatives that protect aquatic life. The Reserve at Woodlands subdivision shall also include provisions designed to maximize retention of native forest cover on each lot.

**3.1.4** In addition to any other requirements under Section 2.1 of this Agreement, each phase of the Reserve at Woodlands subdivision shall use the best available technology to control and treat stormwater that has been tested and determined effective by King County and the Washington State Department of Ecology to prevent degradation of ground and surface water quality.

**3.1.5** A covenant shall be recorded against each lot of the Reserve at Woodlands subdivision at each phase of final plat requiring the homeowner's association to discourage social trails in environmentally sensitive areas such as steep slopes and riparian corridors.

**3.2** USES. Notwithstanding Section 2.1 of this Agreement, the uses within The Reserve at Woodlands, including the Regional Stormwater Facility (as defined in Section 6), shall be consistent with the King County Code Provisions.

**3.3 PHASES FOR THE RESERVE AT WOODLANDS SUBDIVISION.** The Reserve at Woodlands subdivision may be platted, developed and recorded in phases, as determined at preliminary plat approval, during the term of this Agreement. Each phase of The Reserve at Woodlands subdivision does not need to stand on its own regarding open space; rather the open space shall be calculated based on the entire acreage of The Reserve at Woodlands. At each phase and the final phase of The Reserve at Woodlands subdivision, BD Villages must provide a calculation to the County of how the entirety of The Reserve at Woodlands complies with the open space requirements of the King County Code Provisions.

**3.4 OPEN SPACE.** The Reserve at Woodlands shall provide at least 300 acres of open space (including prior open space areas dedicated to the County, Temporary Conservation Easement area (as defined in the Open Space Agreement), cluster separator open space, natural open space, and sensitive areas) as depicted on Exhibit 10.

**3.4.1** Existing Temporary Conservation Easements (as defined in the Open Space Agreement) shall be converted to open space tracts upon recording of a final plat map with King County for any given phase of The Reserve at Woodlands subdivision and shall substantially conform to the Temporary Conservation Easement recorded under King County recording number 20101022000202. The open space tracts that are encumbered with Temporary Conservation Easements shall be dedicated to King County in a deed as opposed to simply a note on a final plat map.

**3.4.2** King County shall also be dedicated two portions of the natural open space via deed upon recording of final plat map with King County for any given phase of The Reserve at Woodlands subdivision. The two areas of natural open space which will be deeded to King County ownership are: (1) the entirety of the natural open space west of 218th Ave SE; and (2) the natural open space in the southeasternmost corner of Section 21, which lies south of the southern boundary of the regional trail easement and lies north of the Temporary Conservation Easement. These areas are depicted on Exhibit 10.

**3.4.3** The County's acceptance of any open space tracts, which shall not be unreasonably withheld, is subject to an updated title report review and an on-site inspection by the County accompanied by a BD Villages representative. If, as reasonably determined by the County, such on-site inspection reveals evidence of illegal dumping or other environmental contamination on such open space tracts, then BD Villages shall order, at its sole cost and expense, a Phase 1 environmental site assessment for such impacted areas. The County shall be provided a copy of said Phase I

environmental site assessment for review and approval prior to acceptance of said lands.

**3.4.4** All other types of open space (the remaining natural open space except for that described in 3.4.2, all cluster separator open space, and all sensitive areas) shall be placed under the ownership and maintenance responsibility of the future homeowners' association of The Reserve at Woodlands subdivision. This is a condition of plat approval. This maintenance responsibility shall be recorded on the face of the approved, final plat for each phase of The Reserve at Woodlands subdivision. Furthermore, BD Villages shall record a covenant that runs with the land that requires each future lot owner in The Reserve at Woodlands subdivision to be a member of the homeowners' association that bears the responsibility for maintenance of the open space tracts set forth in this paragraph.

**3.4.5** BD Villages shall grant King County perpetual access easements from public roads to each respective area of King County-owned open spaces/Temporary Conservation Easement dedications within The Reserve at Woodlands. These easements would allow pedestrian access by King County staff for maintenance and inspection purposes. Access locations may be dedicated upon recording of final plat map with King County for any given phase of The Reserve at Woodlands subdivision; potential locations are through the HOA-owned open spaces near lots 25/26; lots 30/31; lots 38/39; lots 44/62; lots 68/69; and from the driveway to lots 71/72 (lot numbers refer to the numbering on Exhibit 2).

**3.4.6** The Regional Stormwater Facility (as defined in Section 6), The Reserve at Woodlands' sensitive areas and associated buffers, recreation areas, community drain fields, cluster separator open space, natural open space, and Temporary Conservation Easement areas as defined in the Open Space Agreement shall be used in calculating open space for purposes of satisfying KCC 21A.14.040.

**3.4.7** Following the recording of the final plat for each phase of The Reserve at Woodlands subdivision, the County shall execute an appropriate document to release the portion of the Temporary Conservation Easement recorded under King County recording number 201001022000202 within the subject plat in the form attached hereto as Exhibit 5. The Temporary Conservation Easement shall remain in effect in Section 23, as referenced in Section 10 of this Agreement.

## 4. DEVELOPMENT BUFFER.

**4.1 300-FOOT DEVELOPMENT BUFFER.** A permanent 300-foot replanted, native vegetated buffer shall be provided on the eastern external boundary of The Reserve at Woodlands as generally shown on the Conceptual Site Plan attached hereto as Exhibit 2, subject to the following conditions and exceptions:

**4.1.1** Except for the access road (subsection 4.2) and as provided in subsection 4.1.3 below, a 300-foot perimeter buffer shall be provided along the eastern boundary of The Reserve at Woodlands. This buffer shall be maintained at all times to the standards of a Type II landscaping screen as provided in KCC Chapter 21A.16; however, the landscaping requirements of Section 6.1.2 shall govern the landscaping required in the tract for the Regional Stormwater Facility.

**4.1.2** The required 300-foot development buffer shall be established on the final plat map recorded with each phase of The Reserve at Woodlands subdivision.

**4.1.3** The following intrusions or modifications shall be allowed within the 300-foot development buffer:

**4.1.3.1** Required utility crossings, underground;

**4.1.3.2** Regional trails with paved or soft surface components for multiple uses, including, but not limited to, bicycling, walking, hiking, skating, and equestrian activities;

**4.1.3.3** Future trail crossings required to connect to off-site trails, as approved by King County Department of Natural Resources and Parks;

**4.1.3.4** Pruning or removal of trees and other vegetation that could cause damage by falling or root intrusion; and

**4.1.3.5** The Regional Stormwater Facility (including grading and slopes associated with such facility and the Horseshoe Lake Conveyance Pipe) described in Section 6 of this Agreement.

**4.1.4** At the time of clearing, BD Villages shall be responsible for the removal of dead or diseased trees, and trees with severed or compacted root systems resulting from construction activity.

**4.1.5** Notwithstanding the intrusions or modifications set forth in subsections 4.1.1 and 4.1.3 above, the 300-foot development buffer shall be monitored and maintained in a replanted, natural vegetative state for a period of 5 years after completion of adjacent construction. Dead or declining

vegetation shall be removed and replaced according to adopted requirements or regulations of King County's DPER. Vegetative ground cover plantings only may be located within 5 feet of the Woodlands Section of the Section 21 Corridor (as defined below). Trees should be located no closer than 12 feet from the edge of the trail shoulder.

**4.1.6** Following its execution of this Agreement, the County agrees: (i) that the Temporary Buffer Period referenced in the Open Space Agreement is terminated; (ii) to release the Temporary Buffer as defined in the Open Space Agreement; and (ii) to execute and record a Temporary Buffer release in the form attached hereto as Exhibit 6.

## 5. ROADS.

**5.1 ACCESS ROADS.** Road access to The Reserve at Woodlands subdivision shall be limited to one road through the 300-foot development buffer described in Subsection 4.1 above from the Villages Master Planned Development located within the City's city limits lying easterly of The Reserve at Woodlands. The access point and road alignment shown on Exhibit 2 are conceptual only. The final alignment and corridor for the access road shall be identified in the preliminary plat approval for the subdivision. Except for the emergency service vehicle access discussed in Section 5.3 below, there shall be no road access between The Reserve at Woodlands subdivision and 218th Avenue SE or elsewhere in the unincorporated, rural area of King County.

**5.2 INTERIOR ROADS.** All roads within The Reserve at Woodlands subdivision shall be private roads subject to the requirements of King County Code Ch. 14.42 generally and 14.42.060 specifically. The Reserve at Woodlands' roads shall be constructed to rural roads standards as set forth in the 2007 King County Road Design and Construction Standards. The County agrees that it shall not unreasonably withhold any proposed variances for the permitting and construction of The Reserve at Woodlands subdivision's roads as private roads constructed to rural roads standards.

**5.2.1** A condition of plat approval shall be that the future homeowners' association of The Reserve at Woodlands subdivision shall have maintenance responsibility for the interior, private road system. In addition, this maintenance responsibility shall be recorded on the face of the approved, final plat for each phase of The Reserve at Woodlands subdivision. Furthermore, BD Villages shall record a covenant that runs with the land that requires each future lot owner in The Reserve at Woodlands to be a member of the homeowners' association that bears the

responsibility for maintenance of the private road system. Such covenant shall also restrict the private roads from being converted to public roads.

**5.3 EMERGENCY ACCESS.** BD Villages shall provide an emergency access road between The Reserve at Woodlands subdivision and King County's 218th Avenue SE. The sole purpose of this road is to provide access and egress of emergency service vehicles (e.g., fire, police, medical) in the event the main entrance to subdivision cannot provide such access. The use of this access road will be restricted to emergency access and egress of emergency service vehicles only. The location of this access road will be determined as part of preliminary plat approval of The Reserve at Woodlands subdivision.

## 6. REGIONAL STORMWATER CONTROL FACILITY.

**6.1 DESIGN.** The Reserve at Woodlands shall include a regional stormwater control facility as generally shown on Exhibit 2 (the "Regional Stormwater Facility"). The Regional Stormwater Facility shall be designed to receive water from Horseshoe Lake, The Reserve at Woodlands, other rural areas of the County, and portions of the City immediately adjacent to The Reserve at Woodlands, including certain parts of The Villages MPD. Those portions of King County and the City that the Regional Stormwater Facility may serve are generally depicted on Exhibit 7 attached hereto.

**6.1.1** The Regional Stormwater Facility's water may be used in the future for stormwater flow control and water reuse irrigation within the Villages Master Planned Development and The Reserve at Woodlands provided that the Regional Stormwater Facility's minimum water level required for water quality treatment is maintained per King County surface water design standards.

**6.1.2** The open water portion of the Regional Stormwater Facility shall resemble a natural feature with plantings to discourage human intrusion. In addition, and notwithstanding any other provision of this Agreement, the landscaping in the tract for the Regional Stormwater Facility shall comply with the Open Woodland standards of the 2009 Surface Water Design Manual's Guidelines for Naturalistic Plantings (*see* page 5-24). BD Villages shall also provide additional storage equivalent to the storage within the Regional Stormwater Facility displaced by the vegetation at its maturation.

**6.1.3** The Regional Stormwater Facility shall be designed to accommodate a pumped volume of water from Horseshoe Lake equivalent to a flow of six cubic feet per second over a two-week period assuming wet season ground water conditions.

**6.1.4** The design of the Regional Stormwater Facility and The Reserve at Woodlands shall include an overflow route for drainage during an extreme (beyond code design standards) event. It is anticipated that a roadway and/or trail corridor within The Reserve at Woodlands will be designed to provide a connection to 218th Ave SE as a means to convey large surface overflows so that such flows can reach the Green River floodway without impacting other properties. BD Villages and the County shall work together to identify and design the appropriate overflow route within The Reserve at Woodlands prior to preliminary plat approval of The Reserve at Woodlands subdivision.

**6.2 PERMITTING.** The County acknowledges the benefits associated with the Regional Stormwater Facility including, but not limited to: creation of a permanent outfall location for Horseshoe Lake water to be pumped as needed to prevent flooding of homes around Horseshoe Lake; utilization of the Regional Stormwater Facility as a Low Impact Development technique through provision of an opportunity for the reuse of stormwater for irrigation; provision of a permanent open space buffer between urban development and the County's rural lands; and creation of wildlife habitat within the open water and outer landscaped boundary of the Regional Stormwater Facility. Given these benefits, the County agrees that it shall not unreasonably withhold any necessary stormwater diversions, deviations, and/or approvals for the permitting and construction of the Regional Stormwater Facility, provided that BD Villages has performed testing and downstream analysis and mitigation of impacts consistent with King County surface water design standards and submitted to DPER for review a phased surface water management development plan prior to each phase of adding stormwater runoff to the Regional Stormwater Facility.

**6.3 CONSTRUCTION.** The parties acknowledge and agree that the Regional Stormwater Facility may be constructed in phases provided that its capacity to treat and infiltrate stormwater runoff from developed areas in accordance with King County surface water design standards is in place prior to the areas being developed. Each phase of the Regional Stormwater Facility shall use the best available technology that has been tested and determined effective by King County and the Washington State Department of Ecology to prevent degradation of ground and surface water quality. Construction of the Regional Stormwater Facility and all stormwater infrastructure and/or BMPs that discharge to and/or affect the performance of the Regional Stormwater Facility shall be in accordance with the phased surface water management development plan to be developed as described in Section 6.2.

**6.4 OWNERSHIP AND MAINTENANCE.** Stormwater from the City of Black Diamond shall not be conveyed to the Regional Stormwater Facility unless and until the

City or BD Villages has entered into an agreement with the County resolving permanent ownership, effectiveness monitoring, and maintenance of the Regional Stormwater Facility. The agreement referenced in this Section 6.4 shall allocate the costs (including but not limited to annual maintenance and monitoring and liability risk) of owning and operating the Regional Stormwater Facility proportionately based on the stormwater received by the Facility from areas of the City and unincorporated King County. The County acknowledges that BD Villages shall initially own and maintain the Regional Stormwater Facility and that agreement as to permanent ownership shall not be unreasonably withheld. The agreement referenced in this Section 6.4 shall not be effective unless and until it is approved by the King County Council. Further, the agreement referenced in this Section 6.4, if it is between the City and the County, shall also address the design, oversight, construction and maintenance of stormwater controls and conveyance within that portion of the City that drains to the Regional Stormwater Facility and specify the frequency, standards and details of inspection and maintenance to be performed to ensure the Regional Stormwater Facility performs as designed and the vegetation within the underlying parcel(s) or tract(s) is maintained according to the aesthetic standards under which it was designed. Should the agreement referenced in this Section 6.4 be between the County and BD Villages, prior to stormwater from the City being conveyed to the Regional Stormwater Facility, there shall be a separate agreement between the County and the City that addresses the requirements in the preceding sentence. If the phase of The Reserve at Woodlands subdivision including the tract containing the Regional Stormwater Facility is recorded prior to execution of the agreement referenced in this Section 6.4, then such plat phase shall dedicate the Regional Stormwater Facility tract to King County until at least such time as the agreement referenced in this Section 6.4 is executed.

**6.5 HORSESHOE LAKE.** Pumping of Horseshoe Lake flood water shall occur as follows:

**6.5.1 Temporary Pump to the Villages Master Planned Development if Needed.** BD Villages shall provide and prepare at its expense a temporary receiving site in the form of a pit within the Villages Master Planned Development that is reasonably acceptable to the County and the County shall obtain any necessary permits from the City if pumping of Horseshoe Lake is needed prior to the construction of the Infiltration Facility (as defined below) to prevent flooding of homes around Horseshoe Lake.

**6.5.1.1** If pumping of Horseshoe Lake is needed prior to the construction of the Infiltration Facility, King County shall purchase approximately 4,400 linear feet of pipe, obtain all necessary permits and approvals, and install it as generally shown on the Pumping Plan Map ("Pumping Plan Map") (Exhibit 8), extending

from Horseshoe Lake to the Villages Master Planned Development. BD Villages shall supply and pay for installation of any additional length of pipe needed to reach the temporary receiving site. Pipe installation shall be overland, and should include a stable pad for a portable pump at Horseshoe Lake and a temporary energy dissipater at the receiving end to be paid for and installed by King County. Any permits or approvals necessary for the stable pad and portable pump shall also be obtained by King County. Existing cleared logging roads will be used for this initial alignment of the Horseshoe Lake Conveyance Pipe (as defined below). Following all necessary and customary design work by the County, the diameter and type of the Horseshoe Lake Conveyance Pipe (i.e., pipe parameters) shall be determined by the County, subject to review and written confirmation by BD Villages.

**6.5.1.2** BD Villages shall grant the County a temporary access and maintenance easement onto the Villages Master Planned Development property for the aforementioned Horseshoe Lake Conveyance Pipe installation and any associated maintenance or repair or until such time as the Horseshoe Lake Conveyance Pipe is relocated by BD Villages to connect to the Infiltration Facility described in Section 6.5.1.4 below.

**6.5.1.3** King County will pump excess Horseshoe Lake water to the Villages Master Planned Development consistent with Exhibit 8 if and as necessary to prevent flooding of homes around Horseshoe Lake prior to BD Villages' construction of the Infiltration Facility. Any permanent mechanical equipment necessary for the pumping of Horseshoe Lake shall either be submerged, underground, or housed by the County in a structure to limit ambient noise and any permits or approvals necessary for such equipment shall be obtained by King County.

**6.5.1.4** BD Villages has submitted, and King County approved, a grading permit application for The Reserve at Woodlands Initial Infiltration Facility 1st Phase ("Infiltration Facility"). *See* Exhibit 3. BD Villages is the party responsible for constructing the Infiltration Facility.

**6.5.1.5** If pumping of Horseshoe Lake proves necessary to prevent flooding of homes prior to the construction of the Infiltration Facility, the 4,400 linear feet of the Horseshoe Lake Conveyance

Pipe installed by King County for this purpose as described in Section 6.5.1.1 shall be relocated by BD Villages to an overland alignment within the Section 15 Corridor and Section 21 Corridor (as defined below) to connect the pipe from Horseshoe Lake to the Infiltration Facility. If pumping of Horseshoe Lake proves unnecessary prior to the construction of the Infiltration Facility, King County shall purchase and deliver 4,400 linear feet of the Horseshoe Lake Conveyance Pipe for BD Villages to install along the above described overland alignment within the Section 15 Corridor and Section 21 Corridor (as defined below). BD Villages shall purchase and install any additional pipe needed to reach the Infiltration Facility from Horseshoe Lake within the Section 15 Corridor and Section 21 Corridor. Within 120 days of the mutual execution of this Agreement by both parties, BD Villages shall apply for all necessary permits and other approvals for this installation of pipe within the Section 15 Corridor and Section 21 Corridor to the Infiltration Facility, the approval of which shall not be unreasonably withheld by the County. Within said 120 days, BD Villages shall make all efforts to obtain any necessary easement over King County parcel no. 2221069054 or King County parcel no. 1621069016 for the overland and later underground installation of the Horseshoe Lake Conveyance Pipe. If BD Villages in unable to obtain the necessary easement for the overland and later underground installation of the Horseshoe Lake Conveyance Pipe within those 120 days, BD Villages shall make all efforts to obtain the easement as soon thereafter as possible. Furthermore, BD Villages shall install the overland pipe within the Section 15 Corridor and Section 21 Corridor to the Infiltration Facility as soon as is reasonably possible after obtaining the necessary permits, approvals, and easements. It is the parties' intent that this pipe be installed by January 1, 2015. In any event, the Infiltration Facility shall not be expanded to accommodate water beyond that which comes from the rural area of King County until such time as BD Villages has installed the Horseshoe Lake Conveyance Pipe within the Section 15 Corridor and Section 21 Corridor to the Infiltration Facility. The entire length of pipe from Horseshoe Lake to the Infiltration Facility (as well as the temporary alignment from Horseshoe Lake to The Villages MPD) is referred to in this Agreement as the "Horseshoe Lake Conveyance Pipe." BD Villages shall be responsible for maintenance and repair of this overland installation of the Horseshoe Lake Conveyance Pipe within the Section 15 Corridor and Section 21 Corridor. BD Villages shall grant King County access to inspect the Horseshoe Lake Conveyance Pipe as needed

to identify maintenance and repair needs. BD Villages shall also grant King County the right to make emergency repairs to the Horseshoe Lake Conveyance Pipe to ensure safe operation during periods of pumping from Horseshoe Lake.

**6.5.1.6** Notwithstanding any other provision of this Agreement, BD Villages shall have no obligation to install, permit, inspect, maintain and/or obtain any approval for the section of pipe between the pump provided and installed by King County at Horseshoe Lake and the Section 15 Corridor where the Horseshoe Lake Conveyance Pipe commences.

**6.5.2 Horseshoe Lake Pumping to Infiltration Facility.** When King County deems it necessary, it shall pump excess Horseshoe Lake water to the Infiltration Facility via the overland installation of the Horseshoe Lake Conveyance Pipe located within the Section 15 Corridor and Section 21 Corridor (as defined below). BD Villages shall obtain any necessary easement over King County parcel no. 2221069054 or King County parcel no. 1621069016 for the overland and later underground installation of the Horseshoe Lake Conveyance Pipe. Until BD Villages obtains the easement and installs the Horseshoe Lake Conveyance Pipe, the County may continue to pump excess Horseshoe Lake water to the temporary receiving site within the Villages Master Planned Development.

**6.5.2.1** King County shall provide the pump and associated facilities at Horseshoe Lake as well as obtain any necessary permits and approvals for said pump and facilities. During periods of pumping from Horseshoe Lake by King County, BD Villages shall monitor ground water levels at its test wells and evaluate them against their modeling results. BD Villages shall also monitor surface conditions along Crisp Creek and the Green River north valley wall drainages downhill of the Infiltration Facility to identify any adverse impacts that may occur. The location of such test wells and the areas where BD Villages shall be monitoring surface conditions are shown on Exhibit 9. BD Villages may conduct additional monitoring upon mutual agreement of the parties. For the wetland Surface Water Monitoring Stations 9 and 10 shown on Exhibit 9, as well as the Infiltration Pond Area (Station GB-3), this monitoring shall include, but not be limited to, measurement of water levels and flow rates. BD Villages shall report the results of these monitoring efforts to King County WLRD and DPER.

**6.5.2.2** At the time of BD Villages construction along the westerly boundary of the Villages Master Planned Development, BD Villages shall underground (i.e., permanently install) that segment(s) of the Horseshoe Lake Conveyance Pipe immediately adjacent to area of development within the Village Master Planned Development. BD Villages shall obtain all necessary permits and other approvals for this installation of pipe within the Section 15 Corridor and Section 21 Corridor to the Infiltration Facility, which shall not be unreasonably withheld by the County. Before backfill of the permanent installation, BD Villages shall pressure test the Horseshoe Lake Conveyance Pipe in accordance with the specifications for the pipe parameters determined by King County, and confirmed by BD Villages, per subsection 6.5.1.1 above. The results of this test shall be provided to King County WLRD to demonstrate compliance with these specifications. Upon completion and King County WLRD's approval of the underground installation, BD Villages shall post a maintenance and defect guarantee, per King County Code ("KCC") 27A.30.090, that warrants successful operation and maintenance of the Horseshoe Lake Conveyance Pipe, and guarantees the workmanship, materials, and design used in construction of the Horseshoe Lake Conveyance Pipe for a period of two years, during which time, BD Villages shall be responsible for maintenance of the pipe.

**6.5.2.3** The Infiltration Facility is a portion of the stormwater flow control component of the Regional Stormwater Facility. Future expansion of the Infiltration Facility and the Regional Stormwater Facility shall be designed to accommodate a maximum volume of water from Horseshoe Lake that is equivalent to a flow of six cubic feet per second over a period of two weeks assuming wet season ground water conditions.

**6.5.2.4** The County acknowledges that the Infiltration Facility is not designed to provide water quality treatment for stormwater conveyed to it from Horseshoe Lake. The County covenants that any water pumped from Horseshoe Lake to the Infiltration Facility meets any requirements for direct discharge to an infiltration facility as set forth in the stormwater regulations (King County Code Title 9) and surface water design manual.

**6.5.3 Horseshoe Lake Pumping Tests.** Once the Horseshoe Lake Conveyance Pipe drains to the Infiltration Facility, BD Villages shall conduct pilot infiltration test ("PIT") and mounding analysis to provide design

infiltration rates. Rates will be used to design a Regional Stormwater Facility capable of infiltrating runoff from all developed areas the facility will serve, as shown on Exhibit 7, plus up to 6 cfs of water for two weeks from Horseshoe Lake assuming wet season ground water conditions. The parties acknowledge and agree that the goal of this analysis is to achieve two (2) pump tests from Horseshoe Lake with a minimum of 40 acre feet of water (each a "Qualifying Pump Test") within five (5) years of Infiltration Facility construction and connection of the Horseshoe Lake Conveyance Pipe to the constructed Infiltration Facility. The results of this analysis shall be submitted to WLRD and DPER for its review on a periodic basis. At the end of this five-year period, the County may: (i) elect to convert its temporary access and maintenance easement for the Horseshoe Lake Conveyance Pipe to a permanent easement for inspection and maintenance of said pipe; or (ii) reject the Infiltration Facility and Regional Stormwater Facility as a receiving body for Horseshoe Lake stormwater based upon the PIT and mounding analysis results and the results of monitoring downstream surface water conditions as described in Section 6.5.2.1, in which case BD Village shall reimburse the County for cost of the 4,400 linear feet of the Horseshoe Lake Conveyance Pipe and any cost incurred by the County for delivery and installation of this pipe and the temporary easements benefitting the County for the Horseshoe Lake Conveyance Pipe shall terminate.

**6.5.3.1** Notwithstanding the provisions of subsection 6.5.3 above, if at any point prior to the expiration of the five-year period, the County determines the Infiltration Facility cannot accommodate the excess water pumped from Horseshoe Lake based upon the PIT and mounding analysis described in Section 6.5.3 above and upon the results of monitoring downstream surface water conditions as described in Section 6.5.2.1, then BD Villages shall reimburse the County for cost of the 4,400 linear feet of the Horseshoe Lake Conveyance Pipe and any cost incurred by the County for delivery and installation of this pipe and the temporary easements benefitting the County for the Horseshoe Lake Conveyance Pipe shall terminate.

**6.5.3.2** In the absence of a flooding event, the County may elect twice during the five-year period described in subsection 6.5.3 above to initiate a pump test of the Infiltration Facility. In such case, the County may pump water from Horseshoe Lake to the Infiltration Facility via the Horseshoe Lake Conveyance Pipe with the goal of achieving a Qualifying Pump Test or a test of lesser volume deemed sufficient by the County. Prior to initiating such voluntary Qualifying Pump Test, the County shall confirm with

BD Villages that it has installed wells within The Reserve at Woodlands. The cost of pump rental, supervision, operation, and fuel for such voluntary pump tests shall be paid by BD Villages via reimbursement to the County.

**6.5.3.3** If the County pumps water from Horseshoe Lake to the Infiltration Facility via the Horseshoe Lake Conveyance Pipe to prevent flooding of homes around Horseshoe Lake, the cost of pump rental and fuel for such pumping shall be paid by the County whether or not the volume of such pumping meets the definition of a Qualifying Pump Test.

**6.6 WATER QUALITY AND HYDROLOGY MONITORING AND MITIGATION.** BD Villages shall prepare and submit to the County for review and approval, which shall not be unreasonably withheld, a phased Water Quality and Hydrology Monitoring and Mitigation Plan ("Plan") for the Regional Stormwater Control Facility during the permit review process for all Implementing Permits following the Grading Permit (File No. GRDE13-0135). BD Villages shall also submit the Plan to the Tribe for its review and comment. In addition to any other requirement for monitoring and mitigation required under Section 2.1 of this Agreement, at a minimum, the Plan shall include the following: an element for monitoring ground and surface water quality and hydrology ; an element addressing water quality thresholds and triggers for implementing mitigation measures to minimize degradation of existing water quality conditions resulting from development approved under Implementing Permits and development discharging to the Regional Stormwater Control Facility; and an element addressing measures needed to mitigate for any impacts to water quality or hydrology identified through monitoring associated with the Regional Stormwater Control Facility. At a minimum, the Plan shall also include: (i) provisions requiring BD Villages to provide water quality treatment at the Keta Creek Hatchery if other mitigation measures are insufficient to mitigate for water quality impacts that are adverse to the function of the hatchery from development approved under Implementing Permits and development discharging to the Regional Stormwater Control Facility; (ii) an agreed upon structure for addressing technical questions about water quality impacts from the development approved under Implementing Permits and development discharging to the Regional Stormwater Control Facility that are adverse to the function of the Keta Creek Hatchery; and (iii) a provision for a long term monitoring plan to evaluate the ongoing effectiveness of mitigation. The County shall coordinate fully and in a timely manner with the Muckleshoot Indian Tribe prior to approving each phase of the Plan, which shall not be unreasonably withheld. No water from the urban area shall be discharged into the Regional Stormwater Control Facility until the County has approved a phase of the Plan addressing urban contributions to the Regional Stormwater Control Facility.

## 7. GREEN TO CEDAR RIVERS REGIONAL TRAIL.

**7.1 SOUTHERN TRAIL EASEMENT AND CONSTRUCTION.** BD Villages shall grant King County a 100-foot-wide permanent perpetual (nonexclusive) trail easement (the "Woodlands Section") that extends between the County's existing pedestrian, bicycle, equestrian trail easement as set forth in the easement agreement dated March 21, 2006 recorded at King County recording no. 20060323001826 (the "Section 21 Trail Corridor") through The Reserve at Woodlands to 218th Avenue SE as generally depicted on Exhibit 10. It is the intent of the parties that the final location of the Woodlands Section and the 36-foot-wide trail within such easement be identified and agreed to by both the King County Department of Natural Resources and Parks and BD Villages prior to preliminary approval of The Reserve at Woodlands subdivision consistent with the following criteria. It is the intent of the parties that the Woodlands Section easement be located outside the legal boundary of all lots within The Reserve at Woodlands; however, should it become necessary, the easement may be located within one or more of The Reserve at Woodlands lots provided the 36-foot-wide trail corridor discussed in subsection 7.1.1 below is outside the legal boundary of all The Reserve at Woodlands lots. Further, should any portion of the easement be located on lots within The Reserve at Woodlands, a covenant shall be recorded against those lots stating that no habitable structures, garages, or similar such structures shall be constructed within the easement and such covenant shall also provide that the County possesses an access easement over said lots to perform inspection, maintenance, hazard tree removal and other similar activities. To the maximum extent practical, the Woodlands Section shall be outside any sensitive areas and buffers, on constructible ground (grades shall conform to American with Disabilities Act (ADA) requirements for shared-use paths ), minimize street and driveway crossings, and, as appropriate, provide easy access to and from lots within The Reserve at Woodlands. Provided, if the County determines that the Woodlands Section cannot be located as generally shown on Exhibit 10 in such a way as to meet the criteria set forth in this paragraph, or if the County otherwise determines in its reasonable discretion that such alignment is infeasible, then the Woodlands Section shall be relocated within The Reserve at Woodlands so that such criteria or feasibility can be met to the maximum extent practical. Provided further, in no event shall such relocation reduce the number of lots in The Reserve at Woodlands below 77. And provided further, that notwithstanding any other provision of this Agreement, BD Villages and the County acknowledge and agree that the Woodlands Section as generally depicted on Exhibit 10 or such relocation may require: changes to the Site Plan attached hereto as Exhibit 2; additional intrusions into, and modifications of, the 300-Foot Development Buffer described in Section 4 of this Agreement; a variance, which BD Villages shall seek, to the 120-foot-wide cluster separator open space shown on Exhibit 10; and/or modifications to the other open space within The Reserve at Woodlands as shown

on Exhibits 2 and 10. As part of preliminary plat approval, BD Villages shall apply for the aforementioned variance to the 120-foot-wide cluster separator open space shown on Exhibit 10. By reducing the width of the cluster separator open space, the variance shall seek to minimize to the maximum extent practical any overlap of the Woodlands Section easement and the lots at The Reserve at Woodlands, with the goal of achieving no overlap whatsoever. Nothing in this Agreement shall operate as a limitation on the provisions found in KCC 21A.14.230, .240, and .250.

If The Reserve at Woodlands' preliminary plat approval has not occurred by the time King County engages in the master planning process for the Section 21 Trail Corridor, then BD Villages and the County shall work together to designate and record the Woodlands Section easement within three months of BD Villages receiving notice from the County that the master planning process is underway. If the parties have not come to agreement and recorded the easement within three months, at that time, at the County's option, the easement shall be recorded in substantially the location shown on Exhibit 10, with such easement location meeting the criteria outlined in this Section 7.1 above to the maximum extent practical.

**7.1.1** It is intended that the Woodlands Section include a separated multi-use path trail, with a paved hard-surface trail for shared uses and a gravel, soft-surface trail for equestrian use. The paved trail component shall be 12 feet in width within a minimum overall trail corridor width of 36 feet and it and any trail crossings shall meet the King County Regional Trails System Development Guidelines and AASHTO Guidelines for the Development of Bicycle Facilities. This Agreement does not preclude using The Woodlands Section as the emergency road access to 218th Avenue SE, as addressed in Section 5.3 of this Agreement.

**7.1.2** That portion of the Woodlands Section that crosses the Regional Stormwater Facility shall be graded to above flood level by BD Villages consistent with the cross-section diagram set forth in Exhibit 11.

**7.1.3** King County intends to construct a 36-foot-wide trail within the Woodlands Section; however, BD Villages shall grade such areas of the Woodland Section immediately adjacent to areas of The Reserve at Woodlands being graded by BD Villages consistent with the cross-section diagram set forth in Exhibit 11, including clearing, grubbing, compaction, and soil stabilization (erosion control seeding), consistent with Washington State Department of Transportation (WSDOT) standards.

**7.1.4** BD Villages shall grant to King County temporary easements or licenses reasonably necessary for master planning, designing, accessing, and constructing the 36-foot-wide trail within the Woodlands Section.

**7.1.5** BD Villages shall grant King County a perpetual maintenance and access easement to the Woodlands Section so that the County may perform maintenance, improvements, repairs, surveying, and other similar activities related to regional trail management.

**7.1.6** BD Villages shall obtain a trail easement over King County parcel no. 2221069054 or King County parcel no. 1621069016 so as to connect the Villages Section of the Green to Cedar Rivers Trail to the Woodlands Section of the Trail.

**7.1.7** If BD Villages designates any portion of the Woodlands Section as a stormwater overflow path for the Regional Stormwater Facility, and the 36-foot-wide trail is damaged as a result of such stormwater overflow, then BD Villages shall pay the cost of trail repair and/or trail relocation as deemed reasonably necessary by King County.

**7.1.8** No fences or improvements shall be constructed in the 36-foot-wide trail portion of the Woodlands Section and no such improvements shall be constructed in the remaining 64 feet of the Woodlands Section until the County has finished construction of the 36-foot-wide trail.

**7.2 NORTHERN TRAIL EASEMENT AND CONSTRUCTION.** The County intends to construct a 36-foot-wide trail (the "Villages Section") within the County's existing pedestrian, bicycle, equestrian trail easement as set forth in the easement agreement dated March 21, 2006 recorded at King County recording no. 20060323001825 (the "Section 15 Trail Corridor"). The Villages Section trail alignment within the Section 15 Trail Corridor shall be mutually agreed upon by BD Villages and King County. Such agreement shall not be unreasonably withheld by either party.

**7.2.1** BD Villages shall, in coordination with its construction of The Villages Master Planned Development, grade the portions of the Villages Section immediately adjacent to other grading activities of BD Villages consistent with the cross-section attached hereto as Exhibit 11, including clearing, grubbing, compaction, and soil stabilization (erosion control seeding), consistent with Washington State Department of Transportation (WSDOT) standards.

**7.2.2** The Villages Section shall include a separated multi-use path trail, with a paved hard-surface trail for shared uses and a gravel, soft-surface trail for equestrian use. The paved trail shall be 12 feet in width within a minimum overall trail corridor width of 36 feet and it and any trail crossings shall meet the King County Regional Trails System Development Guidelines and AASHTO Guidelines for the Development of Bicycle Facilities.

**7.2.3** To the maximum extent practical, the Villages Section shall be outside any sensitive areas and buffers, on constructible ground (grades shall conform to ADA requirements for shared-use paths), and provide, as appropriate, easy access to and from the Villages Master Planned Development.

**7.2.4** BD Villages shall grant to King County temporary easements or licenses reasonably necessary for master planning, designing, accessing, and constructing the 36-foot-wide trail comprising the Villages Section.

**7.2.5** BD Villages shall grant King County a perpetual maintenance and access easement to the Villages Section so that the County may perform maintenance, improvements, repairs, surveying, and other similar activities related to regional trail management.

**7.3 COORDINATION WITH THE MUCKLESHOOT INDIAN TRIBE.** The County shall coordinate with the Muckleshoot Indian Tribe on trail design and location for the Woodlands and Villages Sections. On properties owned and maintained by King County, King County and the Tribe will coordinate on efforts to discourage social trails in environmentally sensitive areas such as steep slopes and riparian corridors.

## 8. RURAL NATURE OF THE RESERVE AT WOODLANDS.

**8.1** A covenant shall be recorded against each lot (including the tract and/or parcel upon which the Regional Stormwater Facility is located) at each phase of final plat of The Reserve at Woodlands requiring that such lot remain in the rural area of King County, under the County's jurisdiction, and restricting the lot from being redesignated urban or from being annexed to any city.

**8.2** A condition of final plat approval for each phase of The Reserve at Woodlands shall be that: (i) the marketing materials for The Reserve at Woodlands shall state that The Reserve at Woodlands is in the rural area of King County and under the jurisdiction of King County; and (ii) BD Villages shall place signs at the entrance to The Reserve at Woodlands that state that one is now entering Rural King County.

9. **CULTURAL RESOURCES.** BD Villages, after consulting with the King County Historic Preservation Program (HPP) and the Tribe, shall augment existing survey work for the Reserve at Woodlands to address limitations in previous surveys and to respond to new project design information made available since the initial survey report was completed, consistent with the requirements of county, state, and federal law, specifically including King County Code Ch. 20.62 and RCW Ch. 27.53. The survey may be phased for different areas of the property. The survey consultant shall consult with the HPP, obtain any information the HPP has on the Reserve at Woodlands, and provide its research design to HPP for review and approval prior to any field work for the survey. The consultant shall submit a draft survey report for review and approval by HPP, which shall not be unreasonably withheld, prior to finalizing the survey. BD Villages and its consultant shall coordinate the survey with the Tribe prior to submitting the survey to the County and shall include documentation of that consultation with the survey. BD Villages shall submit the survey to the County as part of its application for any Implementing Permit except for the Grading Permit.

10. **PROVISION OF SCHOOL ACREAGE IN THE CITY OF BLACK DIAMOND.** BD Villages agrees to offer additional acreage within the City of Black Diamond adjacent to Middle School Site A and Elementary School Site D to the Enumclaw School District in order to increase the options available to the District for siting a middle school. BD Villages shall work cooperatively and in a timely manner with the Enumclaw School District regarding this offer of additional acreage.

11. **FURTHER SEPA REVIEW.** The parties acknowledge that SEPA review has been limited to this Agreement and the Grading Permit. Applications for Implementing Permits will be subject to additional environmental review as required by SEPA.

12. **RELATIONSHIP TO OPEN SPACE AGREEMENT.** This Agreement fulfills and implements all provisions of the Open Space Agreement as to property within The Reserve at Woodlands as legally described in Exhibit 1. To the extent there is any conflict between this Agreement and the Open Space Agreement, this Agreement shall control. The parties acknowledge that the terms and conditions of the Open Space Agreement as it relates to land within Section 23 of unincorporated King County remain in full force and effect and that this Agreement shall be construed as inapplicable to land within Section 23 of unincorporated King County.

13. **IMPLEMENTING PERMITS.** The parties acknowledge that build-out of The Reserve at Woodlands will occur over a period of years pursuant to the submittal of Implementing Permit applications. This Agreement governs and vests, the development and use for The Reserve at Woodlands as defined in Section 1.1 and graphically shown on Exhibit 2. Land within the boundaries of The Reserve at

Woodlands as legally described within Exhibit 1 shall be physically developed only pursuant to the terms and conditions of this Agreement and its associated exhibits.

[*see signatures on following page*]

KING COUNTY, a Washington home charter county

By: _____

Dated: _____

BD VILLAGE PARTNERS, L.P., a Washington limited partnership

By: Yarrow Bay Development, LLC, a Washington limited liability company, its General Partner

By: BRNW, Inc., a Washington corporation, its Member

By: _____
Brian Ross, President

Dated: _____

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

I certify that _____ signed this instrument, on oath stated that he was authorized by the King County Executive to execute the instrument, and acknowledged it as the _____ of King County, a political subdivision of the State of Washington, to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201___.

_____
(Signature)

_____
(Printed Name)
Notary Public in and for the State
of Washington, residing at_____.
My commission expires_____.

[*notary block for BD Villages on following page*]

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

On this _____ day of _____ 2013, 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 authorized signatory 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/she 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 1

### The Reserve at Woodlands Legal Description

LOTS 2, 3, 4, 5, 6, 7, 9 AND 10, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L09L0062, BEING A PORTION OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., RECORDED JANUARY 6, 2010 UNDER KING COUNTY RECORDING NUMBER 20100106900004;

TOGETHER WITH LOTS F AND L, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L09L0030, BEING A PORTION OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., RECORDED SEPTEMBER 24, 2009 UNDER KING COUNTY RECORDING NUMBER 20090924900019;

TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., LYING NORTHWESTERLY OF SE AUBURN-BLACK DIAMOND ROAD;

TOGETHER WITH THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M. AND THAT PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 LYING EASTERLY OF 218TH AVENUE SE;

TOGETHER WITH THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

TOGETHER WITH THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

TOGETHER WITH THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

TOGETHER WITH THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

TOGETHER WITH THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

TOGETHER WITH THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M. AND THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 LYING EASTERLY OF 218TH AVENUE SE;

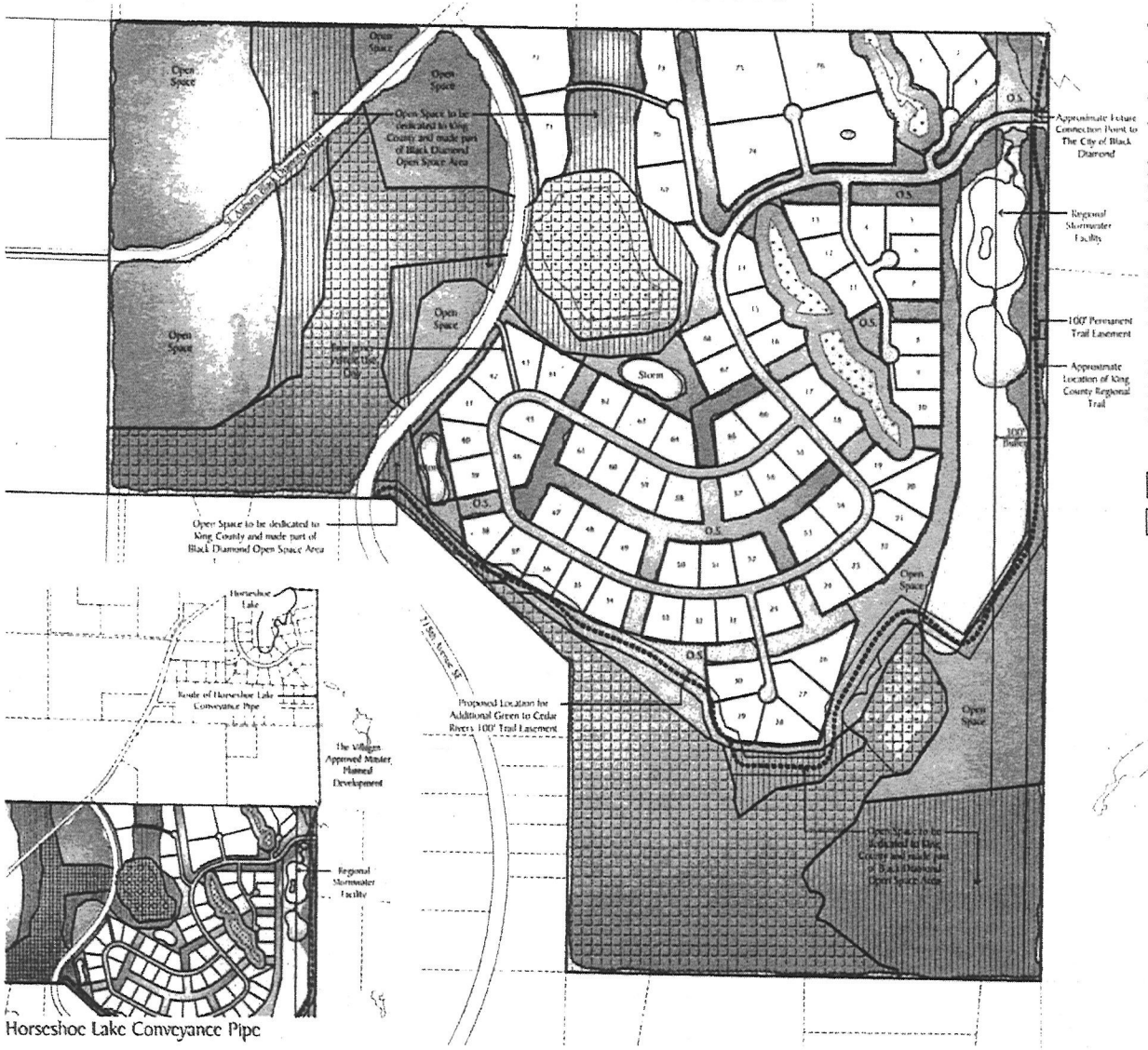
ALL SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

**Exhibit 2**

**Conceptual Site Plan**

**[to be attached]**

# Exhibit 2




Notes

- Layout is intended to convey a design concept, and is subject to change per additional review of existing site conditions, and jurisdictions permit requirements
- Boundary and Topography is LIDAR and is approximate only

Assumptions

- Rural Cluster Development will be required per King County Recording Number 20110624001256
- Crossing of Temporary Conservation Easement will be allowed as needed

Project Data

- Parcel Numbers: 2121069001, 2121069044
- Zoning: RA-5 and RA-10 King County
- Total Site Area: 501.94 ac (10.75 Ac RA-10, 491.19 Ac RA-5)
- Area Dedicated to King County (Black Diamond Natural Area): 107.87 Ac
  RA-10: 1.40 Ac, RA-5: 106.47 Ac
- Net Site Area for Development: 394.07 Ac
  RA-10: 9.35 Ac, RA-5: 384.72 Ac
- Number of Lots Allowed: 77 lots
  RA-10: 1 Lot, RA-5: 76 Lots
- Number of Lots Provided: 77 Lots
- Area in Lots: 4,986,907 sf / 114.48 ac
- Average residential lot area provided: 64,763 sf / 1.49 ac
- Minimum residential lot area provided: 48,552 sf / 1.11 ac
- Largest residential lot area provided: 235,833 sf / 5.41 ac

Open Space Calculations:

| | |
|---|---|
| Area prior dedicated to King County | 107.87 Ac |
| Temporary Conservation Easement Area | 66.40 Ac |
| Cluster Separator Open Space | 21.18 Ac |
| Natural Open Space | 116.35 Ac |
| Sensitive Areas | 18.38 Ac |
| Total Open Space | 330.18 Ac |

Legend

Black Diamond Natural Area

Temporary Conservation Easement to be in future Open Space Tract per Open Space Agreement between King County and BD Village Partners, L.P.

NOTE
KING COUNTY ROADS SERVICES DIVISION HAS NOT APPROVED LOCATION OF EMERGENCY ACCESS ROAD. LOCATION IS TENTATIVE AND SUBJECT TO FINAL DECISION DURING PLATTING PROCESS

The Villages Approved Master Planned Development

N

**Exhibit 3**

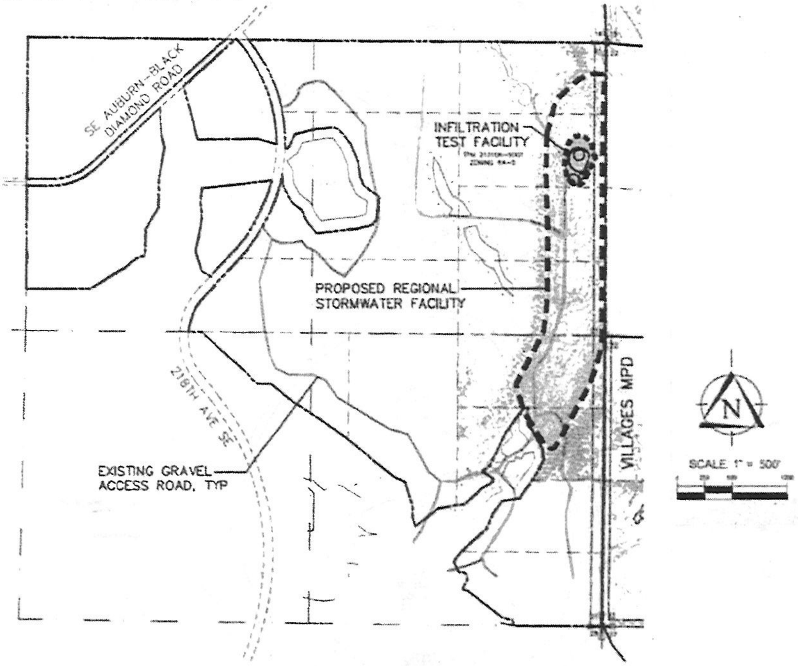
**Grading Permit**

**[to be attached]**

# THE RESERVE AT WOODLANDS

## INITIAL INFILTRATION FACILITY

## 1ST PHASE - REGIONAL STORMWATER FACILITY




**SITE PLAN**
SCALE: 1"=500'

**LEGAL DESCRIPTION**

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY WASHINGTON LYING NORTHWESTERLY OF THE CENTERLINE OF SE AUBURN-BLACK DIAMOND ROAD;

TOGETHER WITH LOTS F AND L, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. [illegible], ACCORDING TO THE BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER [illegible], RECORDS OF KING COUNTY, WASHINGTON;

AND TOGETHER WITH LOTS 2, 3, 4, 5, 6, 7, 8 AND 10, KING COUNTY BOUNDARY LINE ADJUSTMENT NO. [illegible], ACCORDING TO THE BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER [illegible], RECORDS OF KING COUNTY, WASHINGTON;

AND TOGETHER WITH THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THAT PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21, LYING EASTERLY OF THE EASTERLY MARGIN OF 218TH AVE. SE.;

AND TOGETHER WITH THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 21;

AND TOGETHER WITH THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21, LYING EASTERLY OF THE EASTERLY MARGIN OF 218TH AVE. SE.;

ALL SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

**PROJECT DESCRIPTION**

THIS APPLICATION REQUESTS A GRADING PERMIT TO CONSTRUCT THE FIRST PHASE OF A REGIONAL STORMWATER FACILITY (THE "INITIAL INFILTRATION FACILITY") TO BE LOCATED IN SECTION 21 OF KING COUNTY, WEST OF THE BLACK DIAMOND CITY LIMITS. THE APPLICANT PROPOSES THAT THE REQUESTED GRADING PERMIT BE CONDITIONED ON THE SUBSEQUENT NEGOTIATION AND APPROVAL OF A DEVELOPMENT AGREEMENT BETWEEN THE APPLICANT AND KING COUNTY TO GOVERN BUILD-OUT OF THE REGIONAL STORMWATER FACILITY, INCLUDING THE INITIAL INFILTRATION FACILITY, AS WELL AS AN ASSOCIATED RURAL CLUSTERED SUBDIVISION. THIS INITIAL INFILTRATION FACILITY WILL ALLOW FOR THE PERIODIC DISCHARGE AND INFILTRATION OF PUMPED FLOOD WATERS FROM HORSESHOE LAKE, WHICH IS LOCATED APPROXIMATELY [illegible] NORTH OF THE INITIAL INFILTRATION FACILITY SITE.

THE INITIAL INFILTRATION FACILITY WILL CREATE AN APPROXIMATE [illegible] ACRE INFILTRATION POND THAT WILL BE SIZED AND DESIGNED TO RECEIVE AND INFILTRATE FLOOD WATERS FROM HORSESHOE LAKE ON AN ANNUAL BASIS. IT IS ESTIMATED THAT APPROXIMATELY 7,040 CUBIC YARDS OF MATERIAL WILL BE DISPLACED AS A RESULT OF THE CONSTRUCTION OF THIS FIRST PHASE OF THE REGIONAL STORMWATER FACILITY. DISPLACED MATERIAL WILL REMAIN ON SITE IN THE IMMEDIATE AREA OF THE INITIAL INFILTRATION FACILITY AND WILL BE APPROPRIATELY STABILIZED. TOTAL SITE DISTURBANCE, WHICH INCLUDES THE INITIAL INFILTRATION FACILITY AND NECESSARY STOCK-PILE AREAS, TOTAL APPROXIMATELY 1.52 ACRES. THIS INITIAL INFILTRATION FACILITY PROPOSAL DOES NOT INCLUDE THE PUMP OR PIPING SYSTEM NECESSARY TO MOVE THE FLOOD WATERS FROM HORSESHOE LAKE INTO THE INITIAL INFILTRATION FACILITY. THE APPLICANT WILL, HOWEVER, PROVIDE EASEMENTS AND AUTHORIZATION TO CROSS THE VILLAGES MPD PROPERTY TO ALLOW KING COUNTY TO INSTALL THE APPROPRIATE SYSTEM NEEDED TO PUMP WATER FROM HORSESHOE LAKE DURING ANNUAL FLOODING EVENTS. THE INITIAL INFILTRATION FACILITY WILL ALSO SERVE AS A TEST LOCATION FOR EVALUATING AND FIELD VERIFYING THE INFILTRATION CAPACITY OF THE UNDERLYING SITE'S SOILS AND INFLUENCES ON THE REGIONAL GROUNDWATER AQUIFER. THE PROPOSED INITIAL FACILITY WILL BE ACCESSED FROM EXISTING ON-SITE GRAVEL ROADS AND WILL HAVE LITTLE OR NO IMPACT ON THE SITE OR SURROUNDING PROPERTIES.

**HORIZONTAL DATUM: NAD 83/91**

COORDINATES ASSOCIATED WITH THIS DRAWING ARE PROJECT COORDINATES WHICH MAY BE CONVERTED TO STATE PLANE GRID COORDINATES BY SUBTRACTING [illegible] METERS ([illegible] FEET), THEN MULTIPLYING BY [illegible]. THE INITIAL COORDINATE CONVERSION WAS PERFORMED USING THE LEICA SKI-PRO GPS POST PROCESSING SOFTWARE VERSION 2.0.

**BASIS OF BEARING:**

NORTH [illegible] EAST PER SECTION LINE BETWEEN WEST QUARTER CORNER SECTION OF 14 & THE NORTHWEST SECTION CORNER OF SECTION 14.

**VERTICAL DATUM: NAVD 88**

ORIGINATING BENCHMARKS

KING COUNTY SURVEY CONTROL POINT [illegible]
FOUND REBAR W/ALUMINUM CAP AT THE INTERSECTION OF ENUMCLAW-BLACK DIAMOND ROAD SE (SR 169) AND OLD LAWSON ROAD.

EL=[illegible]

**EARTHWORK QUANTITIES**

DISTURBED AREA - 1.52 ACRES
EXCAVATION - 7040 C.Y.

## SHEET INDEX

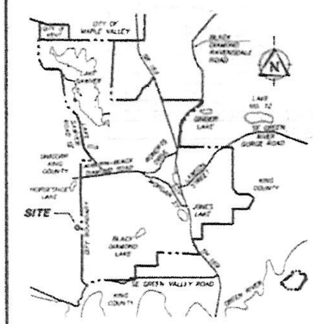
1 COVER SHEET
2 GRADING AND TEMPORARY EROSION CONTROL PLANS
3 TEMPORARY EROSION CONTROL DETAILS AND NOTES AND POND CROSS SECTION

CAUTION:
LOCATION OF EXISTING UTILITIES SHOWN IS APPROXIMATE AND MAY NOT BE ACCURATE OR ALL INCLUSIVE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY LOCATION OF UTILITIES PRIOR TO PROCEEDING WITH CONSTRUCTION. YOU MUST CALL 1-800-424-5555 NOT LESS THAN 2 FULL BUSINESS DAYS BEFORE BEGINNING EXCAVATION WHERE ANY UNDERGROUND UTILITIES MAY BE LOCATED. FAILURE TO DO SO COULD MEAN BEARING SUBSTANTIAL REPAIR COSTS.

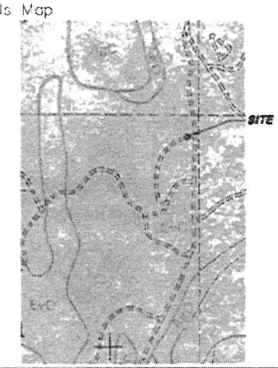
| KING COUNTY DDES APPROVAL | |
|---|---|
| Review Engineer | Date |
| Senior Engineer | Date |
| Molly A. Johnson, P.E. DEVELOPMENT ENGINEER | Date |

© 2011 TRIAD ASSOCIATES

Vicinity Map




Soils Map




### Notice Required

Contractors shall notify operators who maintain underground utility lines in the area of proposed excavation or blasting at least two business days, but not more than ten working days prior to commencement of excavation or demolition in accordance with RCW Title 19. Names and telephone numbers of the operators of underground utility lines in this project appear below. These numbers shall also be used to serve in an emergency condition as required.

| | Phone |
|---|---|
| Sanitary Sewer | |
| COVINGTON WATER DISTRICT (Water District) | (253) 631-0565 |
| PUGET SOUND ENERGY (Gas Company) | (253) 395-7065 |
| PUGET SOUND ENERGY (Power Company) | (253) 395-7065 |
| Call Before You Dig | DIAL-A-DIG 1-800-424-5555 |

### Notes

1. The Developer is required to notify the Land Use Services Division, Land Use Inspection Section (206) 296-6642, three days prior to the beginning of construction for a preconstruction conference and specifically request inspection before beginning:
   A. Installing siltation and erosion control measures
   B. Clearing and grubbing
   C. Earthwork
   D. Installation of any underground utility
   E. Before placing subbase, base or paving surfaces
   F. Installation of any forms or placing any concrete
2. A permit must be obtained from the office of the Resident Engineer Washington State Department of Transportation, before any construction is started on any existing state route.
3. A Hydraulic Project Approval (HPA) Permit must be obtained from the Washington State Department of Fisheries prior to any work when required.

### Bonding Information

Restoration Bond Amount $ ______
Performance Bond Amount $ ______

### Site Plan Approval

Approval of these plans is for construction of road and drainage improvements, site drainage & grading and temporary erosion control in unincorporated King County only. These plans do not authorize any other utility approval or improvements proposed in any State right of way.

Site plan approval is void if the commercial building permit has not been obtained or renewed within two years of approval.

Subdivision plan approval is void if the final plat is not recorded prior to the preliminary plat approval expiration.

PRO RATA SHARE ASSESSMENT ANALYSIS
(County Use Only)

| Section | Township | Range | Tax Parcel | Number |
|---|---|---|---|---|
| | | | | |

Site Location is within the ______ drainage sheds)
Pro Rata Share Assessment(s) are ☐ Required ☐ Not Required
from the site due to development for increased storm water runoff
Peak Runoff Assessment Rate($ ) per c.f.s. increase(10 year, 2 hour storm)
Peak Volume Assessment Rate($ ) per Ac. Ft. increase(2 year, 2 hour storm)

AGREEMENTS, PLAN REFERENCES, PERMITS ETC.
(To be completed by Consultant)

Preliminary Plat Approval/Permit Issued Date ______
Expiration Date ______
Other Related Permit Numbers Received
Right-of-Way Use Permit ______
Grading ______
Building/Structural ______
Other ______
Board feet of tree removal on site ___0___
Cubic yards of material hauled on/off the site ___50___
Is this a highly sensitive area site? (Yes/No) ___NO___
Note: If "yes", per SWDM Appendix D44 a Highly Sensitive Site Erosion Control Supervisor is required. See ESC plan.

*Emergency*
*911*
Pol ce–Fire–Rescue

RECOMMENDED FOR APPROVAL
(To be completed by King County)

Date ______
______ Review Engineer
______ Senior Engineer
______ Traffic & Planning Engineer
______ Sensitive Areas
______ Structural Review Engineer
______ Other

King County
APPROVED FOR CONSTRUCTION
DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES

Date ______ Molly A. Johnson, P.E. Development Engineer

PROJECT CONTACT INFORMATION
(To be completed by Consultant)

Applicant / Contract / Owner / Lessee
COLIN LUND (425) 898-2100
Name Phone
10220 NE POINTE DR., SUITE 310, KIRKLAND, WA 98033
Address and Zip Code

☒ A Partnership
☐ An Individual

General / Owner / Trustee
B. D. VILLAGE PARTNERS L.P. (425) 898-2100
Name Phone
10220 NE POINTE DR., SUITE 310, KIRKLAND, WA 98033
Address and Zip Code

☐ A Corporation
☒ A Partnership
☐ An Individual

Certified Surveyor or Engineer
TRIAD ASSOCIATES (425) 821-8448
CONTACT: THOMAS P. MATT, PE / MARK S. HARRISON, PLS
Name Phone
12112 115th Avenue NE Kirkland, WA 98034
Address and Zip Code

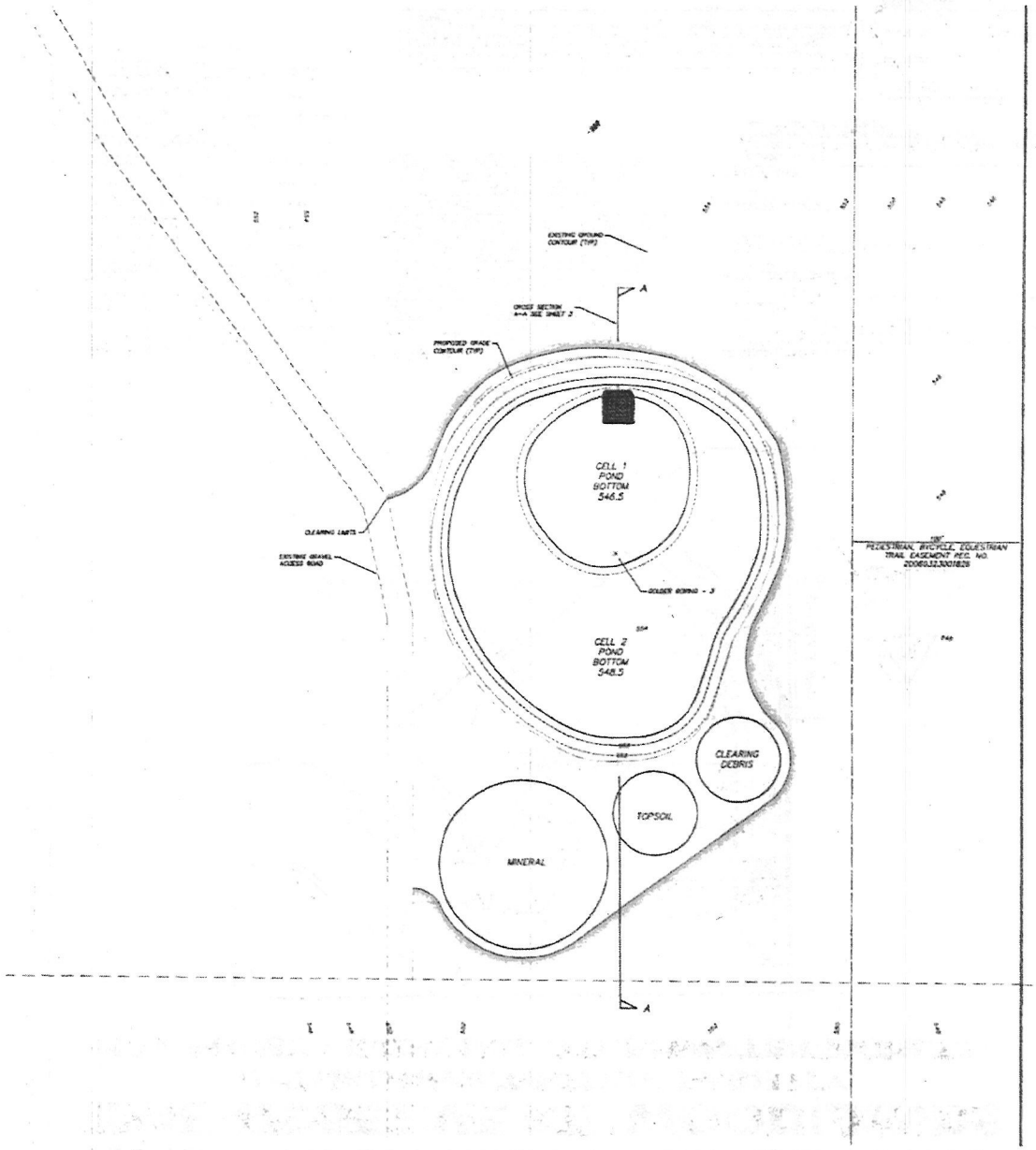

TRIAD ASSOCIATES
12112 115th Ave NE
Kirkland, WA 98034-6929
425.821.8448
425.821.3481 fax
800.488.0756 toll free
www.triadassoc.com
ALAN G. FURE, PE
Project Coordinator
(425) 821-8448
Phone

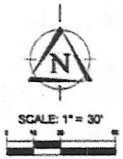

GRADING PLAN - INITIAL INFILTRATION FACILITY
**THE RESERVE AT WOODLANDS**
KING COUNTY, WASHINGTON

DDES FILE NUMBERS:
Activity Number: ______
Project Number: ______
Development No: ______

ENGINEER'S STAMP NOT VALID UNLESS SIGNED AND DATED
2/29/12

Sheet 1 of 3




## LEGEND

GRADING AND TEMPORARY EROSION AND SEDIMENTATION CONTROL

- BOUNDARY
- LOT LINE
- STORM DRAIN PIPE
- 300 — 10' EXISTING CONTOURS
- 302 — 2' EXISTING CONTOURS
- 320 — 10' PROPOSED CONTOURS
- 322 — 2' PROPOSED CONTOURS
- EDGE OF WETLAND
- BUFFER LINE
- LIMITS OF CLEARING
- CUT SLOPES
- FILL SLOPES
- RIPRAP
- EXISTING GRAVEL
- EXISTING ASPHALT
- WETLAND
- RIPRAP

TRIAD ASSOCIATES

GRADING AND TEMPORARY EROSION CONTROL PLAN

# THE RESERVE AT WOODLANDS

KING COUNTY, WASHINGTON

| NO. | DATE | REVISION |
|---|---|---|
| | | |

PROJECT MANAGER
PROJECT SURVEYOR
PROJECT ENGINEER
PROJECT LANDSCAPE ARCHITECT
FIRST SUBMITTAL DATE: 2/28/12
SCALE: HORZ: 1"=30' VERT: N/A

2/29/12

TRIAD NOT VALID UNLESS SIGNED AND DATED

JOB NO. 05-336

SHEET NO. 2 of 3

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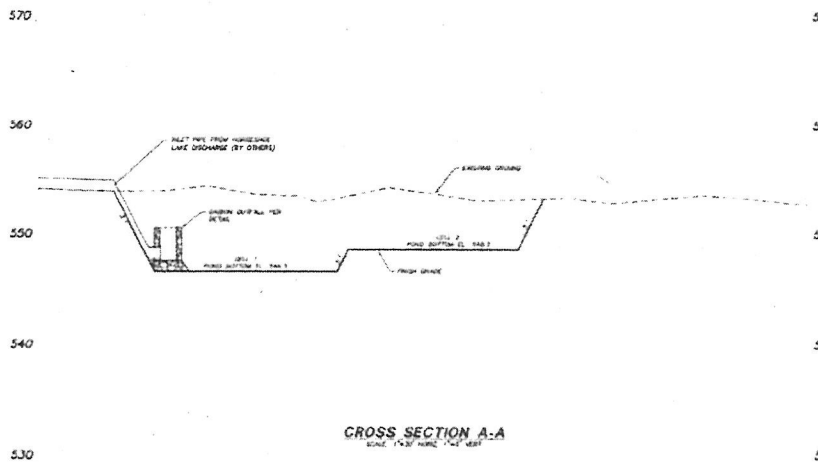
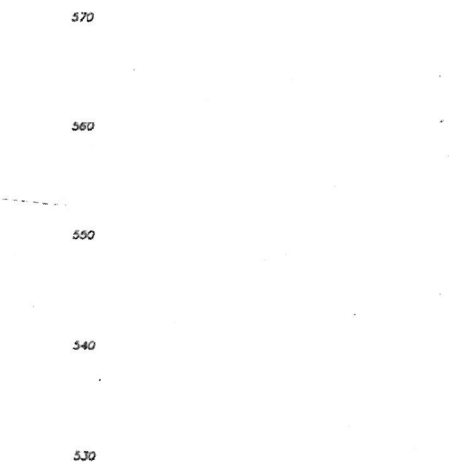
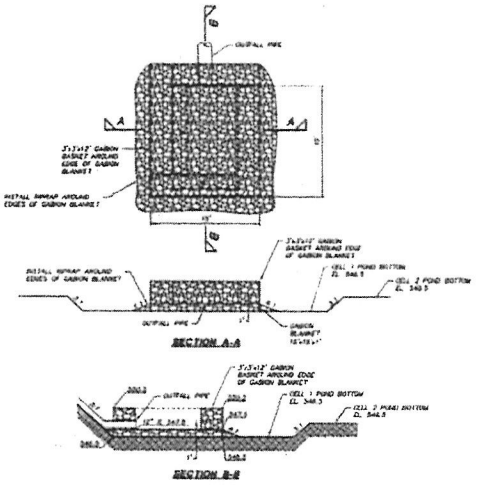



CROSS SECTION A-A




GABION OUTFALL

## TEMPORARY EROSION/SEDIMENTATION CONTROL NOTES

1) APPROVAL OF THIS TEMPORARY EROSION AND SEDIMENTATION CONTROL (TESC) PLAN DOES NOT CONSTITUTE AN APPROVAL OF PERMANENT POND OF DRAINAGE DESIGN (E.G., SIZE AND LOCATION OF POND, PIPES, RESTRICTORS, CHANNELS, RETENTION FACILITIES, UNDERS, ETC.)

2) THE IMPLEMENTATION OF THESE TESC PLANS AND THE CONSTRUCTION, MAINTENANCE, REPLACEMENT, AND UPGRADING OF THESE TESC FACILITIES IS THE RESPONSIBILITY OF THE APPLICANT/TESC SUPERVISOR UNTIL ALL CONSTRUCTION IS APPROVED.

3) THE BOUNDARIES OF THE CLEARING LIMITS SHOWN ON THIS PLAN SHALL BE CLEARLY FLAGGED BY A CONTINUOUS SENSE OF WARNING TAPE (OR FENCING, IF REQUIRED) PRIOR TO CONSTRUCTION. DURING THE CONSTRUCTION PERIOD, NO DISTURBANCE BEYOND THE CLEARING LIMITS SHALL BE PERMITTED. THE CLEARING LIMITS SHALL BE MAINTAINED BY THE APPLICANT/TESC CONTRACTOR FOR THE DURATION OF CONSTRUCTION.

4) THE TESC FACILITIES SHOWN ON THIS PLAN MUST BE CONSTRUCTED PRIOR TO OR IN CONJUNCTION WITH ALL CLEARING AND GRADING ACTIVITIES SO AS TO ENSURE THAT THE TRANSPORT OF SEDIMENT TO SURFACE WATERS, DRAINAGE SYSTEMS, AND ADJACENT PROPERTIES IS MINIMIZED.

5) THE TESC FACILITIES SHOWN ON THIS PLAN ARE THE MINIMUM REQUIREMENTS FOR ANTICIPATED SITE CONDITIONS. DURING THE CONSTRUCTION PERIOD, THESE TESC FACILITIES SHALL BE UPGRADED AS NEEDED FOR UNEXPECTED STORM EVENTS AND MODIFIED TO ACCOMMODATE CHANGING SITE CONDITIONS (E.G., ADDITIONAL SUMP PUMPS, RELOCATION OF STOCKS AND SILT FENCES, ETC.)

6) THE TESC FACILITIES SHALL BE INSPECTED DAILY BY THE APPLICANT/TESC SUPERVISOR AND MAINTAINED TO ENSURE CONTINUED PROPER FUNCTIONING. WRITTEN RECORDS SHALL BE KEPT OF WEEKLY REVIEWS OF THE TESC FACILITIES DURING THE WET SEASON (OCTOBER 1 TO MARCH 31) AND OF MONTHLY REVIEWS DURING THE DRY SEASON (APRIL 1 TO SEPTEMBER 30).

7) ANY AREA OF EXPOSED SOILS, INCLUDING PERIMETER EMBANKMENTS, SHALL NOT BE DISTURBED FOR TWO DAYS DURING THE WET SEASON OR SEVEN DAYS DURING THE DRY SEASON SHALL BE IMMEDIATELY STABILIZED WITH THE APPROVED TESC METHODS (E.G., SEEDING, MULCHING, PLASTIC COVERING, ETC.)

8) ANY AREA NEEDING TESC MEASURES, NOT REQUIRING IMMEDIATE ATTENTION, SHALL BE ADDRESSED WITHIN FIFTEEN (15) DAYS.

9) THE TESC FACILITIES ON INACTIVE SITES SHALL BE INSPECTED AND MAINTAINED A MINIMUM OF ONCE A MONTH OR WITHIN ONE 48 HOURS FOLLOWING A STORM EVENT.

10) AT NO TIME SHALL MORE THAN ONE (1) FOOT OF SEDIMENT BE ALLOWED TO ACCUMULATE WITHIN A CATCH BASIN. ALL CATCH BASINS AND CONVEYANCE LINES SHALL BE CLEANED PRIOR TO PAVING. THE CLEANING OPERATION SHALL NOT FLUSH SEDIMENT-LADEN WATER INTO THE CONVEYANCE SYSTEM.

11) ANY SEDIMENT THAT IS TRACKED ONTO PAVEMENT SHALL BE REMOVED IMMEDIATELY BY SWEEPING. THE SEDIMENT COLLECTED BY SWEEPING SHALL BE REMOVED OR STABILIZED ON-SITE. THE PAVEMENT SHALL NOT BE CLEANED BY WASHING DOWN THE STREET EXCEPT WHEN SWEEPING IS INEFFECTIVE AND THERE IS A THREAT TO PUBLIC SAFETY. IF IT IS NECESSARY TO WASH THE STREETS, THE CONSTRUCTION OF A SMALL SUMP SHALL BE CONSIDERED. THE SEDIMENT WOULD THEN BE VACUUMED INTO THE SUMP.

12) ANY PERMANENT FLOW CONTROL FACILITY USED AS A TEMPORARY SETTLING BASIN SHALL BE MODIFIED WITH THE NECESSARY EROSION CONTROL MEASURES AND SHALL PROVIDE ADEQUATE STORAGE CAPACITY. IF THE PERMANENT FACILITY IS TO FUNCTION IN PARALLEL AS AN INFILTRATION SYSTEM, THE TEMPORARY FACILITY MUST BE GRADED SO THAT THE BOTTOM AND SIDES ARE AT LEAST THREE FEET ABOVE THE FINAL GRADE OF THE PERMANENT FACILITY.

13) WHEN STRAW MULCH FOR TEMPORARY EROSION CONTROL IS REQUIRED, IT SHALL BE APPLIED AT A MINIMUM THICKNESS OF TWO TO THREE INCHES.

14) PRIOR TO THE BEGINNING OF THE WET SEASON (OCT. 1), ALL UNSTORED AREAS SHALL BE REVIEWED TO IDENTIFY WHICH ONES CAN BE SEEDED IN PREPARATION FOR THE WINTER RAINS. DISTURBED AREAS SHALL BE SEEDED WITHIN ONE WEEK OF THE BEGINNING OF THE WET SEASON. A SKETCH MAP OF TRIGGERED AREAS TO BE SEEDED AND THOSE TO REMAIN UNSEEDED SHALL BE SUBMITTED TO THE DDES INSPECTOR. THE DDES INSPECTOR CAN REQUIRE SEEDING OF ADDITIONAL AREAS IN ORDER TO PROTECT SURFACE WATERS, ADJACENT PROPERTIES, OR DRAINAGE FACILITIES.

## SEEDING NOTES

1. SEEDING - APPLY APPROPRIATE MIXTURE TO THE DISTURBED AREA AT A RATE OF 120 LBS/ACRE. COVER THE SEED WITH TOPSOIL OR MULCH NO DEEPER THAN ONE-HALF INCH.

| TEMPORARY EROSION CONTROL SEED MIX | PROPORTIONS BY WEIGHT | PERCENT PURITY | PERCENT GERMINATION |
|---|---|---|---|
| CHEWINGS OR RED FESCUE | 40% | 98 | 90 |
| ANNUAL OR PERENNIAL RYE | 40% | 98 | 90 |
| HEATOP OR COLONIAL BENTGRASS | 10% | 92 | 80 |
| WHITE DUTCH CLOVER | 10% | 98 | 90 |

## CONSTRUCTION SEQUENCE

1. ARRANGE AND ATTEND A PRECONSTRUCTION CONFERENCE WITH THE COUNTY AND ALL NECESSARY PARTIES
2. FLAG THE CLEARING LIMITS
3. CLEAR AREA OF BRUSH, TREES AND OTHER VEGETATION.
4. STOCKPILE CLEARING DEBRIS IN THE AREA SHOWN ON PLAN
5. STRIP TOPSOIL AND STOCKPILE IN AREA SHOWN ON PLAN.
6. EXCAVATE INFILTRATION TEST POND AND STOCKPILE EXCESS MATERIAL IN AREA SHOWN ON PLAN.
7. CONSTRUCT GABION OUTFALL.
8. SEED ALL DISTURBED AREAS OUTSIDE OF POND AREA

© 2012 TRIAD ASSOCIATES

TRIAD ASSOCIATES

TESC DETAILS

THE RESERVE AT WOODLANDS

KING COUNTY, WASHINGTON

DATE:

REVISIONS BY:

PROJECT MANAGER:

PROJECT ENGINEER:

PROJECT ARCHITECT:

FIRST SUBMITTAL DATE: 2/20/12

SCALE: HORIZ. N/A VERT. N/A

2/21/12

STAMP NOT VALID UNLESS SIGNED AND DATED

JOB NO. 05-336

SHEET NO. 3 of 3

**Exhibit 4**

**2009 Open Space Agreement**

**[to be attached]**

**OPEN SPACE AGREEMENT**

**BETWEEN**

**KING COUNTY**

**and**

**BD VILLAGE PARTNERS, LP**

## 1. DATE, PARTIES AND TERMS.

This Open Space Agreement (**"Agreement"**) is entered into this 17 day of December, 2009, by and between KING COUNTY, a municipal corporation and political subdivision of the State of Washington (**"King County"** or **"County"**) and BD VILLAGE PARTNERS, LP, a Washington limited partnership (**"Village Partners"**). King County and Village Partners are collectively referred to herein as the **"Parties."** All capitalized terms in this Agreement shall have the meanings set forth herein, and if not defined herein such terms shall have the meaning given to them in that certain Black Diamond Urban Growth Area Agreement, dated December 31, 1996 (the **"BDUGAA"**).

## 2. GENERAL RECITALS.

### 2.1 Authority.

2.1.1 The County is a home rule charter county under the laws of the State of Washington with authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens, including land use plans, development regulations, annexation agreements, and development agreements.

2.1.2 Villages Partners is a Washington limited partnership authorized to do business in Washington and has significant real property interests in and around the City and the County, and is the successor in interests under the BDUGAA to the Plum Creek Timber Company, L.P.

2.1.3 The BDUGAA, Section 3.5, provides that the acres reflected in the Agreement are estimates subject to change following more detailed study and survey. Per Section 8.4 of the BDUGAA, adjustments of boundaries and substitutions of parcels for County Open Space may be permitted "so long as the ratios of open space lands to urban lands contained in this Agreement are maintained and so long as the open space lands are part of significant natural systems, corridors, trails and are otherwise consistent with the other open space principles that have formed the basis for this Agreement." The County Council must approve any adjustments or substitutions of County Open Space which individually exceed 50 acres or cumulatively exceed 100 acres.

2.2 Purpose. The City of Black Diamond, the County, Plum Creek Timber Company, L.P., the predecessor in interest to Village Partners, and Palmer Coking Coal Company, are parties to the BDUGAA. Pursuant to the BDUGAA, annexation of the South Annexation Area is conditioned on, among other things, the protection or conservation of open space. The BDUGAA open space requirements applicable to the South Annexation Area, as set forth in BDUGAA paragraph 5.4, are estimates based on a 4 to 1 ratio of combined County Open Space, UGA Open Space and In-City Open Space to Urban Development Areas. This Agreement sets forth the agreement of Village Partners and the County with respect to the adjustment of boundaries and substitution of parcels for the County Open Space requirements of the BDUGAA. As this Agreement relates only to County Open Space, per Section 8.4 of the BDUGAA, the Parties to this Agreement are the County and the Village Partners.

2.3 BDUGAA. The open space acreages required to be conserved or protected as set forth in the BDUGAA are estimates and, per Section 3.5 of the BDUGAA, are subject to change following more detailed study and survey. Urban Development Areas are defined in the BDUGAA as "areas intended for future urban development upon annexation and shown as 'Urban Development Areas' on Appendix A, Map 7." Within the South Annexation Area, approximately 151.9 acres were intended for urban development and shown as mapped Urban Development Area in the BDUGAA. Village Partners has performed detailed studies and surveys that have determined that the amount of land available for urban development within the

South Annexation Area is less than the estimated amount of land in the BDUGAA that was intended for urban development and identified as Urban Development Area. Pursuant to Section 3.5, Village Partners has accordingly recalculated the amount of Urban Development Area in the South Annexation Area and the resulting amount of combined County Open Space, UGA Open Space and In-City Open Space that is required to maintain the 4 to 1 ration of open space to Urban Development Area. The new calculations are set forth in attached EXHIBIT A, (the "Acreage Chart"), which is incorporated herein by this reference.

2.4 South Annexation Area. The City of Black Diamond has filed a notice of intent to annex the South Annexation Area with the Boundary Review Board, which has assigned the matter file number 2306. The legal description of said property having been approved for annexation by the City of Black Diamond is attached hereto as EXHIBIT B and illustrated in EXHIBIT C, each incorporated herein by this reference (the "**South Annexation Area**"). The Parties agree that the terms of this Agreement shall implement the BDUGAA County Open space requirements.

2.5 Additional Open Space. Per Section 7.1 of the BDUGAA, the amount of County Open Space to be conveyed in fee in association with the South Annexation is estimated to be 339 acres. Using the 4 to 1 ratio of combined County Open Space, UGA Open Space and In-City Open Space to the actual Urban Development Area, as studied and surveyed by Village Partners, the required amount of combined open space is 158.1 acres less than the 615.7 acres of combined open space estimated in BDUGAA Appendix B. The Parties accordingly agree that the amount of County Open Space required to be conveyed in fee may be reduced by 158.1 acres to 180.9 acres. Recognizing the value of conserving open space, Village Partners has agreed to conserve more open space than is required per the 4 to 1 ratio. In association with annexation of the South Annexation Area, King County will receive a total of 255.3 acres of County Open Space in fee. An additional 83.7 acres of open space will be preserved with conservation easements as detailed in Section 5 below. These conservation easements will preserve most of the County Open Space originally identified in the BDUGAA.

2.6 Material Consideration. The Parties acknowledge that they enter into this Agreement in consideration of the mutual promises contained in the BDUGAA and that this Agreement implements the terms and conditions of the BDUGAA with respect to Village Partner's obligation to convey County Open Space.

## 3. IDENTIFICATION OF COUNTY OPEN SPACE.

3.1 Credit for Open Space Previously Conveyed. As part of the annexation of the West Annexation Area, Village Partners' predecessor, Plum Creek Land Company, conveyed 27 acres in Section 21 which shall be credited toward Village Partner's satisfaction of the County Open Space requirement for the South Annexation. Plum Creek's conveyance was made pursuant to the Purchase and Sale Agreement with King County wherein it is stated that: "County Open Space: Buyer [King County] agrees that the conveyance of the Property results in the Seller [Plum Creek Land Company] having conveyed more than the amount that was required for the West Annexation Area by 27 acres, and that as a result the 27 acres shall be a credit toward the County Open Space requirement for the annexation of the South Annexation Area, whether or not Seller is the then-current owner of the South Annexation Area."

3.2 County Open Space. To complete the requirement of Section 5.4(c)(2) of the BDUGAA for annexation of the South Annexation Area, Village Partners will convey to King County through a bargain and sale deed fee title to 228.3 acres of land legally described on attached EXHIBIT D (the "County Open Space"), which is incorporated herein by this reference, pursuant to a purchase and sale agreement. This conveyance shall be consistent with the terms of BDUGAA Section 7.1 and the conveyed County Open Space shall be dedicated as permanent open space and shall be owned and managed by the County as part of the King County Open Space and Trail System or for its forest resource value.

3.3 Adjustment of Open Space. In connection with the reduction of County Open Space referred to in paragraph 2.5, the parties have agreed to adjustments of boundaries and substitutions of parcels. In determining how to configure the County Open Space the parties gave consideration to wildlife corridors and the desire to preserve contiguity between new and

existing open space corridors. The County Open Space is part of significant natural systems, corridors, trails and is otherwise consistent with the other open space principles that formed the basis of the BDUGAA. The new configuration of County Open Space is shown on the attached EXHIBIT E, which is incorporated herein by this reference.

## 4. ADDITIONAL OPEN SPACE.

4.1 Additional Open Space. In addition to the fee conveyance of the County Open Space, Village Partners will execute and record a conservation easement in the form of attached as EXHIBIT F (the "Temporary Conservation Easement"), which is incorporated herein by this reference, on the 83.7 acres located within Sections 21 and 23 on portions of the property legally described on attached EXHIBIT G, (the "Additional Open Space"), which is incorporated herein by this reference. The Additional Open Space is a portion of the County Open Space identified in the BDUGAA that is not being conveyed to the County per paragraph 2.5 of this Agreement. The Additional Open Space will be permanently conserved because the land will ultimately be included in an open space tract pursuant to a development agreement that implements the provisions of King County Code 21A.14.040; or alternatively as detailed in paragraph 5.4 below, the Temporary Conservation Easement will be converted to a permanent conservation easement or transferred in fee to King County.

4.2 Development Buffer. Village Partners owns substantial property in Section 21 adjacent to the west border of the City of Black Diamond as shown on the map attached as EXHIBIT H ("Section 21 Property"), which is incorporated herein by this reference. Village Partners agrees that as of the effective date of this Agreement a "Temporary Buffer" will be established within the easternmost five hundred (500) feet of its Section 21 Property. The Temporary Buffer will remain in place until the earlier of (a) execution of a fully approved and authorized development agreement with King County, as authorized by RCW 36.70B.170, for a rural clustered subdivision within the Section 21 Property, (b) when twelve (12) years have passed since the effective date of this Agreement and the Temporary Conservation Easement has been converted to a permanent conservation easement or the land subject to the Temporary Conservation Easement has been conveyed to King County in fee as provided for in Section 5.4

of this Agreement, or (c) when Village Partners elects to terminate the Temporary Buffer and the Temporary Conservation Easement has been converted to a permanent conservation easement or the land subject to the Temporary Conservation Easement has been conveyed to King County in fee as provided for in Section 5.4 of this Agreement ("Temporary Buffer Period"). During the Temporary Buffer Period no structures or roads may be applied for or constructed within the Temporary Buffer, except that utility lines that cross through but do not provide service in the Temporary Buffer and storm water facilities may be applied for and constructed within the Temporary Buffer to the extent they are permitted under applicable law. Village Partner's willingness to temporarily limit development activity in the easternmost five hundred feet of its Section 21 Property shall not be construed as consent to any permanent limitation on development within the Temporary Buffer. Village Partners has indicated that it may eventually propose a regional storm water facility on lands within the Section 21 Property and the Temporary Buffer. The Parties agree that any negotiation of a development agreement will include discussion of an appropriate buffer adjacent to the westerly border of the City of Black Diamond.

## 5. TEMPORARY CONSERVATION EASEMENT.

5.1 Location. The Additional Open Space is not comprised of existing tax parcels, therefore, the Temporary Conservation Easement will be recorded against any existing parcel that includes a portion of the Additional Open Space. The restrictions on use shall only apply to the Additional Open Space. Village Partners may survey and establish separate tax parcels for the Additional Open Space. At such time as the Additional Open Space is established as a separate parcel or parcels, the Parties shall amend the Temporary Conservation Easement so that it applies only to the parcel or parcels that are part of the Additional Open Space.

5.2 Allowed Uses. The Additional Open Space shall allow road and utility corridors consistent with the terms applicable to County Open Space under BDUGAA Section 7.5. to the extent permitted by applicable law. All other uses shall be limited to those consistent with the purposes included in King County Code 26.04.020.L, such as preservation of wetlands and other critical areas, passive recreational areas and as an urban/rural separator. Village Partners may

locate road and utility corridors consistent with this Agreement and the Temporary Conservation Easement through the Additional Open Space provided that in doing so Village Partners accepts the risk that the portion of the Additional Open Space used for road or utility corridor may not qualify as a open space per King County Code 21A.14.040.

5.3 Rural Clustered Subdivision. The Parties agree that the Additional Open Space that will be subject to the Temporary Conservation Easement may be used for density calculations and to satisfy the open space requirements of King County Code 21A.14.040 for a rural clustered subdivision on the Section 21 Property only if such subdivision is carried out under a development agreement as authorized by RCW 36.70B.170. The Parties acknowledge that this Agreement creates no right to approval of a clustered development. Any future proposal for clustered development will be reviewed under the regulations in place when an application for such development is submitted and vests. If the parties cannot agree on the terms of a development agreement, or the County Council declines to approve a development agreement, then Village Partners may terminate the Temporary Buffer pursuant to Section 4.2(c) of this Agreement and the Temporary Conservation Easement pursuant to Section 5.4(c) of this Agreement. If Village Partners elects to do so, and after the Temporary Conservation Easement has been replaced with a permanent conservation easement or the Additional Open Space has been conveyed to the County in fee as provided for in Section 5.4(c) of this Agreement, then all other obligations under the Agreement will automatically terminate and Village Partners will retain all its property and development rights in the Section 21 Property, except for those rights conveyed to the County in the Additional Open Space.

5.4 Term. The Temporary Conservation Easement shall continue in effect and be terminated as follows:

(a) If Village Partners executes a fully approved and authorized development agreement with King County, as authorized by RCW 36.70B.170, for a rural clustered subdivision within the Section 21 Property that includes the Additional Open Space in a tract or tracts to satisfy the requirements of King County Code 21A.14.040, then King County shall execute an appropriate document to relinquish the Temporary Conservation Easement at the time that the tract or tracts are permanently protected under the terms of the development agreement.

(b) If the Additional Open Space has not been included in a permanent open space tract as part of a development agreement for a rural clustered subdivision prior to the expiration of a twelve (12) year term that shall commence on the effective date of this Agreement, the Parties agree that the Temporary Conservation Easement shall be replaced with a permanent conservation easement with terms that are substantially similar to the County's then standard form of conservation easement for protecting natural areas. The permanent conservation easement shall allow road and utility corridors consistent with the terms applicable to County Open Space under BDUGAA Section 7.5. If the Parties are unable to agree on the form of a permanent conservation easement prior to the expiration of the twelve (12) year term, then Village Partners shall within one hundred twenty (120) days thereafter convey the Additional Open Space to the County in fee pursuant to a purchase and sale agreement substantially similar to the agreement used to convey the County Open Space as called for by Section 3.2. Any Additional Open Space conveyed in fee shall be subject to use by Village Partners consistent with the terms applicable to County Open Space under BDUGAA Section 7.5. The exercise of such rights will require execution of appropriate easements to be granted by the County. Conveyance of the Additional Open Space in fee shall terminate the Temporary Conservation Easement.

(c) Village Partners may elect to terminate the Temporary Conservation Easement at any time. Village Partners may only terminate the Temporary Conservation Easement, however, if it contemporaneously replaces the Temporary Conservation Easement with a permanent conservation easement on the Additional Open Space in a form agreed to by the County and consistent with the terms and in the manner described in Section 5.4(b) of this Agreement, or if it conveys the Additional Open Space to the County consistent with the terms and in the manner described in Section 5.4(b).

## 6. CLOSING.

6.1 Village Partners shall give notice of the scheduled date of adoption of the ordinance annexing the South Annexation Area fifteen (15) days prior to that date. The deed, Temporary Conservation Easement, and other items contemplated by this Agreement shall be duly executed and deposited in escrow ("Escrow") five (5) calendar days prior to the scheduled

date of the City Council's final vote on the ordinance to annex the South Annexation Area. Escrow will be handled by Chicago Title Insurance Company, and the Parties agree to provide a single form of detailed Closing instructions to the Escrow Agent ten (10) calendar days prior to the Closing date. "Closing" shall occur in Escrow on the effective date of the ordinance approving the South Annexation ("Effective Date") unless otherwise extended as provided in Section 6.2 below. The Parties shall each pay one-half (1/2) of all Escrow fees and recording fees.

6.2 All obligations and requirements in this Agreement are conditioned upon successful annexation by the City of Black Diamond of the entire South Annexation Area on or prior to March 1, 2010 ("Termination Date"). The failure of the South Annexation Area to be annexed into the City by the Termination Date, regardless of the cause or efforts of any of the Parties, shall result in the automatic termination of this Agreement and any and all responsibilities related thereto. Provided, however, the Termination Date may be extended by the agreement, in writing of the Parties. Provided further, the Termination Date shall be automatically extended for an amount of time equal to the time period, if any, between the invoking of jurisdiction and the completion of BRB review or subsequent court review of the BRB decision. Provided further, if the annexation ordinance is adopted, but subsequently appealed or otherwise legally challenged, then the Closing, and the Termination Date, shall automatically be extended until twenty (20) days after the appeal/challenge is finally determined. In the event of termination of this Agreement any monies or documents deposited into Escrow shall be promptly returned to the Party that deposited such items into Escrow.

6.3 Closing is also contingent on approval of the Metropolitan King County Council of this Agreement and the adjustments of boundaries and substitutions of parcels contained herein.

6.4 Closing is also contingent on agreement by the Parties to a purchase and sale agreement for conveyance of the County Open Space. Failure of the Parties to reach agreement prior to the Termination Date, including any extension of that date under Section 6.2 of this Agreement, shall result in the automatic termination of this Agreement and any and all responsibilities related thereto.

## 7. GENERAL MATTERS.

7.1 Entire Agreement and Modifications. This Agreement and its Exhibits set forth the entire agreement between the Parties with respect to the subject matter hereof. No provision of this Agreement may be amended or added to except by agreement, in writing, signed by the Parties or their respective successors in interest.

7.2 Applicable Law. Washington law shall govern the interpretation of this Agreement. King County shall be the venue for any action arising out of this Agreement.

7.3 Authority. Each individual executing this Agreement on behalf of a Party represents and warrants that such individuals are duly authorized to execute and deliver the Agreement on behalf of that Party.

7.4 Binding on Successors and Assigns. The terms of this Agreement shall be binding on the parties and their successors and assigns, including specifically any person or entity that acquires from Village Partners any of the land that is the subject of this Agreement. Notice of and reference to this Agreement shall be included in the Temporary Conservation Easement. Upon execution of this Agreement the Parties will record a Memorandum of Open Space Agreement on title of the Section 21 Property. The Memorandum shall be removed or amended as appropriate consistent with the actions of the parties pursuant to the provisions of this Agreement.

7.5 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice, may be faxed and emailed to the addressee of the notice, or may be deposited in the United States mail, postage prepaid, to the addressee. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

**King County:**

King County Department of Natural

Resources and Parks
Water and Land Resources Division
201 South Jackson Street, Suite 600
Seattle, WA 98104
Fax: (206)

With a copy to:
King County Prosecuting Attorney's Office, Civil Division
Attn: Pete Ramels
W400 King County Courthouse
516 Third Avenue
Seattle, WA 98104
Fax: (206) 296-0191

**BD Village Partners, LP:**

Yarrow Bay Development, LLC
Attn: Brian Ross
10220 NE Points Drive, Suite 120
Kirkland, WA 98033
Fax: (425) 898-2139

With a copy to:
Cairncross & Hempelmann
Attn: John Hempelmann and Nancy Rogers
524 Second Avenue, Suite 500
Seattle, WA 98104-2323
Fax: (206) 587-2308

Dated as of the date first written above.

**King County**

By: _____

Its: _____

**BD Village Partners, LP**

By: _____
Brian Ross C.E.O.
YARROW BAY DEVELOPMENT
GENERAL PARTNER



Updated 12-11-09

## Exhibit List

| | |
|---|---|
| Exhibit A: | Acreage Chart |
| Exhibit B: | Legal Description of South Annexation Area |
| Exhibit C: | Map of South Annexation Area |
| Exhibit D: | Legal Description of "County Open Space" |
| Exhibit E: | Map of "County Open Space" |
| Exhibit F: | Temporary Conservation Easement |
| Exhibit G: | Legal Description of "Additional Open Space" |
| Exhibit H: | Map of Section 21 Property |

# Exhibit A

2009-0645

| Open Space Required for South Annexation Area<br>Per BDUGAA - 4 to 1 calculation | | | |
|---|---|---|---|
| | | | acres |
| Urban Development Area | 114.4 x 4 | = | 457.6 |
| (less) In City Open Space | | - | 195 |
| (less) UGA Open Space | | - | 81.7 |
| Total County Open Space Required | | | 180.9 |
| (less) Section 21 acreage already conveyed | | - | 27 |
| Remaining County Open Space to meet 4:1 | | | 153.9 |
| | | | |
| | | | |

EXHIBIT B

Legal Description of South Annexation Area

CITY OF BLACK DIAMOND
2009-0645
SEP 01 2009
PLANNING DEPT.

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

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 23;

THENCE EASTERLY ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, TO THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER;

THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 23;

THENCE EASTERLY, ALONG THE NORTH LINE OF SAID SOUTH HALF, TO THE EASTERLY MARGIN OF STATE ROUTE 169;

THENCE SOUTHEASTERLY, ALONG SAID EASTERLY MARGIN, TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23;

THENCE WESTERLY, ALONG SAID SOUTH LINE, TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23;

THENCE WESTERLY, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23;

THENCE SOUTHERLY, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER, TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER;

THENCE WESTERLY, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23, TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER;

THENCE NORTHERLY, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23, TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23;

THENCE NORTHERLY, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, TO THE NORTHWEST CORNER OF SAID SECTION 23, THE POINT OF BEGINNING.

WRITTEN: ARJ
CHECKED: CHS

10/24/08

TRIAD ASSOCIATES

**Exhibit C - South Annexation Area**

2009-0844

North

SCALE: 1" = 300'
November 16, 2009

2009-0645

# EXHIBIT D

## Legal Description of "County Open Space"

*forthcoming*

## EXHIBIT D

**LEGAL DESCRIPTIONS FOR THE VILLAGES WEST PARCEL OPEN SPACE PROPERTIES SECTION 21 PER KING COUNTY BLA NO. L09L0030 & L09L0062**

**AREA A (Lot A of BLA L09L0062)**

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

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION,

THENCE NORTH 00°36'04" EAST, ALONG THE WEST LINE OF SAID SECTION, 369.55 FEET;

THENCE SOUTH 90°00'00" EAST, 596.68 FEET;

THENCE NORTH 58°23'45" EAST, 274.19 FEET;

THENCE NORTH 61°46'30" EAST, 92.43 FEET;

THENCE NORTH 50°13'13" EAST, 144.51 FEET;

THENCE NORTH 74°08'16" EAST, 81.61 FEET;

THENCE NORTH 01°37'30" EAST, 238.75 FEET;

THENCE NORTH 32°22'35" EAST, 221.95 FEET;

THENCE NORTH 01°34'04" EAST, 252.47 FEET;

THENCE NORTH 10°38'50" EAST, 304.37 FEET;

THENCE NORTH 13°30'27" WEST, 128.55 FEET;

THENCE NORTH 03°21'41" WEST, 173.17 FEET;

THENCE NORTH 05°20'52" EAST, 72.14 FEET TO THE SOUTHEASTERLY MARGIN OF THE SOUTHEAST AUBURN-BLACK DIAMOND ROAD;

THENCE NORTH 47°22'39" EAST, ALONG SAID MARGIN, 283.46 FEET;

THENCE SOUTH 14°36'23" EAST, 505.62 FEET;
THENCE NORTH 89°20'04" EAST, 571.54 FEET;


TRIAD ASSOCIATES
12112 115th Avenue NE Kirkland, Washington 98034-9623
425.821.8448 · 800.488.0756 · Fax 425.821.3481
www.triadassociates.net

Land Development Consultants

THENCE SOUTH 72°46'11" EAST, 170.49 FEET A POINT ON THE WESTERLY MARGIN OF 218TH AVENUE SOUTHEAST, SAID POINT BEING ON A CURVE TO THE RIGHT WITH A CENTER WHICH BEARS NORTH 89°11'46" WEST, 1390.40 FEET DISTANT;

THENCE SOUTHERLY, ALONG SAID MARGIN AND CURVE, THROUGH A CENTRAL ANGLE OF 13°52'22" AND AN ARC DISTANCE OF 336.65 FEET;

THENCE SOUTH 83°53"20" WEST, 660.62 FEET;

THENCE SOUTH 03°45'28" WEST, 130.24 FEET;

THENCE SOUTH 03°43'29" EAST, 117.53 FEET;

THENCE SOUTH 04°53'02" WEST, 87.64 FEET;

THENCE SOUTH 11°44'41" WEST, 230.05 FEET;

THENCE SOUTH 15°49'31" EAST, 191.38 FEET;

THENCE SOUTH 56°19'45" EAST, 93.74 FEET TO THE NORTHWESTERLY MARGIN OF 218TH AVENUE SOUTHEAST;

THENCE SOUTH 43°11'31" WEST, ALONG SAID MARGIN, 174.00 FEET TO THE BEGINNING OF A 614.96 FOOT RADIUS CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 38°15'37" AND AN ARC DISTANCE OF 410.65 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21;

THENCE NORTH 89°21'07" WEST, ALONG SAID LINE, 1420.39 FEET TO THE POINT OF BEGINNING.

**AREA B (Lot E of BLA L09L0030)**

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

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION,

THENCE SOUTH 00°25'50" WEST, ALONG THE EAST LINE OF SAID SECTION, 2668.74 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 89°21'07" WEST, 3839.14 FEET TO A POINT ON THE EASTERLY MARGIN OF 218TH AVENUE SOUTHEAST, SAID POINT BEING ON A CURVE TO THE RIGHT WITH A CENTER WHICH BEARS SOUTH 84°23'21" EAST, 530.96 FEET DISTANT;

THENCE NORTHERLY, ALONG SAID MARGIN AND CURVE, THROUGH A CENTRAL ANGLE OF 37°34'52" AND AN ARC DISTANCE OF 348.26 FEET;

THENCE NORTH 43°11'31" EAST, ALONG SAID MARGIN, 480.25 FEET;

THENCE CONTINUE NORTH 43°11'31" EAST, ALONG SAID MARGIN, 59.75 FEET TO THE BEGINNING OF A 1474.40 FOOT RADIUS CURVE TO THE LEFT;

THENCE NORTHERLY, ALONG SAID MARGIN AND CURVE, THROUGH A CENTRAL ANGLE OF 31°37'33" AND AN ARC DISTANCE OF 813.83 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 05°14'03" EAST, 104.72 FEET;

THENCE SOUTH 27°16'06" EAST, 161.07 FEET;

THENCE SOUTH 51°36'01" EAST, 123.72 FEET;

THENCE SOUTH 23°35'52" EAST, 99.61 FEET;

THENCE SOUTH 38°54'13" EAST, 150.32 FEET;

THENCE NORTH 83°52'28" EAST, 371.44 FEET;

THENCE NORTH 76°55'15" EAST, 142.82 FEET;

THENCE NORTH 41°20'18" EAST, 64.18 FEET;

THENCE NORTH 05°45'20" EAST, 210.14 FEET;

THENCE NORTH 53°41'43" WEST, 187.31 FEET;

THENCE NORTH 23°23'31" WEST, 92.07 FEET;

THENCE NORTH 07°50'11" WEST, 126.53 FEET;

THENCE NORTH 20°41'38" WEST, 182.40 FEET;

THENCE NORTH 38°11'30" WEST, 143.90 FEET TO THE BEGINNING OF A 100.00 FOOT RADIUS CURVE TO THE LEFT;

THENCE WESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 57°20'37" AND AN ARC DISTANCE OF 100.08 FEET;

THENCE SOUTH 84°52'43" WEST, 146.06 FEET;

THENCE SOUTH 76°20'16" WEST, 192.88 FEET;

THENCE SOUTH 27°18'43" WEST, 130.83 FEET;

THENCE SOUTH 55°21'55" WEST, 42.36 FEET TO A POINT ON THE EASTERLY MARGIN OF 218TH AVENUE SOUTHEAST, SAID POINT BEING ON A CURVE TO THE RIGHT WITH A CENTER WHICH BEARS NORTH 87°22'30" WEST, 1474.40 FEET DISTANT,

THENCE SOUTHERLY ALONG SAID MARGIN AND CURVE, THROUGH A CENTRAL ANGLE OF 08°56'28" AND AN ARC DISTANCE OF 230.08 FEET TO THE TRUE POINT OF BEGINNING.

**AREA C (Lot J of BLA L09L0062)**

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

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION,

THENCE SOUTH 00°49'04" WEST, ALONG THE EAST LINE OF SAID SECTION, 664.38 FEET;

THENCE CONTINUE SOUTH 00°49'04" WEST, ALONG SAID EAST LINE, 1993.14 FEET TO THE SOUTHEAST CORNER OF SAID SECTION;

THENCE NORTH 89°17'08" WEST, ALONG THE SOUTH LINE OF SAID SECTION, 802.72 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 13°15'37" WEST, 48.35 FEET;

THENCE NORTH 75°16'29" WEST, 97.99 FEET;

THENCE NORTH 52°24'46" WEST, 394.89 FEET;

THENCE NORTH 70°16'07" WEST, 55.37 FEET;

THENCE NORTH 25°20'30" EAST, 88.67 FEET TO THE BEGINNING OF A 50.00 FOOT RADIUS CURVE TO THE LEFT;

THENCE NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 119°20'02", AND AN ARC DISTANCE OF 104.14 FEET;

THENCE SOUTH 87°19'49" WEST, 23.61 FEET;

THENCE NORTH 26°33'54" WEST, 102.78 FEET;

THENCE NORTH 26°15'23" EAST, 31.10 FEET;

THENCE NORTH 39°44'54" EAST, 109.10 FEET;

THENCE NORTH 48°30'47" EAST, 285.10 FEET;

THENCE NORTH 23°48'57" EAST, 160.38 FEET;

THENCE NORTH 37°49'25" EAST, 133.99 FEET;

THENCE NORTH 79°41'57" EAST, 162.43 FEET;

THENCE NORTH 34°24'52" EAST, 292.68 FEET;

THENCE NORTH 25°52'54" EAST, 121.51 FEET;

THENCE NORTH 05°18'27" WEST, 111.65 FEET;

THENCE NORTH 28°41'14" WEST, 191.01 FEET;

THENCE NORTH 38°05'46" WEST, 61.29 FEET;

THENCE NORTH 00°48'54" WEST, 157.32 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 21;

THENCE NORTH 89°20'07" WEST, ALONG SAID SOUTH LINE, 32.65 FEET;

THENCE SOUTH 36°12'44" WEST, 273.72 FEET;

THENCE SOUTH 26°08'49" WEST, 350.17 FEET;

THENCE SOUTH 52°33'47" WEST, 84.56 FEET;

THENCE SOUTH 57°01'32" EAST, 116.14 FEET;

THENCE SOUTH 17°01'00" WEST, 44.36 FEET;

THENCE SOUTH 60°40'20" WEST, 106.98 FEET;

THENCE SOUTH 46°42'18" WEST, 211.14 FEET;

THENCE SOUTH 82°34'17" WEST, 78.45 FEET;

THENCE SOUTH 79°53'54" WEST, 174.33 FEET;

THENCE SOUTH 52°40'01" WEST, 261.30 FEET;

THENCE NORTH 17°15'41" WEST, 94.47 FEET;

THENCE NORTH 03°20'08" EAST, 81.41 FEET;

THENCE NORTH 16°23'06" WEST, 247.39 FEET;

THENCE NORTH 66°03'10 WEST, 107.77 FEET;

THENCE NORTH 51°01'44" WEST, 320.62 FEET;

THENCE NORTH 49°25'07" WEST, 273.51 FEET;

THENCE NORTH 54°55'24" WEST, 268.33' FEET

THENCE NORTH 56°37'49" WEST, 312.69 FEET;

THENCE NORTH 50°52'33" WEST, 248.56 FEET;

THENCE NORTH 89°59'20" WEST, 132.62 FEET;

THENCE SOUTH 47°40'01" EAST, 672.57 FEET TO THE CENTER OF SECTION LINE;

THENCE SOUTH 00°43'08" WEST, ALONG SAID LINE, 1741.76 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 21;

THENCE SOUTH 89°17'08" EAST, ALONG THE SOUTH LINE OF SAID SECTION, 1886.00 FEET TO THE TRUE POINT OF BEGINNING.

**LEGAL DESCRIPTIONS FOR THE OPEN SPACE PROPERTIES IN SECTION 27, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M. IN KING COUNTY, WASHINGTON**

**AREA D**

LOT B OF KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L05L0096 RECORDED UNDER RECORDING NUMBER 20051209900002.

**AREA E**

THAT PORTION OF THE NORTH HALF OF THE NORTHWEST QUARTER IN SECTION 27, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., LYING SOUTHERLY OF THE CENTERLINE OF THE SOUTHEAST GREEN VALLLEY ROAD AND THE CENTERLINE OF SOUTHEAST 354TH STREEET;

**EXCEPT** A 1.40 ACRE TRACT IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER TAKEN BY DECREE OF SUPERIOR COURT NUMBER 765079 ON MARCH 6, 1978, AND

**ALSO EXCEPT** THAT PORTION THEREOF CONVEYED BY WARRANTY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 9705210456;

SITUATE IN KING COUNTY, WASHINGTON.

(ALSO KNOWN AS LOT B OF KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L97L0016 RECORDED UNDER RECORDING NUMBER 9705069004.)

**LEGAL DESCRIPTIONS FOR THE VILLAGES F-SOUTH OPEN SPACE PROPERTIES SECTION 23 PER KING COUNTY BLA NO. L09L0029**

**AREA F (Lot D of BLA)**

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

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23,

THENCE NORTH 00°47'48" WEST, ALONG THE WEST LINE OF SAID SECTION, 30.00 FEET TO THE NORTHERLY MARGIN OF SOUTHEAST GREEN VALLEY ROAD;

THENCE CONTINUE NORTH 00°47'48" WEST, ALONG SAID WEST LINE, 1204.98 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE SOUTH 87°46'53" EAST, ALONG THE NORTH LINE OF SAID SUBDIVISION, 1336.24 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE SOUTH 22°39'28" EAST, 47.15 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON A CURVE TO THE RIGHT WITH A CENTER WHICH BEARS SOUTH 04°56'38" WEST, 1269.60 FEET DISTANT;

THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 28°29'17" AND AN ARC DISTANCE OF 631.26 FEET;

THENCE SOUTH 29°25'38" EAST, 237.25 FEET;

THENCE SOUTH 21°55'17" EAST, 779.39 FEET TO THE NORTHERLY MARGIN OF THE SOUTHEAST GREEN VALLEY ROAD;

THENCE NORTH 89°22'35" WEST, ALONG SAID NORTHERLY MARGIN, 526.22 FEET;

THENCE NORTH 22°39'28" WEST, 1223.75 FEET TO THE TRUE POINT OF BEGINNING.

**AREA G (Lot G of BLA)**

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

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 23;

THENCE NORTH 00°47'48" WEST, ALONG THE WEST LINE OF SAID SECTION, 30.00 FEET TO THE NORTHERLY MARGIN OF SOUTHEAST GREEN VALLEY ROAD;

THENCE CONTINUE NORTH 00°47'48" WEST, ALONG SAID WEST LINE, 1204.98 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE SOUTH 87°46'53" EAST, ALONG THE NORTH LINE OF SAID SUBDIVISION, 1336.24 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE NORTH 00°42'58" WEST, ALONG THE WEST LINE OF SAID SUBDIVISION, 1197.74 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23;

THENCE SOUTH 86°11'43" EAST, ALONG THE CENTER OF SECTION LINE, 2817.72 FEET TO A POINT ON THE WESTERLY MARGIN OF 257TH AVENUE SOUTHEAST, SAID POINT BEING ON A CURVE TO THE LEFT WITH A CENTER WHICH BEARS SOUTH 89°11'44" EAST, 3130.00 FEET DISTANT;

THENCE SOUTHERLY, ALONG SAID WESTERLY MARGIN AND CURVE, THROUGH A CENTRAL ANGLE OF 02°04'41" AND AN ARC DISTANCE OF 113.52 FEET;

THENCE SOUTH 01°16'25" EAST, ALONG SAID WESTERLY MARGIN, 287.83 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 60°33'44" WEST, 590.93 FEET;

THENCE NORTH 86°11'43" WEST, 1245.28 FEET;

THENCE SOUTH 33°57'28" EAST, 369.21 FEET;

THENCE SOUTH 06°43'29" EAST, 247.86 FEET;

THENCE SOUTH 56°02'32" WEST, 164.21 FEET;

THENCE NORTH 58°31'51" WEST, 135.65 FEET;

THENCE NORTH 36°42'34" WEST, 568.35 FEET TO A POINT ON A CURVE TO THE LEFT WITH A CENTER WHICH BEARS SOUTH 26°12'53" EAST, 1358.00 FEET DISTANT;

THENCE SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°41'25" AND AN ARC DISTANCE OF 253.38 FEET;

THENCE SOUTH 30°42'18" EAST, 1450.02 FEET;

THENCE SOUTH 60°42'45" EAST, 144.96 FEET TO THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE NORTH 00°37'49" WEST, ALONG SAID EAST LINE, 533.58 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION;

THENCE SOUTH 87°31'19" EAST, ALONG THE SOUTH LINE OF SAID SUBDIVISION, 1473.96 FEET TO THE WESTERLY MARGIN OF 257TH AVENUE SOUTHEAST;

THENCE NORTH 00°27'07" EAST, ALONG SAID WESTERLY MARGIN, 388.48 FEET;

THENCE NORTH 01°16'25" WEST, ALONG SAID WESTERLY MARGIN, 336.48 FEET TO THE TRUE POINT OF BEGINNING.

WRITTEN: ARJ
CHECKED: CHS AND MSH

Legend

| | | |
|---|---|---|
| BDUGAA KCOS Area proposed by Yarrow Bay | Approximately 226.4 ac | In-City Open Space |
| Additional KCOS Area proposed by Yarrow Bay | Approximately 28.9 ac | UGA Open Space |
| BDUGAA KCOS under Temporary Conservation Easement | Approximately 83.7 ac | |

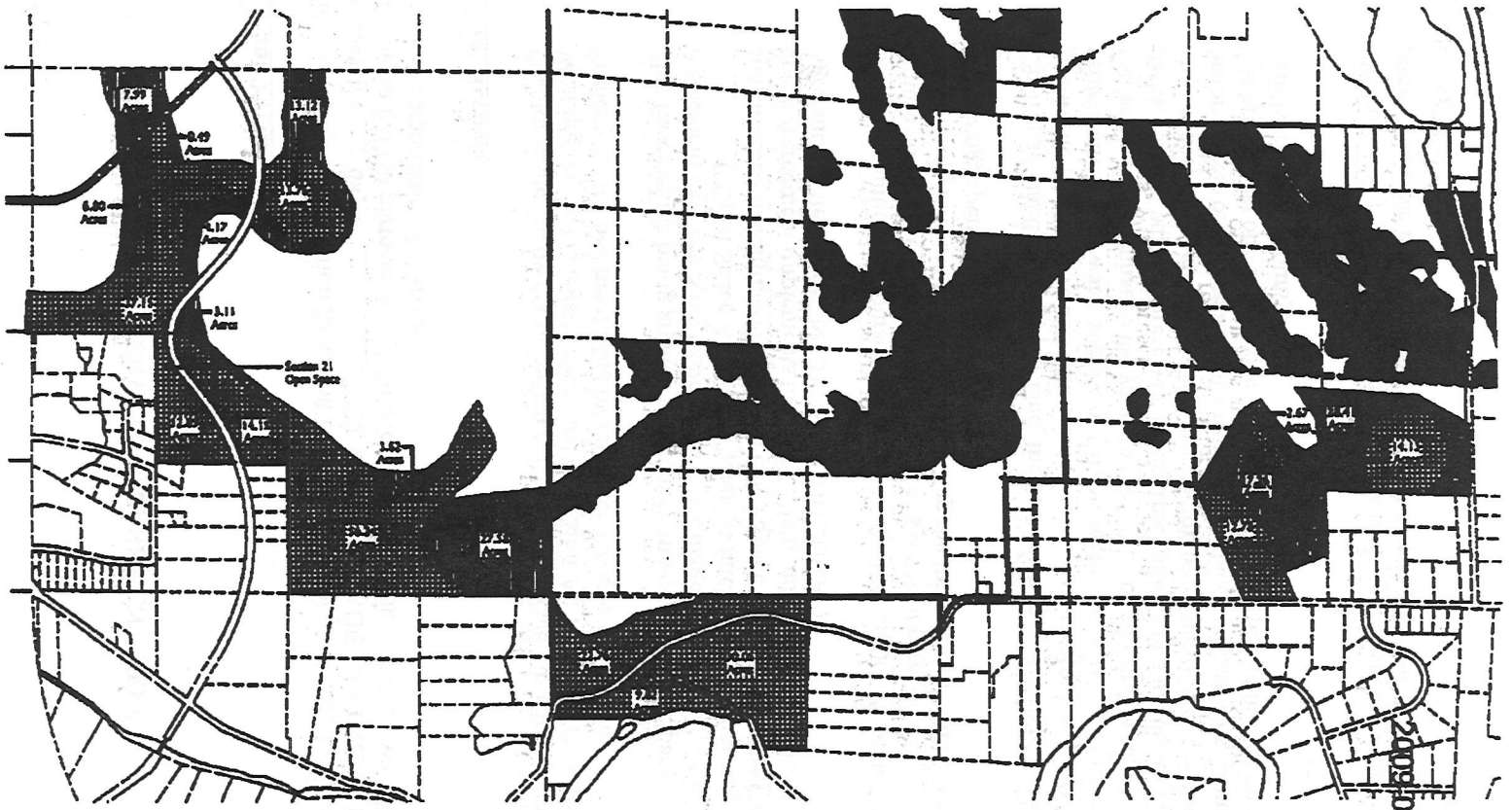



**Exhibit E - County Open Space**

**EXHIBIT F**

# TEMPORARY CONSERVATION EASEMENT DEED

1. **Date and Parties.**

This Temporary Conservation Easement Deed ("Easement")is dated, for reference purposes, the ___ day of _____, 2009, by BD VILLAGE PARTNERS, L.P., a Washington limited partnership, as" Grantor," and the King County, a Washington municipal corporation, as "Grantee."

2. **General Recitals.**

2.1 Grantor is the fee owner of certain real property located in King County, Washington, that is legally described in Exhibit A (hereafter "Protected Property") attached hereto and by reference incorporated herein.

2.2 This Easement is being granted in conjunction with an Open Space Agreement between King County and BD Village Partners, LP, dated ____ ___ ("Open Space Agreement"), and is intended to be implemented and enforced in conjunction with the Open Space Agreement. The Open Space Agreement implements the Black Diamond Urban Growth Area Agreement dated December 31, 1996 ("BDUGGA").

2.3 Grantee is authorized, pursuant to RCW 64.04.130 and RCW 84.34.210 to acquire an interest in real property for the purpose of preserving, maintaining, improving, restoring, limiting the future use of, and otherwise conserving, open space land.

2.4 Open space land includes any land, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils and wetlands, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance passive recreation opportunities, or (vi) preserve historic sites, or (vii) retain in its natural state lands within King County that are at least one acre in size and may be open to public use for purposes defined by King County.

2.5 The Protected Property possesses all of the open space features worthy of preservation that are identified in Section 2.3 of this Easement, except for

historic sites. The Protected Property and these open space features possesses natural, open space, scenic, recreational, and educational values that are of great importance to Grantor, Grantee, the people of King County and the people of the State of Washington. These values are referred to herein as the "Conservation Values" of the Protected Property. The Purpose of this conveyance is to protect for so long as this Easement remains in place these Conservation Values.

2.6 The Protected Property is currently in a vacant and undeveloped state and substantially all of the Protected property is covered with forest or brush.

3. **Consideration.**

The parties hereto acknowledge there is good and valuable consideration for the assumption of the rights and responsibilities inherent in agreeing to preserve and protect the Conservation Values of the Protected Property.

4. **Easement Conveyance.**

4.1 Grantor grants, conveys and warrants to Grantee, a temporary conservation easement (the "Easement") over the Protected Property on the terms and conditions set forth herein, exclusively for the purpose of conserving, preserving and protecting the Conservation Values of the Protected Property.

5. **Grantee's Rights.**

5.1 The following rights are conveyed to Grantee:

5.1.1 To preserve and protect the Conservation Values of the Protected Property;

5.1.2 To prevent any use of the Protected Property that is restricted by this Easement, and to require the restoration of such areas or features of the Protected Property that may be damaged by any improper use, pursuant to the remedies set forth in Section 8;

5.1.3 To enter upon the Protected Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement in accordance with Section 8; provided that, except in cases where Grantee determines that immediate entry is required

to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's quiet use and enjoyment of the Protected Property;

5.1.4 To assign, convey, or otherwise transfer all or a portion of Grantee's rights and obligations under this Easement only to a government unit or other organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold Easements under RCW 64.04.130 or RCW 84.34.250 (or any successor provision(s) then applicable.

**6. Use Restrictions.**

6.1 Subject to the Permitted Encumbrances, the following uses and practice are inconsistent with the purposes of this Temporary Conservation Easement and shall be prohibited upon or within the Protected Property, except as convenient or necessary to maintain the Property responsibly in its natural condition and except as necessary for the Grantor to exercise the rights reserved hereunder:

6.1.1 Construction or placing buildings, residences, mobile homes, enclosures, wells, septic systems, or any structures, except as otherwise provided herein.

6.1.2 Dumping any materials, or releasing any liquids or gasses on or in the Protected Property, except as otherwise provided herein.

6.1.3 Disturbing the surface of the Property including but not limited to excavating, filling, removing soils or sub-soils, or changing the topography of the Protected Property in any manner, except as provided herein.

6.1.2 Removing, cutting, uprooting or otherwise destroying trees and other vegetation or animals, living or dead, except for the taking of animals as may be permitted by current Department of Fish and Wildlife regulations, except as otherwise provided herein.

## 7. Reserved and Retained Rights and Responsibilities.

7.1 Grantor reserves all rights accruing from ownership of the Protected Property and adjacent properties except for such rights that are specifically granted herein and such activities that are specifically restricted or prohibited herein.

7.1.1 The Protected Property may be used for road and utility corridors consistent applicable law and with the terms governing County Open Space under the BDUGAA Section 7.5, the applicable provisions of which say:

> "Furthermore, dedications of County Open Space shall not cut off road and utility access to adjacent [Grantor] parcels. Temporary access across County Open Space and permanent buried utility lines will be permitted so long as disturbed land is restored. Reasonably necessary permanent road access will be permitted so long as substitute open space is provided on a one to one basis, unless otherwise agreed by the [Grantee] and [Grantor]."

7.1.2 This Easement shall not be construed to preclude development or development planning activities on lands adjacent to or within the same tax parcel as the Protected Property and shall not be construed to preclude boundary line adjustments of parcels within the Section 21 property owned by Grantor to revise lot lines.

7.1.3 The Parties agree that the Protected Property may be used for density calculations and to satisfy the open space requirements of King County Code 21A.14.040 for a rural clustered subdivision on the Section 21 property owned by Grantor only if such subdivision is carried out under a development agreement as authorized by RCW 36.70B.170.

7.2 Grantor retains responsibility for the following obligations:

7.2.1 Taxes. The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Protected Property. Upon five days written notice to the Grantor, the Grantee shall have the right, but not the obligation, to pay any taxes or assessments levied against the Property in accordance with any bill, statement or estimate procured from the appropriate authority. If the

Grantee ever pays any taxes or assessments levied against the Property, the Grantor shall reimburse the Grantee for the same, with interest until reimbursed at the maximum rate allowed by law. The Grantor shall reimburse the Grantee for these sums plus any reasonable attorneys' fees and court costs incurred to collect such sums.

7.2.2 Upkeep, Maintenance, Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall prevent the perfection of any liens against the Protected Property that are not subordinate to this Easement arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

7.2.3 Control. Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an owner or operator with respect to the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or the Model Toxics Control Act, as amended ("MTCA").

7.2.4 Liability and Liability and Indemnification. Grantor hereby agrees to release, hold harmless, indemnify, and defend Grantee, its officers, employees and agents from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, judgments or administrative actions, including, without limitation, reasonable attorney's and consultant's fees, resulting from the negligent acts or omissions of Grantor, its officers, employees or agents, arising from or in any way connected with (1) injury to or death of any person, or physical damage to any property, resulting from any act,

omission, condition, or other matter related to or occurring on or about the Protected Property; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation or requirement, including without limitation, CERCLA and MTCA, by Grantor, its officers, employees and agents; or (3) the presence or release in, on, from; or about the Protected Property, at any time, of any hazardous substances, caused solely by the Grantor.

**8. Grantee's Remedies.**

8.1 Notice of Failure. If the Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, the Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured.

8.2 Grantor's Failure to Respond. The Grantee may bring an action as provided in subsection 8.3 if Grantor:

8.2.1 Fails to cure the violation within thirty (30) days after receipt of a notice of violation from the Grantee; or

8.2.2 Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

8.3 Grantee Action. The Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement. This right shall include, but not be limited to:

8.3.1 Enjoining the violation, ex-parte as necessary and as allowed under applicable civil rules, by temporary or permanent injunction;

8.3.2 Recovering any damages to which it may be entitled for violation of the terms of this Easement or for injury to the Protected Property; and

8.3.3 Requiring the restoration of the Protected Property to the condition that existed prior to any such injury. The Grantee shall be entitled to a mandatory injunction, requiring restoration, even if the monetary value of the loss is less than the restoration cost, as the parties acknowledge that the diminution in monetary value is not an adequate remedy at law, unless both parties agree thereto.

8.4 Immediate Action Required. The notice provisions of sections 8.1 and 8.2 notwithstanding, if the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, the Grantee may pursue its remedies authorized by the provisions of this Easement, without prior notice to Grantor or without waiting for the period provided for cure to expire.

8.5 Nature of Remedy. The Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. The Grantee shall be entitled to the injunctive relief described in this section in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described, in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8.6 Cost of Restoration. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorney's fees and reasonable consultant's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantors or those of its successors, or assigns, against whom a judgment is entered; provided, however, that if Grantors ultimately prevail in a judicial enforcement action each party shall bear is own costs.

8.7 The Grantee's Forbearance. The Grantee acknowledges its commitment to protect the Protected Property, including enforcement of the terms of this Easement. Any forbearance by the Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any right under this Easement. No delay or omission by the

Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8.8 Waiver of Certain Defenses. Grantor acknowledges that the Grantee and its successors and assigns have limited resources for monitoring compliance with the terms of this Easement. In recognition of this fact, Grantor hereby waives any defense it may have against an enforcement action undertaken by the Grantee or its successors or assigns based upon laches (e.g., delay by the Grantee in enforcing the terms of this Easement), estoppel (e.g., a claim by Grantor that, in reliance on a prior oral rather than written statement of the Grantee, it undertook a use or activity on the Protected Property deemed by the Grantee to be inconsistent with the Purpose of this Easement ) or prescription.

8.9 Acts Beyond Grantor's Control. Grantor shall not be in default or violation as to any obligation created hereby and no condition precedent or subsequent shall be deemed to fail to occur if Grantor is prevented from fulfilling such obligation by, or such condition fails to occur due to, (a) actions upon the Protected Property by trespassers or other third parties not under Grantor's reasonable control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or (b) any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes.

8.10 Violations of Easements by Third Parties. Grantor will not be deemed to be in violation of this Easement when there are violations of the terms of this Easement by parties other than Grantor, its officers, employees, agents or contractors. Provided, however, Grantor has an affirmative duty to cooperate in the prosecution of any third parties violating the terms of this Easement.

9. **Term**.

9.1 This Easement shall be recorded in the records of King County, Washington and shall be a burden upon and shall run with the Protected Property until terminated in one of the following ways:

9.1.1 If Grantor executes a fully approved and authorized Development Agreement with King County, as authorized by RCW 36.70B.170, for a rural clustered subdivision within the Section 21 property owned by Grantor that includes the Protected Property in a tract or tracts to satisfy the requirements of King County Code 21A.14.040, then King County shall execute an appropriate document to relinquish this Easement at the time that the tract or tracts are

permanently protected under the terms of the Development Agreement.

9.1.2 If the Protected Property has not been included in a permanent open space tract or tracts as part of a Development Agreement for a rural clustered subdivision prior to the expiration of a twelve (12) year term that shall commence on the effective date of the Open Space Agreement, the Parties agree that the Easement shall be replaced with a permanent conservation easement with terms that are substantially similar to the Grantee's then standard form of conservation easement for protecting natural areas. The permanent conservation easement shall allow road and utility corridors consistent with the terms applicable to County Open Space under the BDUGGA Section 7.5, the applicable provisions of which are set forth in Section 7.1.1 of this Easement. If the Parties are unable to agree on the form of a permanent conservation easement prior to the expiration of the twelve (12) year term, then Grantor shall within one hundred twenty (120) days thereafter convey the Protected Property to the County in fee pursuant to a purchase and sale agreement substantially similar to the agreement used to convey the County Open Space as called for by Section 3.2 of the Open Space Agreement. Any Protected Property conveyed in fee shall be subject to use by Grantor consistent with the terms applicable to County Open Space under BDUGAA Section 7.5, the applicable provisions of which are set forth in Section 7.1.1 of this Easement. The exercise of such rights will require execution of appropriate easements to be granted by the County. Conveyance of the Protected Property in fee to Grantee shall terminate this Easement.

9.1.3 Grantor may elect to terminate this Easement at any time. Grantor may only terminate this Easement, however, if it contemporaneously replaces the this Easement with a permanent conservation easement on the Protected Property in a form agreed to by the Grantee and consistent with the terms and in the manner described in Section 9.1.2 of this Agreement, or if it conveys the Protected Property to the County consistent with the terms and in the manner described in Section 9.1.2 of this Agreement.

**10. <u>Exhibits</u>.**

The following exhibits are attached hereto:

Exhibit A – Legal Description for Protected Property
Exhibit B - Permitted Encumbrances

11. **Written Notices.**

11.1 All Notices required by this Agreement shall be in writing, signed by the sending party, and shall be considered properly delivered when personally delivered, when received by facsimile, or on the third day following mailing, postage prepaid, certified mail, return receipt requested to:

| | |
|---|---|
| Grantee: | King County Department of Natural Resources and Parks<br>Water and Land Resources Division<br>201 South Jackson Street, Suite 600<br>Seattle, WA 98104 |
| Grantor: | Brian Ross<br>BD VILLAGE PARTNERS, L.P.<br>10220 NE Points Drive, Suite 120<br>Kirkland, WA 98033 |
| With a copy to: | John Hempelmann<br>CAIRNCROSS & HEMPELMANN<br>524 Second Avenue, Suite 500<br>Seattle, WA 98104 |

11.2 Either party may modify the above notice delivery information by providing written notice to the other party at the address set forth above, or such subsequent address that has been properly provided in accordance with the paragraph's terms.

12. **Public Access.**

No general public access to any portion of the Protected Property is conveyed by this Easement unless specifically referenced in the Exhibits attached hereto.

13. **Grantor's Title Warranty.**

Grantor warrants that it has good and sufficient title to the Property, free from all encumbrances except those set forth in Attachment B attached to and made ~~a~~ part of this Deed ("Permitted Encumbrances"), and hereby promises to defend the same against all claims that may be made against it.

13. **Interpretation**.

This Deed shall be interpreted under the laws of Washington, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

14. **Severability**.

If any provision of this Deed is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions, unless the remaining provisions cannot be construed in such a way as to protect any of the Conservation Values intended to be protected by this Grant of Easement.

15. **Acceptance**.

The Grantee hereby accepts the granting of this Conservation Easement Deed.

GRANTOR: BD VILLAGE PARTNERS, L.P.

By: Yarrow Bay Development, LLC
General Partner

_____
Brian Ross, CEO

GRANTEE: KING COUNTY

By: _____
Theresa Jennings, Director
Department of Natural Resources and Parks

STATE OF WASHINGTON )
)ss:
COUNTY OF KING )

On this _____ day of _____, 200__ before me personally appeared _____, to me known to be the _____ _____, of _____, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of the corporation and that the seal affixed is the seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

_____
Notary Public in and for the
State of Washington
Residing at: _____
My Commission Expires: _____
Printed Name: _____

STATE OF WASHINGTON )
)ss:
COUNTY OF KING )

On this _____ day of _____, 200__ before me personally appeared _____, to me known to be the _____ _____, of _____, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of the municipal corporation and that the seal affixed is the seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

_____
Notary Public in and for the
State of Washington
Residing at: _____
My Commission Expires: _____
Printed Name: _____

## *EXHIBIT "A"*

THE VILLAGES
13.12 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1. 2009

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, INCLUDING LOT F, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOT BEING IN SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 21;
THENCE SOUTH 89°25'53" EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, 362.68 FEET;
THENCE LEAVING SAID NORTH LINE SOUTH 02°12'15" WEST, 155.72 FEET;
THENCE SOUTH 13°00'12" EAST, 158.26 FEET;
THENCE SOUTH 14°45'13" WEST, 233.06 FEET;
THENCE SOUTH 01°10'12" EAST, 290.67 FEET;
THENCE SOUTH 10°29'55" EAST, 162.86 FEET;
THENCE SOUTH 56°19'42" EAST, 213.95 FEET;
THENCE SOUTH 28°02'21" EAST, 278.04 FEET;
THENCE SOUTH 10°12'40" WEST, 301.32 FEET;
THENCE SOUTH 41°04'29" WEST, 243.89 FEET;
THENCE SOUTH 85°08'19" WEST, 279.95 FEET;
THENCE NORTH 83°39'51" WEST, 268.72 FEET;
THENCE NORTH 55°54'16" WEST, 222.18 FEET;
THENCE NORTH 42°00'26" WEST, 204.02 FEET TO A LINE 30 FEET EASTERLY OF AND PARALLEL WITH THE CENTERLINE OF 218TH AVENUE SE;
THENCE ALONG SAID PARALLEL LINE BEING A CURVE TO THE LEFT HAVING A RADIAL BEARING OF NORTH 65°22'24" WEST AND A RADIUS OF 1474.40 FEET, THROUGH A CENTRAL ANGLE OF 13°03'38", AN ARC DISTANCE OF 336.09 FEET TO THE SOUTHWESTERLY INTERSECTION OF THE COMMON LINE OF SAID LOT F AND LOT E, SAID BOUNDARY LINE ADJUSTMENT AND SAID PARALLEL LINE;
THENCE ALONG SAID COMMON LINE OF SAID LOTS F AND E THE FOLLOWING COURSES AND DISTANCES:

THENCE SOUTH 05°14'03" EAST, 104.72 FEET;
THENCE SOUTH 27°16'06" EAST, 161.07 FEET;
THENCE SOUTH 51°36'01" EAST, 123.72 FEET;
THENCE SOUTH 23°35'52" EAST, 99.61 FEET;
THENCE SOUTH 38°54'13" EAST, 150.32 FEET;
THENCE NORTH 83°52'28" EAST, 371.44 FEET;
THENCE NORTH 76°55'15" EAST, 142.82 FEET;
THENCE NORTH 41°20'18" EAST, 64.18 FEET;
THENCE NORTH 05°45'20" EAST, 210.14 FEET;
THENCE NORTH 53°41'43" WEST, 167.31 FEET;
THENCE NORTH 23°23'31" WEST, 92.07 FEET;
THENCE NORTH 07°50'11" WEST, 126.53 FEET;

## *EXHIBIT "A"*

THE VILLAGES
6.80 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

THAT PORTION OF LOT B, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOT BEING IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT B;

THENCE NORTH 58°23'45" EAST ALONG THE EASTERLY LINE OF SAID LOT B, 979.33 FEET TO AN ANGLE POINT ON SAID EASTERLY LINE AND THE TRUE POINT OF BEGINNING;
THENCE NORTHERLY ALONG SAID EASTERLY LINE TO THE SOUTHEASTERLY RIGHT OF WAY OF SE AUBURN – BLACK DIAMOND ROAD, SAID RIGHT OF WAY BEING 30 FEET SOUTHEASTERLY OF THE CENTERLINE;
THENCE SOUTH 47°22'39" WEST ALONG SAID RIGHT OF WAY, 401.82 FEET;
THENCE LEAVING SAID RIGHT OF WAY SOUTH 09°16'44" EAST, 211.14 FEET;
THENCE SOUTH 01°47'28" EAST, 189.88 FEET;
THENCE SOUTH 03°39'17" WEST, 279.32 FEET;
THENCE SOUTH 07°36'00" WEST, 269.26 FEET;
THENCE SOUTH 11°38'30" WEST, 205.88 FEET;
THENCE SOUTH 44°38'31" WEST, 149.32 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 6.80 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12-01-09
MARK S. HARRISON
STATE OF WASHINGTON
21467
REGISTERED PROFESSIONAL LAND SURVEYOR

TRIAD ASSOCIATES
12112 115th Avenue NE Kirkland, Washington 98034-9623
425.821.8448 · 800.488.0756 · Fax 425.821.3481
www.triadassociates.net
Land Development Consultants

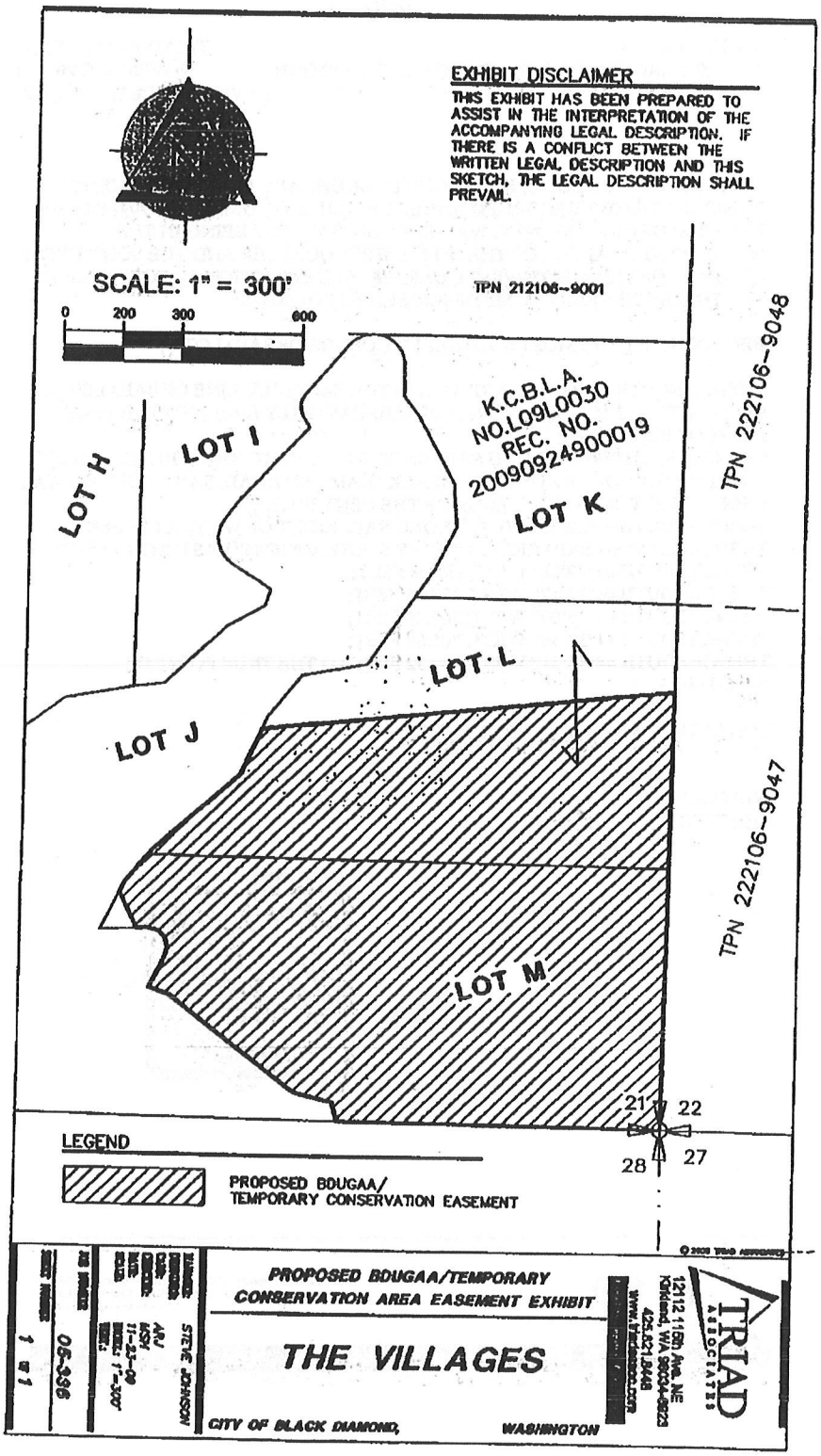


EXHIBIT DISCLAIMER
THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.
SCALE: 1" = 300'
0 200 300 600
TPN 212106-9001
TPN 222106-9048
K.C.B.L.A.
NO.L09L0030
REC. NO.
20090924900019
LOT H
LOT I
LOT K
LOT L
LOT J
LOT M
TPN 222106-9047
21
22
28
27
LEGEND
PROPOSED BDUGAA/
TEMPORARY CONSERVATION EASEMENT
PROPOSED BDUGAA/TEMPORARY
CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND,
WASHINGTON
TRIAD ASSOCIATES
12112 115th Ave. NE
Kirkland, WA 98034-8623
425.821.8448
STEVE JOHNSON
APJ
ADSY
11-23-09
1"=300'
06-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
27.58 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

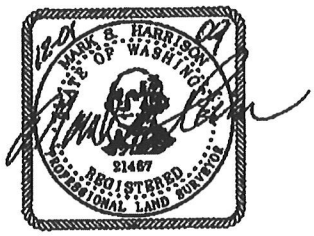
LOTS L AND M, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOTS BEING IN SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.;

EXCEPT THAT PORTION OF SAID LOT M DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID LOT M;
THENCE SOUTH 39°44'54" WEST ALONG THE WESTERLY LINE OF SAID LOT M, 88.93 FEET;
THENCE SOUTH 26°15'23" WEST ALONG SAID WESTERLY LINE, 31.10 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING ALONG SAID WESTERLY LINE SOUTH 26°15'23" WEST, 107.37 FEET;
THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 87°19'49" EAST, 93.57 FEET;
THENCE NORTH 26°33'54" WEST, 102.78 FEET TO THE TRUE POINT OF BEGINNING;

AND EXCEPT THAT PORTION OF SAID LOT L LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT L;
THENCE NORTH 00°49'04" EAST ALONG THE EASTERLY LINE OF SAID LOT L, 443.47 FEET TO THE BEGINNING OF THIS DESCRIBED LINE;
THENCE SOUTH 84°01'17" WEST, 1026.77 FEET TO THE WESTERLY LINE OF SAID LOT L AND THE TERMINUS OF THIS DESCRIBED LINE.

CONTAINING 27.58 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

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www.triadassociates.net
Land Development Consultants

## *EXHIBIT "A"*
*(CONTINUED)*

THENCE NORTH 20°41'38" WEST, 182.40 FEET;
THENCE NORTH 38°11'30" WEST, 143.90 FEET TO A POINT OF CURVE,
THENCE WESTERLY ON SAID CURVE TO THE LEFT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 57°20'38", AN ARC DISTANCE OF 100.08 FEET;
THENCE SOUTH 84°52'43" WEST, 146.06 FEET;
THENCE SOUTH 76°20'16" WEST, 107.82 FEET;
THENCE LEAVING SAID COMMON LINE, NORTH 46°21'09" EAST, 30.63 FEET;
THENCE NORTH 14°45'13" EAST, 116.53 FEET;
THENCE NORTH 05°11'53" WEST, 262.04 FEET;
THENCE NORTH 10°57'42" EAST, 187.27 FEET;
THENCE NORTH 03°49'00" WEST, 267.37 FEET TO THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER;
THENCE SOUTH 89°07'55" EAST ALONG SAID NORTH LINE, 46.91 FEET TO THE POINT OF BEGINNING;

EXCEPT ANY PORTION THEREOF LYING WITHIN SAID PARCEL E.

CONTAINING 13.12 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12-9-09
MARK S. HARRISON
STATE OF WASHINGTON
21467
REGISTERED
PROFESSIONAL LAND SURVEYOR

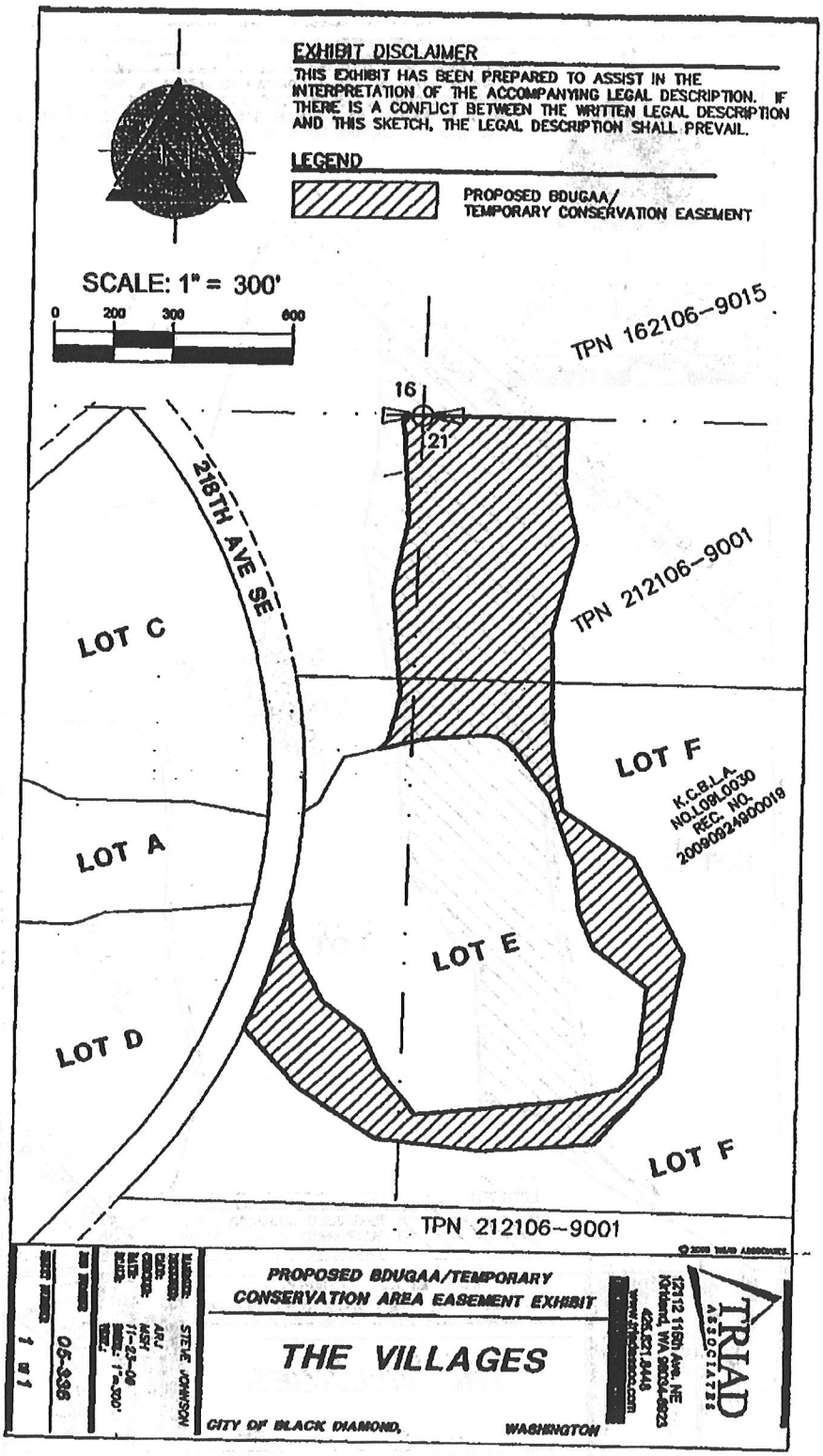
EXHIBIT DISCLAIMER
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LEGEND
PROPOSED BDUGAA/ TEMPORARY CONSERVATION EASEMENT
SCALE: 1" = 300'
0 200 300 600
TPN 162106-9015
16
21
218TH AVE SE
TPN 212106-9001
LOT C
LOT A
LOT D
LOT F
K.C.B.L.A. NO.L08L0030 REC. NO. 20090924900019
LOT E
LOT F
TPN 212106-9001
PROPOSED BDUGAA/TEMPORARY CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND, WASHINGTON
TRIAD ASSOCIATES
12212 116th Ave. NE
Kirkland, WA 98034-8023
425.821.8448
STEVE JOHNSON
ARJ
MSH
11-23-09
1"=300'
05-336
1 of 1

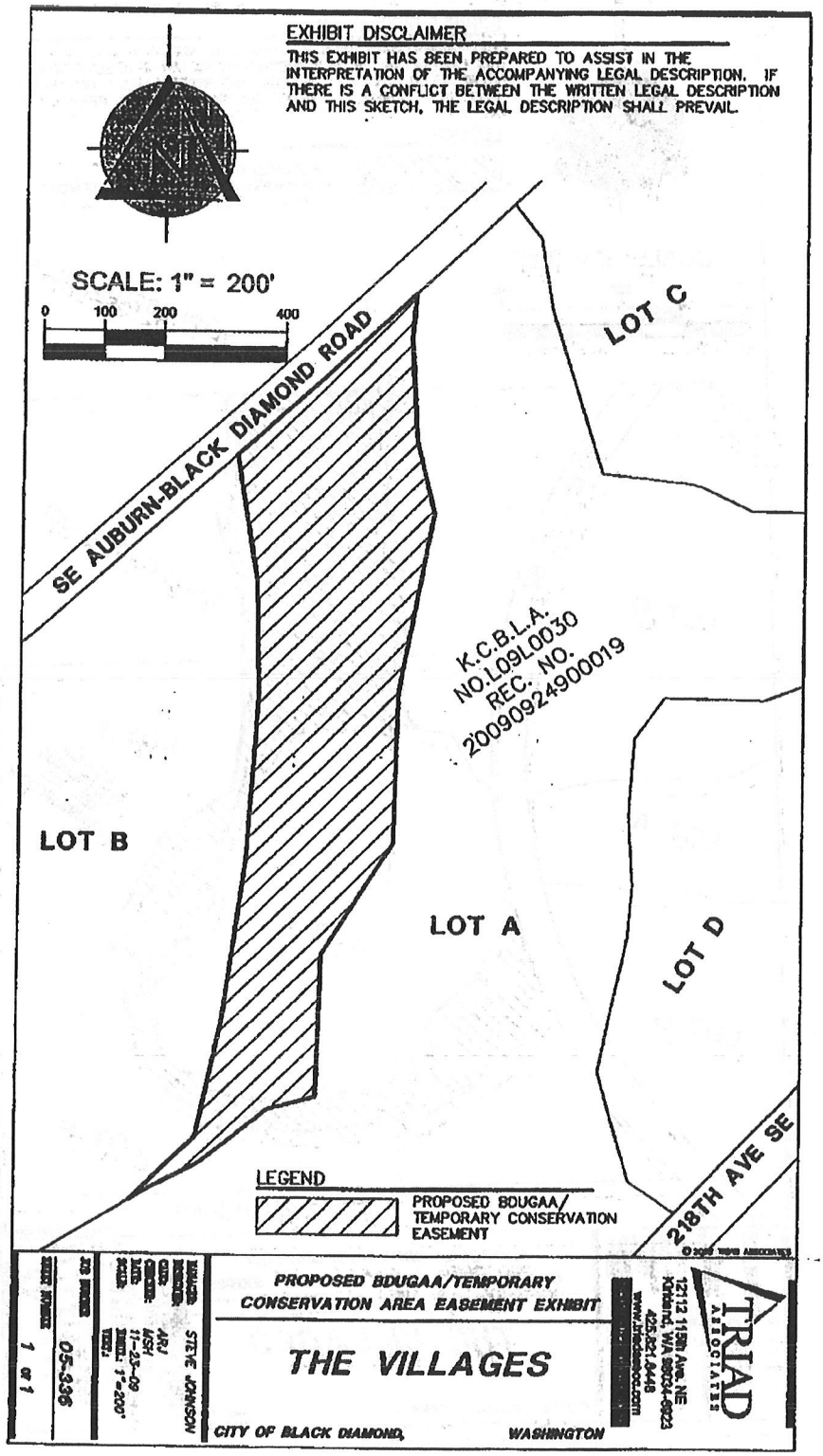
EXHIBIT DISCLAIMER
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SCALE: 1" = 200'
0
100
200
400
SE AUBURN-BLACK DIAMOND ROAD
LOT C
K.C.B.L.A.
NO.L09L0030
REC. NO.
20090924900019
LOT B
LOT A
LOT D
218TH AVE SE
LEGEND
PROPOSED BDUGAA/
TEMPORARY CONSERVATION
EASEMENT
PROPOSED BDUGAA/TEMPORARY
CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND,
WASHINGTON
TRIAD
ASSOCIATES
12112 115th Ave. NE
Kirkland, WA 98034-6923
425.821.8448
STEVE JOHNSON
ARJ
MSH
11-23-09
1"=200'
05-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

THAT PORTION OF LOT D, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOT BEING IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT D;

THENCE ALONG THE WESTERLY LINE OF SAID LOT D THE FOLLOWING COURSES AND DISTANCES:

NORTH 56°19'45" WEST, 93.65 FEET;
NORTH 15°49'31" WEST, 191.38 FEET;
NORTH 11°44'41" EAST, 230.05 FEET;
NORTH 04°53'02" EAST, 87.64 FEET;
NORTH 03°43'29" WEST, 117.53 FEET;
NORTH 03°45'28" EAST, 130.24 FEET;

THENCE LEAVING SAID WESTERLY LINE NORTH 83°53'20" EAST, 660.61 FEET TO A LINE 30 FEET WESTERLY OF AND PARALLEL WITH THE CENTERLINE OF 218TH AVENUE SE;
THENCE ALONG SAID PARALLEL LINE BEING A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF NORTH 75°19'24" WEST AND A RADIUS OF 1390.40 FEET, THROUGH A CENTRAL ANGLE OF 09°03'06", AN ARC DISTANCE OF 219.66 FEET;
THENCE LEAVING SAID PARALLEL LINE NORTH 56°50'25" WEST, 132.11 FEET;
THENCE SOUTH 86°11'20" WEST, 178.45 FEET;
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THENCE SOUTH 10°09'41" WEST, 403.70 FEET;
THENCE SOUTH 02°07'21" EAST, 187.34 FEET TO SAID PARALLEL LINE;
THENCE SOUTH 43°09'41" WEST ALONG SAID PARALLEL LINE, 38.39 FEET TO SAID MOST SOUTHERLY CORNER OF SAID LOT B AND THE POINT OF BEGINNING.

CONTAINING 4.17 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12/1/09
MARK S. HARRISON
STATE OF WASHINGTON
21487
REGISTERED PROFESSIONAL LAND SURVEYOR

TRIAD ASSOCIATES
12112 115th Avenue NE Kirkland, Washington 98034-9623
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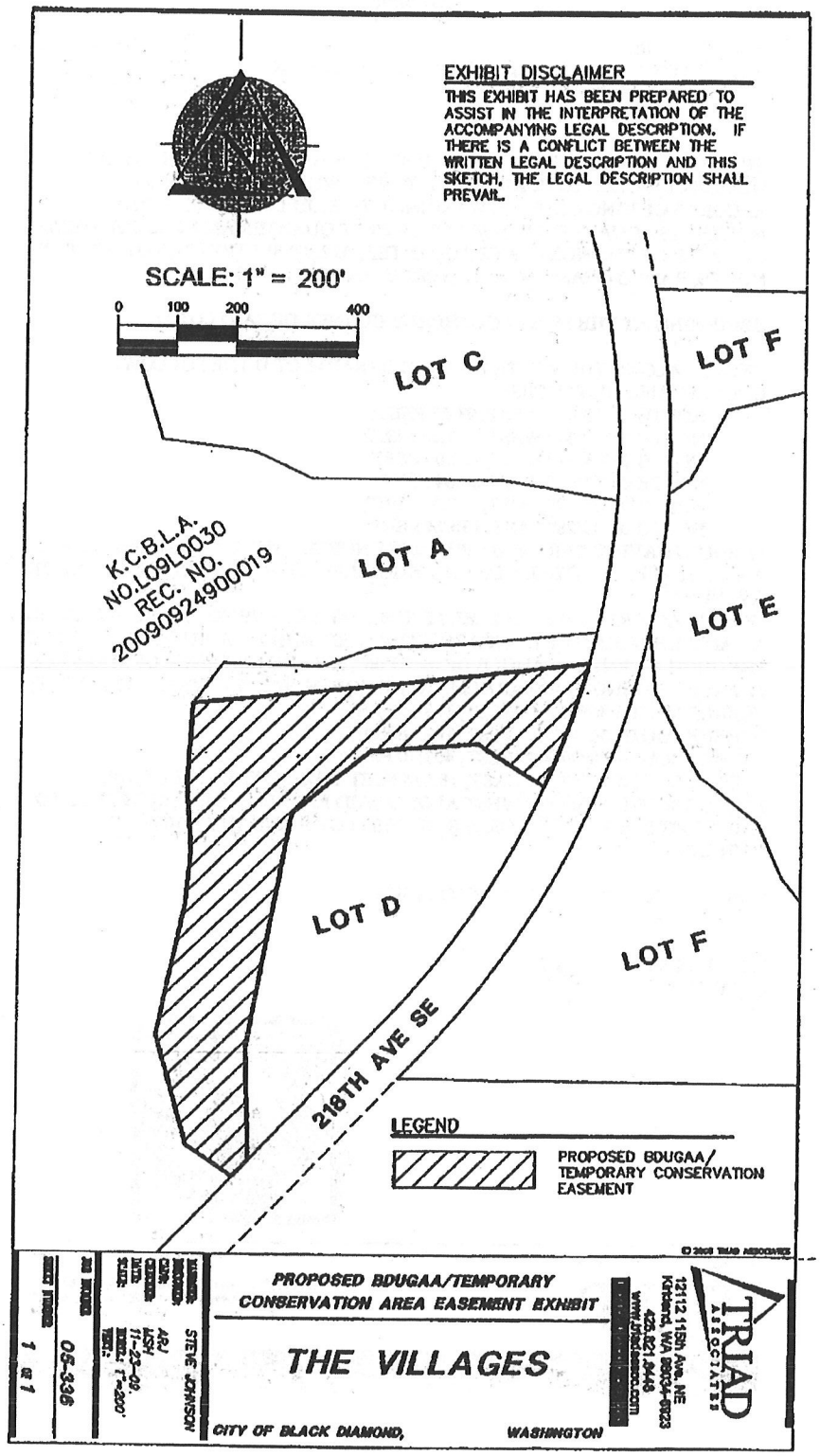
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SCALE: 1" = 200'
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LOT C
LOT F
LOT A
K.C.B.L.A.
NO.L09L0030
REC. NO.
20090924900019
LOT E
LOT D
LOT F
218TH AVE SE
LEGEND
PROPOSED BDUGAA/
TEMPORARY CONSERVATION
EASEMENT
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CONSERVATION AREA EASEMENT EXHIBIT
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CITY OF BLACK DIAMOND,
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STEVE JOHNSON
ARJ
MSH
11-23-09
1"=200'
05-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

THAT PORTION OF LOT D, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOT BEING IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT D;

THENCE ALONG THE WESTERLY LINE OF SAID LOT D THE FOLLOWING COURSES AND DISTANCES:

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THENCE SOUTH 43°09'41" WEST ALONG SAID PARALLEL LINE, 38.39 FEET TO SAID MOST SOUTHERLY CORNER OF SAID LOT B AND THE POINT OF BEGINNING.

CONTAINING 4.17 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

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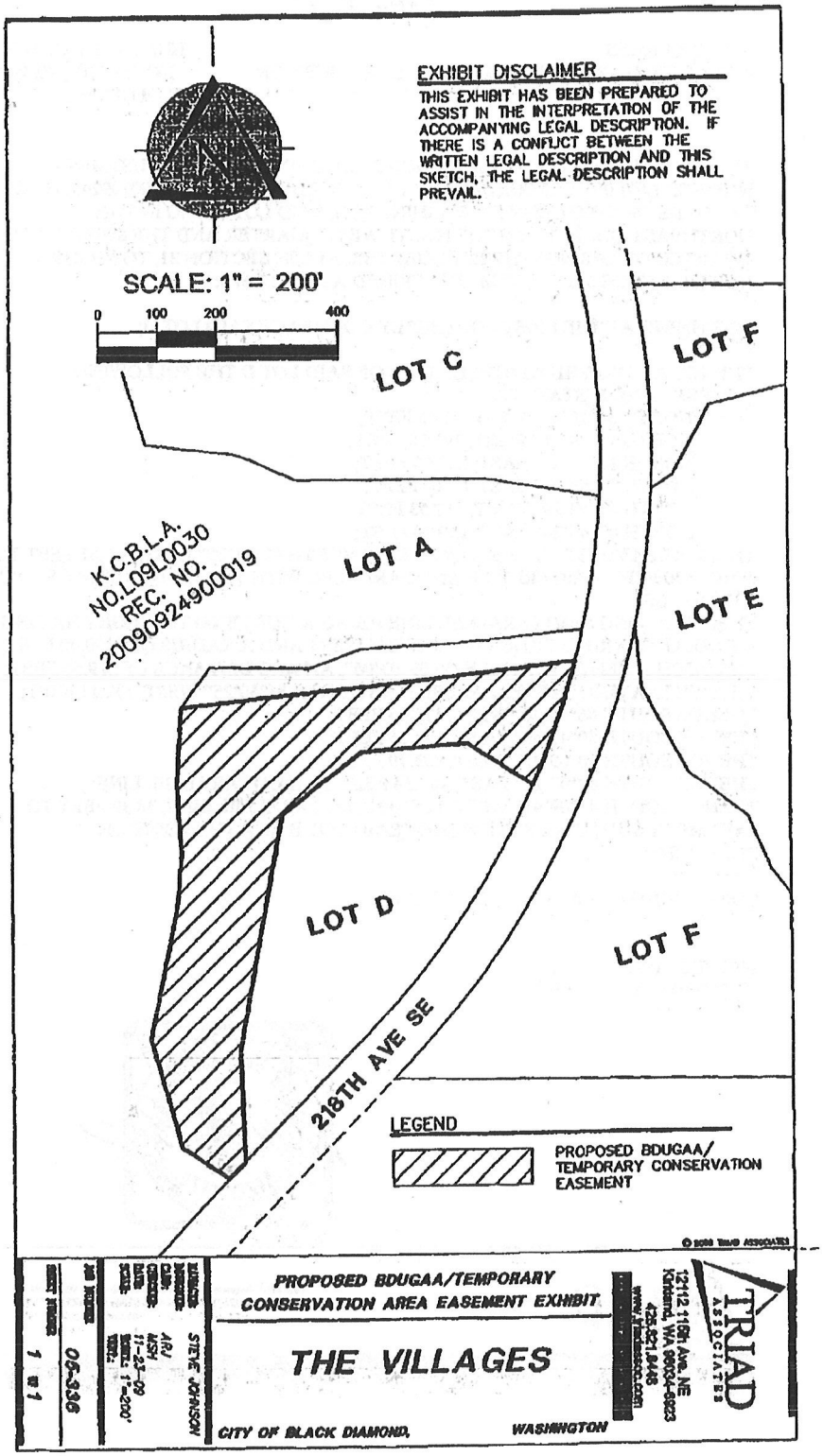
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PROPOSED BDUGAA/TEMPORARY
CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND,
WASHINGTON
STEVE JOHNSON
ARJ
MSH
11-23-09
1"=200'
06-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

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THENCE ALONG THE WESTERLY LINE OF SAID LOT D THE FOLLOWING COURSES AND DISTANCES:

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CONTAINING 4.17 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12/2/09
MARK B. HARRISON
STATE OF WASHINGTON
21467
REGISTERED PROFESSIONAL LAND SURVEYOR

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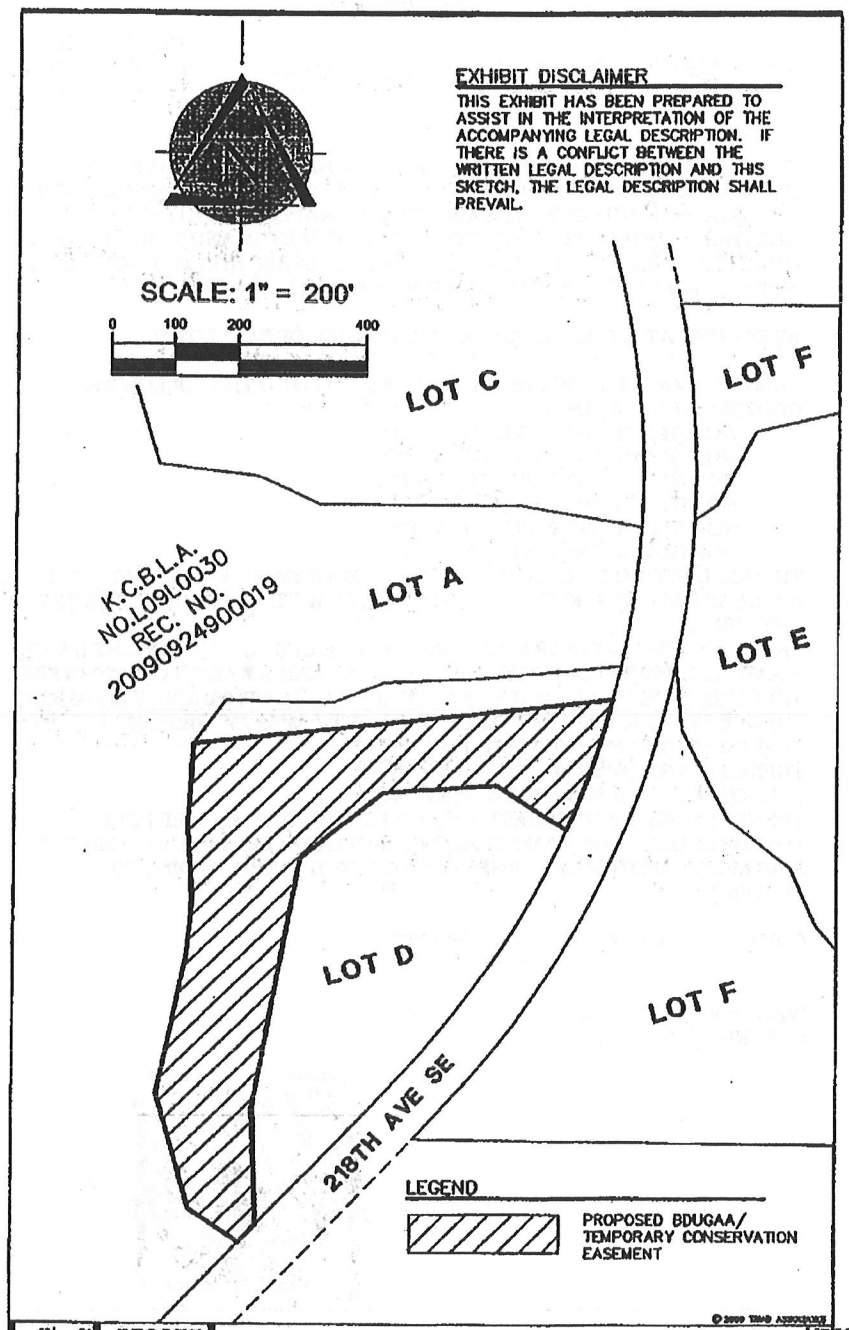
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425.821.8448
STEVE JOHNSON
ARJ
MSH
11-23-09
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05-336
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## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

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CONTAINING 4.17 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12-01-09
MARK S. HARRISON
STATE OF WASHINGTON
21407
REGISTERED PROFESSIONAL LAND SURVEYOR

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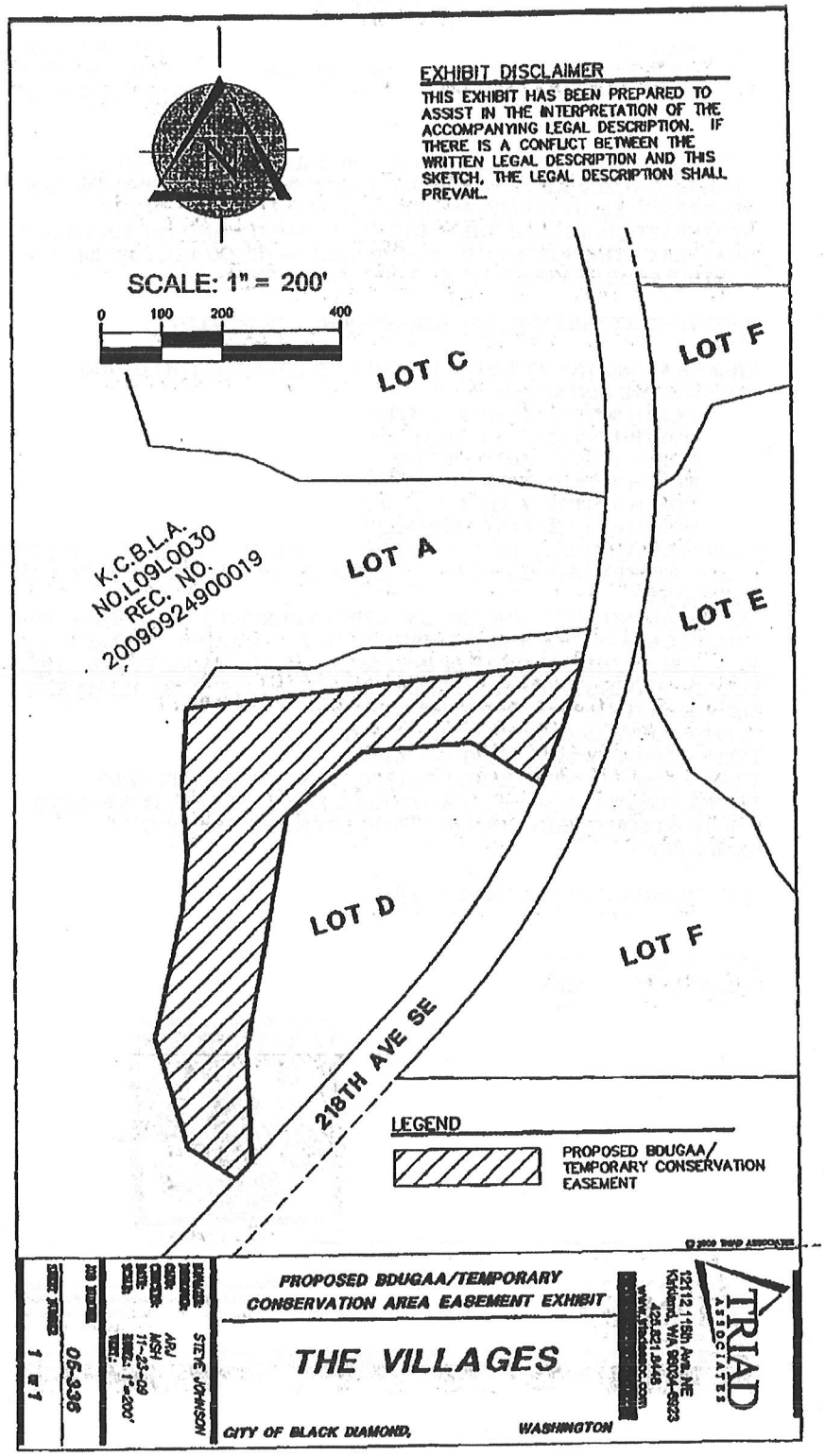
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Kirkland, WA 98034-6923
425.821.8448
STEVE JOHNSON
APJ
MSH
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05-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

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CONTAINING 4.17 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

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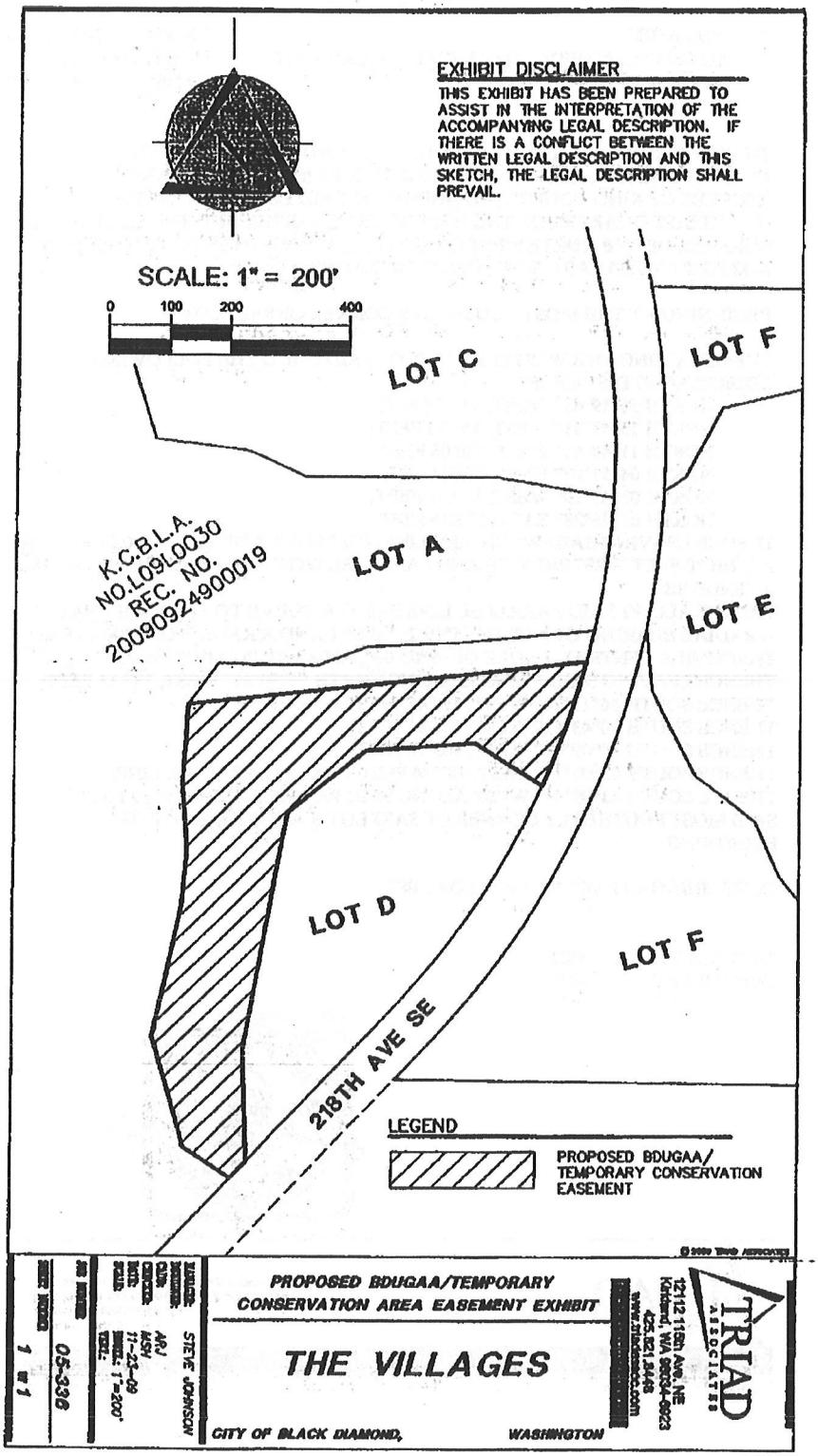
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## *EXHIBIT "A"*

THE VILLAGES
4.17 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
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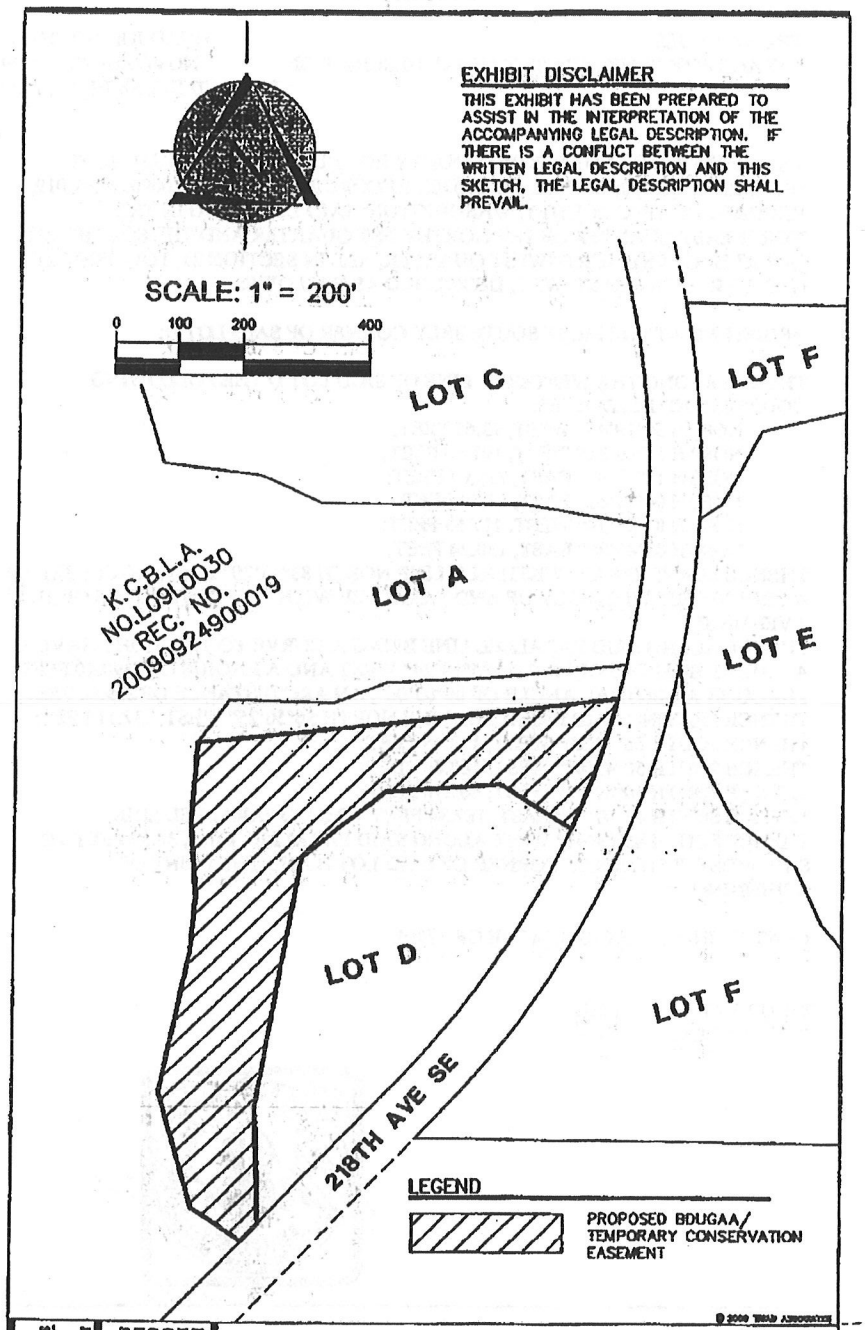
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STEVE JOHNSON
ARJ
MSH
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05-336
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## *EXHIBIT "A"*

THE VILLAGES
3.62 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

THAT PORTION OF LOTS H AND I, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOTS BEING IN NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT H;
THENCE ALONG THE WESTERLY LINE OF SAID LOT H THE FOLLOWING COURSES AND DISTANCES:

NORTH 17°15'41" WEST, 94.47 FEET;
NORTH 03°20'08" EAST, 81.41 FEET;
NORTH 16°23'06" WEST, 247.39 FEET;

THENCE LEAVING SAID WESTERLY LINE SOUTH 66°03'10" EAST, 67.58 FEET;
THENCE SOUTH 85°31'06" EAST, 303.62 FEET;
THENCE NORTH 83°05'36" EAST, 197.29 FEET;
THENCE NORTH 51°39'22" EAST, 194.39 FEET TO THE EASTERLY LINE OF SAID LOT I;
THENCE ALONG SAID EASTERLY LINE OF SAID LOT I AND THE SOUTHERLY LINE OF SAID LOT H THE FOLLOWING COURSES AND DISTANCES:

SOUTH 57°01'32" EAST, 116.14 FEET;
SOUTH 17°01'00" WEST, 44.36 FEET;
SOUTH 60°40'20" WEST, 106.98 FEET;
SOUTH 46°42'18" WEST, 211.14 FEET;
SOUTH 82°34'17" WEST, 78.45 FEET;
SOUTH 79°53'54" WEST, 174.33 FEET;
SOUTH 52°40'01" WEST, 261.30 FEET TO THE POINT OF BEGINNING;

CONTAINING 3.62 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

12-01-09
MARK B. HARRISON
STATE OF WASHINGTON
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REGISTERED PROFESSIONAL LAND SURVEYOR

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425.821.8448 • 800.488.0756 Fax 425.821.3481
www.triadassociates.net

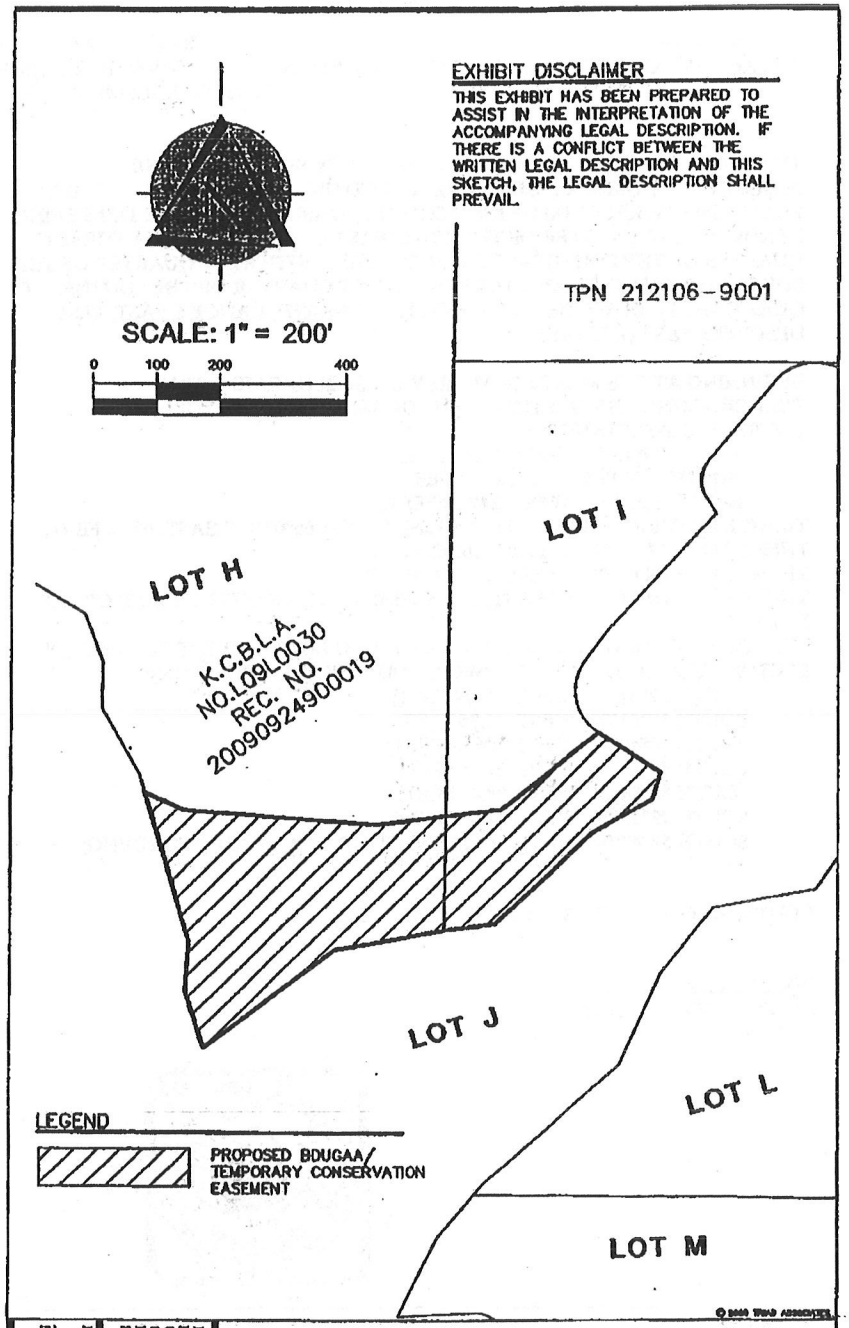


EXHIBIT DISCLAIMER
THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.
SCALE: 1" = 200'
0
100
200
400
TPN 212106-9001
LOT I
LOT H
K.C.B.L.A.
NO.L09L0030
REC. NO.
20090924900019
LOT J
LOT L
LOT M
LEGEND
PROPOSED BDUGAA/
TEMPORARY CONSERVATION
EASEMENT
PROPOSED BDUGAA/TEMPORARY
CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND,
WASHINGTON
TRIAD
ASSOCIATES
12112 115th Ave. NE
Kirkland, WA 98034-8923
425.821.8448
STEVE JOHNSON
AR/
KSH
11-23-09
SCALE: 1"=200'
05-336
1 of 1

## *EXHIBIT "A"*

THE VILLAGES
3.11 AC TEMP CONSERV ESMT LEGAL DESCRIPTION

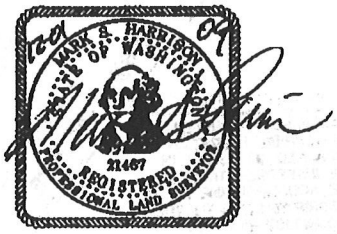
TRIAD JOB NO. 05-336
NOVEMBER 20, 2009
REVISED DECEMBER 1, 2009

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND LOT G, KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER L09L0030, RECORDED UNDER RECORDING NUMBER 20090924900019, RECORDS OF KING COUNTY, WASHINGTON, SAID LOT BEING IN NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, ALL IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY COMMON CORNER OF SAID LOT G AND LOT J OF SAID BOUNDARY LINE ADJUSTMENT;
THENCE NORTH 47°40'01" WEST ALONG THE WESTERLY LINE OF SAID LOT G, 699.73 FEET TO THE NORTHWEST CORNER OF SAID LOT G AND A POINT ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER;
THENCE NORTH 89°21'07" WEST ALONG SAID SOUTH LINE, 119.86 FEET TO A LINE 30 FEET EASTERLY OF AND PARALLEL WITH THE CENTERLINE OF 218TH AVENUE SE;
THENCE ALONG SAID PARALLEL LINE BEING A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF SOUTH 84°23'21" EAST AND A RADIUS OF 530.96 FEET, THROUGH A CENTRAL ANGLE OF 37°34'52", AN ARC DISTANCE OF 348.26 FEET;
THENCE NORTH 43°11'31" EAST ALONG SAID PARALLEL LINE, 125.36 FEET;
THENCE LEAVING SAID PARALLEL LINE SOUTH 10°58'34" EAST, 266.00 FEET;
THENCE SOUTH 15°23'11" EAST, 246.05 FEET;
THENCE SOUTH 46°34'07" EAST, 310.57 FEET;
THENCE SOUTH 50°52'33" EAST, 259.30 FEET TO THE SOUTH LINE OF SAID LOT G;
THENCE NORTH 89°59'20" WEST ALONG SAID SOUTH LINE, 132.62 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.11 ACRES, MORE OR LESS.

WRITTEN BY: MSH
CHECKED BY: ARJ

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12112 115th Avenue NE Kirkland, Washington 98034-9623
425.821.8448 · 800.488.0756 · Fax 425.821.3481
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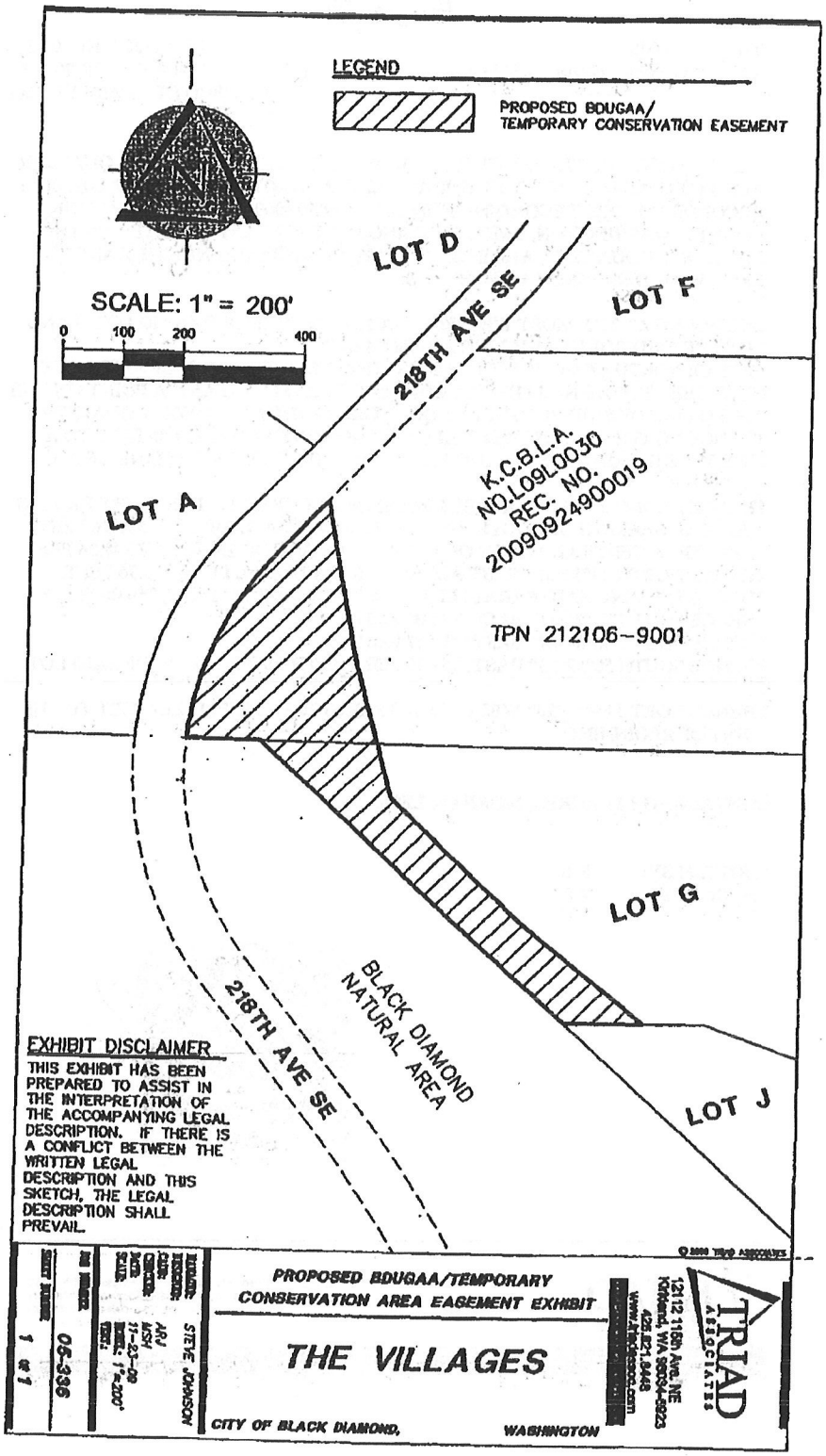
Land Development Consultants


LEGEND
PROPOSED BDUGAA/
TEMPORARY CONSERVATION EASEMENT
SCALE: 1" = 200'
0
100
200
400
LOT D
LOT F
218TH AVE SE
LOT A
K.C.B.L.A.
NO.L09L0030
REC. NO.
2009092490019
TPN 212106-9001
LOT G
BLACK DIAMOND
NATURAL AREA
218TH AVE SE
LOT J
EXHIBIT DISCLAIMER
THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.
PROPOSED BDUGAA/TEMPORARY
CONSERVATION AREA EASEMENT EXHIBIT
THE VILLAGES
CITY OF BLACK DIAMOND, WASHINGTON
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www.triadassoc.com
STEVE JOHNSON
ARJ
MSH
11-23-09
1"=200'
05-336
1 of 1

# EXHIBIT "B"

2009-0645

## Permitted Encumbrances

Exhibit G

Legal Description of "Additional Open Space"

See Exhibit F's exhibit A

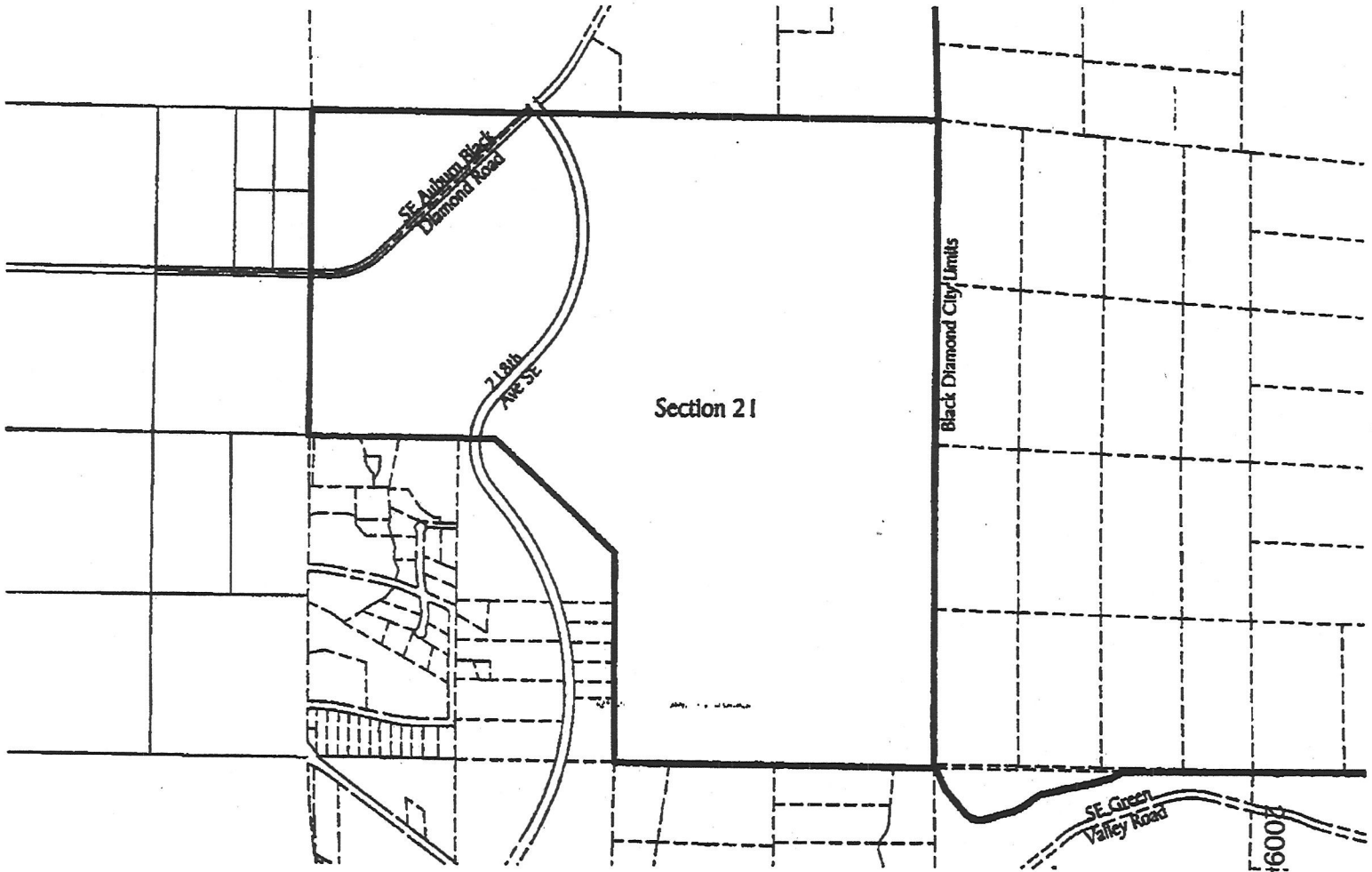



**Exhibit H - Section 21**

200906000

## Exhibit 5

## Temporary Conservation Easement Release

*After recording, return to:*

**BD Villages Partners, LP**
**ATTN: Megan Nelson**
**10220 NE Points Drive, Ste 310**
**Kirkland, WA 98033**
**(425) 898-2100**

**WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

**DOCUMENT TITLE(S)** (or transactions contained therein):

**Termination of Easement**

**REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:**

**20101022000202; 20100326000155**

☐ Additional reference #s on page ___ of document(s)

**GRANTOR(S)** (Last name first, then first name and initials)

**KING COUNTY, a political subdivision of the State of Washington**

☐ Additional names on page ___ of document

**LEGAL DESCRIPTION** (abbreviated: i.e., lot, block, plat or section, township, range)

KING COUNTY PARCEL NOS. _____

☒ Additional legal is on Exhibit A of document

*ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBERS*

| | | |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

## TERMINATION OF EASEMENT

THIS TERMINATION OF EASEMENT (this "**Termination**") is made as of this ____ day of _____, 201___ by KING COUNTY, a political subdivision of the State of Washington ("King County").

### Recitals

A. WHEREAS, BD Village Partners, LP granted a temporary conservation easement to King County in that certain Temporary Conservation Easement dated December 17, 2009, and recorded under King County Recording No. 20100326000155 (the "Conservation Easement"), wherein BD Village Partners, LP conveyed to King County a temporary easement for conservation purposes affecting certain parcels of land situated in King County, Washington in consideration of mutual covenants and provisions of that certain Open Space Agreement between BD Village Partners, LP and King County dated December 17, 2009 (the "Open Space Agreement").

B. WHEREAS, BD Village Partners, LP and King County recorded a certain Correction to Temporary Conservation Easement dated September 29, 2010 under King County Recording No. 20101022000202 in order to correct legal descriptions contained in the Conservation Easement.

C. WHEREAS, pursuant to the terms of the Open Space Agreement, the Conservation Easement shall terminate when BD Village Partners, LP executes a fully approved and authorized development agreement with King County for a rural clustered subdivision within Section 21 that includes open space in a tract or tracts to satisfy the requirements of King County Code 21A.14.040.

D. WHEREAS, BD Village Partners, LP and King County have executed a development agreement dated _____ and recorded under King County Recording No. _____ for a rural clustered subdivision.

E. WHEREAS, King County has approved a final plat under King County application number _____ that permanently protects in tracts certain open on King County Parcel No(s). _____ legally described on attached Exhibit A.

### Declaration

**NOW, THEREFORE**, King County hereby declares as follows:

1. Termination of Temporary Conservation Easement. As the owner of the benefit of the Temporary Conservation Easement, King County hereby terminates the Temporary Conservation Easement recorded under King County Recording No. 20100326000155 as well as the Correction to the Temporary Conservation Easement recorded under King County Recording No. 20101022000202 specifically for King County Parcel No(s) _____ legally described on attached Exhibit A.

2. Full Force and Effect. To the extent there is any conflict between this Termination and the Open Space Agreement, this Termination shall control. Notwithstanding the foregoing, except for King County Parcel No(s). _____ legally described on attached Exhibit A and certain King County parcels subject to previously executed easement terminations recorded under King County Recording No(s). _____, the Temporary Conservation Easement as it relates to land within Section 21 and Section 23 of unincorporated King County shall remain in full force and effect.

**IN WITNESS WHEREOF**, the King County has caused this Termination to be executed the day and year first above written.

**KING COUNTY,** a political subdivision of the State of Washington

By: _____
Name: _____
Its: _____

Approved as to form:

By: _____

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

I certify that _____ signed this instrument, on oath stated that he was authorized by the King County Executive to execute the instrument, and acknowledged it as the _____ of King County, a political subdivision of the State of Washington, to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201___.

_____
(Signature)

_____
(Printed Name)

Notary Public in and for the State
of Washington, residing at_____.
My commission expires_____.

## Exhibit 6

## Temporary Buffer Release

*After recording, return to:*

**BD Villages Partners, LP**
**ATTN: Megan Nelson**
**10220 NE Points Drive, Ste 310**
**Kirkland, WA 98033**
**(425) 898-2100**

**WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

**DOCUMENT TITLE(S)** (or transactions contained therein):

**Release of Temporary Buffer**

**REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:**

☐ Additional reference #s on page ___ of document(s)

**GRANTOR(S)** (Last name first, then first name and initials)

**KING COUNTY, a political subdivision of the State of Washington**

☐ Additional names on page ___ of document

**LEGAL DESCRIPTION** (abbreviated: i.e., lot, block, plat or section, township, range)

KING COUNTY PARCEL NOS. _____

☒ Additional legal is on Exhibit A of document

*ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBERS*

| | | |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

## RELEASE OF TEMPORARY BUFFER

THIS RELEASE OF TEMPORARY BUFFER (this "**Release**") is made as of this ____ day of _____, 201___ by KING COUNTY, a political subdivision of the State of Washington ("King County").

### Recitals

A. WHEREAS, BD Village Partners, LP owns property in Section 21 adjacent to the west border of the City of Black Diamond as described in the legal description attached as Exhibit A (the "Section 21 Property").

B. WHEREAS, BD Village Partners, LP granted a temporary development buffer within the easternmost five hundred (500) feet of its Section 21 Property to King County (the "Temporary Buffer") in that certain Open Space Agreement between BD Village Partners, LP and King County dated December 17, 2009 (the "Open Space Agreement").

C. WHEREAS, pursuant to the terms of the Open Space Agreement, the Temporary Buffer shall terminate when BD Village Partners, LP executes a fully approved and authorized development agreement with King County for a rural clustered subdivision within the Section 21 Property.

D. WHEREAS, BD Village Partners, LP and King County have executed a development agreement dated _____ and recorded under King County Recording No. _____ for a rural clustered subdivision within the Section 21 Property.

### Declaration

**NOW, THEREFORE**, King County hereby declares as follows:

1. Release of Temporary Buffer. As the owner of the benefit of the Temporary Buffer, King County hereby terminates the Temporary Buffer referenced in the Open Space Agreement.

2. Controlling Effect. To the extent there is any conflict between this Release and the Open Space Agreement, this Release shall control.

[*signature on the following page*]

**IN WITNESS WHEREOF**, the King County has caused this Release to be executed the day and year first above written.

**KING COUNTY,** a political subdivision of the State of Washington

By: _____
Name: _____
Its: _____

Approved as to form:

By: _____

STATE OF WASHINGTON )
) ss.
COUNTY OF KING )

I certify that _____ signed this instrument, on oath stated that he was authorized by the King County Executive to execute the instrument, and acknowledged it as the _____ of King County, a political subdivision of the State of Washington, to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201___.

_____
(Signature)

_____
(Printed Name)
Notary Public in and for the State
of Washington, residing at_____.
My commission expires_____.

**EXHIBIT A**

**Section 21 Property**

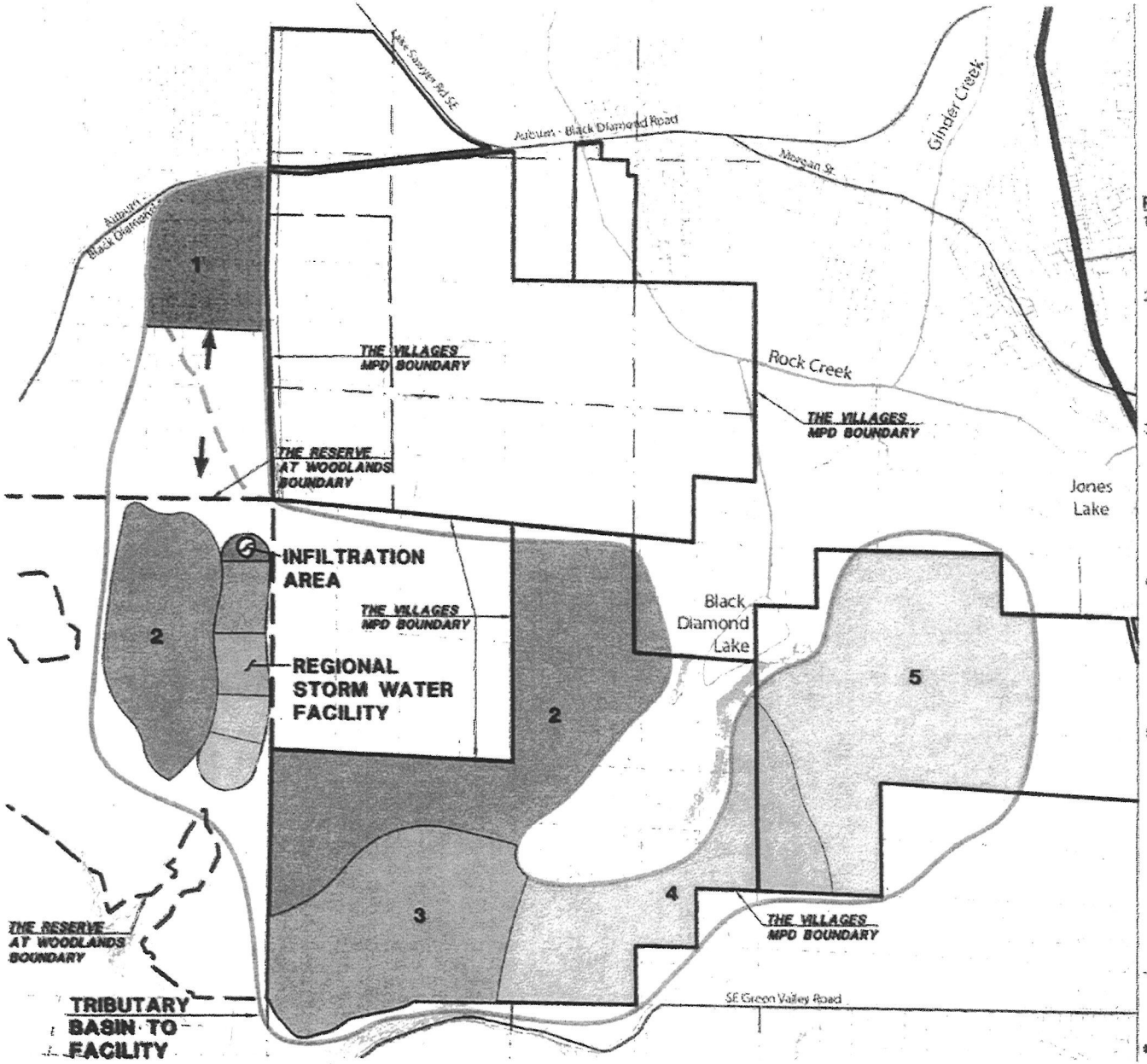
**Legal Description**

**[*to be added*]**

# Exhibit 7

## Regional Stormwater Facility Basin Map

# THE RESERVE AT WOODLANDS
# REGIONAL STORM WATER FACILITY BASIN MAP



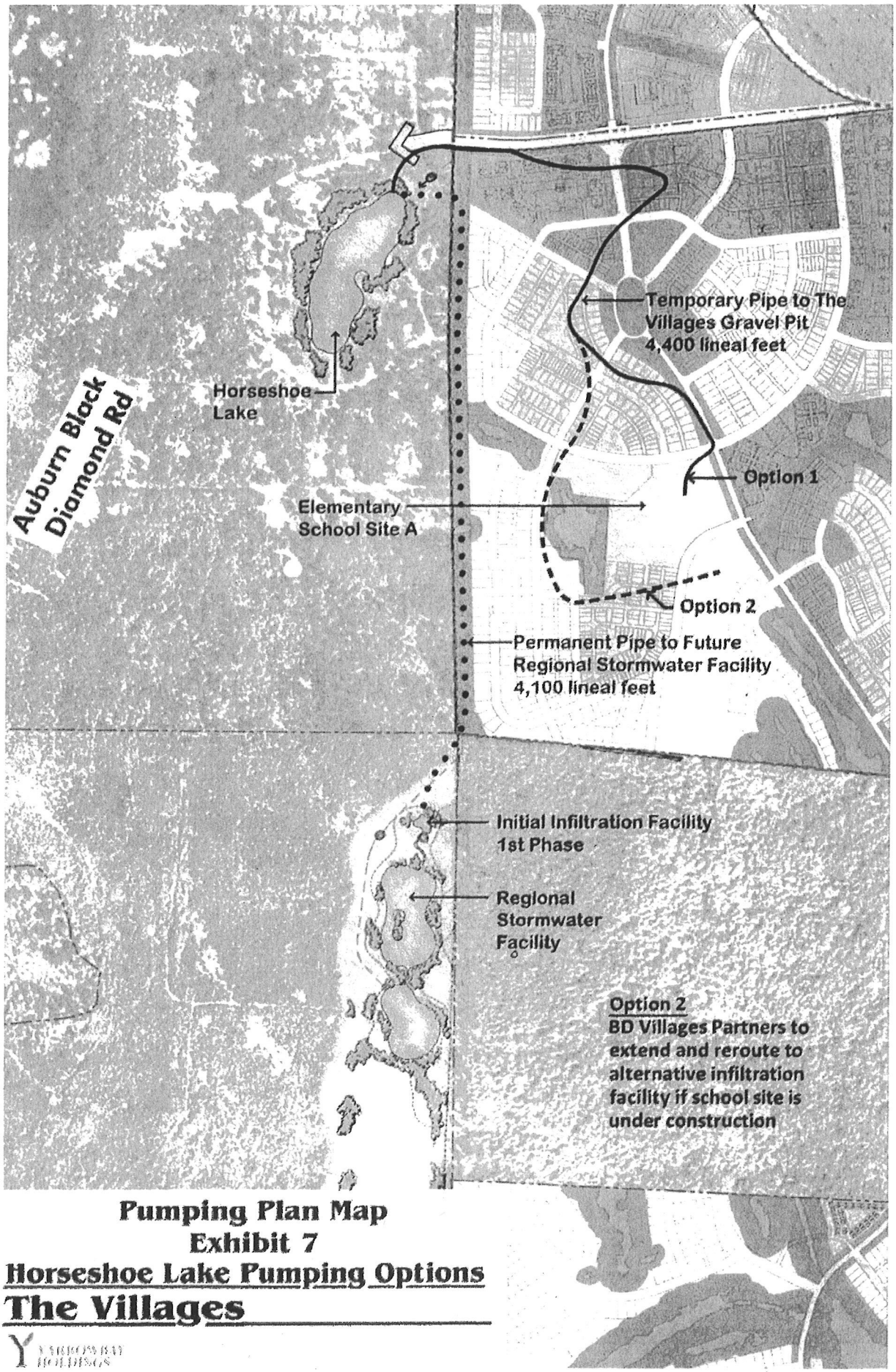

**PHASING**

1. PHASE 1
   a. INFILTRATION AREA 50%
   b. RECEIVING HORSESHOE LAKE WATER FOR TESTING
2. PHASE 2
   a. INFILTRATION AREA 100%
   b. WET POND WATER QUALITY TREATMENT 50%
   c. SECONDARY WATER QUALITY POLISHING 50%
   d. LIVE STORAGE 25%
3. PHASE 3
   a. INFILTRATION AREA (ALREADY COMPLETE)
   b. WET POND WATER QUALITY TREATMENT 75%
   c. SECONDARY WATER QUALITY POLISHING 75%
   d. LIVE STORAGE 50%
4. PHASE 4
   a. INFILTRATION AREA (ALREADY COMPLETE)
   b. WET POND WATER QUALITY TREATMENT 100%
   c. SECONDARY WATER QUALITY POLISHING 100%
   d. LIVE STORAGE 75%
5. PHASE 5
   a. INFILTRATION AREA (ALREADY COMPLETE)
   b. WET POND WATER QUALITY TREATMENT (ALREADY COMPLETE)
   c. SECONDARY WATER QUALITY POLISHING (ALREADY COMPLETE)
   d. LIVE STORAGE 100%

**Exhibit 8**

**Pumping Plan Map**

**[to be added]**




**Pumping Plan Map**
**Exhibit 7**
**Horseshoe Lake Pumping Options**
**The Villages**

YARROWBAY HOLDINGS

# Exhibit 9

# Monitoring Location Map

# Exhibit 9

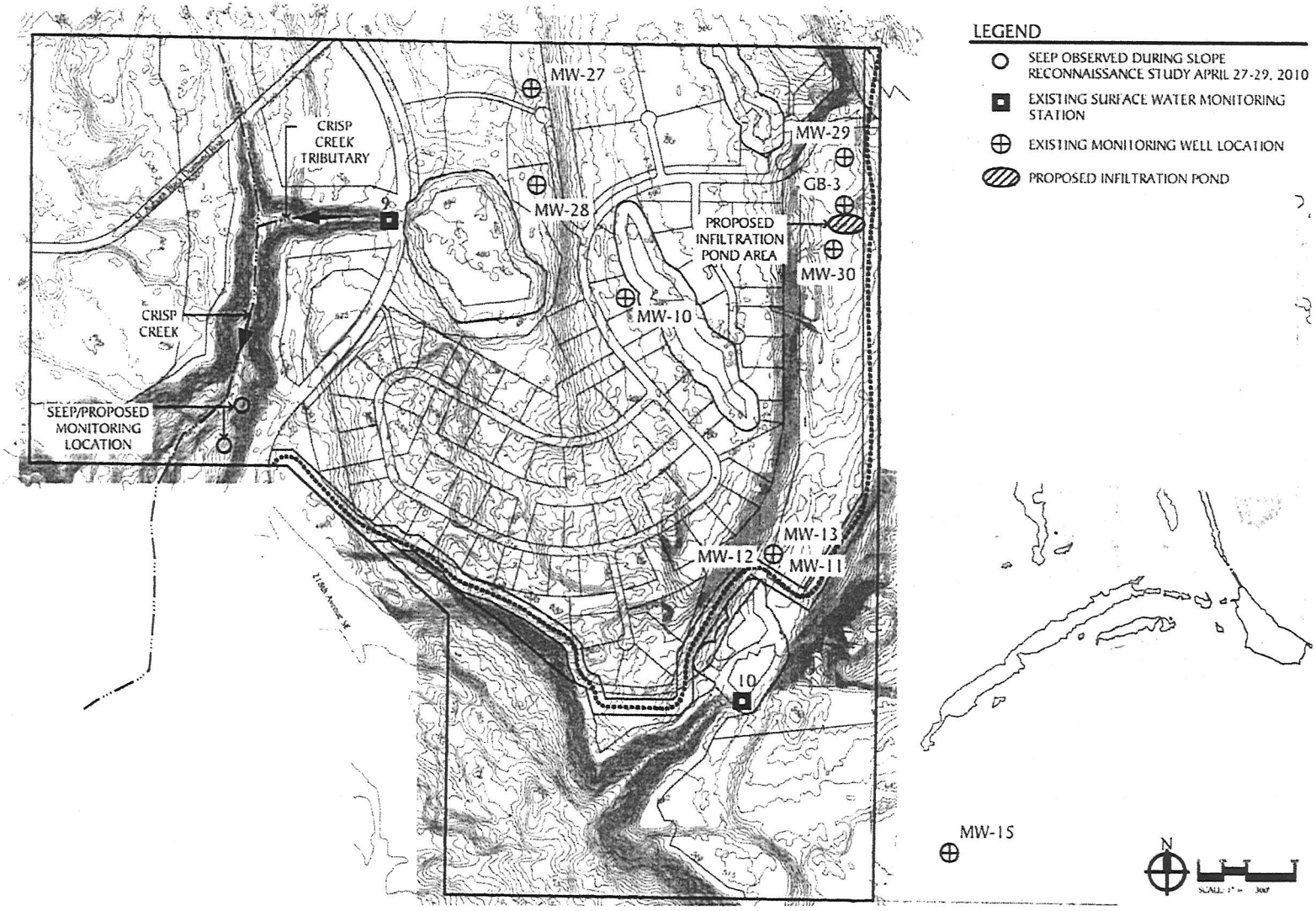
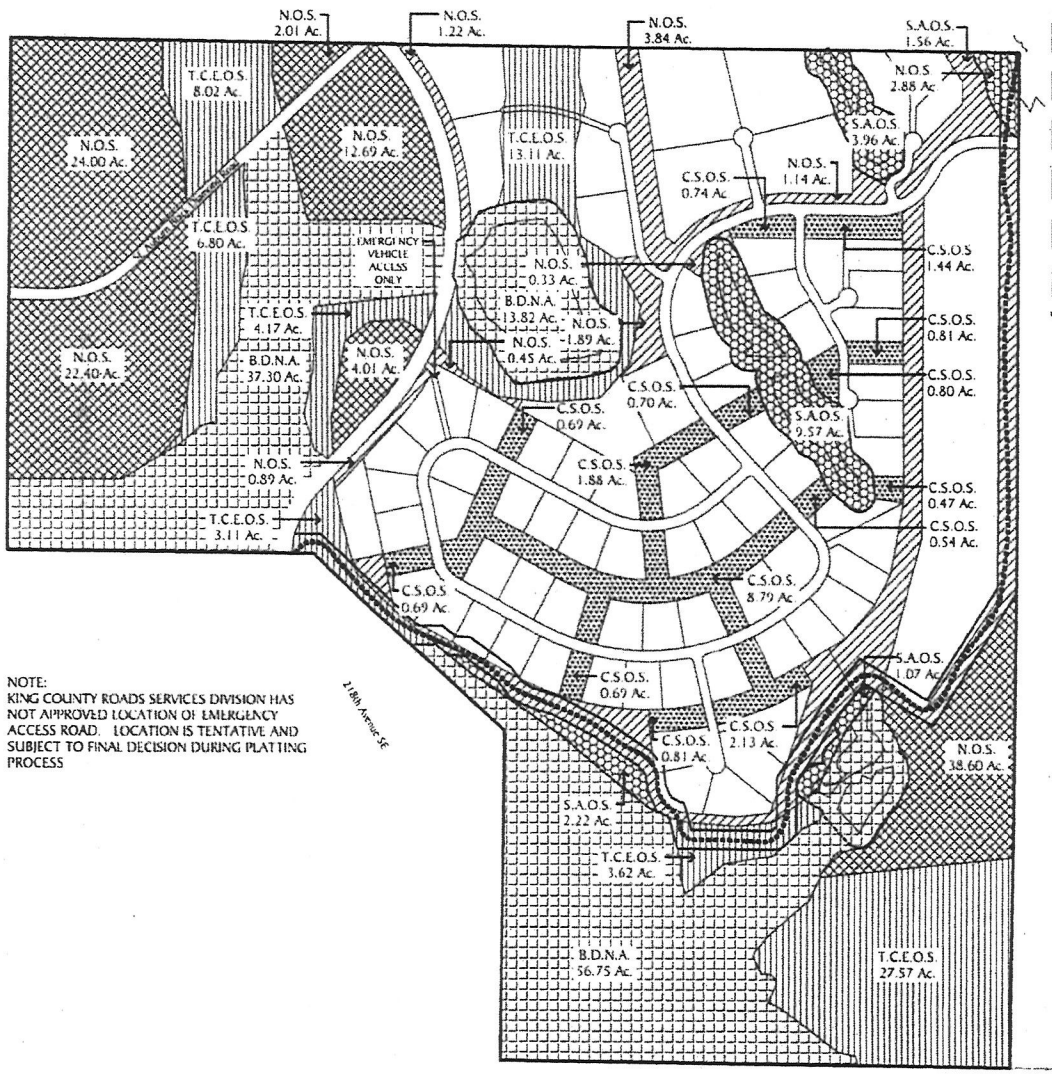

LEGEND
SEEP OBSERVED DURING SLOPE RECONNAISSANCE STUDY APRIL 27-29, 2010
EXISTING SURFACE WATER MONITORING STATION
EXISTING MONITORING WELL LOCATION
PROPOSED INFILTRATION POND
MW-27
MW-29
GB-3
MW-28
PROPOSED INFILTRATION POND AREA
MW-30
MW-10
CRISP CREEK TRIBUTARY
CRISP CREEK
SEEP/PROPOSED MONITORING LOCATION
MW-13
MW-12
MW-11
10
MW-15
N

**Exhibit 10**

**Trail & Open Space Map**

**[to be added]**

# Exhibit 10



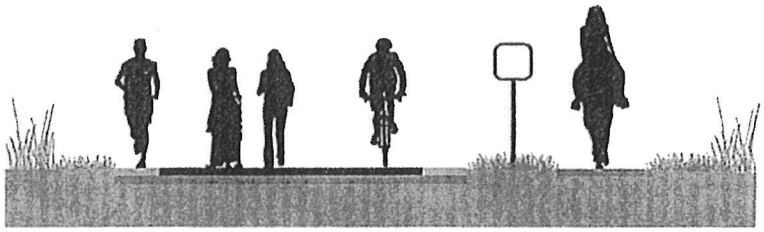

NOTE:
KING COUNTY ROADS SERVICES DIVISION HAS NOT APPROVED LOCATION OF EMERGENCY ACCESS ROAD. LOCATION IS TENTATIVE AND SUBJECT TO FINAL DECISION DURING PLATTING PROCESS

## Open Space Table

| | |
|---|---|
| Temporary Conservation Easement (T.C.E.O.S.) | 66.40 AC |
| Sensitive Area (S.A.O.S.) | 18.38 AC |
| Natural Open Space (N.O.S.) | 35.71 AC |
| Natural Open Space (N.O.S.) to be dedicated in future to King County Parks | 80.64 AC |
| Cluster Separator Open Space (C.S.O.S.) | 21.18 AC |
| Black Diamond Natural Area (B.D.N.A.) Previously Dedicated | 107.87 AC |
| Total Open Space | 222.31 AC |
| Total Open Space Including B.D.N.A. | 330.18 AC |

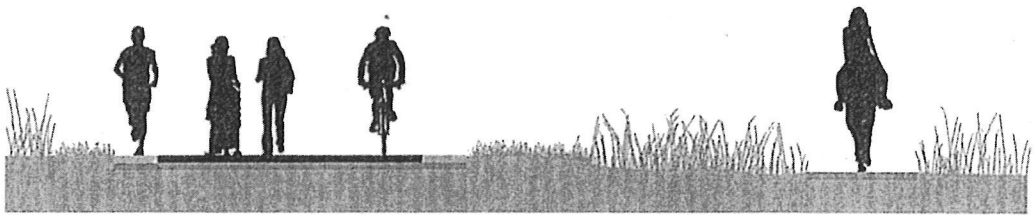
# Exhibit 11

## Trail Cross-Section Exhibit



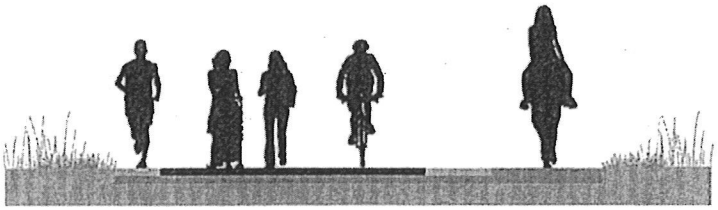
5 2 12 2 4 4 5

KING COUNTY DRAFT REGIONAL TRAIL STANDARDS, STANDARD SECTION WITH SOFT SURFACE TRAIL



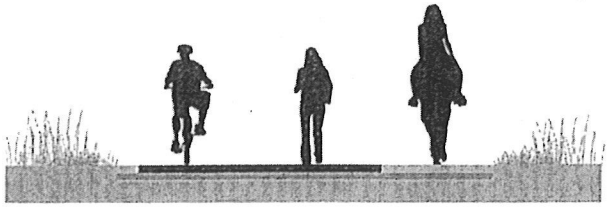
5 2 12 2 VARIES 5 5

SEPARATED SECTION, VARIES



5 2 12 3 5 5

STANDARD SECTION, 22' TRAIL FACILITY PLUS 10' CLEAR ZONE



1 12 5

REDUCED SECTION, 18' TRAIL FACILITY PLUS 10' CLEAR ZONE

# TECHNICAL MEMORANDUM

| | |
|---|---|
| Date: | **DRAFT** April 17, 2009 |
| To: | City of Black Diamond<br>Planning and Community Development<br>24301 Roberts Drive<br>Black Diamond, WA 98010 |
| From: | David Sherrard, AICP Senior Planner |
| Subject: | Master Plan Development Impacts on Public Schools:<br>Yarrow Bay Group<br>Lawson Hills and Villages MPD |
| Project Number: | 217-3043-003 |
| Project Name: | City of Black Diamond, Yarrow Bay Master Plan Developments EIS |

## INTRODUCTION AND SUMMARY

This technical report assesses the impacts of two Master Plan Development (MPD) proposals by the Yarrow Bay Group in the City of Black Diamond.

The Lawson Hills MPD is in the northeast corner of the City and includes:

- 930 single family detached dwelling units
- 320 multi-family dwelling units
- 190,000 square feet (SF) of retail space and 200,000 SF of office space in the "North Triangle"
- A 6-acre school site with adjacent 9-acre school play area

The Villages MPD is in the southwest corner of the city and includes:

- 3,400 single family detached dwelling units
- 1,400 multi-family dwelling units
- 325,000 SF of retail space and 450,000 SF of office space
- Two school sites: one 10-acre site and one 20-acre site

The residential units within each of the proposed developments is presumes to occur over 15 years. This is 62 single family and 21 multi family units per year for Lawson Hills and 227 single family and 33 multi-family units per year for the Villages. The number of units may vary on an annual basis without changing the results substantially.

For the purpose of this analysis, a number of scenarios are presented including the impacts of the two MPD proposal by themselves, the demand with existing population the cumulative impacts of

development of both MPDs is presumed, together with development of an additional 50 single family and 5 multi family units per year within the City of Black Diamond.

The impact analysis has several components

- Projection of enrollment
  - The initial "snapshot" of student generation expected as new dwellings are occupied
  - A "cohort progression" model which tracks students as they move through grades. The initial student generation rates are higher in the elementary grades, as is typical for development with many occupants in the "family formation" phase. Tracking these students through the grades is necessary because kindergarteners and elementary students do not become Middle School and High School students for a number of years.
  - The cohort model also accounts for additional trip generation from households at the normal rate experienced by existing households in the district.
- Impact assessment on
  - Instruction
  - Facilities
  - Transportation

## SCHOOL SERVICE

The Enumclaw School District is located in southeast King County. It provides public schools to an area of 444 square miles with a 2008 population of 26,800 including the cities of Enumclaw and Black Diamond. The district has a current student population of 4,465, who are served by five elementary schools, two middle schools, the Enumclaw High School Collins Alternative High School, and the Muckleshoot Tribal School.

The Enumclaw School District Boundary in the vicinity of Black Diamond is shown in Figure 1.

Two other school districts serve portions of the City of Black Diamond. The Kent School District serves the northeast portion of the City, including the west shore of the Lake Sawyer Neighborhood, and has two schools in close proximity to the City, Sawyer Woods Elementary and KentLake High School. The Enumclaw School District estimates that few students within the Enumclaw district attend those two schools.. The Tahoma School District serves the northeastern portion of the City generally north of the alignment of 304th Street SW. Glacier Park Elementary School is about two miles north of the Black Diamond City Limits but does not serve students living within the Enumclaw School District. The Auburn School District serves the area west of the Black Diamond UGA and south of Green Valley Road. The closest Auburn District school is Chinook Elementary, about six miles to the west. About 60 students from the Auburn district attend Enumclaw schools. (Stocker 2008)

## SCHOOL IMPACT ASSESSMENT METHODOLOGY

School operations and impacts revolve around three elements:

- Instruction and support,
- Facilities, and
- Transportation to provide access to facilities and instruction.

## Instruction

The Washington State Constitution provides that "the legislature shall provide for a general and uniform system of public schools". (Section IX Article 2) The state courts and legislature have defined "basic education," which is a state funding mandate.

Tables 1 and 2 provide a summary of district expenditures and revenue and highlights the proportion provided by state and local funds. As shown in Table 2, the local levy provides for about 22 percent of the district's general budget.

**Table 1. Enumclaw School District Budget Expenditures**

| | 2008 | 2007 | 2006 | 2005 | 2004 |
|---|---|---|---|---|---|
| Basic Education | 21,325,037 | 21,897,823 | 20,765,177 | 20,491,259 | 21,407,472 |
| Special Education | 4,750,407 | 3,713,031 | 3,472,015 | 3,129,690 | 3,035,605 |
| Vocational/Skills Center | 1,512,692 | 1,164,450 | 1,025,485 | 1,006,171 | 1,028,142 |
| Compensatory Education | 3,275,817 | 2,564,702 | 2,583,194 | 2,129,061 | 1,926,054 |
| Other Instruction | 381,763 | 280,369 | 285,536 | 288,242 | 280,254 |
| Community Services | 42,110 | 38,193 | 12,563 | 14,948 | 50,378 |
| District Wide Support | 5,413,372 | 5,183,448 | 5,093,418 | 4,924,891 | 5,004,403 |
| School Food Services | 1,465,297 | 1,351,694 | 1,283,089 | 1,244,749 | 1,246,440 |
| Pupil Transport | 2,158,184 | 2,012,444 | 1,966,283 | 1,900,299 | 1,928,734 |
| Other | 42,690 | 42,690 | 42,690 | 41,607 | 21,345 |
| **TOTAL** (only includes above) | **40,367,369** | **38,248,844** | **36,529,450** | **35,170,917** | **35,928,827** |
| Total Reserved Fund Balance | 519,280 | 691,447 | 571,996 | 875,202 | 952,952 |
| Total Unreserved Fund Balance | 3,447,966 | 3,324,391 | 2,733,156 | 2,619,651 | 2,353,423 |
| **TOTAL** (includes Capital, ASB, & General Fund "other uses") | **40,367,369** | **38,248,844** | **36,529,450** | **35,170,917** | **35,928,827** |

**Table 2. Enumclaw School District Budget Revenues**

| | 2008 | Percent | 2007 | 2006 | 2005 |
|---|---|---|---|---|---|
| State | 29,095,369 | 72.16% | 27,925,957 | 25,916,972 | 25,489,160 |
| Federal | 2,141,311 | 5.31% | 1,966,554 | 1,902,048 | 1,826,030 |
| Local Tax | 8,984,905 | 22.28% | 8,947,782 | 8,412,688 | 7,947,390 |
| Other | 97,193 | 0.24% | 119,239 | 108,040 | 96,816 |
| **TOTAL** (sum of above) | **40,318,778** | **100.00%** | **38,959,532** | **36,339,748** | **35,359,396** |

### *State Basic Education Support*

State Basic Education financing of schools is established by the state legislature through annual appropriation and includes funding for;

- General Education,
- Special Education,
- Vocational Education,

- Learning Assistance Program,
- Pupil Transportation, and
- Juvenile Detention Center and State Institution Education Programs.

The key to state funding, however, is an apportionment system that is based on a formula for costs that may not actually pay the true cost to the district. In effect, the amount of money allocated by the legislature is divided up between school districts. They either have to adjust their program to match, or find additional funding.

Items that have been identified as chronic problems in the formula include:

- The formula does not typically fund enough high school courses (typically referred to as "hours") for students to meet minimum requirements of state colleges. The state currently pays for 5 hours, while 6 are generally required by state colleges;
- Utilities (heating fuel, electricity, water) and facility maintenance are not fully funded; and
- Adequate allocations do not cover the cost of updating instructional supplies, school books, computer supplies or power.

### *Federal Funding*

Federal funding of education for the Enumclaw School District includes a variety of programs. These may change according to federal priorities, however as indicated in Table 2, the funding levels have remained fairly constant.

### *Local Funding*

Local funding of instruction and operation includes is 20 to 25 percent of the school budget. School districts are authorized to collect property tax levies for the General Fund (also called "maintenance and operation", or "M&O" levies). This can be approved for one to four years at a single election and requires a 60 percent "Yes" vote. These funds can be used for a wide range of services.

## Facilities

The effect of growth on local school funding depends on the generation of additional students and the need for additional facilities.

Three factors are important in assessing impacts on facilities:

- The district's standards for level of service as they relate to facilities;
- The capacity of existing facilities; and
- Whether the existing trends in the district are for increasing or decreasing student enrollment from the existing population served.

### *Enumclaw School District Standards of Service*

In order to determine the capacity of the District's facilities, the King County Code 21A refers to a "standard of service" that each school district must establish in order to ascertain its overall capacity.

The standard of service is based upon the number of classrooms available at each school and the desired average class load district-wide. A favorable class size is used to promote the standard and quality of

educational programs the residents of the Enumclaw School District expect and support through the passage of levies and bonds.

Rooms designed for special use are not counted as classrooms. Portables used for classrooms are employed on an interim basis only. When additional permanent classrooms are available, portables are removed from service, transferred to other locations, or used for non-classroom purposes. (ESC 2008)

The district's standard for the size of school sites includes a range. The desired site size is near the upper end of the range.

- Elementary 10 to 15 acres
- Middle and junior high - 15 to 25
- High schools 30 to 40

Actual site size may vary depending on the size of parcels available and site constraints such as sensitive areas. The site size also must meet minimum standards of the Superintendent of Public Instruction

### *Current Standards of Service for Elementary Students*

The Enumclaw School District uses the following guidelines for class size:

- Average district-wide class size for grades K-4 should not exceed 23 students.
- Average district-wide class size for grade 5 should not exceed 26 students.
- Elementary School permanent capacity should be between 450 and 500 students.

Class size may vary from building to building based upon different influencing factors at each school.

Students may be provided music instruction, physical education, and lunch in a separate classroom or facility.

Students may have scheduled time in a special computer lab. Special Education for students with disabilities may be provided in a self-contained classroom with a maximum capacity of 10 to 12 students, depending on the program.

Identified students will also be provided other educational opportunities in classrooms and/or special spaces for programs designated as follows:

- English as a Second Language (ESL)
- Integrated Programs & Resource Rooms (for special remedial assistance)
- Education for Disadvantaged Students (Chapter 1)
- Gifted Education
- Other Remediation Programs
- Learning Assisted Program (LAP)
- School Adjustment Programs for severely behavior-disordered students
- Hearing Impaired
- Mild, Moderate, and Severe Developmental Disabilities
- Developmental Kindergarten
- Preschool Handicapped
- Early Childhood Education Assistance Programs (ECEAP)

All of the above special programs require specialized classroom space; thus, the full-time student capacity of buildings housing these programs is reduced. Students leave their regular classroom for a period of time to receive instruction in these special programs. When programs change, program capacity fluctuates and the plan is updated annually to reflect the change in program and capacity.

### *Current Standards of Service for Secondary Students:*

The standards of service outlined below reflect only those programs and educational opportunities provided to secondary students which directly affect the capacity of the school buildings.

- Average district-wide class size for grades 6 through 8 should not exceed 28 students.
- Middle School permanent capacity should be between 500 and 550 students.
- Average district-wide class size for grades 9 through 12 should not exceed 28 students. High School permanent capacity should not exceed 1,300 students.
- Special Education for students with disabilities may be provided in a classroom with a capacity of 10 to 15, depending on program.

Identified students will also be provided other educational opportunities in classrooms and/or special spaces for programs designated as follows:

- Instrumental and Vocal Music
- Integrated Programs & Resource Rooms (for special remedial assistance)
- Computer Labs
- Honors (Gifted) and Advanced Placement Programs
- Basic Skills Programs
- Variety of Vocational Education Programs i.e., Home & Family Life, Business Education (Keyboarding, Accounting, Sales & Marketing, etc.), Woods, Agriculture, Technology, Auto Shop, Drafting, Etc.

Many of these programs require specialized classroom space and can reduce the permanent capacity of the school buildings. In addition, an alternative (continuation) program with limited capacity and enrollment is provided for secondary students at Collins High School and the Collins Extension Center, cooperative programs with Sumner and White River School districts housed in Buckley.

Each school's available capacity will vary with the type of programs and space utilization in its buildings. When a large number of portables are added to a site to add capacity, other support facilities, such as gymnasiums, lunch areas, halls, etc. become inadequate.

## Existing Facilities

**Table 3. Existing Facility Capacity**

| Facility | Students | Square Feet | Classrooms |
|---|---|---|---|
| **Black Diamond Elementary** | | | |
| **Permanent Construction** | | 29,092 | 10 |
| **Portables** | | 7,092 | 8 |
| **Teaching Areas** | **Students/Room** | **Rooms** | **Capacity** |

**Table 3. Existing Facility Capacity**

| Facility | | Students (all day) | Square Feet | Classrooms |
|---|---|---|---|---|
| Classrooms (Standard) | | 24.5 | 6 | 147 |
| Kindergarten | | 23 | 2 | 46 |
| Remedial | | 0 | 1 | 0 |
| Special Education Resource | | 0 | 1 | 0 |
| Totals | | | 10 | 193 |
| **Other** | | | | |
| Computer Lab Room | | 0 | 1 | 0 |
| Multi-Purpose (PE) | | 0 | 1 | 0 |
| Maximum Student Capacity Without Portables | 193 FTE | | | |
| Maximum Student Capacity With 8 Portables | 325.5 FTE | | | |
| **Byron Kibler Elementary** | | | | |
| **Permanent Construction** | | | 45,007 | 20 |
| **Portables** | | | | 7 |
| **Other** | | | | |
| Maximum Student Capacity Without Portables | 461 FTE | | | |
| Maximum Student Capacity With 7 Portables (4 All Day) | 549 FTE | | | |
| **Southwood Elementary** | | | | |
| **Permanent Construction** | | | 39,900 | 23 |
| **Other** | | | | |
| Maximum Student Capacity | 364.5 FTE | | | |
| **Sunrise Elementary** | | | | |
| **Permanent Construction** | | | 47,375 | 24 |
| **Other** | | | | |
| Maximum Student Capacity | 461 FTE | | | |
| **Westwood Elementary** | | | | |
| **Permanent Construction** | | | 42,654 | 22 |
| **Portables** | | | 2,753 | 3 |
| **Other** | | | | |
| Maximum Student Capacity | 436.5 FTE | | | |
| **Enumclaw Middle School** | | | | |
| **Permanent Construction** | | | 87,334 | 33 |
| **Other** | | | | |
| Maximum Student Capacity | 560 FTE | | | |
| **Thunder Mountain Middle School** | | | | |
| **Permanent Construction** | | | 79,920 | 32 |
| **Other** | | | | |
| Maximum Student Capacity | 532 FTE | | | |
| **Enumclaw High School** | | | | |

**Table 3. Existing Facility Capacity**

| Facility | | Students | Square Feet | Classrooms |
|---|---|---|---|---|
| **Permanent Construction** | | | **Square Feet** | **Classrooms** |
| | | | 157,519 | 64 |
| **Portables** | | | 8,865 | 10 |
| | | | | |
| **Other** | | | | |
| Maximum Student Capacity Without Portables | 1,344 FTE | | | |
| Maximum Student Capacity With 10 Portables | 1,564 FTE | | | |

## Transportation

The Enumclaw school district currently busses 2,798 students for a variety of reasons, mostly because students reside too far from the appropriate school facility to walk. In the Black Diamond area, 240 students are bussed to grades 6-12 because there is no Middle School or High School in the community.

Student transportation is funded jointly by the state and local districts. The current transportation funding system was developed in and is incorporated in Revised Code of Washington (RCW) 28A.160.150 through 28A.160.180. The statute defines specific transportation funding eligibility criteria for students, and prescribes a methodology based on the direct radius mile ("crow's flight") distance of each student's assigned bus stop location to their destination school, the number of students transported, minimum load factors, and weighted distance factors. The allocation amount is ultimately based upon a per-student allocation rate, which is adjusted each year by the Legislature.

The Enumclaw School District budgeted about $2.2 million for transportation in 2007-2008, of which the state paid about $1.48 million, or about 70%. The district share of the transportation budget funded from the local operations levy is about 30 percent (Stocker 2009) although the local share also includes transportation for activities for student trips and athletic trips not funded by the state.

School districts can collect local property tax levies for purchase of school busses. Such levies require a 60 percent approval rate.

# IMPACT ASSESSMENT

## Student Generation

The impact of new development on schools is driven by the number of students generated by new dwellings. This depends primarily on the demographic characteristics of the future residents. Young families typically generate the highest rate or new students. Retirees typically generate the smallest number of students. Generally single family dwellings generate more students than multi family dwellings because they tend to be occupied by families with more children. Existing dwellings generate students over the life cycle of operation. Typically, a residence occupied by a family composed of younger parents will provide students that start school in kindergarten then move through the 13 grades in the system. If a family stays in a dwelling after children grow beyond school age they do not generate addition students. Most homes are cycled through resale and may again generate students that pass through the school grades.

The Office of the Superintendent of Public Instruction (OSPI) utilizes a method for projecting school enrollment known as the K Linear Cohort Survival method. The cohort survival method starts with current enrollments, by grade, and then advances students one grade for each year of the forecast. This process is repeated as many years into the future as desired. Because not all students progress to the next grade, and because new students join existing cohorts, the size of the cohorts is adjusted by a progression factor. This factor is typically based on empirical measures. For example, if, during the last five years, each first grade class was 5 percent larger than the previous year's kindergarten class, the forecast assumes that the trend would continue. To estimate the number of future kindergarten students entering the system, OSPI assumes that the recent trend in kindergarten enrollments will continue.

This methodology is generally reliable in a community experiencing a stable housing supply or a steady growth rate. It doesn't accurately predict the effects of changes in growth rates from an influx of new development. If a district expects substantial housing development, and has not recently seen any development, enrollments will be underestimated by the cohort survival methodology. (OSPI 2008c)

For districts experiencing substantial growth, a housing adjustment factor is often used, which is generated by surveying the number of students generated by recent housing developments. To be most reliable, projections should differentiate between units more likely to generate students such as family-oriented housing including single family dwellings, subsidized housing, and in some markets, large multi-family units, as opposed to units oriented to households without children, including smaller multi-family units oriented to single-person households and senior housing. The methodology most commonly used is to match addresses of new development from permit data to addresses of students to derive a student generation rate from various types of development. Such an effort generally is performed for a three to five year period. (2008) This methodology, however, is likely to underestimate student generation because some households that will generate students in the future may not have children yet, or may have children too young to be enrolled in school. Enrollment from new development typically peaks five to ten years after occupancy (Burk 2008), which is generally later than enrollment predicted by surveys that have been performed. An additional factor that can lead to underestimates is children that are home schooled or enrolled in private schools. A substantial portion of home schooled and private school students enter public schools in upper grades (OSPI 2008c). This, however does not appear to currently be a factor for the Enumclaw School District.

Student generation rates also typically differ according to the affordability of housing with "outer suburbs" with lower housing costs typically experiencing a higher proportion of families at the 'family formation stage" than higher value housing in more expensive inner cities and inner suburbs (Lowe 2009).

Student generation rates from housing surveys for several school districts in Western Washington are shown in Table 4, below.

**Table 4. Student Generation Rates**

| | Auburn | Kent | Lk WA | Issaquah | Median | 70 pctl | 80 pctl |
|---|---|---|---|---|---|---|---|
| Single Family | | | | | | | |
| Elementary | 0.337 | 0.445 | 0.446 | 0.384 | **0.403** | 0.4451 | 0.4454 |
| Middle | 0.145 | 0.118 | 0.132 | 0.149 | **0.136** | 0.1454 | 0.1466 |
| High | 0.178 | 0.245 | 0.093 | 0.15 | **0.1665** | 0.1847 | 0.2048 |
| **Total** | 0.66 | 0.808 | 0.671 | 0.683 | **0.7055** | 0.7752 | 0.7968 |
| Multi Family | | | | | | | |
| Elementary | 0.065 | 0.296 | 0.084 | 0.102 | **0.13675** | 0.1214 | 0.1796 |
| Middle | 0.029 | 0.075 | 0.026 | 0.049 | **0.04475** | 0.0516 | 0.0594 |
| High | 0.039 | 0.111 | 0.023 | 0.052 | **0.05625** | 0.0579 | 0.0756 |
| **Total** | 0.133 | 0.482 | 0.133 | 0.203 | **0.23775** | 0.2309 | 0.3146 |

Use of a percentile grater than the median is sometimes used in impact assessment to provide a greater assurance that a given generation rate will not be exceeded. Use of the median proves a statistical assurance reliability of about 50 percent. There is an even chance of the generation of students either being over or under the projection. In making investments in public facilities, it is often preferred to plan for greater capacity than lower. If the factors that lead to a range of trip generation are known, the preferable approach is to base analysis on those factors. A number of factors have been proposed such as market orientation of units (single family, retirement, second homes, recreational), characteristics that may be correlated to accommodating families with children, such as number of bedrooms, as well as lavational factors have been proposed. However, no comprehensive studies or regression analysis of those factors has been performed. In the absence of such information, the median has been used for this analysis.

In order to account for student generation from new dwellings and the progression of students through the grades, a modified cohort progression model is provided in Appendix A that includes separate components for demand generated by existing enrollment trends and new development. In addition, an adjustment for uncounted children less than 5 years of age is added to the development contribution based on the 2000 census data records of the number of 1-4 year olds in proportion to 5-10 year olds that would be captured in K-5 student records. The analysis of impacts must include the generation of additional student demand as students move up through the system. In addition, since the student generation rate is considerably higher for elementary grades, much of the demand for middle and high school capacity is driven by this cohort effect rather than the initial student generation rate.

## Instruction

To assess the potential impacts of new development on instruction and support, several assumptions were made in the analysis:

- All analysis is in current dollars,
- Costs per student are assumed to remain constant, and
- The cost share between state and local funds would remain the same.

| | Total Budget | Percent Increase | State Funds | Federal Funds | Local Support | Student Population |
|---|---|---|---|---|---|---|
| 2008 | $40,318,778 | | $29,095,369 | $2,141,311 | $8,984,905 | 4,379 |
| Per Student Rate | $9,207 | | $6,644 | $489 | $2,052 | |
| 2030 with MPDs | $104,263,494 | 258.60% | $75,240,000 | $5,537,384 | $23,234,771 | 11,324 |
| Per Student Rate | $9,207 | | $6,644 | $489 | $2,052 | |

Given these assumptions, the state share is assumed to continue to provide about 70 percent of the cost of instruction. The remaining 30 percent would be provided by other funding sources, including federal funds and various charges, as well as local funds from school operation and maintenance levies. In Table 5 above, the relative proportional share of the various sources is projected to remain the same. The most variable element of the effect of new development would be the component additional funds from local school levies required to support he higher number of students. School levies must be passed by local residents and remain in effect from one to six years. If a school levy does not pass, the district must reduce expenditures through eliminating programs. The most severe potential impact of additional development and school student populations is a larger potential for reduction in services to a larger student population if the local levy fails to pass.

If future levies are assumed to pass, the potential impact to a district relates to the size of the levee and the rate at which local property owners are assessed. If new development contributes a higher proportion of assessed value, as compared to the value balance of the district and the number of students contributed, the overall levee rate for the district would decline. If the opposite were the case, a higher levy rate would result and existing development would subsidize new development.

Table 5, below, shows the assessed value of the District, the levee rate, and the rate per existing student as well as the projected assessed value with new development and the total increase in the general levy based on a simple proportional increase on a per student rate. The school district would not receive property tax revenue from several of the commercial areas. The North Triangle commercial development in Lawson Hills is in the Tahoma School District. The commercial area in the Villages north of Roberts Drive is in the Kent School District.

Based on this information, it appears that:

- The increase in the local general fund levy would increase about 260 percent, which is about twice the rate of the increase in housing units;
- The district-assessed valuation would increase about 160 percent; and
- To support this higher level of expenditure the rate levied on local property would increase because the proportional increase in the local levy general fund is greater than the increase in assessed value.

**Table 5. Local General Fund Levy Project Based on Per Student Multipliers**

| | General Fund Levy | Assessed Value | Estimated Population | Estimated Housing | Student Population | General Fund Tax Rate |
|---|---|---|---|---|---|---|
| 2008 | $8,984,905 | $4,379 | $3,150,211,618 | | 26,780 | $10,294 |
| Per Student Rate | $2,052 | | $719,391 | | | |
| 2030 with MPDs | $23,234,771 | $11,324 | $5,044,521,618 | 160.13% | 38,550 | $16,294 |
| Per Student Rate | $2,052 | | | | | |

In order to maintain the current level of instructional funding, the district as a whole will need to support schools at a somewhat higher tax rate, assuming that state funding formulas stay about the same.

This information, however, must be considered to have a relatively high level of uncertainty because there is a lag between changes in market value and assessed value reflected in calculations for existing development and because of uncertainty in the value of future development. This is particularly the case for retail and office development projected as part of the project, since there is no assurance that the proposed development will occur, given competition from nearby established commercial and employment centers.

## Facilities Impact Analysis

Analysis of impacts includes two elements:

- Facilities needed to serve new student populations, and
- Location of facilities in relation to new development.

Financing is an additional element that is integral to the ability of a district to actually provide facilities.

### *Future Facility Needs*

Table 6 indicates the projected demand from additional growth in the district as it applies to overall district student demand and for the Black Diamond area alone. The projections include the specific dwelling unit assumptions for the current Master Plan Development (MPD) proposals for Lawson Hills and the Villages. In addition, development assumptions for the district as a whole must include planning for all students, including those produced by other development. For this reason, approximately 100 new single family dwellings per year are presumed for the district as a whole outside of the MPDs and about 50 are presumed in Black Diamond. The projections included in the lines for the MPD developments alone include no other growth.

As indicated in the discussion of student generation, the impact of new dwellings on facility need includes not only the students generated in any one-year snapshot of student generation, but also the needs as the students progress through the grades. The dwellings added become part of the overall housing market that continues to generate new students as families move in and out of a district.

An additional complication in facility provision is that the demand takes place over the build-out of the development, plus the time period in which student's progress through the grades, while the provision of facilities takes place in increments as new facilities cannot be added one student or even one classroom at a time. One strategy that districts have in providing capacity is to rely on portable classrooms while

waiting for additional demand to justify adding a unit consisting of a new school, or a substantial increase in the capacity of a school by adding a group of classrooms. Adding capacity by adding a smaller school at an earlier stage of growth and expanding that school makes sense from a phasing perspective, but is difficult to implement from the perspective of financing. In general, however, school demand tends to grow beyond the rated capacity of schools prior to new faculties being provided, partially because portable classrooms are a short-term response and partially because state funding formulas rely on "unhoused" students and favor districts that utilize such temporary facilities.

All Middle and High School students generated by new development would be bussed to existing facilities until new facilities are constructed in the community. At the student generation rate of about 14 Middle School students per 100 single family dwellings, a 500 FTE capacity Middle School would be warranted with the addition of about 3,570 new single family dwellings. At the student generation rate of 17 High School students per 100 dwellings, a new 600 FTE capacity school would be warranted with about 3,530 new single family dwellings. The more detailed analysis of school growth in Table 6, below, indicates the approximate growth in demand for facilities.

The calculation of capacity and surplus/deficit for the entire District presumes that some students would be bussed. In the long term, this is not desirable or likely; therefore, the demand calculations for Black Diamond only should be considered the most relevant.

In assessing the need for facilities, the following assumptions were made about potential school sizes. In some cases these vary from the district guidelines as indicted below.

- Elementary schools – 300 to 500 FTE students, site size 10 to15 acres
- Middle Schools – 500 to 1,400 FTE students the district guideline is a maximum 550, site size 15 to 25 acres
- High Schools – 600 to 1,500 FTE students, the district guideline is a maximum 1,300, site size 30 to 40 acres

The overall demand for schools at buildout of the Lawson Hills and Villages MPD depends on a number of choices the district makes on the size and number of schools, as well as the location of schools. In general, the district will need:

- Elementary schools: To house 2,100 new students (419 Lawson, 1680 Villages) 4 new schools at 525 students each would be needed to serve the two MPDs (5 including existing), or 5 new schools at 420 students each. The existing school if expanded to 500 students would serve the existing population plus a portion of new growth. With additional growth other than the MPDs about 2,700 students are projected for a total of 6 schools at 450 students each.
- Middle Schools: To house 1,225 new students (275 Lawson, 950 Villages) one large school or two smaller schools would be needed to serve the two MPDs. To serve existing population total enrollment would be near 1,300. With additional growth other than the MPDs enrollment would be near 1,500 students.
- High Schools: To house 1,480 students (330 Lawson, 1,150 Villages) one large school or two smaller schools would be needed. To serve existing population total enrollment would be near 1,550 with no other growth and near 1,750 with projected additional growth.

A potential schedule for addition of new schools in the Black Diamond area only is outlined in Table 7, below, for cumulative growth assuming both Master Plan Developments are built as assumed, but not including other growth. The assumption for construction of additional Elementary schools and additions to Middle and High Schools is that up to 10 portable classrooms can be employed at each school until growth is sufficient to add capacity. For the initial period of growth, this assumes that some elementary

students would be housed outside of Black Diamond until a second school is built. The assumed capacity increment at Middle and High Schools is 300 FTE students, reflecting about 10 classrooms. This also would assume that, between the expansion of the existing elementary school and addition of a second in 2015, up to 400 FTE students would be accommodated in portables at the existing school or bussed. This is probably an unrealistic assumption and would likely lead to construction of the second school sooner and operating both schools at between 300 and 400 FTE students for several years. There are a great many variations upon such a schedule, for example a single combined Middle and High School could be built prior to 2015, and then converted to a separate facility when demand warranted.

**Table 6. Facility Demand and Capacity Analysis**

| Facility | 2008 | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
|---|---|---|---|---|---|---|---|---|
| **K-5 Elementary** | | | | | | | | |
| Capacity | | | | | | | | |
| Existing District Building Capacity | 1,916 | 1,723 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 |
| Existing District Portable Capacity | | | | | | | | |
| *Total District Capacity* | 1,916 | 1,723 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 |
| Existing Black Diamond Building Capacity | 193 | 193 | 193 | 193 | 193 | 193 | 193 | 193 |
| Existing BD Portable Capacity | 132 | 132 | 132 | 132 | 132 | 132 | 132 | 132 |
| *Existing Black Diamond Capacity* | 325 | 325 | 325 | 325 | 325 | 325 | 325 | 325 |
| Demand | | | | | | | | |
| Projected District Enrollment | 1,852 | 1,921 | 2,672 | 3,581 | 4,219 | 4,225 | 4,230 | 4,235 |
| Projected Black Diamond Enrollment | 289 | 425 | 1,155 | 1,941 | 2,528 | 2,621 | 2,643 | 2,647 |
| **District Surplus (Deficit) Building Capacity** | **64** | **(198)** | **(449)** | **(1,358)** | **(1,996)** | **(2,002)** | **(2,007)** | **(2,012)** |
| District Surplus (Deficit) including Portable Capacity | 64 | (198) | (449) | (1,358) | (1,996) | (2,002) | (2,007) | (2,012) |
| **Black Diamond Surplus (Deficit) Building Capacity** | **(96)** | **(232)** | **(962)** | **(1,748)** | **(2,335)** | **(2,428)** | **(2,450)** | **(2,454)** |
| Black Diamond Surplus (Deficit) incl Portable Capacity | 36 | (100) | (830) | (1,616) | (2,203) | (2,296) | (2,318) | (2,322) |
| Lawson Hills Only Black Diamond Surplus (Deficit) Building Capacity | **(96)** | **(124)** | **(250)** | **(392)** | **(505)** | **(506)** | **(506)** | **(507)** |
| Lawson Hills Only Black Diamond Surplus (Deficit) including Portable Capacity | 36 | 8 | (118) | (260) | (373) | (374) | (374) | (375) |
| Villages Only Black Diamond Surplus (Deficit) Building Capacity | **(96)** | **(200)** | **(711)** | **(1,240)** | **(1,664)** | **(1,754)** | **(1,773)** | **(1,774)** |
| Villages Only Black Diamond Surplus (Deficit) including Portable Capacity | 36 | (68) | (579) | (1,108) | (1,532) | (1,622) | (1,641) | (1,642) |

**Table 6. Facility Demand and Capacity Analysis**

| Facility | 2008 | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
|---|---|---|---|---|---|---|---|---|
| **6-8 Middle School** | | | | | | | | |
| Capacity | | | | | | | | |
| Existing District Building Capacity | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 |
| Existing District Portable Capacity | | | | | | | | |
| *Total District Capacity* | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 |
| Existing Black Diamond Building Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Existing BD Portable Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Existing Black Diamond Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Demand | | | | | | | | |
| Projected District Enrollment | 1,089 | 1,088 | 1,353 | 1,823 | 2,206 | 2,242 | 2,244 | 2,247 |
| Projected Black Diamond Enrollment | 289 | 425 | 564 | 963 | 1,309 | 1,344 | 1,402 | 1,404 |
| District Surplus (Deficit) Building Capacity | 3 | 4 | (261) | (731) | (1,114) | (1,150) | (1,152) | (1,155) |
| District Surplus (Deficit) inclPortable Capacity | 3 | 4 | (261) | (731) | (1,114) | (1,150) | (1,152) | (1,155) |
| Black Diamond Surplus (Deficit) Building Capacity | (289) | (425) | (564) | (963) | (1,309) | (1,344) | (1,402) | (1,404) |
| Black Diamond Surplus (Deficit) including Portable Capacity | (289) | (425) | (564) | (963) | (1,309) | (1,344) | (1,402) | (1,404) |
| Lawson Hills Only Black Diamond Surplus (Deficit) Building Capacity | (96) | (141) | (240) | (298) | (364) | (371) | (371) | (371) |
| Lawson Hills Only Black Diamond Surplus (Deficit) including Portable Capacity | (96) | (141) | (240) | (298) | (364) | (371) | (371) | (371) |
| Villages Only Black Diamond Surplus (Deficit) Building Capacity | (96) | (166) | (452) | (715) | (961) | (987) | (1,043) | (1,044) |
| Villages Only Black Diamond Surplus (Deficit) including Portable Capacity | (96) | (166) | (452) | (715) | (961) | (987) | (1,043) | (1,044) |


*Black Dia YB MPD School Impact 04-17-09.doc*

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **9-12 High School** | | | | | | | | |
| Capacity | | | | | | | | |
| Existing District Building Capacity | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 |
| Existing District Portable Capacity | 220 | 220 | 220 | 220 | 220 | 220 | 220 | 220 |
| *Total District Capacity* | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 |
| Existing Black Diamond Building Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Existing BD Portable Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Existing Black Diamond Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Demand | | | | | | | | |
| Projected Enrollment | 1,438 | 1,388 | 1,654 | 2,075 | 2,555 | 2,731 | 2,746 | 2,749 |
| Projected Black Diamond Enrollment | 124 | 171 | 558 | 1,044 | 1,473 | 1,633 | 1,668 | 1,718 |
| District Surplus (Deficit) Building Capacity | (94) | (44) | (310) | (731) | (1,211) | (1,387) | (1,402) | (1,405) |
| District Surplus (Deficit) including Portable Capacity | 126 | 176 | (90) | (511) | (991) | (1,167) | (1,182) | (1,185) |
| Black Diamond Surplus (Deficit) Building Capacity | (124) | (171) | (558) | (1,044) | (1,473) | (1,633) | (1,668) | (1,718) |
| Black Diamond Surplus (Deficit) including Portable Capacity | (124) | (171) | (558) | (1,044) | (1,473) | (1,633) | (1,668) | (1,718) |
| Lawson Hills Only Black Diamond Surplus (Deficit) Building Capacity | (124) | (126) | (251) | (341) | (421) | (452) | (454) | (454) |
| Lawson Hills Only Black Diamond Surplus (Deficit) including Portable Capacity | (124) | (126) | (251) | (341) | (421) | (452) | (454) | (454) |
| Villages Only Black Diamond Surplus (Deficit) Building Capacity | (124.00) | (157.86) | (449.96) | (784.47) | (1,084.71) | (1,198.55) | (1,228.90) | (1,277.17) |
| Villages Only Black Diamond Surplus (Deficit) including Portable Capacity | (124.00) | (157.86) | (449.96) | (784.47) | (1,084.71) | (1,198.55) | (1,228.90) | (1,277.17) |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| Table 7. Approximate Schedule for Adding School Capacity | |
|---|---|
| **Year** | **Capacity Added** |
| 2011 | Expansion of existing Black Diamond Elementary to 500 FTE students |
| 2015 | Addition of Middle School with capacity of 500 FTE students |
| 2015 | Addition of Second Elementary School capacity of 500 FTE students |
| 2016 | Addition of High School with capacity of 600 FTE students |
| 2018 | Addition of third Elementary School |
| 2018 | Addition to Middle School to expand capacity to 800 FTE students |
| 2019 | Addition to High School to expand capacity to 900 FTE students |
| 2021 | Addition of fourth Elementary School |
| 2022 | • Addition to Middle School to expand capacity to 1,100 FTE students or plan for second school |
| 2022 | • Addition to High School to expand capacity to 1,200 FTE students or plan for second school |
| 2025 | Addition of fifth Elementary School |
| 2025 | Add second Middle School with capacity of 500 FTE students (First school capacity 800 FTE students total capacity 1,300 FTE students)<br>or Addition to single Middle School to expand capacity to 1,300 FTE students – 2030 |
| 2025 | • Addition to High School to expand capacity to 1,500 FTE students<br>or add second High School with capacity of 600 FTE students (first High School capacity 900 FTE students, Total capacity 1,500 FTE students) |

In all these scenarios, use of temporary facilities is presumed in the interim period before the addition of another permanent facility is required. Use of temporary facilities, however, has an adverse impact on school service by increasing enrollment in the school beyond the capacity of the "core" facilities of the permanent building(s) such as the gymnasium, the library, the restrooms, the main office, the food service facilities and special service classrooms such as music, art and science instruction facilities. In addition, portable classrooms tend to degrade the educational and social environment by separating their occupants from the rest of a school's student body and staff members.

### *Facility Funding*

School facilities are financed jointly by the state and local districts. The state share of facilities generally ranges from 30 to 70 percent, and averages about 50 percent (OSPI 2008b). State funding varies by year. The provision of state funding is by application, with allocation based on evaluation of need.

A district's ability to accomplish its building program is dependent on the following funding sources:

- State matching funds;
- Passage of general obligation bonds by district voters; and
- Collection of school mitigation and impact fees.

School districts can collect two types of local property tax levies for capital facilities:

- Capital Project – These levies must be used for school facilities and other capital purposes. Levies can be for one to six years; and
- Debt Service (also called "bond levies") – Voter approval of the levy allows a district to issue bonds (borrow money) and collect property taxes to repay principal and interest over the life of the bond (typically 30 years). Levies must be used to purchase land and build or renovate school buildings.

State Match Funds

State Match Funds in Washington come from the Common School Construction Fund. Bonds are sold on behalf of the fund then retired from revenues accruing predominantly from the sale of renewable resources (i.e., timber) from State school lands set aside by the Enabling Act of 1889. If these sources are insufficient to meet needs, the Legislature can appropriate funds or the State Board of Education can establish a moratorium on certain projects.

School districts may qualify for State Match Funds for specific capital projects. To qualify, a project must first meet a State-established criteria of need. This is determined by a formula that specifies the amount of square footage the State will help finance to provide permanent structures for the unhoused enrollment projected for the district. If a project qualifies, it can become part of a State prioritization system. This system prioritizes allocation of available funding resources to school districts statewide based on seven prioritization categories. Funds are then disbursed to the districts based on a formula which calculates district-assessed valuation per pupil relative to the whole State-assessed valuation per pupil to establish the percent of the total project cost to be paid by the State. The State contribution can range from nothing to about 70 percent of the project's cost. (OSPI 2008b) State Match Funds can only be applied to major school construction projects.

Local funds must be used for the following items as they are not eligible for the state match: (OSPI 2008a)

- Acquisition cost of the site,
- Area in excess of the space allocations provided in Washington Administrative Code (WAC) 392-343-035,
- All costs associated with the purchase, installation, or relocation of portable classrooms,
- Alterations, repair, or demolitions (except alterations necessary to connect new construction to an existing building),
- Costs incidental to advertising for bids, site surveys, soil testing for site purchase, or costs other than those connected directly with construction of facilities,
- Bus garages, except interdistrict cooperatives,
- Central administration buildings, or
- Stadia/grandstands.

Because availability of State Match Funds has not kept pace with the rapid enrollment growth occurring in many of Washington's school districts, matching funds from the State may not be received by a school district until after a school has been constructed. In such cases, the district must "front fund" a project. That is, the district must finance the complete project with local funds (the future State's share coming from funds allocated to future district projects). When the State share is finally disbursed (without accounting for escalation), the future district project is partially reimbursed. (OSPI 2008b)


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Because of the method of computing State Match, the official percentage match portion calculated by the State does not typically equal the actual percentage of total facility cost. The State Match Ratio for the Enumclaw School District in the past has been approximately 57.67%. Notably, this only applies to costs that the State considers eligible for matching. Land costs and other development costs are not considered eligible for State Match. Furthermore, the State only allows 90 square feet per elementary student while the District's service standard requires more square feet per student. This additional space must be funded with local dollars. For a typical project that has maximum State Match funding, less than 50 percent of the total project costs will be covered by State Match dollars. (ESD 2008)

Overall, the percentage of state funds allocated to projects that are eligible for funding averaged between 27 and 40 percent between 2000 and 2008.

Mitigation Payments and School Impact Fees

For development in those jurisdictions that have not adopted a school impact fee ordinance, the District relies on mitigation required under the State Environmental Policy Act (SEPA) and related statutes.

In those jurisdictions where a school impact fee ordinance is in place, the District requests that an impact fee be collected by the permitting agency for the construction of any new residential dwelling unit.

Fees assessed are based on the new enrollment growth in the District. By law, new development cannot be assessed impact fees to correct existing deficiencies.

The amount of impact fee collected would necessarily be based on the percent of new school construction borne by the State and by a district as a whole through capital levies. In the worst case, fees could be assessed assuming no State Match funds and no contribution from the balance of the district. In the best case, a maximum contribution by the State could be presumed. Qualifying for State Match funding and providing facilities at the time of demand is difficult because the state formula is heavily weighted toward unhoused students. To qualify for the highest rate of state support, a shortage of facilities must exist. In addition, impact fees are collected as housing is built. Unless bonds are used and impact fees used to pay off bonds, the availability of funding will necessarily lag behind occupation of housing.

## *Transportation*

School transportation is a critical element of matching student residential location where school facilities are available to provide instruction. The need for pupil transportation responds both to students who live too far to walk to school, such as those living in rural areas, and students who live in urban centers but must be transported because there is no appropriate school to serve them.

The Enumclaw School District currently busses 230 students who live in Black Diamond to grades 6-12 because there is no Middle or High School in the community. Some elementary students in the westerly part of the community are bussed to the existing Black Diamond school.

As student populations grow, one option for the short term is to bus students to schools with capacity. At the current time, the Black Diamond Elementary School has capacity for around 40 additional FTE students. That capacity would be utilized with the first 100 new dwellings built in the community. Thereafter, additional elementary demand would have to be met by adding portables, adding permanent school capacity, or bussing to other schools.

All Middle and High School students generated by new development would be bussed until new facilities are constructed in the community. At the presumed date of construction of a new Middle and High


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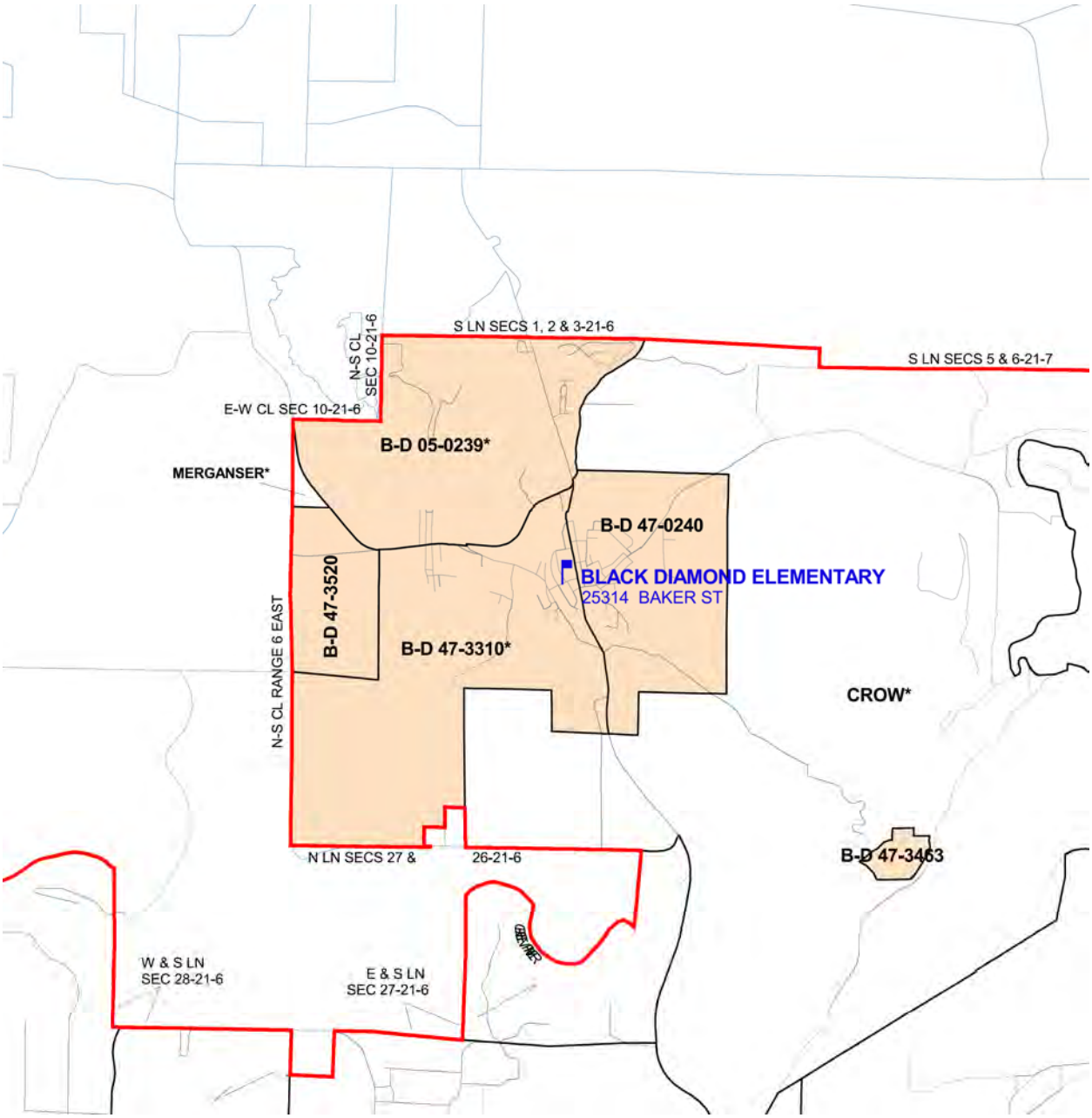
School, up to 500 additional FTE Middle School students would be bussed to the two existing schools and up to 600 FTE High School students would be bussed to the single existing school.

This would increase the total number of students bussed by about 40 percent and increase the cost to the District 50 to 60 percent because of the greater distances than average students would be transported and the additional cost of 25 to 30 busses. Since the State provides funding for 65 to 70 percent of the cost of bussing, the net cost to the local operation and maintenance levy would be considerable.

In addition, if only one Middle and High School were provided in the westerly portion of Black Diamond, up to 435 Middle School and 535 High School students would be permanently bused across town at a similar 35 percent increase in total bussing and a 45 to 55 percent increase in cost. If a second Middle and High School were provided in 2029 and 2031, nine to ten years of bussing would be required.


*Black Dia YB MPD School Impact 04-17-09.doc*

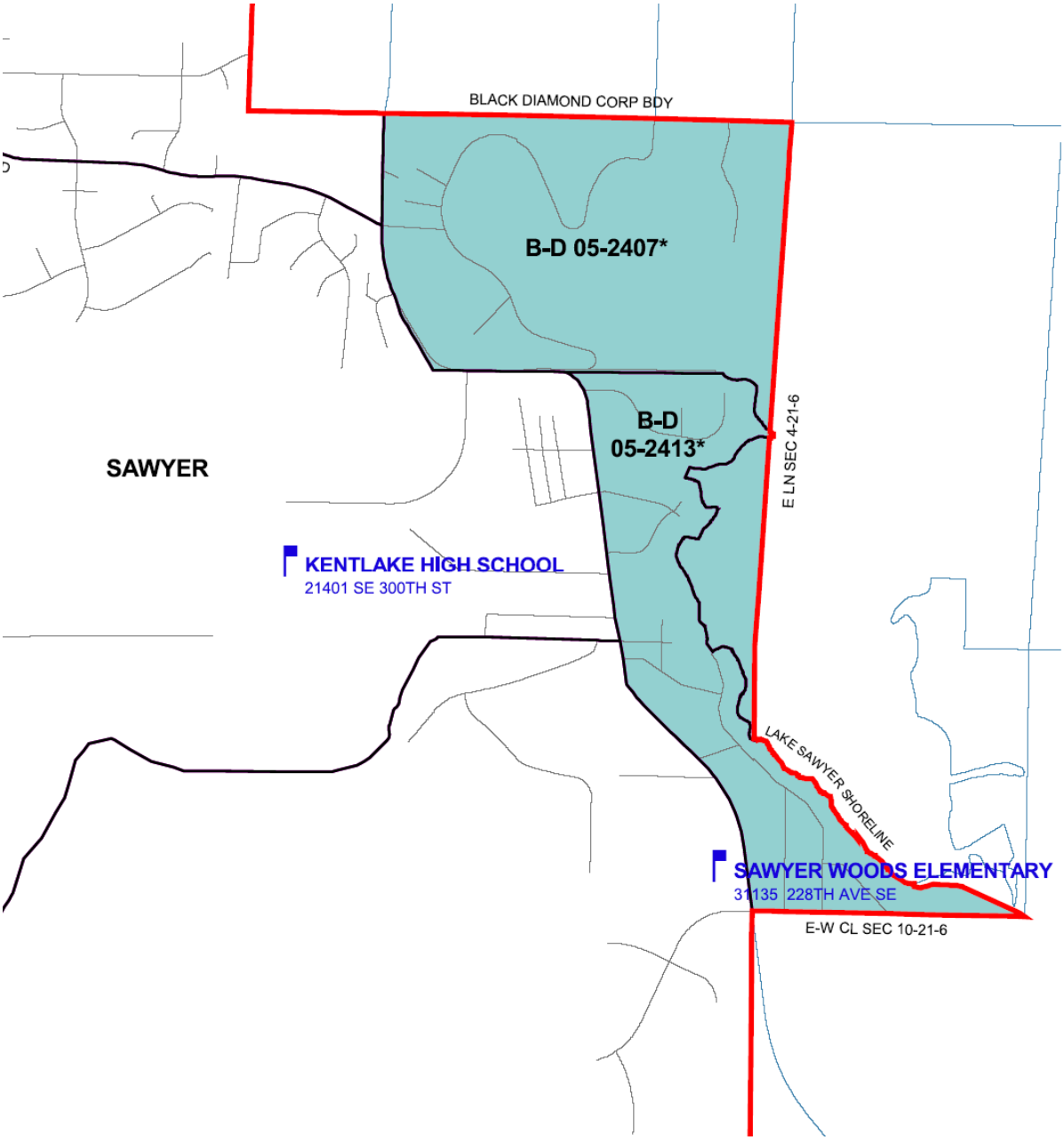
**Figure 1. Enumclaw School District Boundaries in the Black Diamond area**





*Black Dia YB MPD School Impact 04-17-09.doc*

**Figure 2. Kent School District Facilities in the Vicinity of Black Diamond**





*Black Dia YB MPD School Impact 04-17-09.doc*

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*Black Dia YB MPD School Impact 04-17-09.doc*

ATTACHMENT A

**City of Black Diamond, Yarrow Bay Development, Lawson Hills & Villages MPDs**
**Enumclaw School District Impact Analysis**
**Facility Capacity**

**SUMMARY OF RESULTS - See summary at end of "Distr Enr" and "BD Enr" spresdsheets**

| | Total | Other Total | Lawson Total | Villages Total | New Dev Total | LH+V | LH + V share of New Dev | Growth (2040 - 2008) | Cohort Growth | LH + V Share Cohort Growth | New Dev + Share Cohort Growth | LH + V Percent of Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| District | **9,230** | 890 | 732 | 2,732 | 4,354 | 3,464 | 79.55% | 4,851 | 497 | 395 | 3,858 | 41.80% | |
| Black Dia | 5,770 | 442 | 732 | 2,749 | 3,923 | 3,481 | 88.74% | 5,261 | 1,338 | 1,186 | 4,667 | 80.89% | < Note: the higher total 809 results from |
| Other District | 3,461 | 449 | | | 431 | | | | | | | | This results from the spreadsheet structure tha |

## Summary of Results - Facility Deman

| **Facility** | **2008** | **2010** | **2015** | **2020** | **2025** | **2030** | **2035** | **2040** | LH+ V | LH+LV % |
|---|---|---|---|---|---|---|---|---|---|---|
| **K-5 Elementary** | | | | | | | | | | |
| Capacity | | | | | | | | | | |
| Existing District Building Capacity | 1,916 | 1,723 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | | |
| Existing District Portable Capacity | | | | | | | | | | |
| *Total District Capacity* | 1,916 | 1,723 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | 2,223 | | |
| Existing Black Diamond Building Capacity | 193 | 193 | 193 | 193 | 193 | 193 | 193 | 193 | | |
| Existing BD Portable Capacity | 132 | 132 | 132 | 132 | 132 | 132 | 132 | 132 | | |
| *Existing Black Diamond Capacity* | 325 | 325 | 325 | 325 | 325 | 325 | 325 | 325 | | |
| Demand | | | | | | | | | | |
| Projected District Enrollment | 1,852 | 1,921 | 2,672 | 3,581 | 4,219 | 4,225 | 4,230 | 4,235 | 2,663 | 51.71% |
| Projected Black Diamond Enrollment | 289 | 425 | 1,155 | 1,941 | 2,528 | 2,621 | 2,643 | 2,647 | 2,828 | 81.95% |
| District Surplus (Deficit) Building Capacity | **64** | **(198)** | **(449)** | **(1,358)** | **(1,996)** | **(2,002)** | **(2,007)** | **(2,012)** | | |
| District Surplus (Deficit) inclPortable Capacity | 64 | (198) | (449) | (1,358) | (1,996) | (2,002) | (2,007) | (2,012) | | |
| Black Diamond Surplus (Deficit) Building Capacity | **(96)** | **(232)** | **(962)** | **(1,748)** | **(2,335)** | **(2,428)** | **(2,450)** | **(2,454)** | | |
| Black Diamond Surplus (Deficit) incl Portable Capacity | 36 | (100) | (830) | (1,616) | (2,203) | (2,296) | (2,318) | (2,322) | | |
| **6-8 Middle School** | | | | | | | | | | |
| Capacity | | | | | | | | | | |
| Existing District Building Capacity | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | | |
| Existing District Portable Capacity | | | | | | | | | | |
| Total District Capacity | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | 1,092 | | |
| Existing Black Diamond Building Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Existing BD Portable Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Existing Black Diamond Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Demand | | | | | | | | | | |
| Projected District Enrollment | 1,089 | 1,088 | 1,353 | 1,823 | 2,206 | 2,242 | 2,244 | 2,247 | 1,305 | 47.78% |
| Projected Black Diamond Enrollment | 289 | 425 | 564 | 963 | 1,309 | 1,344 | 1,402 | 1,404 | 1,472 | 80.39% |
| District Surplus (Deficit) Building Capacity | 3 | 4 | (261) | (731) | (1,114) | (1,150) | (1,152) | (1,155) | | |
| District Surplus (Deficit) inclPortable Capacity | 3 | 4 | (261) | (731) | (1,114) | (1,150) | (1,152) | (1,155) | | |
| Black Diamond Surplus (Deficit) Building Capacity | (289) | (425) | (564) | (963) | (1,309) | (1,344) | (1,402) | (1,404) | | |
| Black Diamond Surplus (Deficit) inc'l Portable Capacity | (289) | (425) | (564) | (963) | (1,309) | (1,344) | (1,402) | (1,404) | | |

ATTACHMENT A

**City of Black Diamond, Yarrow Bay Development, Lawson Hills & Villages MPDs**

**Enumclaw School District Impact Analysis**

**Facility Capacity**

| **9-12 High School** | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Capacity | | | | | | | | | | |
| Existing District Building Capacity | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | 1,344 | | |
| Existing District Portable Capacity | 220 | 220 | 220 | 220 | 220 | 220 | 220 | 220 | | |
| Total District Capacity | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | 1,564 | | |
| Existing Black Diamond Building Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Existing BD Portable Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Existing Black Diamond Capacity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Demand | | | | | | | | | | |
| Projected Enrollment | 1,438 | 1,388 | 1,654 | 2,075 | 2,555 | 2,731 | 2,746 | 2,749 | 1,005 | 48.87% |
| Projected Black Diamond Enrollment | 124 | 171 | 558 | 1,044 | 1,473 | 1,633 | 1,668 | 1,718 | 2,018 | 80.72% |
| District Surplus (Deficit) Building Capacity | (94) | (44) | (310) | (731) | (1,211) | (1,387) | (1,402) | (1,405) | | |
| District Surplus (Deficit) incl Portable Capacity | 126 | 176 | (90) | (511) | (991) | (1,167) | (1,182) | (1,185) | | |
| Black Diamond Surplus (Deficit) Building Capacity | (124) | (171) | (558) | (1,044) | (1,473) | (1,633) | (1,668) | (1,718) | | |
| Black Diamond Surplus (Deficit) incl Portable Capacity | (124) | (171) | (558) | (1,044) | (1,473) | (1,633) | (1,668) | (1,718) | | |

## MODEL INPUTS

| **Lawson Hills** | | Buildout period | CHECK |
|---|---|---|---|
| Single Family | 930 | 15 | 656.115 |
| Multi Family | 320 | 15 | 76.08 |
| | | | 732.195 |
| **Villages** | | | |
| Single Family | 3400 | 15 | |
| Multi Family | 1400 | 15 | |

Note: Changing buildout years requires adding or deleting column functions from affected years on other sheets

| **Other Development** | 2009 to 2011 | 2013 to 2022 | 2023 to 2032 |
|---|---|---|---|
| Single Family | 20 per year | 100 | 1 |
| Multi Family | 10 per year | 50 | 1 |

| **Other Development - Black Diamond** | 2009 to 2011 | 2013 to 2022 | 2023 to 2032 |
|---|---|---|---|
| Single Family | 10 per year | 50 | 1 |
| Multi Family | 5 per year | 20 | 1 |

ATTACHMENT A

**City of Black Diamond, Yarrow Bay Development, Lawson Hills & Villages MPDs**

**Enumclaw School District Impact Analysis**

**Facility Capacity**

| | Cohort Multiplier Calculated | Cohort Multiplier Used |
|---|---|---|
| Kinder | | 1.0001 |
| Grade 1 | 0.9951 | 0.9951 |
| Grade 2 | 1.0157 | 1.0157 |
| Grade 3 | 1.0146 | 1.0146 |
| Grade 4 | 0.9915 | 0.9915 |
| Grade 5 | 1.0179 | 1.0179 |
| | | |
| Grade 6 | 1.0150 | 1.0150 |
| Grade 7 | 1.0339 | 1.0339 |
| Grade 8 | 1.0061 | 1.0061 |
| | 0.0000 | |
| Grade 9 | 1.1020 | 1.1020 |
| Grade 10 | 0.8761 | 0.8761 |
| Grade 11 | 0.8512 | 0.8512 |
| Grade 12 | 0.8865 | 0.8865 |

| | **2003** | **2004** | | **2005** | | **2006** | | **2007** | | **2008** | | Total | Cohort Multiplier Calculated |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Kindergarten | 304 | 316 | | 353 | | 309 | | 293 | | 280 | | 1,855 | |
| Grade 1 | 293 | 334 | 1.0987 | 300 | 0.9494 | 346 | 0.9802 | 297 | 0.9612 | 289 | 0.9863 | 1,859 | 0.9951 |
| Grade 2 | 345 | 311 | 1.0614 | 322 | 0.9641 | 305 | 1.0167 | 340 | 0.9827 | 313 | 1.0539 | 1,936 | 1.0157 |
| Grade 3 | 347 | 358 | 1.0377 | 319 | 1.0257 | 338 | 1.0497 | 308 | 1.0098 | 323 | 0.9500 | 1,993 | 1.0146 |
| Grade 4 | 360 | 348 | 1.0029 | 345 | 0.9637 | 316 | 0.9906 | 337 | 0.9970 | 309 | 1.0032 | 2,015 | 0.9915 |
| Grade 5 | 379 | 358 | 0.9944 | 356 | 1.0230 | 347 | 1.0058 | 336 | 1.0633 | 338 | 1.0030 | 2,114 | 1.0179 |
| K-5 Headcount | **2,028** | **2,025** | | **1,995** | | **1,961** | | **1,911** | | **1,852** | | 11,772 | |
| Grade 6 | 406 | 378 | 0.9974 | 376 | 1.0503 | 355 | 0.9972 | 342 | 0.9856 | 351 | 1.0446 | 2,208 | 1.0150 |
| Grade 7 | 417 | 427 | 1.0517 | 378 | 1.0000 | 387 | 1.0293 | 376 | 1.0592 | 352 | 1.0292 | 2,337 | 1.0339 |
| Grade 8 | 457 | 420 | 1.0072 | 424 | 0.9930 | 394 | 1.0423 | 372 | 0.9612 | 386 | 1.0266 | 2,453 | 1.0061 |
| 6-8 Headcount | **1,280** | **1,225** | | **1,178** | | **1,136** | | **1,090** | | **1,089** | | 6,998 | |
| Grade 9 | 498 | 541 | 1.1838 | 555 | 1.3214 | 428 | 1.0094 | 390 | 0.9898 | 374 | 1.0054 | 2,786 | 1.1020 |
| Grade 10 | 421 | 452 | 0.9076 | 426 | 0.7874 | 414 | 0.7459 | 412 | 0.9626 | 381 | 0.9769 | 2,506 | 0.8761 |
| Grade 11 | 333 | 352 | 0.8361 | 350 | 0.7743 | 404 | 0.9484 | 353 | 0.8527 | 348 | 0.8447 | 2,140 | 0.8512 |
| Grade 12 | 283 | 256 | 0.7688 | 299 | 0.8494 | 341 | 0.9743 | 360 | 0.8911 | 335 | 0.9490 | 1,874 | 0.8865 |
| 9-12 Headcount | **1,535** | **1,601** | | **1,630** | | **1,587** | | **1,515** | | **1,438** | | 9,306 | |
| K-12 Headcount | **4,843** | **4,851** | | **4,803** | | **4,684** | | **4,516** | | **4,379** | | 28,076 | |

ATTACHMENT B

**City of Black Diamond, Yarrow Bay Development, Lawson Hills & Villages MPDs**

Enrollment Projecxtions based on survival - co

**Enumclaw School District Impact Analysis**

**Projection of Future** **Black Diamond Enrollment**

Enumclaw School District 2003 to 2008 enrollment base

GRADE

-4
-3
-2
-1

from Randy Stocker 3-23-09

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | | Used in annual cohort multiplier | 2009 Cohort | 2009 Other | 2009 Lawson/10 | 2009 Village/10 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | 45 | | | |
| | | | | | | | | | 45 | | | |
| | | | | | | | | | 45 | | | |
| | | | | | | | | | 45 | | | |
| Kindergarten | | | | | | 45 | | 1.0001 | 45 | | | |
| Grade 1 | | | | | | 60 | | 0.9951 | 45 | | | |
| Grade 2 | | | | | | 45 | | 1.0157 | 61 | | | |
| Grade 3 | | | | | | 46 | | 1.0146 | 46 | | | |
| Grade 4 | | | | | | 44 | | 0.9915 | 46 | | | |
| Grade 5 | | | | | | 49 | | 1.0179 | 45 | | | |
| K-5 Headcount | **0** | **0** | **0** | **0** | | **289** | | | **287** | | | |
| Grade 6 | | | | | | 33 | | 1.0150 | 50 | | | |
| Grade 7 | | | | | | 32 | | 1.0339 | 34 | | | |
| Grade 8 | | | | | | 31 | | 1.0061 | 32 | | | |
| 6-8 Headcount | **0** | **0** | **0** | **0** | | **96** | 0 | | **116** | | | |
| Grade 9 | | | | | | 39 | | 1.1020 | 34 | | | |
| Grade 10 | | | | | | 27 | | 0.8761 | 34 | | | |
| Grade 11 | | | | | | 25 | | 0.8512 | 23 | | | |
| Grade 12 | | | | | | 33 | | 0.8865 | 22 | | | |
| 9-12 Headcount | **0** | **0** | **0** | **0** | | **124** | 0 | | **113** | **0** | | |
| K-12 Headcount | **0** | **0** | **0** | **0** | | **509** | 0 | | **516** | | | |

Student Generation Rates

ATTACHMENT B

**City of Black Diamond, Ya**bmpilation of annual rates 2003 to 2008

| **Enumclaw School District Projection of Future** | **2009** | 2010 | 2010 | 2010 | 2010 | **2010** | 2011 | 2011 | 2011 | 2011 | **2011** | 2012 | 2012 | 2012 | 2012 | **2012** | 2013 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | **Total** | Cohort | Other | Lawson/10 | Village/10 | **Total** | Cohort | Other | Lawson | Village/10 | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | 45 | 45 | | 5 | 17 | 67 | 68 | | 5 | 17 | 90 | 90 | | 5 | 17 | 112 | 113 |
| -3 | 45 | 45 | | 5 | 17 | 67 | 68 | | 5 | 17 | 90 | 90 | | 5 | 17 | 112 | 113 |
| -2 | 45 | 45 | | 5 | 17 | 67 | 68 | | 5 | 17 | 90 | 90 | | 5 | 17 | 112 | 113 |
| -1 | 45 | 45 | | 5 | 17 | 67 | 68 | | 5 | 17 | 90 | 90 | | 5 | 17 | 112 | 113 |
| Kindergarten | 45 | 45 | 1 | 5 | 17 | 68 | 68 | 1 | 5 | 17 | 90 | 90 | 1 | 5 | 17 | 113 | 113 |
| Grade 1 | 45 | 45 | 1 | 5 | 17 | 67 | 67 | 1 | 5 | 17 | 90 | 90 | 1 | 5 | 17 | 113 | 113 |
| Grade 2 | 61 | 45 | 1 | 5 | 17 | 68 | 69 | 1 | 5 | 17 | 91 | 91 | 1 | 5 | 17 | 114 | 114 |
| Grade 3 | 46 | 62 | 1 | 5 | 17 | 85 | 69 | 1 | 5 | 17 | 92 | 93 | 1 | 5 | 17 | 115 | 116 |
| Grade 4 | 46 | 45 | 1 | 5 | 17 | 68 | 84 | 1 | 5 | 17 | 106 | 91 | 1 | 5 | 17 | 114 | 114 |
| Grade 5 | 45 | 46 | 1 | 5 | 17 | 69 | 69 | 1 | 5 | 17 | 92 | 108 | 1 | 5 | 17 | 131 | 116 |
| K-5 Headcount | **287** | **289** | **4** | **28** | **104** | **425** | **426** | **4** | **28** | **104** | **562** | **564** | **5** | **28** | **104** | **700** | **686** |
| Grade 6 | 50 | 45 | 1 | 3 | 12 | 61 | 70 | 1 | 3 | 12 | 86 | 93 | 1 | 3 | 12 | 109 | 133 |
| Grade 7 | 34 | 51 | 1 | 3 | 12 | 67 | 63 | 1 | 3 | 12 | 79 | 89 | 1 | 3 | 12 | 104 | 112 |
| Grade 8 | 32 | 34 | 1 | 3 | 12 | 50 | 67 | 1 | 3 | 12 | 83 | 79 | 1 | 3 | 12 | 94 | 104 |
| 6-8 Headcount | **116** | **131** | **2** | **9** | **35** | **178** | **201** | **2** | **9** | **35** | **247** | **261** | **2** | **9** | **35** | **307** | **350** |
| Grade 9 | 34 | 35 | 0 | 3 | 11 | 50 | 55 | 0 | 3 | 11 | 69 | 91 | 0 | 3 | 11 | 106 | 104 |
| Grade 10 | 34 | 30 | 0 | 3 | 11 | 44 | 43 | 0 | 3 | 11 | 58 | 61 | 0 | 3 | 11 | 75 | 93 |
| Grade 11 | 23 | 29 | 0 | 3 | 11 | 43 | 37 | 0 | 3 | 11 | 52 | 49 | 0 | 3 | 11 | 63 | 64 |
| Grade 12 | 22 | 20 | 0 | 3 | 11 | 34 | 38 | 0 | 3 | 11 | 52 | 46 | 0 | 3 | 11 | 60 | 56 |
| 9-12 Headcount | **113** | **115** | **2** | **12** | **43** | **171** | **174** | **2** | **12** | **43** | **231** | **247** | **2** | **12** | **43** | **303** | **316** |
| K-12 Headcount | **516** | **535** | **8** | **49** | **182** | **774** | **800** | **8** | **49** | **182** | **1,040** | **1,071** | **8** | **49** | **182** | **1,310** | **1,352** |
| | | | | | | 239 | | | | | | | | | | | |
| | | Addl SF | 10 | | | | Addl SF | 10 | 62 | | | Addl SF | 10 | 62 | 227 | | Addl SF |
| Student Generation Rates | | Addl MF | 5 | | | | Addl MF | 5 | 21 | | | Addl MF | 5 | 21 | 93 | | Addl MF |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2013 | 2013 | 2013 | **2013** | 2014 | 2014 | 2014 | 2014 | **2014** | | 2015 | 2015 | 2015 | 2015 | **2015** | | 2016 | 2016 | 2016 | 2016 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | | Cohort | Other | Lawson | Village | **Total** | | Cohort | Other | Lawson | Village |
| GRADE | | | | | | | | | | | | | | | | | | | | |
| -4 | | 5 | 17 | 135 | 139 | | 5 | 17 | 161 | | 165 | | 5 | 17 | 187 | | 191 | | 5 | 17 |
| -3 | | 5 | 17 | 135 | 139 | | 5 | 17 | 161 | | 165 | | 5 | 17 | 187 | | 191 | | 5 | 17 |
| -2 | | 5 | 17 | 135 | 139 | | 5 | 17 | 161 | | 165 | | 5 | 17 | 187 | | 191 | | 5 | 17 |
| -1 | | 5 | 17 | 135 | 139 | | 5 | 17 | 161 | | 165 | | 5 | 17 | 187 | | 191 | | 5 | 17 |
| Kindergarten | 4 | 5 | 17 | 139 | 139 | 4 | 5 | 17 | 165 | | 165 | 4 | 5 | 17 | 191 | | 191 | 4 | 5 | 17 |
| Grade 1 | 4 | 5 | 17 | 138 | 138 | 4 | 5 | 17 | 164 | | 164 | 4 | 5 | 17 | 190 | | 190 | 4 | 5 | 17 |
| Grade 2 | 4 | 5 | 17 | 140 | 141 | 4 | 5 | 17 | 166 | | 167 | 4 | 5 | 17 | 193 | | 193 | 4 | 5 | 17 |
| Grade 3 | 4 | 5 | 17 | 142 | 142 | 4 | 5 | 17 | 168 | | 169 | 4 | 5 | 17 | 195 | | 195 | 4 | 5 | 17 |
| Grade 4 | 4 | 5 | 17 | 140 | 141 | 4 | 5 | 17 | 166 | | 167 | 4 | 5 | 17 | 193 | | 193 | 4 | 5 | 17 |
| Grade 5 | 4 | 5 | 17 | 142 | 143 | 4 | 5 | 17 | 168 | | 169 | 4 | 5 | 17 | 195 | | 196 | 4 | 5 | 17 |
| K-5 Headcount | **23** | **28** | **104** | **841** | **843** | **23** | **28** | **104** | **998** | **0** | **1,000** | **23** | **28** | **104** | **1,155** | | **1,158** | **23** | **28** | **104** |
| Grade 6 | 3 | 3 | 12 | 150 | 144 | 3 | 3 | 12 | 161 | | 171 | 3 | 3 | 12 | 188 | | 198 | 3 | 3 | 12 |
| Grade 7 | 3 | 3 | 12 | 130 | 156 | 3 | 3 | 12 | 173 | | 167 | 3 | 3 | 12 | 184 | | 195 | 3 | 3 | 12 |
| Grade 8 | 3 | 3 | 12 | 122 | 130 | 3 | 3 | 12 | 148 | | 174 | 3 | 3 | 12 | 191 | | 185 | 3 | 3 | 12 |
| 6-8 Headcount | **8** | **9** | **35** | **402** | **430** | **8** | **9** | **35** | **482** | | **512** | **8** | **9** | **35** | **564** | **0** | **578** | **8** | **9** | **35** |
| Grade 9 | 2 | 3 | 11 | 120 | 134 | 2 | 3 | 11 | 150 | | 163 | 2 | 3 | 11 | 179 | | 211 | 2 | 3 | 11 |
| Grade 10 | 2 | 3 | 11 | 108 | 105 | 2 | 3 | 11 | 121 | | 132 | 2 | 3 | 11 | 148 | | 157 | 2 | 3 | 11 |
| Grade 11 | 2 | 3 | 11 | 80 | 92 | 2 | 3 | 11 | 108 | | 103 | 2 | 3 | 11 | 119 | | 126 | 2 | 3 | 11 |
| Grade 12 | 2 | 3 | 11 | 72 | 71 | 2 | 3 | 11 | 87 | | 96 | 2 | 3 | 11 | 112 | | 106 | 2 | 3 | 11 |
| 9-12 Headcount | **9** | **12** | **43** | **380** | **402** | **9** | **12** | **43** | **466** | | **494** | **9** | **12** | **43** | **558** | | **599** | **9** | **12** | **43** |
| K-12 Headcount | **40** | **49** | **182** | **1,623** | **1,675** | **40** | **49** | **182** | **1,946** | | **2,006** | **40** | **49** | **182** | **2,277** | | **2,334** | **40** | **49** | **182** |
| | 50 | 62 | 227 | | Addl SF | 50 | 62 | 227 | | | Addl SF | 50 | 62 | 227 | | | Addl SF | 50 | 62 | 227 |
| Student Generation Rates | 20 | 21 | 93 | | Addl MF | 20 | 21 | 93 | | | Addl MF | 20 | 21 | 93 | | | Addl MF | 20 | 21 | 93 |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | **2016** |
|---|---|
| Enumclaw School District 2003 to | **Total** |
| GRADE | |
| -4 | 213 |
| -3 | 213 |
| -2 | 213 |
| -1 | 213 |
| | |
| Kindergarten | 216 |
| Grade 1 | 216 |
| Grade 2 | 219 |
| Grade 3 | 221 |
| Grade 4 | 219 |
| Grade 5 | 222 |
| K-5 Headcount | **1,312** |
| Grade 6 | 215 |
| Grade 7 | 212 |
| Grade 8 | 202 |
| 6-8 Headcount | **630** |
| Grade 9 | 227 |
| Grade 10 | 173 |
| Grade 11 | 142 |
| Grade 12 | 122 |
| 9-12 Headcount | **663** |
| K-12 Headcount | **2,605** |

Student Generation Rates

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2017 | 2017 | 2017 | 2017 | **2017** | 2018 | 2018 | 2018 | 2018 | **2018** | 2019 | 2019 | 2019 | 2019 | **2019** | 2020 | 2020 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson |
| GRADE | | | | | | | | | | | | | | | | | | |
| -4 | 217 | | 5 | 17 | 239 | 242 | | 5 | 17 | 264 | 268 | | 5 | 17 | 290 | 294 | | 5 |
| -3 | 217 | | 5 | 17 | 239 | 242 | | 5 | 17 | 264 | 268 | | 5 | 17 | 290 | 294 | | 5 |
| -2 | 217 | | 5 | 17 | 239 | 242 | | 5 | 17 | 264 | 268 | | 5 | 17 | 290 | 294 | | 5 |
| -1 | 217 | | 5 | 17 | 239 | 242 | | 5 | 17 | 264 | 268 | | 5 | 17 | 290 | 294 | | 5 |
| Kindergarten | 217 | 4 | 5 | 17 | 242 | 242 | 4 | 5 | 17 | 268 | 268 | 4 | 5 | 17 | 294 | 294 | 4 | 5 |
| Grade 1 | 215 | 4 | 5 | 17 | 241 | 241 | 4 | 5 | 17 | 267 | 267 | 4 | 5 | 17 | 293 | 293 | 4 | 5 |
| Grade 2 | 219 | 4 | 5 | 17 | 245 | 245 | 4 | 5 | 17 | 271 | 271 | 4 | 5 | 17 | 297 | 297 | 4 | 5 |
| Grade 3 | 222 | 4 | 5 | 17 | 248 | 248 | 4 | 5 | 17 | 274 | 275 | 4 | 5 | 17 | 301 | 301 | 4 | 5 |
| Grade 4 | 219 | 4 | 5 | 17 | 245 | 246 | 4 | 5 | 17 | 271 | 272 | 4 | 5 | 17 | 298 | 298 | 4 | 5 |
| Grade 5 | 223 | 4 | 5 | 17 | 249 | 249 | 4 | 5 | 17 | 275 | 276 | 4 | 5 | 17 | 302 | 303 | 4 | 5 |
| K-5 Headcount | **1,315** | **23** | **28** | **104** | **1,470** | **1,472** | **23** | **28** | **104** | **1,627** | **1,629** | **23** | **28** | **104** | **1,784** | **1,786** | **23** | **28** |
| Grade 6 | 225 | 3 | 3 | 12 | 243 | 252 | 3 | 3 | 12 | 270 | 279 | 3 | 3 | 12 | 297 | 307 | 3 | 3 |
| Grade 7 | 223 | 3 | 3 | 12 | 240 | 251 | 3 | 3 | 12 | 268 | 279 | 3 | 3 | 12 | 296 | 307 | 3 | 3 |
| Grade 8 | 213 | 3 | 3 | 12 | 231 | 242 | 3 | 3 | 12 | 259 | 270 | 3 | 3 | 12 | 287 | 298 | 3 | 3 |
| 6-8 Headcount | **661** | **8** | **9** | **35** | **713** | **745** | **8** | **9** | **35** | **797** | **828** | **8** | **9** | **35** | **880** | **911** | **8** | **9** |
| Grade 9 | 223 | 2 | 3 | 11 | 239 | 254 | 2 | 3 | 11 | 270 | 285 | 2 | 3 | 11 | 301 | 316 | 2 | 3 |
| Grade 10 | 199 | 2 | 3 | 11 | 215 | 209 | 2 | 3 | 11 | 225 | 237 | 2 | 3 | 11 | 253 | 264 | 2 | 3 |
| Grade 11 | 147 | 2 | 3 | 11 | 163 | 183 | 2 | 3 | 11 | 199 | 192 | 2 | 3 | 11 | 208 | 215 | 2 | 3 |
| Grade 12 | 126 | 2 | 3 | 11 | 142 | 144 | 2 | 3 | 11 | 160 | 176 | 2 | 3 | 11 | 192 | 184 | 2 | 3 |
| 9-12 Headcount | **694** | **9** | **12** | **43** | **758** | **791** | **9** | **12** | **43** | **855** | **890** | **9** | **12** | **43** | **954** | **980** | **9** | **12** |
| K-12 Headcount | **2,670** | **40** | **49** | **182** | **2,941** | **3,007** | **40** | **49** | **182** | **3,278** | **3,347** | **40** | **49** | **182** | **3,618** | **3,677** | **40** | **49** |
| | Addl SF | 50 | 62 | 227 | | Addl SF | 50 | 62 | 227 | | Addl SF | 50 | 62 | 227 | | Addl SF | 50 | 62 |
| Student Generation Rates | Addl MF | 20 | 21 | 93 | | Addl MF | 20 | 21 | 93 | | Addl MF | 20 | 21 | 93 | | Addl MF | 20 | 21 |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2020 | **2020** | 2021 | 2021 | 2021 | 2021 | **2021** | | 2022 | 2022 | 2022 | 2022 | **2022** | 2023 | 2023 | 2023 | 2023 | **2023** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | | | | | |
| -4 | 17 | 316 | 320 | | 5 | 17 | 342 | | 346 | | 5 | 17 | 368 | 372 | | 5 | 17 | 394 |
| -3 | 17 | 316 | 320 | | 5 | 17 | 342 | | 346 | | 5 | 17 | 368 | 372 | | 5 | 17 | 394 |
| -2 | 17 | 316 | 320 | | 5 | 17 | 342 | | 346 | | 5 | 17 | 368 | 372 | | 5 | 17 | 394 |
| -1 | 17 | 316 | 320 | | 5 | 17 | 342 | | 346 | | 5 | 17 | 368 | 372 | | 5 | 17 | 394 |
| Kindergarten | 17 | 320 | 320 | 4 | 5 | 17 | 346 | | 346 | 4 | 5 | 17 | 372 | 372 | 0 | 5 | 17 | 394 |
| Grade 1 | 17 | 318 | 318 | 4 | 5 | 17 | 344 | | 344 | 4 | 5 | 17 | 370 | 370 | 0 | 5 | 17 | 392 |
| Grade 2 | 17 | 323 | 323 | 4 | 5 | 17 | 349 | | 350 | 4 | 5 | 17 | 375 | 376 | 0 | 5 | 17 | 398 |
| Grade 3 | 17 | 327 | 328 | 4 | 5 | 17 | 354 | | 354 | 4 | 5 | 17 | 380 | 381 | 0 | 5 | 17 | 403 |
| Grade 4 | 17 | 324 | 324 | 4 | 5 | 17 | 350 | | 351 | 4 | 5 | 17 | 376 | 377 | 0 | 5 | 17 | 399 |
| Grade 5 | 17 | 329 | 330 | 4 | 5 | 17 | 356 | | 356 | 4 | 5 | 17 | 382 | 383 | 0 | 5 | 17 | 405 |
| K-5 Headcount | **104** | **1,941** | **1,943** | **23** | **28** | **104** | **2,098** | **0** | **2,101** | **23** | **28** | **104** | **2,256** | **2,258** | **1** | **28** | **104** | **2,390** |
| Grade 6 | 12 | 324 | 334 | 3 | 3 | 12 | 351 | | 361 | 3 | 3 | 12 | 378 | 388 | 0 | 3 | 12 | 403 |
| Grade 7 | 12 | 324 | 335 | 3 | 3 | 12 | 352 | | 363 | 3 | 3 | 12 | 380 | 391 | 0 | 3 | 12 | 406 |
| Grade 8 | 12 | 315 | 326 | 3 | 3 | 12 | 344 | | 354 | 3 | 3 | 12 | 372 | 383 | 0 | 3 | 12 | 397 |
| 6-8 Headcount | **35** | **963** | **995** | **8** | **9** | **35** | **1,047** | | **1,078** | **8** | **9** | **35** | **1,130** | **1,162** | **0** | **9** | **35** | **1,206** |
| Grade 9 | 11 | 332 | 347 | 2 | 3 | 11 | 363 | | 379 | 2 | 3 | 11 | 395 | 410 | 0 | 3 | 11 | 423 |
| Grade 10 | 11 | 280 | 291 | 2 | 3 | 11 | 307 | | 318 | 2 | 3 | 11 | 334 | 346 | 0 | 3 | 11 | 359 |
| Grade 11 | 11 | 231 | 238 | 2 | 3 | 11 | 254 | | 261 | 2 | 3 | 11 | 277 | 285 | 0 | 3 | 11 | 298 |
| Grade 12 | 11 | 200 | 205 | 2 | 3 | 11 | 221 | | 225 | 2 | 3 | 11 | 241 | 246 | 0 | 3 | 11 | 260 |
| 9-12 Headcount | **43** | **1,044** | **1,082** | **9** | **12** | **43** | **1,146** | | **1,184** | **9** | **12** | **43** | **1,248** | **1,286** | **0** | **12** | **43** | **1,341** |
| K-12 Headcount | **182** | **3,948** | **4,020** | **40** | **49** | **182** | **4,291** | | **4,363** | **40** | **49** | **182** | **4,634** | **4,706** | **1** | **49** | **182** | **4,937** |
| | 227 | | Addl SF | 50 | | 227 | | | Addl SF | 50 | | | | Addl SF | 1 | | | |
| Student Generation Rates | 93 | | Addl MF | 20 | | 93 | | | Addl MF | 20 | | | | Addl MF | 1 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2024 | 2024 | 2024 | 2024 | **2024** | 2025 | 2025 | 2025 | 2025 | **2025** | 2026 | 2026 | 2026 | 2026 | **2026** | 2027 | 2027 | 2027 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson |
| GRADE | | | | | | | | | | | | | | | | | | |
| -4 | 394 | | 5 | 17 | 416 | 416 | | | | 416 | 416 | | | | 416 | 433 | | |
| -3 | 394 | | 5 | 17 | 416 | 416 | | | | 416 | 416 | | | | 416 | 433 | | |
| -2 | 394 | | 5 | 17 | 416 | 416 | | | | 416 | 416 | | | | 416 | 433 | | |
| -1 | 394 | | 5 | 17 | 416 | 416 | | | | 416 | 416 | | | | 416 | 433 | | |
| | | | | | | | | | below cell corrected | | | | | | | | | |
| Kindergarten | 394 | 0 | 5 | 17 | 416 | 416 | 0 | | | 416 | 416 | 0 | | 17 | 433 | 433 | 0 | |
| Grade 1 | 392 | 0 | 5 | 17 | 414 | 414 | 0 | | | 414 | 414 | 0 | | | 414 | 431 | 0 | |
| Grade 2 | 398 | 0 | 5 | 17 | 420 | 420 | 0 | | | 420 | 420 | 0 | | | 420 | 421 | 0 | |
| Grade 3 | 404 | 0 | 5 | 17 | 426 | 426 | 0 | | | 426 | 427 | 0 | | | 427 | 427 | 0 | |
| Grade 4 | 399 | 0 | 5 | 17 | 422 | 422 | 0 | | | 422 | 423 | 0 | | | 423 | 423 | 0 | |
| Grade 5 | 406 | 0 | 5 | 17 | 428 | 429 | 0 | | | 429 | 430 | 0 | | | 430 | 430 | 0 | |
| K-5 Headcount | **2,393** | **1** | **28** | **104** | **2,525** | **2,527** | **1** | **0** | **0** | **2,528** | **2,529** | **1** | **0** | **17** | **2,547** | **2,565** | **1** | **0** |
| Grade 6 | 411 | 0 | 3 | 12 | 426 | 435 | 0 | | | 435 | 436 | 0 | | | 436 | 436 | 0 | |
| Grade 7 | 416 | 0 | 3 | 12 | 431 | 441 | 0 | | | 441 | 449 | 0 | | | 449 | 450 | 0 | |
| Grade 8 | 408 | 0 | 3 | 12 | 423 | 434 | 0 | | | 434 | 443 | 0 | | | 443 | 452 | 0 | |
| 6-8 Headcount | **1,236** | **0** | **9** | **35** | **1,281** | **1,309** | **0** | **0** | **0** | **1,309** | **1,328** | **0** | **0** | **0** | **1,329** | **1,339** | **0** | **0** |
| Grade 9 | 438 | 0 | 3 | 11 | 452 | 466 | 0 | | | 466 | 478 | 0 | | | 478 | 489 | 0 | |
| Grade 10 | 371 | 0 | 3 | 11 | 385 | 396 | 0 | | | 396 | 409 | 0 | | | 409 | 419 | 0 | |
| Grade 11 | 306 | 0 | 3 | 11 | 320 | 327 | 0 | | | 327 | 337 | 0 | | | 337 | 348 | 0 | |
| Grade 12 | 264 | 0 | 3 | 11 | 278 | 283 | 0 | | | 283 | 290 | 0 | | | 290 | 299 | 0 | |
| 9-12 Headcount | **1,379** | **0** | **12** | **43** | **1,434** | **1,473** | **0** | | | **1,473** | **1,514** | **0** | | | **1,514** | **1,554** | **0** | |
| K-12 Headcount | **5,008** | **1** | **49** | **182** | **5,240** | **5,309** | **1** | **0** | **0** | **5,310** | **5,372** | **1** | **0** | **17** | **5,390** | **5,459** | **1** | **0** |
| | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | |
| Student Generation Rates | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | |

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**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2027 | **2027** | 2028 | 2028 | 2028 | 2028 | **2028** | 2029 | 2029 | 2029 | 2029 | **2029** | 2030 | 2030 | 2030 | 2030 | **2030** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | | 433 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 |
| -3 | | 433 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 |
| -2 | | 433 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 |
| -1 | | 433 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 |
| Kindergarten | | 434 | 434 | 0 | | | 434 | 434 | 0 | | | 434 | 434 | 0 | | | 434 |
| Grade 1 | | 431 | 431 | 0 | | | 432 | 432 | 0 | | | 432 | 432 | 0 | | | 432 |
| Grade 2 | | 421 | 438 | 0 | | | 438 | 438 | 0 | | | 438 | 438 | 0 | | | 439 |
| Grade 3 | | 427 | 427 | 0 | | | 427 | 445 | 0 | | | 445 | 445 | 0 | | | 445 |
| Grade 4 | | 423 | 423 | 0 | | | 423 | 423 | 0 | | | 423 | 441 | 0 | | | 441 |
| Grade 5 | | 430 | 431 | 0 | | | 431 | 431 | 0 | | | 431 | 431 | 0 | | | 431 |
| K-5 Headcount | **0** | **2,566** | **2,584** | **1** | **0** | **0** | **2,584** | **2,602** | **1** | **0** | **0** | **2,603** | **2,621** | **1** | **0** | **0** | **2,621** |
| Grade 6 | | 436 | 437 | 0 | | | 437 | 437 | 0 | | | 437 | 437 | 0 | | | 437 |
| Grade 7 | | 451 | 451 | 0 | | | 451 | 452 | 0 | | | 452 | 452 | 0 | | | 452 |
| Grade 8 | | 452 | 453 | 0 | | | 453 | 454 | 0 | | | 454 | 455 | 0 | | | 455 |
| 6-8 Headcount | **0** | **1,339** | **1,341** | **0** | **0** | **0** | **1,341** | **1,343** | **0** | **0** | **0** | **1,343** | **1,344** | **0** | **0** | **0** | **1,344** |
| Grade 9 | | 489 | 498 | 0 | | | 498 | 500 | 0 | | | 500 | 500 | 0 | | | 500 |
| Grade 10 | | 419 | 428 | 0 | | | 428 | 437 | 0 | | | 437 | 438 | 0 | | | 438 |
| Grade 11 | | 348 | 357 | 0 | | | 357 | 365 | 0 | | | 365 | 372 | 0 | | | 372 |
| Grade 12 | | 299 | 308 | 0 | | | 309 | 316 | 0 | | | 316 | 323 | 0 | | | 323 |
| 9-12 Headcount | | **1,555** | **1,592** | **0** | | | **1,592** | **1,617** | **0** | | | **1,617** | **1,633** | **0** | | | **1,633** |
| K-12 Headcount | **0** | **5,459** | **5,517** | **1** | **0** | **0** | **5,518** | **5,562** | **1** | **0** | **0** | **5,563** | **5,598** | **1** | **0** | **0** | **5,598** |
| | | | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | | | |
| Student Generation Rates | | | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2031 | 2031 | 2031 | 2031 | **2031** | 2032 | 2032 | 2032 | 2032 | **2032** | 2033 | 2033 | 2033 | 2033 | **2033** | 2034 | 2034 | 2034 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson |
| GRADE | | | | | | | | | | | | | | | | | | |
| -4 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 | 434 | | |
| -3 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 | 434 | | |
| -2 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 | 434 | | |
| -1 | 434 | | | | 434 | 434 | | | | 434 | 434 | | | | 434 | 434 | | |
| Kindergarten | 434 | 0 | | | 434 | 434 | 0 | | | 434 | 434 | 0 | | | 434 | 434 | 0 | |
| Grade 1 | 432 | 0 | | | 432 | 432 | 0 | | | 432 | 432 | 0 | | | 432 | 432 | 0 | |
| Grade 2 | 439 | 0 | | | 439 | 439 | 0 | | | 439 | 439 | 0 | | | 439 | 439 | 0 | |
| Grade 3 | 445 | 0 | | | 445 | 445 | 0 | | | 445 | 445 | 0 | | | 445 | 445 | 0 | |
| Grade 4 | 441 | 0 | | | 441 | 441 | 0 | | | 441 | 441 | 0 | | | 441 | 442 | 0 | |
| Grade 5 | 449 | 0 | | | 449 | 449 | 0 | | | 449 | 449 | 0 | | | 449 | 449 | 0 | |
| K-5 Headcount | **2,639** | **1** | **0** | **0** | **2,640** | **2,640** | **1** | **0** | **0** | **2,641** | **2,641** | **1** | **0** | **0** | **2,642** | **2,642** | **1** | **0** |
| Grade 6 | 437 | 0 | | | 437 | 456 | 0 | | | 456 | 456 | 0 | | | 456 | 456 | 0 | |
| Grade 7 | 452 | 0 | | | 452 | 452 | 0 | | | 452 | 471 | 0 | | | 471 | 471 | 0 | |
| Grade 8 | 455 | 0 | | | 455 | 455 | 0 | | | 455 | 455 | 0 | | | 455 | 474 | 0 | |
| 6-8 Headcount | **1,345** | **0** | **0** | **0** | **1,345** | **1,363** | **0** | **0** | **0** | **1,363** | **1,382** | **0** | **0** | **0** | **1,382** | **1,402** | **0** | **0** |
| Grade 9 | 501 | 0 | | | 501 | 501 | 0 | | | 501 | 501 | 0 | | | 501 | 502 | 0 | |
| Grade 10 | 438 | 0 | | | 438 | 439 | 0 | | | 439 | 439 | 0 | | | 439 | 439 | 0 | |
| Grade 11 | 373 | 0 | | | 373 | 373 | 0 | | | 373 | 374 | 0 | | | 374 | 374 | 0 | |
| Grade 12 | 330 | 0 | | | 330 | 330 | 0 | | | 330 | 331 | 0 | | | 331 | 331 | 0 | |
| 9-12 Headcount | **1,642** | **0** | | | **1,642** | **1,644** | **0** | | | **1,644** | **1,645** | **0** | | | **1,645** | **1,646** | **0** | |
| K-12 Headcount | **5,625** | **1** | **0** | **0** | **5,626** | **5,647** | **1** | **0** | **0** | **5,648** | **5,669** | **1** | **0** | **0** | **5,670** | **5,690** | **1** | **0** |
| | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | |
| Student Generation Rates | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2034 | **2034** | 2035 | 2035 | 2035 | 2035 | **2035** | 2036 | 2036 | 2036 | 2036 | **2036** | 2037 | 2037 | 2037 | 2037 | **2037** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | | 434 | 435 | | | | 435 | 435 | | | | 435 | 435 | | | | 435 |
| -3 | | 434 | 435 | | | | 435 | 435 | | | | 435 | 435 | | | | 435 |
| -2 | | 434 | 435 | | | | 435 | 435 | | | | 435 | 435 | | | | 435 |
| -1 | | 434 | 435 | | | | 435 | 435 | | | | 435 | 435 | | | | 435 |
| Kindergarten | | 434 | 435 | 0 | | | 435 | 435 | 0 | | | 435 | 435 | 0 | | | 435 |
| Grade 1 | | 432 | 432 | 0 | | | 432 | 432 | 0 | | | 433 | 433 | 0 | | | 433 |
| Grade 2 | | 439 | 439 | 0 | | | 439 | 439 | 0 | | | 439 | 439 | 0 | | | 439 |
| Grade 3 | | 445 | 445 | 0 | | | 446 | 446 | 0 | | | 446 | 446 | 0 | | | 446 |
| Grade 4 | | 442 | 442 | 0 | | | 442 | 442 | 0 | | | 442 | 442 | 0 | | | 442 |
| Grade 5 | | 449 | 449 | 0 | | | 450 | 450 | 0 | | | 450 | 450 | 0 | | | 450 |
| K-5 Headcount | **0** | **2,642** | **2,643** | **1** | **0** | **0** | **2,643** | **2,643** | **1** | **0** | **0** | **2,644** | **2,644** | **1** | **0** | **0** | **2,645** |
| Grade 6 | | 456 | 456 | 0 | | | 456 | 456 | 0 | | | 456 | 456 | 0 | | | 457 |
| Grade 7 | | 471 | 472 | 0 | | | 472 | 472 | 0 | | | 472 | 472 | 0 | | | 472 |
| Grade 8 | | 474 | 474 | 0 | | | 474 | 474 | 0 | | | 475 | 475 | 0 | | | 475 |
| 6-8 Headcount | **0** | **1,402** | **1,402** | **0** | **0** | **0** | **1,402** | **1,403** | **0** | **0** | **0** | **1,403** | **1,403** | **0** | **0** | **0** | **1,403** |
| Grade 9 | | 502 | 523 | 0 | | | 523 | 523 | 0 | | | 523 | 523 | 0 | | | 523 |
| Grade 10 | | 439 | 439 | 0 | | | 440 | 458 | 0 | | | 458 | 458 | 0 | | | 458 |
| Grade 11 | | 374 | 374 | 0 | | | 374 | 374 | 0 | | | 374 | 390 | 0 | | | 390 |
| Grade 12 | | 331 | 332 | 0 | | | 332 | 332 | 0 | | | 332 | 332 | 0 | | | 332 |
| 9-12 Headcount | | **1,647** | **1,668** | **0** | | | **1,668** | **1,687** | **0** | | | **1,687** | **1,703** | **0** | | | **1,703** |
| K-12 Headcount | **0** | **5,691** | **5,712** | **1** | **0** | **0** | **5,713** | **5,732** | **1** | **0** | **0** | **5,733** | **5,750** | **1** | **0** | **0** | **5,751** |
| | | | Addl SF | 1 | | | | Addl SF | 1 | | | | Addl SF | 1 | | | |
| Student Generation Rates | | | Addl MF | 1 | | | | Addl MF | 1 | | | | Addl MF | 1 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2038 | 2038 | 2038 | 2038 | **2038** |
|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | |
| -4 | 435 | | | | 435 |
| -3 | 435 | | | | 435 |
| -2 | 435 | | | | 435 |
| -1 | 435 | | | | 435 |
| | | | | | |
| Kindergarten | 435 | 0 | | | 435 |
| Grade 1 | 433 | 0 | | | 433 |
| Grade 2 | 440 | 0 | | | 440 |
| Grade 3 | 446 | 0 | | | 446 |
| Grade 4 | 442 | 0 | | | 442 |
| Grade 5 | 450 | 0 | | | 450 |
| K-5 Headcount | **2,645** | **1** | **0** | **0** | **2,645** |
| Grade 6 | 457 | 0 | | | 457 |
| Grade 7 | 472 | 0 | | | 472 |
| Grade 8 | 475 | 0 | | | 475 |
| 6-8 Headcount | **1,403** | **0** | **0** | **0** | **1,404** |
| Grade 9 | 523 | 0 | | | 523 |
| Grade 10 | 458 | 0 | | | 458 |
| Grade 11 | 390 | 0 | | | 390 |
| Grade 12 | 346 | 0 | | | 346 |
| 9-12 Headcount | **1,717** | **0** | | | **1,717** |
| K-12 Headcount | **5,765** | **1** | **0** | **0** | **5,766** |
| | | | | | |
| | Addl SF | 1 | | | |
| Student Generation Rates | Addl MF | 1 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2039 | 2039 | 2039 | 2039 | **2039** | 2040 | 2040 | 2040 | 2040 | **2040** | Other Total | Lawson Total | Villages Total | New Dev Total | LH+V | LH + V share of New Dev | Growth (2040 - 2008) | Cohort Growth | LH + V Share Cohort Growth | LH + V New Dev + Share Cohort Growth |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to GRADE | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | | | | | | | | | | |
| -4 | 435 | | | | 435 | 435 | | | | 435 | | | | | | | | | | |
| -3 | 435 | | | | 435 | 435 | | | | 435 | | | | | | | | | | |
| -2 | 435 | | | | 435 | 435 | | | | 435 | | | | | | | | | | |
| -1 | 435 | | | | 435 | 435 | | | | 435 | | | | | | | | | | |
| Kindergarten | 435 | 0 | | | 435 | 435 | 0 | | | 435 | | | | | | | | | | |
| Grade 1 | 433 | 0 | | | 433 | 433 | 0 | | | 433 | | | | | | | | | | |
| Grade 2 | 440 | 0 | | | 440 | 440 | 0 | | | 440 | | | | | | | | | | |
| Grade 3 | 446 | 0 | | | 446 | 446 | 0 | | | 446 | | | | | | | | | | |
| Grade 4 | 442 | 0 | | | 442 | 442 | 0 | | | 442 | | | | | | | | | | |
| Grade 5 | 450 | 0 | | | 450 | 450 | 0 | | | 450 | | | | | | | | | | |
| K-5 Headcount | **2,646** | **1** | **0** | **0** | **2,646** | **2,647** | **1** | **0** | **0** | **2,647** | 251 | 419 | 1,579 | 2,249 | 1,998 | 0.888369 | 2,358 | 109 | 97 | 2,095 |
| Grade 6 | 457 | 0 | | | 457 | 457 | 0 | | | 457 | | | | | | | | | | |
| Grade 7 | 472 | 0 | | | 472 | 472 | 0 | | | 472 | | | | | | | | | | |
| Grade 8 | 475 | 0 | | | 475 | 475 | 0 | | | 475 | | | | | | | | | | |
| 6-8 Headcount | **1,404** | **0** | **0** | **0** | **1,404** | **1,404** | **0** | **0** | **0** | **1,404** | 86 | 141 | 525 | 752 | 666 | 0.88526 | 1,308 | 556 | 492 | 1,158 |
| Grade 9 | 523 | 0 | | | 523 | 523 | 0 | | | 523 | | | | | | | | | | |
| Grade 10 | 458 | 0 | | | 458 | 458 | 0 | | | 459 | | | | | | | | | | |
| Grade 11 | 390 | 0 | | | 390 | 390 | 0 | | | 390 | | | | | | | | | | |
| Grade 12 | 346 | 0 | | | 346 | 346 | 0 | | | 346 | | | | | | | | | | |
| 9-12 Headcount | **1,717** | **0** | | | **1,718** | **1,718** | **0** | | | **1,718** | 104 | 173 | 645 | 922 | 818 | 0.886829 | 1,594 | 672 | 596 | 1,414 |
| K-12 Headcount | **5,767** | **1** | **0** | **0** | **5,768** | **5,769** | **1** | **0** | **0** | **5,770** | 442 | 732 | 2,749 | 3,923 | 3,481 | 0.887411 | 5,261 | 1,338 | 1,186 | 4,667 |
| | | | | | | | | | | | 442 | 732 | 2,749 | 3,923 | 3,481 | NA | 5,261 | 1,338 | 1,186 | 4,667 |
| | Addl SF | 1 | | | | Addl SF | 1 | | | | | | | | | | | | | |
| Student Generation Rates | Addl MF | 1 | | | | Addl MF | 1 | | | | | | | | | | | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

**Enumclaw School District**
**Projection of Future**

Enumclaw School District 2003 to

| GRADE | LH + V Percent of Total |
|---|---|
| -4 | |
| -3 | |
| -2 | |
| -1 | |
| Kindergarten | |
| Grade 1 | |
| Grade 2 | |
| Grade 3 | |
| Grade 4 | |
| Grade 5 | |
| K-5 Headcount | 0.791379 |
| Grade 6 | |
| Grade 7 | |
| Grade 8 | |
| 6-8 Headcount | 0.824747 |
| Grade 9 | |
| Grade 10 | |
| Grade 11 | |
| Grade 12 | |
| 9-12 Headcount | 0.822827 |
| K-12 Headcount | 0.808866 |
| | NA |

Student Generation Rates

ATTACHMENT B

**City of Black Diamond, Yarrow Bay Development, Lawson Hills & Villages MPDs**

**Enumclaw School District Impact Analysis**

**Projection of Future Black Diamond Enrollment**

Enumclaw School District 2003 to 2008 enrollment base

GRADE

-4

-3

-2

-1

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | from Randy Stocker 3-23-09 | Used in annual cohort multiplier | |
|---|---|---|---|---|---|---|---|---|---|
| Kindergarten | | | | | | 45 | | 1.0001 | |
| Grade 1 | | | | | | 60 | | 0.9951 | |
| Grade 2 | | | | | | 45 | | 1.0157 | |
| Grade 3 | | | | | | 46 | | 1.0146 | |
| Grade 4 | | | | | | 44 | | 0.9915 | |
| Grade 5 | | | | | | 49 | | 1.0179 | |
| K-5 Headcount | **0** | **0** | **0** | **0** | | **289** | | | |
| Grade 6 | | | | | | 33 | | 1.0150 | |
| Grade 7 | | | | | | 32 | | 1.0339 | |
| Grade 8 | | | | | | 31 | | 1.0061 | |
| 6-8 Headcount | **0** | **0** | **0** | **0** | | **96** | 0 | | |
| Grade 9 | | | | | | 39 | | 1.1020 | |
| Grade 10 | | | | | | 27 | | 0.8761 | |
| Grade 11 | | | | | | 25 | | 0.8512 | |
| Grade 12 | | | | | | 33 | | 0.8865 | |
| 9-12 Headcount | **0** | **0** | **0** | **0** | | **124** | 0 | | **0** |
| K-12 Headcount | **0** | **0** | **0** | **0** | | **509** | 0 | | |

Student Generation Rates

ATTACHMENT B

**City of Black Diamond, Ya** Enrollment Projecxtions based on survival - compilation of annual rates 2003 to 2008

| **Enumclaw School District Projection of Future** | 2009 | 2009 | 2009 | 2009 | **2009** | 2010 | 2010 | 2010 | 2010 | **2010** | 2011 | 2011 | 2011 | 2011 | **2011** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson/10 | Village/10 | **Total** | Cohort | Other | Lawson/10 | Village/10 | **Total** | Cohort | Other | Lawson | Village/10 | **Total** |
| GRADE | | | | | | | | | | | | | | | |
| -4 | 45 | | | | 45 | 45 | | 6 | 0 | 51 | 51 | | 6 | 0 | 57 |
| -3 | 45 | | | | 45 | 45 | | 6 | 0 | 51 | 51 | | 6 | 0 | 57 |
| -2 | 45 | | | | 45 | 45 | | 6 | 0 | 51 | 51 | | 6 | 0 | 57 |
| -1 | 45 | | | | 45 | 45 | | 6 | 0 | 51 | 51 | | 6 | 0 | 57 |
| Kindergarten | 45 | | | | 45 | 45 | 0 | 6 | 0 | 51 | 51 | 0 | 6 | 0 | 57 |
| Grade 1 | 45 | | | | 45 | 45 | 0 | 6 | 0 | 51 | 51 | 0 | 6 | 0 | 56 |
| Grade 2 | 61 | | | | 61 | 45 | 0 | 6 | 0 | 51 | 51 | 0 | 6 | 0 | 57 |
| Grade 3 | 46 | | | | 46 | 62 | 0 | 6 | 0 | 68 | 52 | 0 | 6 | 0 | 58 |
| Grade 4 | 46 | | | | 46 | 45 | 0 | 6 | 0 | 51 | 67 | 0 | 6 | 0 | 73 |
| Grade 5 | 45 | | | | 45 | 46 | 0 | 6 | 0 | 52 | 52 | 0 | 6 | 0 | 58 |
| K-5 Headcount | **287** | | | | **287** | **289** | **0** | **35** | **0** | **324** | **324** | **0** | **35** | **0** | **359** |
| Grade 6 | 50 | | | | 50 | 45 | 0 | 4 | 0 | 49 | 53 | 0 | 4 | 0 | 57 |
| Grade 7 | 34 | | | | 34 | 51 | 0 | 4 | 0 | 55 | 51 | 0 | 4 | 0 | 55 |
| Grade 8 | 32 | | | | 32 | 34 | 0 | 4 | 0 | 38 | 56 | 0 | 4 | 0 | 60 |
| 6-8 Headcount | **116** | | | | **116** | **131** | **0** | **12** | **0** | **143** | **160** | **0** | **12** | **0** | **172** |
| Grade 9 | 34 | | | | 34 | 35 | 0 | 4 | 0 | 39 | 42 | 0 | 4 | 0 | 46 |
| Grade 10 | 34 | | | | 34 | 30 | 0 | 4 | 0 | 34 | 34 | 0 | 4 | 0 | 38 |
| Grade 11 | 23 | | | | 23 | 29 | 0 | 4 | 0 | 33 | 29 | 0 | 4 | 0 | 32 |
| Grade 12 | 22 | | | | 22 | 20 | 0 | 4 | 0 | 24 | 29 | 0 | 4 | 0 | 33 |
| 9-12 Headcount | **113** | | | | **113** | **115** | **0** | **14** | **0** | **129** | **134** | **0** | **14** | **0** | **148** |
| K-12 Headcount | **516** | | | | **516** | **535** | **0** | **61** | **0** | **596** | **618** | **0** | **61** | **0** | **679** |
| | | | | | | | | | | 61 | | | | | |
| | | | | | | Addl SF | 0 | | | | Addl SF | 0 | 87 | | |
| Student Generation Rates | | | | | | Addl MF | 0 | | | | Addl MF | 0 | 0 | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2012 | 2012 | 2012 | 2012 | **2012** | 2013 | 2013 | 2013 | 2013 | **2013** | 2014 | 2014 | 2014 | 2014 | **2014** | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | |
| GRADE | | | | | | | | | | | | | | | | |
| -4 | 57 | | 6 | 0 | 62 | 62 | | 6 | 0 | 68 | 68 | | 6 | 0 | 74 | |
| -3 | 57 | | 6 | 0 | 62 | 62 | | 6 | 0 | 68 | 68 | | 6 | 0 | 74 | |
| -2 | 57 | | 6 | 0 | 62 | 62 | | 6 | 0 | 68 | 68 | | 6 | 0 | 74 | |
| -1 | 57 | | 6 | 0 | 62 | 62 | | 6 | 0 | 68 | 68 | | 6 | 0 | 74 | |
| Kindergarten | 57 | 0 | 6 | 0 | 62 | 62 | 0 | 6 | 0 | 68 | 68 | 0 | 6 | 0 | 74 | |
| Grade 1 | 56 | 0 | 6 | 0 | 62 | 62 | 0 | 6 | 0 | 68 | 68 | 0 | 6 | 0 | 74 | |
| Grade 2 | 57 | 0 | 6 | 0 | 63 | 63 | 0 | 6 | 0 | 69 | 69 | 0 | 6 | 0 | 75 | |
| Grade 3 | 58 | 0 | 6 | 0 | 64 | 64 | 0 | 6 | 0 | 70 | 70 | 0 | 6 | 0 | 76 | |
| Grade 4 | 57 | 0 | 6 | 0 | 63 | 63 | 0 | 6 | 0 | 69 | 69 | 0 | 6 | 0 | 75 | |
| Grade 5 | 74 | 0 | 6 | 0 | 80 | 64 | 0 | 6 | 0 | 70 | 70 | 0 | 6 | 0 | 76 | |
| K-5 Headcount | **360** | **0** | **35** | **0** | **395** | **380** | **0** | **35** | **0** | **414** | **415** | **0** | **35** | **0** | **450** | **0** |
| Grade 6 | 59 | 0 | 4 | 0 | 63 | 81 | 0 | 4 | 0 | 85 | 71 | 0 | 4 | 0 | 75 | |
| Grade 7 | 59 | 0 | 4 | 0 | 63 | 65 | 0 | 4 | 0 | 69 | 88 | 0 | 4 | 0 | 92 | |
| Grade 8 | 55 | 0 | 4 | 0 | 59 | 63 | 0 | 4 | 0 | 67 | 69 | 0 | 4 | 0 | 73 | |
| 6-8 Headcount | **173** | **0** | **12** | **0** | **185** | **209** | **0** | **12** | **0** | **221** | **228** | **0** | **12** | **0** | **240** | |
| Grade 9 | 66 | 0 | 4 | 0 | 69 | 65 | 0 | 4 | 0 | 69 | 74 | 0 | 4 | 0 | 78 | |
| Grade 10 | 40 | 0 | 4 | 0 | 44 | 61 | 0 | 4 | 0 | 64 | 60 | 0 | 4 | 0 | 64 | |
| Grade 11 | 32 | 0 | 4 | 0 | 36 | 37 | 0 | 4 | 0 | 41 | 55 | 0 | 4 | 0 | 58 | |
| Grade 12 | 29 | 0 | 4 | 0 | 32 | 32 | 0 | 4 | 0 | 35 | 36 | 0 | 4 | 0 | 40 | |
| 9-12 Headcount | **167** | **0** | **14** | **0** | **181** | **195** | **0** | **14** | **0** | **209** | **225** | **0** | **14** | **0** | **240** | |
| K-12 Headcount | **699** | **0** | **61** | **0** | **761** | **784** | **0** | **61** | **0** | **845** | **869** | **0** | **61** | **0** | **930** | |
| | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | | |
| Student Generation Rates | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2015 | 2015 | 2015 | 2015 | **2015** | 2016 | 2016 | 2016 | 2016 | **2016** | 2017 | 2017 | 2017 | 2017 | **2017** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | | |
| -4 | 74 | | 6 | 0 | 80 | 80 | | 6 | 0 | 86 | 86 | | 6 | 0 | 92 |
| -3 | 74 | | 6 | 0 | 80 | 80 | | 6 | 0 | 86 | 86 | | 6 | 0 | 92 |
| -2 | 74 | | 6 | 0 | 80 | 80 | | 6 | 0 | 86 | 86 | | 6 | 0 | 92 |
| -1 | 74 | | 6 | 0 | 80 | 80 | | 6 | 0 | 86 | 86 | | 6 | 0 | 92 |
| Kindergarten | 74 | 0 | 6 | 0 | 80 | 80 | 0 | 6 | 0 | 86 | 86 | 0 | 6 | 0 | 92 |
| Grade 1 | 74 | 0 | 6 | 0 | 80 | 80 | 0 | 6 | 0 | 85 | 85 | 0 | 6 | 0 | 91 |
| Grade 2 | 75 | 0 | 6 | 0 | 81 | 81 | 0 | 6 | 0 | 87 | 87 | 0 | 6 | 0 | 93 |
| Grade 3 | 76 | 0 | 6 | 0 | 82 | 82 | 0 | 6 | 0 | 88 | 88 | 0 | 6 | 0 | 94 |
| Grade 4 | 75 | 0 | 6 | 0 | 81 | 81 | 0 | 6 | 0 | 87 | 87 | 0 | 6 | 0 | 93 |
| Grade 5 | 76 | 0 | 6 | 0 | 82 | 82 | 0 | 6 | 0 | 88 | 88 | 0 | 6 | 0 | 94 |
| K-5 Headcount | **450** | **0** | **35** | **0** | **485** | **486** | **0** | **35** | **0** | **521** | **521** | **0** | **35** | **0** | **556** |
| Grade 6 | 77 | 0 | 4 | 0 | 81 | 83 | 0 | 4 | 0 | 87 | 90 | 0 | 4 | 0 | 94 |
| Grade 7 | 78 | 0 | 4 | 0 | 82 | 84 | 0 | 4 | 0 | 88 | 90 | 0 | 4 | 0 | 94 |
| Grade 8 | 93 | 0 | 4 | 0 | 96 | 82 | 0 | 4 | 0 | 86 | 89 | 0 | 4 | 0 | 92 |
| 6-8 Headcount | **248** | **0** | **12** | **0** | **259** | **0** **250** | **0** | **12** | **0** | **261** | **268** | **0** | **12** | **0** | **280** |
| Grade 9 | 80 | 0 | 4 | 0 | 84 | 106 | 0 | 4 | 0 | 110 | 95 | 0 | 4 | 0 | 98 |
| Grade 10 | 68 | 0 | 4 | 0 | 72 | 74 | 0 | 4 | 0 | 77 | 96 | 0 | 4 | 0 | 100 |
| Grade 11 | 54 | 0 | 4 | 0 | 58 | 61 | 0 | 4 | 0 | 65 | 66 | 0 | 4 | 0 | 69 |
| Grade 12 | 52 | 0 | 4 | 0 | 55 | 51 | 0 | 4 | 0 | 55 | 57 | 0 | 4 | 0 | 61 |
| 9-12 Headcount | **255** | **0** | **14** | **0** | **269** | **292** | **0** | **14** | **0** | **307** | **314** | **0** | **14** | **0** | **329** |
| K-12 Headcount | **953** | **0** | **61** | **0** | **1,014** | **1,028** | **0** | **61** | **0** | **1,089** | **1,104** | **0** | **61** | **0** | **1,165** |
| | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | |
| Student Generation Rates | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2018 | 2018 | 2018 | 2018 | **2018** | 2019 | 2019 | 2019 | 2019 | **2019** | 2020 | 2020 | 2020 | 2020 | **2020** | 2021 | 2021 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | 92 | | 6 | 0 | 97 | 97 | | 6 | 0 | 103 | 103 | | 6 | 0 | 109 | 109 | |
| -3 | 92 | | 6 | 0 | 97 | 97 | | 6 | 0 | 103 | 103 | | 6 | 0 | 109 | 109 | |
| -2 | 92 | | 6 | 0 | 97 | 97 | | 6 | 0 | 103 | 103 | | 6 | 0 | 109 | 109 | |
| -1 | 92 | | 6 | 0 | 97 | 97 | | 6 | 0 | 103 | 103 | | 6 | 0 | 109 | 109 | |
| Kindergarten | 92 | 0 | 6 | 0 | 97 | 97 | 0 | 6 | 0 | 103 | 103 | 0 | 6 | 0 | 109 | 109 | 0 |
| Grade 1 | 91 | 0 | 6 | 0 | 97 | 97 | 0 | 6 | 0 | 103 | 103 | 0 | 6 | 0 | 109 | 109 | 0 |
| Grade 2 | 93 | 0 | 6 | 0 | 98 | 99 | 0 | 6 | 0 | 104 | 104 | 0 | 6 | 0 | 110 | 110 | 0 |
| Grade 3 | 94 | 0 | 6 | 0 | 100 | 100 | 0 | 6 | 0 | 106 | 106 | 0 | 6 | 0 | 112 | 112 | 0 |
| Grade 4 | 93 | 0 | 6 | 0 | 99 | 99 | 0 | 6 | 0 | 105 | 105 | 0 | 6 | 0 | 111 | 111 | 0 |
| Grade 5 | 95 | 0 | 6 | 0 | 100 | 101 | 0 | 6 | 0 | 106 | 107 | 0 | 6 | 0 | 112 | 113 | 0 |
| K-5 Headcount | **557** | **0** | **35** | **0** | **592** | **592** | **0** | **35** | **0** | **627** | **628** | **0** | **35** | **0** | **663** | **663** | **0** |
| Grade 6 | 96 | 0 | 4 | 0 | 100 | 102 | 0 | 4 | 0 | 106 | 108 | 0 | 4 | 0 | 112 | 114 | 0 |
| Grade 7 | 97 | 0 | 4 | 0 | 101 | 103 | 0 | 4 | 0 | 107 | 109 | 0 | 4 | 0 | 113 | 116 | 0 |
| Grade 8 | 95 | 0 | 4 | 0 | 99 | 101 | 0 | 4 | 0 | 105 | 108 | 0 | 4 | 0 | 112 | 114 | 0 |
| 6-8 Headcount | **287** | **0** | **12** | **0** | **299** | **306** | **0** | **12** | **0** | **318** | **325** | **0** | **12** | **0** | **337** | **344** | **0** |
| Grade 9 | 102 | 0 | 4 | 0 | 105 | 109 | 0 | 4 | 0 | 112 | 116 | 0 | 4 | 0 | 120 | 123 | 0 |
| Grade 10 | 86 | 0 | 4 | 0 | 90 | 92 | 0 | 4 | 0 | 96 | 99 | 0 | 4 | 0 | 102 | 105 | 0 |
| Grade 11 | 85 | 0 | 4 | 0 | 89 | 76 | 0 | 4 | 0 | 80 | 82 | 0 | 4 | 0 | 85 | 87 | 0 |
| Grade 12 | 62 | 0 | 4 | 0 | 65 | 79 | 0 | 4 | 0 | 82 | 71 | 0 | 4 | 0 | 75 | 76 | 0 |
| 9-12 Headcount | **335** | **0** | **14** | **0** | **349** | **356** | **0** | **14** | **0** | **371** | **367** | **0** | **14** | **0** | **382** | **390** | **0** |
| K-12 Headcount | **1,179** | **0** | **61** | **0** | **1,240** | **1,255** | **0** | **61** | **0** | **1,316** | **1,320** | **0** | **61** | **0** | **1,381** | **1,397** | **0** |
| | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | | Addl SF | 0 | 87 | 0 | | Addl SF | 0 |
| Student Generation Rates | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | | Addl MF | 0 | 0 | 0 | | Addl MF | 0 |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2021 | 2021 | **2021** | | 2022 | 2022 | 2022 | 2022 | **2022** | 2023 | 2023 | 2023 | 2023 | **2023** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Lawson | Village | **Total** | | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | |
| -4 | 6 | 0 | 115 | | 115 | | 6 | 0 | 121 | 121 | | 6 | 0 | 127 |
| -3 | 6 | 0 | 115 | | 115 | | 6 | 0 | 121 | 121 | | 6 | 0 | 127 |
| -2 | 6 | 0 | 115 | | 115 | | 6 | 0 | 121 | 121 | | 6 | 0 | 127 |
| -1 | 6 | 0 | 115 | | 115 | | 6 | 0 | 121 | 121 | | 6 | 0 | 127 |
| Kindergarten | 6 | 0 | 115 | | 115 | 0 | 6 | 0 | 121 | 121 | 0 | 6 | 0 | 127 |
| Grade 1 | 6 | 0 | 114 | | 114 | 0 | 6 | 0 | 120 | 120 | 0 | 6 | 0 | 126 |
| Grade 2 | 6 | 0 | 116 | | 116 | 0 | 6 | 0 | 122 | 122 | 0 | 6 | 0 | 128 |
| Grade 3 | 6 | 0 | 118 | | 118 | 0 | 6 | 0 | 124 | 124 | 0 | 6 | 0 | 130 |
| Grade 4 | 6 | 0 | 117 | | 117 | 0 | 6 | 0 | 122 | 123 | 0 | 6 | 0 | 128 |
| Grade 5 | 6 | 0 | 118 | | 119 | 0 | 6 | 0 | 124 | 125 | 0 | 6 | 0 | 131 |
| K-5 Headcount | **35** | **0** | **698** | **0** | **699** | **0** | **35** | **0** | **734** | **734** | **0** | **35** | **0** | **769** |
| Grade 6 | 4 | 0 | 118 | | 120 | 0 | 4 | 0 | 124 | 126 | 0 | 4 | 0 | 130 |
| Grade 7 | 4 | 0 | 120 | | 122 | 0 | 4 | 0 | 126 | 128 | 0 | 4 | 0 | 132 |
| Grade 8 | 4 | 0 | 118 | | 120 | 0 | 4 | 0 | 124 | 127 | 0 | 4 | 0 | 131 |
| 6-8 Headcount | **12** | **0** | **356** | | **363** | **0** | **12** | **0** | **374** | **381** | **0** | **12** | **0** | **393** |
| Grade 9 | 4 | 0 | 127 | | 130 | 0 | 4 | 0 | 134 | 137 | 0 | 4 | 0 | 141 |
| Grade 10 | 4 | 0 | 108 | | 111 | 0 | 4 | 0 | 114 | 117 | 0 | 4 | 0 | 121 |
| Grade 11 | 4 | 0 | 91 | | 92 | 0 | 4 | 0 | 96 | 97 | 0 | 4 | 0 | 101 |
| Grade 12 | 4 | 0 | 79 | | 80 | 0 | 4 | 0 | 84 | 85 | 0 | 4 | 0 | 89 |
| 9-12 Headcount | **14** | **0** | **405** | | **413** | **0** | **14** | **0** | **428** | **436** | **0** | **14** | **0** | **451** |
| K-12 Headcount | **61** | **0** | **1,458** | | **1,475** | **0** | **61** | **0** | **1,536** | **1,552** | **0** | **61** | **0** | **1,613** |
| | | 0 | | | Addl SF | 0 | | | | Addl SF | 0 | | | |
| Student Generation Rates | | 0 | | | Addl MF | 0 | | | | Addl MF | 0 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2024 | 2024 | 2024 | 2024 | **2024** | 2025 | 2025 | 2025 | 2025 | **2025** | 2026 | 2026 | 2026 | 2026 | **2026** | 2027 | 2027 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | 127 | | 6 | 0 | 132 | 132 | | | | 132 | 132 | | | | 132 | 132 | |
| -3 | 127 | | 6 | 0 | 132 | 132 | | | | 132 | 132 | | | | 132 | 132 | |
| -2 | 127 | | 6 | 0 | 132 | 132 | | | | 132 | 132 | | | | 132 | 132 | |
| -1 | 127 | | 6 | 0 | 132 | 132 | | | | 132 | 132 | | | | 132 | 132 | |
| | | | | | | | | | below cell corrected | | | | | | | | |
| Kindergarten | 127 | 0 | 6 | 0 | 132 | 132 | 0 | | | 132 | 132 | 0 | | 0 | 132 | 132 | 0 |
| Grade 1 | 126 | 0 | 6 | 0 | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 | 132 | 0 |
| Grade 2 | 128 | 0 | 6 | 0 | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 | 134 | 0 |
| Grade 3 | 130 | 0 | 6 | 0 | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 | 136 | 0 |
| Grade 4 | 129 | 0 | 6 | 0 | 134 | 134 | 0 | | | 134 | 135 | 0 | | | 135 | 135 | 0 |
| Grade 5 | 131 | 0 | 6 | 0 | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 | 137 | 0 |
| K-5 Headcount | **770** | **0** | **35** | **0** | **805** | **805** | **0** | **0** | **0** | **805** | **806** | **0** | **0** | **0** | **806** | **806** | **0** |
| Grade 6 | 132 | 0 | 4 | 0 | 136 | 139 | 0 | | | 139 | 139 | 0 | | | 139 | 139 | 0 |
| Grade 7 | 135 | 0 | 4 | 0 | 139 | 141 | 0 | | | 141 | 143 | 0 | | | 143 | 144 | 0 |
| Grade 8 | 133 | 0 | 4 | 0 | 137 | 139 | 0 | | | 139 | 142 | 0 | | | 142 | 144 | 0 |
| 6-8 Headcount | **400** | **0** | **12** | **0** | **412** | **419** | **0** | **0** | **0** | **419** | **424** | **0** | **0** | **0** | **424** | **427** | **0** |
| Grade 9 | 144 | 0 | 4 | 0 | 148 | 151 | 0 | | | 151 | 154 | 0 | | | 154 | 156 | 0 |
| Grade 10 | 123 | 0 | 4 | 0 | 127 | 129 | 0 | | | 129 | 132 | 0 | | | 132 | 135 | 0 |
| Grade 11 | 103 | 0 | 4 | 0 | 106 | 108 | 0 | | | 108 | 110 | 0 | | | 110 | 113 | 0 |
| Grade 12 | 90 | 0 | 4 | 0 | 93 | 94 | 0 | | | 94 | 96 | 0 | | | 96 | 98 | 0 |
| 9-12 Headcount | **459** | **0** | **14** | **0** | **474** | **482** | **0** | | | **482** | **492** | **0** | | | **492** | **501** | **0** |
| K-12 Headcount | **1,629** | **0** | **61** | **0** | **1,690** | **1,707** | **0** | **0** | **0** | **1,707** | **1,721** | **0** | **0** | **0** | **1,721** | **1,733** | **0** |
| | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 |
| Student Generation Rates | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2027 | 2027 | **2027** | 2028 | 2028 | 2028 | 2028 | **2028** | 2029 | 2029 | 2029 | 2029 | **2029** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | |
| -4 | | | 132 | 133 | | | | 133 | 133 | | | | 133 |
| -3 | | | 132 | 133 | | | | 133 | 133 | | | | 133 |
| -2 | | | 132 | 133 | | | | 133 | 133 | | | | 133 |
| -1 | | | 132 | 133 | | | | 133 | 133 | | | | 133 |
| Kindergarten | | | 132 | 133 | 0 | | | 133 | 133 | 0 | | | 133 |
| Grade 1 | | | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 |
| Grade 2 | | | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 |
| Grade 3 | | | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 |
| Grade 4 | | | 135 | 135 | 0 | | | 135 | 135 | 0 | | | 135 |
| Grade 5 | | | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 |
| K-5 Headcount | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** |
| Grade 6 | | | 139 | 139 | 0 | | | 139 | 139 | 0 | | | 139 |
| Grade 7 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 |
| Grade 8 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 |
| 6-8 Headcount | **0** | **0** | **427** | **427** | **0** | **0** | **0** | **427** | **427** | **0** | **0** | **0** | **427** |
| Grade 9 | | | 156 | 159 | 0 | | | 159 | 159 | 0 | | | 159 |
| Grade 10 | | | 135 | 137 | 0 | | | 137 | 139 | 0 | | | 139 |
| Grade 11 | | | 113 | 115 | 0 | | | 115 | 117 | 0 | | | 117 |
| Grade 12 | | | 98 | 100 | 0 | | | 100 | 102 | 0 | | | 102 |
| 9-12 Headcount | | | **501** | **510** | **0** | | | **510** | **516** | **0** | | | **516** |
| K-12 Headcount | **0** | **0** | **1,733** | **1,743** | **0** | **0** | **0** | **1,743** | **1,750** | **0** | **0** | **0** | **1,750** |
| | | | | Addl SF | 0 | | | | Addl SF | 0 | | | |
| Student Generation Rates | | | | Addl MF | 0 | | | | Addl MF | 0 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2030 | 2030 | 2030 | 2030 | **2030** | 2031 | 2031 | 2031 | 2031 | **2031** | 2032 | 2032 | 2032 | 2032 | **2032** | 2033 | 2033 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | |
| -3 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | |
| -2 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | |
| -1 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | |
| Kindergarten | 133 | 0 | | | 133 | 133 | 0 | | | 133 | 133 | 0 | | | 133 | 133 | 0 |
| Grade 1 | 132 | 0 | | | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 | 132 | 0 |
| Grade 2 | 134 | 0 | | | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 | 134 | 0 |
| Grade 3 | 136 | 0 | | | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 | 136 | 0 |
| Grade 4 | 135 | 0 | | | 135 | 135 | 0 | | | 135 | 135 | 0 | | | 135 | 135 | 0 |
| Grade 5 | 137 | 0 | | | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 | 137 | 0 |
| K-5 Headcount | **806** | **0** | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** | **806** | **0** |
| Grade 6 | 139 | 0 | | | 139 | 139 | 0 | | | 139 | 139 | 0 | | | 139 | 139 | 0 |
| Grade 7 | 144 | 0 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 | 144 | 0 |
| Grade 8 | 145 | 0 | | | 145 | 145 | 0 | | | 145 | 145 | 0 | | | 145 | 145 | 0 |
| 6-8 Headcount | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** |
| Grade 9 | 159 | 0 | | | 159 | 159 | 0 | | | 159 | 160 | 0 | | | 160 | 159 | 0 |
| Grade 10 | 139 | 0 | | | 139 | 140 | 0 | | | 140 | 140 | 0 | | | 140 | 140 | 0 |
| Grade 11 | 118 | 0 | | | 118 | 119 | 0 | | | 119 | 119 | 0 | | | 119 | 119 | 0 |
| Grade 12 | 103 | 0 | | | 103 | 105 | 0 | | | 105 | 105 | 0 | | | 105 | 105 | 0 |
| 9-12 Headcount | **520** | **0** | | | **520** | **523** | **0** | | | **523** | **523** | **0** | | | **523** | **523** | **0** |
| K-12 Headcount | **1,754** | **0** | **0** | **0** | **1,754** | **1,756** | **0** | **0** | **0** | **1,756** | **1,757** | **0** | **0** | **0** | **1,757** | **1,758** | **0** |
| | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 |
| Student Generation Rates | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2033 | 2033 | **2033** | 2034 | 2034 | 2034 | 2034 | **2034** | 2035 | 2035 | 2035 | 2035 | **2035** | 2036 | 2036 | 2036 | 2036 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village |
| GRADE | | | | | | | | | | | | | | | | | |
| -4 | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | |
| -3 | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | |
| -2 | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | |
| -1 | | | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | |
| Kindergarten | | | 133 | 133 | 0 | | | 133 | 133 | 0 | | | 133 | 133 | 0 | | |
| Grade 1 | | | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 | 132 | 0 | | |
| Grade 2 | | | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 | 134 | 0 | | |
| Grade 3 | | | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 | 136 | 0 | | |
| Grade 4 | | | 135 | 135 | 0 | | | 135 | 135 | 0 | | | 135 | 135 | 0 | | |
| Grade 5 | | | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 | 137 | 0 | | |
| K-5 Headcount | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** | **806** | **0** | **0** | **0** | **806** | **807** | **0** | **0** | **0** |
| Grade 6 | | | 139 | 139 | 0 | | | 139 | 139 | 0 | | | 139 | 139 | 0 | | |
| Grade 7 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | |
| Grade 8 | | | 145 | 145 | 0 | | | 145 | 145 | 0 | | | 145 | 145 | 0 | | |
| 6-8 Headcount | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** |
| Grade 9 | | | 159 | 160 | 0 | | | 160 | 160 | 0 | | | 160 | 160 | 0 | | |
| Grade 10 | | | 140 | 140 | 0 | | | 140 | 140 | 0 | | | 140 | 140 | 0 | | |
| Grade 11 | | | 119 | 119 | 0 | | | 119 | 119 | 0 | | | 119 | 119 | 0 | | |
| Grade 12 | | | 105 | 105 | 0 | | | 105 | 105 | 0 | | | 105 | 105 | 0 | | |
| 9-12 Headcount | | | **523** | **524** | **0** | | | **524** | **524** | **0** | | | **524** | **524** | **0** | | |
| K-12 Headcount | **0** | **0** | **1,758** | **1,758** | **0** | **0** | **0** | **1,758** | **1,758** | **0** | **0** | **0** | **1,758** | **1,758** | **0** | **0** | **0** |
| | | | | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 | | |
| Student Generation Rates | | | | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | **2036** | 2037 | 2037 | 2037 | 2037 | **2037** | 2038 | 2038 | 2038 | 2038 | **2038** | 2039 | 2039 | 2039 | 2039 | **2039** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** | Cohort | Other | Lawson | Village | **Total** |
| GRADE | | | | | | | | | | | | | | | | |
| -4 | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 |
| -3 | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 |
| -2 | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 |
| -1 | 133 | 133 | | | | 133 | 133 | | | | 133 | 133 | | | | 133 |
| Kindergarten | 133 | 133 | 0 | | | 133 | 133 | 0 | | | 133 | 133 | 0 | | | 133 |
| Grade 1 | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 | 132 | 0 | | | 132 |
| Grade 2 | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 | 134 | 0 | | | 134 |
| Grade 3 | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 | 136 | 0 | | | 136 |
| Grade 4 | 135 | 135 | 0 | | | 135 | 135 | 0 | | | 135 | 135 | 0 | | | 135 |
| Grade 5 | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 | 137 | 0 | | | 137 |
| K-5 Headcount | **807** | **807** | **0** | **0** | **0** | **807** | **807** | **0** | **0** | **0** | **807** | **807** | **0** | **0** | **0** | **807** |
| Grade 6 | 139 | 139 | 0 | | | 139 | 139 | 0 | | | 139 | 139 | 0 | | | 139 |
| Grade 7 | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 | 144 | 0 | | | 144 |
| Grade 8 | 145 | 145 | 0 | | | 145 | 145 | 0 | | | 145 | 145 | 0 | | | 145 |
| 6-8 Headcount | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** | **428** | **0** | **0** | **0** | **428** |
| Grade 9 | 160 | 160 | 0 | | | 160 | 160 | 0 | | | 160 | 160 | 0 | | | 160 |
| Grade 10 | 140 | 140 | 0 | | | 140 | 140 | 0 | | | 140 | 140 | 0 | | | 140 |
| Grade 11 | 119 | 119 | 0 | | | 119 | 119 | 0 | | | 119 | 119 | 0 | | | 119 |
| Grade 12 | 105 | 105 | 0 | | | 105 | 105 | 0 | | | 105 | 105 | 0 | | | 105 |
| 9-12 Headcount | **524** | **524** | **0** | | | **524** | **524** | **0** | | | **524** | **524** | **0** | | | **524** |
| K-12 Headcount | **1,758** | **1,758** | **0** | **0** | **0** | **1,758** | **1,759** | **0** | **0** | **0** | **1,759** | **1,759** | **0** | **0** | **0** | **1,759** |
| | | Addl SF | 0 | | | | Addl SF | 0 | | | | Addl SF | 0 | | | |
| Student Generation Rates | | Addl MF | 0 | | | | Addl MF | 0 | | | | Addl MF | 0 | | | |

ATTACHMENT B

**City of Black Diamond, Ya**

| **Enumclaw School District Projection of Future** | 2040 | 2040 | 2040 | 2040 | **2040** | Other Total | Lawson Total | Villages Total | New Dev Total | LH+V | LH + V share of New Dev | Growth (2040 - 2008) | Cohort Growth | LH + V Share Cohort Growth | LH + V New Dev + Share Cohort Growth | LH + V Percent of Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Enumclaw School District 2003 to | Cohort | Other | Lawson | Village | **Total** | | | | | | | | | | | |
| GRADE | | | | | | | | | | | | | | | | |
| -4 | 133 | | | | 133 | | | | | | | | | | | |
| -3 | 133 | | | | 133 | | | | | | | | | | | |
| -2 | 133 | | | | 133 | | | | | | | | | | | |
| -1 | 133 | | | | 133 | | | | | | | | | | | |
| Kindergarten | 133 | 0 | | | 133 | | | | | | | | | | | |
| Grade 1 | 132 | 0 | | | 132 | | | | | | | | | | | |
| Grade 2 | 134 | 0 | | | 134 | | | | | | | | | | | |
| Grade 3 | 136 | 0 | | | 136 | | | | | | | | | | | |
| Grade 4 | 135 | 0 | | | 135 | | | | | | | | | | | |
| Grade 5 | 137 | 0 | | | 137 | | | | | | | | | | | |
| K-5 Headcount | **807** | **0** | **0** | **0** | **807** | 0 | 524 | 0 | 524 | 524 | 1 | 518 | -6 | -6 | 518 | 0.641807 |
| Grade 6 | 139 | 0 | | | 139 | | | | | | | | | | | |
| Grade 7 | 144 | 0 | | | 144 | | | | | | | | | | | |
| Grade 8 | 145 | 0 | | | 145 | | | | | | | | | | | |
| 6-8 Headcount | **428** | **0** | **0** | **0** | **428** | 0 | 177 | 0 | 177 | 177 | 1 | 332 | 155 | 155 | 332 | 0.775767 |
| Grade 9 | 160 | 0 | | | 160 | | | | | | | | | | | |
| Grade 10 | 140 | 0 | | | 140 | | | | | | | | | | | |
| Grade 11 | 119 | 0 | | | 119 | | | | | | | | | | | |
| Grade 12 | 105 | 0 | | | 105 | | | | | | | | | | | |
| 9-12 Headcount | **524** | **0** | | | **524** | 0 | 216 | 0 | 216 | 216 | 1 | 400 | 183 | 183 | 400 | 0.76332 |
| K-12 Headcount | **1,759** | **0** | **0** | **0** | **1,759** | 0 | 917 | 0 | 917 | 917 | 1 | 1,250 | 333 | 333 | 1,250 | 0.71061 |
| | | | | | | 0 | 917 | 0 | 917 | 917 | NA | 1,250 | 333 | 333 | 1,250 | NA |
| | Addl SF | 0 | | | | | | | | | | | | | | |
| Student Generation Rates | Addl MF | 0 | | | | | | | | | | | | | | |

**BEFORE THE HEARING EXAMINER FOR THE CITY OF BLACK DIAMOND**

Phil Olbrechts, Hearing Examiner

| RE: Villages Preliminary Plat 1A<br><br>PLN11-0001 | **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION** |
|---|---|

## INTRODUCTION

The Applicant requests approval of a preliminary plat to subdivide 127.3 acres into 413 single family lots and 98 tracts. The preliminary plat is designed to accommodate single family, multi-family, commercial, light industrial and school uses. Consolidated with the plat application is an appeal of a mitigated determination of non-significance issued for the plat under the Washington State Environmental Policy Act, Chapter 43.21C RCW. In newly added SEPA mitigation measures, the Applicant is given a choice of either committing to building pedestrian improvements to Rock Creek Bridge or in the alternative doing a limited scope environmental impact statement on the pedestrian safety impacts created by the proposal as they relate to the bridge. If the Applicant chooses to do the pedestrian improvements, the MDNS is sustained with several added conditions and the preliminary plat is approved with several conditions added to those recommended by staff. SEPA mitigation measures resulting from the SEPA Appeal are listed at p. 79-81of this decision.

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## ACRONYMS

CSMA: Comprehensive School Mitigation Agreement

HPA: Hydraulic Permit Approval

MDNS: Mitigated Determination of Non-significance

MDRT: Master Development Review Team

FEIS: Final Environmental Impact Statement

PP1A: Villages Preliminary Plat 1A

QAPP: Quality Assurance Project Plan

SEPA: Washington State Environmental Policy Act, Chapter 43.21C RCW

Villages DA: Villages Development Agreement

Villages MPD: Villages Master Plan Development.

Villages MPD COA: Villages MPD Condition of Approval

Villages MPD COL: Villages MPD Conclusion of Law

Villages MPD FOF: Villages MPD Finding of Fact

## ORAL TESTIMONY

A summary of the hearing testimony is attached as Appendix C.

## EXHIBITS

Procedural issues pertaining to the conduct of the SEPA appeal portion of the hearing were handled by email between the Examiner and SEPA Appellants prior to the hearing. These emails are listed in Appendix B. The Examiner disclosed the communications at the commencement of the hearing and noted that the email communications were available upon request. No requests were made. At the close of the hearing the Examiner announced that some remaining factual and procedural issues pertaining to the SEPA appeal would be handled through email communications. Only the SEPA appellants, Applicant and City were still present at this time, although the hearing continued to be open to anyone who wished to attend. No one objected to this procedure.

In addition to the emails identified in Appendix B, the following exhibits were admitted during the hearing:

1. The Villages FEIS including all exhibits, December 2009
2. The Villages MPD Phase 1A Preliminary Plat drawings
3. SEPA checklists; Original (2/2/11) and revised (4/25/12); revised checklist supplement (7/3/12)
4. *Results of Subsurface Exploration and Laboratory Testing Stormwater Infiltration Evaluation*, Golder Associates, April 21, 2010.
5. Geotechnical Report*, Golder Associates, October 8, 2010.

6. Geotechnical Report * Stormwater Infiltration Pond*, Golder Associates, January 21, 2011.
7. Drainage Report*, Triad Associates, January 26, 2011; Addendum #1, (6/28/12)
8. Stormwater Monitoring and No Net Phosphorous Implementation Plan*, Exhibit *O* to The Villages MPD Development Agreement.
9. The Villages and Lawson Hills Master Planned Developments Pre-Construction Stormwater Monitoring in Rock Creek and the Establishment of an Interim Baseline Phosphorous Load*, Tetra Tech, July 23, 2012.
10. Maple Valley Transportation Mitigation Agreement*, October 6, 2010, Exhibit *Q* to The Villages MPD Development Agreement.
11. Covington Transportation Mitigation Agreement*, December 14, 2010, Exhibit *R* to The Villages MPD Development Agreement.
12. Comprehensive School Mitigation Agreement*, January 24, 2011.
13. Tree Inventory*, International Forestry Consultants, Inc., January 31, 2011 and by S.A. Newman Firm, March 14, 2011.
14. Short-Term Construction Noise Mitigation Plan*, January 31, 2011.
15. Construction Waste Management Plan*, Exhibit *J* to The Villages MPD Development Agreement.
16. Traffic Impact Study*, Transpo Group, January 2011; update memo May 15, 2012; response memo June 28, 2012.
17. Sensitive Area Study*, Wetland Resources, May 9, 2012; response memo July 17, 2012; second response memo July 30, 2012.
18. Final staff Evaluation of The Villages MPD Phase 1A Preliminary Plat SEPA checklist and MDNS issued for The Villages MPD Phase 1A Preliminary Plat
19. Notice of Extension of SEPA Comment/Appeal Period
20. Preliminary Plat Staff Report and exhibits
21. Photograph of Rock Creek Bridge (appellant ex. 38-3)
22. Pg. 17 of Black Diamond Capital Improvement Plan (appellant ex. 30)
23. Black Diamond Six Year Transportation Plan (appellant ex. 49)
24. 11/1/12 Email from Fisher to Proctor (appellant ex. 34)
25. Photograph of Rock Creek Wetlands(appellant ex. 38)
26. 2/25/10 Letter from Larry Fisher to Steve Pilcher (appellant ex. 35)
27. 9/21/12 Letter from Rob Zisette to Cindy Wheeler (appellant ex 23)
28. 10/19/12 Email from Mark Buscher (appellant ex 78)
29. 6/28/12 letter from Triad to City (appellant ex. 65)
30. 10/1/12 Letter from Steve Pilcher to Mark Buscher (appellant ex. 46)
31. William Shiels Declaration, dated October 31, 2012
32. Scott Brainard Declaration, dated October 29, 2012
33. Sensitive Areas Ordinance Best Available Science report
34. 10/8/12 Perlic email to Williamson
35. 2012-2017 Enumclaw School District Capital Facilities Plan
36. 9/25/12 Memo from Fure to Williamson, (appellant ex. 69)
37. 1/25/11 Letter from Lund to Pilcher and Williamson
38. 1/11/11 Letter from Tetra-Tech to Black Diamond
39. Declaration of James Johnson, dated 10/30/12

40. Fiscal Impact Analysis dated 9/20/12
41. Declaration of Chris Austin, dated October 29, 2012
42. Declaration of Dan McKinney, Jr., dated October 30, 2012
43. Declaration of Darren Peugh, dated October 30, 2012
44. Declaration of Alan Fure, dated October 30, 2012
45. 6/11/12 Letter from Williamson to Lund
46. 9/5/12 Memo from Dan McKinney to Lund
47. Jason Walker CV
48. John Perlic CV
49. 11/2/12 letter from Paulette Norman to Pilcher
50. 1/25/10 Letter from Timothy Lane to Dan Dal Santo
51. Pre-Hearing Order II dated October 15, 2012.
52. Order on Motions for Dismissal dated 10/31/12
53. Order on Motion to Strike Dated 10/31/12
54. Duplicate of Ex. 182 issues
55. 2/17/11 letter from Buscher to Williamson (appellant ex. 41)
56. Dan Ervin CV
57. 8/3/12 letter from Buscher to Williamson (appellant ex.43)
58. 9/13/12 email from Buscher to Williamson
59. P. 418-19; 1443-44; 1568, 1580, 3375 and 3389-90 of FEIS Appeal hearing transcript, AR 584-88, 1068-70, 1087, 1150-51. (SEPA Appellant No. 22)
60. Hearing Examiner Recommendation on Villages Development Agreement
61. 11/02/12 Staff Report errata
62. Villages Aerial Photograph – "Regional Context" shows boundary of City
63. Applicant's "Guide to Preliminary Plat 1A"
64. P. 3-4 of Villages MPD application as revised 12/31/09
65. Use map with lot designation
66. Villages Preliminary Plat 1A Open Space
    a. 11/2/12 letter from Eric to Examiner with attachments (entered as a second Ex. 66)
67. Photo of 40 car queue near Rock Creek Bridge, taken Sept 29 (appellant ex. 38 "Rock Creek Bridge Traffic")
68. Rimbos written testimony
69. 6/11/12 letter from Williamson to Lund (Appellant Ex. 66)
70. 8/15/12 Construction Threshold Evaluation from Dan Ervin (Appellant Ex. 8)
71. 9/12/12 memo from Perlic to Williamson (Appellant Ex. 12)
72. 6/13/12 deviation requests (alley and road)
73. 6/15/11 letter from Lund to Pilcher
74. June 11, 2012 letter from Lund to Pilcher
75. Revised Staff Report narrative submitted April 25, 2012
76. 9/14/12 letter from Brainard to Lund
77. Stormwater Monitoring Requirements; Portion of Ex. O to Villages Development Agreement dated 1/3/2011
78. Design Review Committee Approval letter to Pilcher 2/1/2011
79. 10/4/10 Triad Memo to Seth Boettcher

80. 7/24/12 Water Availability Certificate from Covington Water District
81. 3/16/11 Email from Megan Nelson to Steve Pilcher re owner information
82. MDRT Preliminary Plat 6/11 comments from MDRT and Applicant response
83. 3 Mailing Lists for the MDNS, notice of extension, and notice of combined hearing
84. 10/8/12 Perlic to Williamson (Appellant Ex. 15)
85. Replaced by Ex. 93.
86. 9/11/12 email strings, Pilcher to Boettcher to Rothschild to
87. 9/20/12 email from Rothschild to Pilcher
88. 6/11/2012 Email from Andy Williamson to Mark Buscher (appellant exhibit 40)
89. Chapter 7 Villages Master Plan Application (appellant ex, 42, 50, 73)
90. 8/18/10 Buscher to Boettcher (appellant ex. 44)
91. Applicant proposed conditions of approval
92. Edelman FIA Rebuttal sent by email dated 11/5/12
93. Chapter 3 and Appendix A to NCHRP
94. Undated Memo from Transpo to Lund, "Main Street Intersection Control", SEPA Appellant Ex. 18.
95. Second Declaration of Alan D. Fure, dated 11/8/12.
96. Declaration of Dan Ervin, dated 11/8/12.
97. SEPA Appellant Objection to City of Black Diamond-Dec. of Dan Ervin
98. Objection Applicant Dec. of Alan Fure dated 11/8/12
99. 11/3/12 Watling public comment
100. 11/5/12 Erica Morgan email to Nelson et al
101. 11/2/12 Email from Sperry to Martinez
102. 9/20/12 Letter from Buscher to Pilcher (appellant ex. 45)
103. 10/1/12 Letter from Pilcher to Buscher
104. 10/19/12 email from Buscher to Sperry
105. 10/31/12 email from Walter to Pilcher
106. Pre-Hearing Order I
107. Pre-Hearing Order II
108. City's Opening SEPA Appeal Brief, Witness and Exhibit List dated 10/19/12.
109. Applicants SEPA Appeal Opening Brief dated 10/19/12.
110. Applicant's Disclosure of Witnesses and Exhibits dated 10/19/12.
111. Appellant's Pre-Hearing Brief dated 10/19/12.
112. Appellant's Exhibit List dated 10/19/12.
113. Sarah Cook CV
114. Applicant's Motion to Dismiss and to Strike, dated 10/23/12
115. Appellant SEPA Rebuttal Brief dated 10/26/12.
116. Applicant SEPA Rebuttal Brief dated 10/26/12
117. City SEPA Rebuttal Brief dated 10/26/12.
118. Appellant Response to Motion to Dismiss and Strike, dated 10/30/12.
119. Order on Motion to Strike, dated 10/31/12.
120. Applicant's SEPA Reply Brief, dated 10/31/12
121. City's SEPA Reply Brief, dated 10/31/12
122. Appellant's SEPA reply Brief, dated 10/31/12
123. Order on Dismissal, dated 10/31/12

124. Zisette CV
125. Appellant Relevance Statement on Appellant Ex. 16, 17 and 18 submitted by email dated 11/5/12.
126. Appellant Relevance Statement on Appellant Ex. 44 submitted by email dated 11/5/12.
127. Appellant Relevance Statement on Appellant Ex. 72 submitted by email dated 11/5/12.
128. P. 10, 19 and 20 of Applicant LUPA response brief submitted by email dated 11/5/12.
129. P. 25 of City LUPA Response brief submitted by email dated 11/5/12.
130. Appellant Motion to Reconsider Rock Creek Safety Ruling submitted by email dated 11/5/12.
131. Appellant Response to Applicant Proposed COAs submitted by email dated 11/5/12.
132. Appellant Transportation Rebuttal submitted by email dated 11/5/12.
133. Appellant "final draft" Wetland Rebuttal submitted by email dated 11/5/12.
134. Appellant Wetland Reconsideration Issues submitted by email dated 11/5/12.
135. City Objections to Transportation Rebuttal dated 11/6/12.
136. Ex. A to City's Objections to Transportation Rebuttal submitted by email dated 11/6/12.
137. 11/6/12 email from Applicant objecting to SEPA Appellant Transportation Rebuttal.
138. 11/7/12 email from Edelman responding to Transportation Rebuttal objections.
139. 11/7/12 email from Applicant objecting to SEPA Appellant Ex. 16, 17, 72, 76 and 77.
140. Appellant Response to Objections to Appellant Ex. 72 submitted by email dated 11/7/12.
141. Appellant Response to SEPA Appellant Ex. 16 and 17 submitted by email dated 11/7/12.
142. 11/7/12 email order regarding various procedural issues and denying reconsideration of wetland issues.
143. 11/8/12 Email from Applicant responding to Appellant Motion for Rock Creek Request for Reconsideration.
144. Declaration from Dan Ervin, dated 11/8/12.
145. Applicant's Response to Ex. 27 and 90 and Cook Rebuttal with four attachments, dated 11/8/12.
146. 11/9/12 email order admitting SEPA Appellant Ex. 44 (Ex. 90).
147. 11/9/12 Appellant email replying on motion for reconsideration of Rock Creek.
148. Applicant's Preliminary Plat Rebuttal/Closing, dated 11/9/12.
149. City's Preliminary Plat Rebuttal/Closing, dated 11/9/12.
150. 11/9/12 Email order addressing procedural issues.
151. Appellant Objection to Ervin declaration, submitted by email dated 11/12/12.
152. Appellant Objection to Fure declaration, submitted by email dated 11/12/12.
153. 11/12/12 email from Applicant responding to objection to Fure declaration.
154. 11/12/12 email from Applicant follow-up on SEPA Appellant Ex. 16 and 17.
155. 11/12/12 Order denying admission of SEPA Appellant Ex. 72.
156. Appellant Objections to Applicant PPA Rebuttal/Closing, dated 11/12/12.
157. Appellant Objections to City PPA Rebuttal/Closing, dated 11/12/12.
158. 11/13/12 email order reversing portions of order on dismissal.
159. Appellant Response to Herrera Rebuttal, submitted by email dated 11/13/12.
160. Appellant Reply to Cook Testimony dated 11/13/12.

161. Appellant Proposed COA on Covington Waster District issue, submitted by email dated 11/13/12.
162. 11/13/12 email from City replying to Ervin and PPA closing/rebuttal objections with attachment.
163. 11/13/12 email from Applicant replying to PPA closing/rebuttal objections.
164. 11/14/12 email order clarifying 11/13/12 order.
165. 11/14/12 email from Appellant regarding City PPA closing/rebuttal objections.
166. 11/14/12 email from City regarding City PPA closing/rebuttal objections.
167. Applicant's Objections to Appellant's Rebuttal and Proposed COA, dated 11/14/12.
168. 11/14/12 email order on Applicant's objections to SEPA Appellant traffic rebuttal.
169. 11/14/12 email order on City's objections to SEPA Appellant traffic rebuttal.
170. 11/15/12 email order on Erica Morgan Comments.
171. 11/15/12 email order admitting Fure and Ervin declarations.
172. 11/15/12 email from Appellants regarding SEPA Ex. 17.
173. 11/15/12 email order on objections to Applicant PPA rebuttal/closing.
174. 11/15/12 email order admitting City's PPA rebuttal/closing.
175. 11/15/12 email order on objections to Applicant PPA rebuttal/closing.
176. 11/15/12 email order on objections to City PPA rebuttal/closing.
177. 11/15/12 email from Appellants addressing formerly dismissed issues with five attachments.
178. 11/15/12 email order admitting SEPA Appellant Ex. 16 and 18 and requesting more information on Ex. 17.
179. 11/15/12 email order on objections relating to Herrera Report.
180. 11/15/12 email order on objections to COA on Covington Water District.
181. 11/16/12 email order admitting portions of SEPA Appellant Ex. 17.
182. Email correspondence between SEPA parties, separately identified in Appendix B.
183. 11/19/12 email from Megan Nelson with transcript of Wheeler testimony
184. 11/19/12 email from Cindy Proctor with replies on Rock Creek Bridge and Proposed Traffic COAs
185. 11/20/12 email from Megan Nelson with objections to SEPA Appellants and Declaration of McKinney
186. 11/21/12 email from Robert Edelman regarding Applicant objections
187. 11/21/12 email from Robert Edelman regarding exhibit lists
188. 11/21/12 email from Robert Edelman with attached Appellants Ex. 22.
189. 11/21/12 email from Megan Nelson regarding 11/15/12 submittal
190. 11/21/12 email from Bob Sterbank regarding reconsideration approval
191. 11/26/12 email from Robert Edelman regarding reply to reconsideration responses
192. Applicant's Response to SEPA Appellants' Proposed SEPA Conditions dated 11/16/2012
193. Applicant's Comments regarding the Declaration of Austin Fisher, dated November 29, 2012
194. Applicant's Comments regarding the Declaration of Dan McKinney, dated November 29, 2012

195. Email from Thomas Hanson to Brenda Martinez, Andy Williamson & Steve Pilcher, dated 11-5-12 "Hearing examiner Yarrow Bay plat"; forwarded to the Hearing Examiner by Steve Pilcher in an email dated 11-5-12
196. Email from Cindy Proctor to Steve Pilcher & Stacey Welsh, dated 11-5-12 "TV PPA 1A Plat Comments due 4:00"; forwarded to the Hearing Examiner by Steve Pilcher in an email dated 11-5-12
197. Rimbos Written Preliminary Plat Comments, submitted by email dated 11/5/12.
198. 9/21/12 SEPA Appeal

*Appellant exhibit numbers are provided for reference only.

**APPENDICES**

Appendix A: Procedural rulings.

Appendix B: Email exhibits.

Appendix C: Summary of testimony.

# SEPA APPEAL

## I. Introductory Comments and Summary

As mitigated and conditioned by this decision, the threshold determination of the SEPA responsible official is sustained.

As usual, the SEPA Appellants have succeeded in raising several issues that will make the Villages MPD more compatible with their community. The Appellants have once again invested an incredible amount of their time and resources in ensuring that all of the detailed development standards carefully put together by their elected officials are faithfully and effectively administered. Their hard work and professional effort has once again made a major difference in this proceeding.

Despite the good work of the SEPA Appellants, many will no doubt notice that the changes they have effectuated are not as dramatic or comprehensive as what they have accomplished at the master plan and development agreement stages of review. There are many reasons for this. Probably the most significant is that the combined efforts of the Applicant, City and SEPA Appellants have already resulted in the mitigation of most project impacts in earlier stages of review. In a way, the Appellants are a victim of their own success, in that their prior appeals have not left much to be considered at this stage of review. Added to that success element, if the City and/or Applicant were inclined to try to "get away with anything", the Appellants have amply demonstrated that nothing is slipping past the Black Diamond community.

From a more pragmatic standpoint the SEPA Appellants may not have generated as much change as they hoped simply because they have a high burden of proof to establish that change is required. The Appellants have to overcome the substantial weight the Examiner has to give the determinations of the SEPA responsible official in assessing the significance of project impacts. For just about every significant issue, the City and/or Applicant were able to produce an expert witness who was able to testify that an alleged impact was not significant. Against this expert testimony and the substantial weight to be given to it, this meant that the Appellants had to come up with more compelling evidence to the contrary. In the typical "battle of experts" scenario between equally credible expert witnesses, a SEPA appellant will usually lose because of the substantial weight standard. In their appeal to the FEIS adequacy the SEPA Appellants made considerable headway because they had an army of expert witnesses to support all of their claims. The SEPA Appellants did not have that level of support in this appeal. Without that support, the SEPA Appellants were left with a monumental task to overcome the heavy burden of proof against them.

The SEPA Appellants apparently attempted to avoid the costs of expert witnesses by challenging the adequacy of review as opposed to the conclusions made from that review. Unfortunately for them, the courts also place a high burden on anyone challenging adequacy of review. In order to survive an adequacy challenge, the SEPA responsible official only has to make a prima facie showing that he has reviewed environmental factors as required by SEPA. The courts applying this standard have always applied it in a cursory and superficial fashion and have never found the adequacy of review wanting. Given the tremendous amount of study and analysis that has gone into the review of this project, the SEPA Appellants had a very difficult task of establishing inadequate analysis. It is not too surprising that on adequacy of environmental review, the SEPA Appellants only established a failure to make a prima showing on the Rock Creek Bridge pedestrian safety issue.

A common theme that the SEPA Appellants raised throughout their appeal was that environmental review had been deferred by the programmatic EIS to implementing projects such as PP1A. They argued that now is the time to do any deferred review. The Examiner is in full agreement with that viewpoint, and took a very critical look at any project impacts that may have fallen through the cracks between programmatic and project environmental review. Yet even setting aside the burden of proof placed upon the SEPA Appellants, there is nothing that has escaped this decision without adequate scrutiny or regulation. A major factor in this assessment is that project level impacts are thoroughly addressed by project level development standards. The City has adopted reams of stormwater, road, zoning, building and other development standards that apply to this project. Many of these standards are based upon model standards that have gone through decades of refinement from experts throughout the world. Those standards represent the most effective means of mitigating impacts that modern day science and development practices can reasonably apply. To the extent that anything is left for debate, the Applicant and City have undertaken a substantial amount of peer reviewed analysis.

Despite the many obstacles faced by the SEPA Appellants, they were still able to identify a few significant areas that needed improvement. The most significant and confounding SEPA appeal

issue was the pedestrian crossing of Rock Creek Bridge. No one except the SEPA Responsible Official was able to suggest that the bridge was safe for pedestrians. The bridge has virtually no shoulder and no other area for safe pedestrian passage. The bridge will see an increase of 828 PM peak hour trips per weekday upon full build out of the Villages MPD project. If the City Council has seen the need to require sidewalks along quiet residential streets, it seriously calls into question why no such pedestrian facilities are required along the bridge. The bridge serves as a connector between Morganville and the school and commercial areas serving PP1A. No one disputes that PP1A will result in an increase in pedestrian traffic across the bridge. Yet there was no SEPA or other review that included any assessment of how much pedestrian bridge traffic would be generated, whether students would be walking to school over the bridge from Morganville, what increase in accidents is estimated as a result of this added pedestrian traffic, what options there are for addressing pedestrian safety and what those options would cost.

Instead of doing an evaluation over the safety impacts associated with Rock Creek, the City and Applicant simply agree to propose a condition that provides that the Applicant will provide for a pedestrian crossing over Rock Creek if it is found feasible to do so. This condition leaves the very real possibility that the Applicant won't do any pedestrian improvements while probable significant adverse environmental impacts are left unmitigated. This can't happen under SEPA. Either the impacts are mitigated or an EIS is prepared. Unless the Applicant can generate a more creative solution in a reconsideration request, the only option left to the Examiner is to give the Applicant an option. Either (1) commit to doing the pedestrian improvements, or (2) the threshold determination is reversed and the SEPA responsible official is directed to do a limited scope EIS on the pedestrian safety impacts arising from increased pedestrian traffic over the Rock Creek Bridge.

The most blatant failure to address project impacts was the Applicant's "plan" to address project level noise impacts. SEPA conditions required the Applicant to put together a project level noise mitigation plan tailored to PP1A. The Applicant's plan simply duplicated the Villages MPD/SEPA mitigation measures that already applied to PP1A. Somehow this "plan" was approved by the City and allowed to move forward. This "plan" is obviously not what the Council had in mind when requiring further noise mitigation at the project level and more will be required as a condition of moving forward on this project.

Lake Sawyer water quality continues to be an issue in this proposal. In this appeal the Appellants have focused upon the relatively narrow issue of setting an accurate baseline for water quality monitoring. The SEPA Appellants produced some expert testimony on this issue and won the battle of experts. The Appellants' expert wrote that the amount of sampling proposed to establish the baseline was not sufficient. There was some understandable confusion from the Appellants about how much sampling was actually proposed by the Applicant, but the amount of samples that the Appellant's expert determined to be necessary for a reasonably accurate baseline significantly exceeded the sampling program proposed by the Applicant. The Applicant didn't produce any evidence that Appellant's statistical argument was in error or explain how its significantly smaller number of samples could yield accurate results. Even under the substantial weight standard, the Applicant did not prevail on this issue.

A few other SEPA conditions of arguably less significance have been added by this decision as well. After a general overview of generally applicable legal issues, each SEPA appeal issue will be addressed individually below.

## II. Generally Applicable Legal Standards

The subsections of this topic address the legal issues that apply to two or more of the SEPA Appeal issues. Legal issues addressed in prior pre-hearing orders have been addressed here again for ease of reference.

### A. Standard of Review (**Conclusion of Law No. II(A)**)

The SEPA Appellants request that the Examiner overturn the decision of the SEPA responsible official to issue an MDNS for PP1A. The Appellants request an SEIS and additional SEPA mitigation.

As shall be discussed below, there are only two reasons to overturn an MDNS: (1) there are unmitigated probable significant adverse environmental impacts; or (2) the SEPA responsible official has not undertaken an adequate review of environmental factors as required by SEPA regulations. Each grounds for reversal will be separately addressed below.

#### 1. Probable Significant Adverse Environmental Impacts (**Conclusion of Law No. II(A)(1)**)

The primary relevant inquiry for purposes of assessing whether County staff correctly issued a DNS is whether the project as proposed has a probable significant environmental impact. *See* WAC 197-11-330(1)(b). WAC 197-11-782 defines "probable" as follows:

> 'Probable' means likely or reasonably likely to occur, as in 'a reasonable probability of more than a moderate effect on the quality of the environment' (see WAC 197-11-794). Probable is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.

If such impacts are created, conditions will have to be added to the DNS to reduce impacts so there are no probable significant adverse environmental impacts. In the alternative, an environmental impact statement would be required for the project. In assessing the validity of a threshold determination, the determination made by the City's SEPA responsible official shall be entitled to substantial weight. WAC 197-11-680(3)(a)(viii).

#### 2. Adequate Environmental Review (**Conclusion of Law No. II(A)(2)**)

The second reason an MDNS can be overturned is if the SEPA responsible official did not adequately review environmental impacts in reaching his threshold determination. The SEPA responsible official must make a prima facie showing that he has based his determination upon

information reasonable sufficient to evaluate the impacts of a proposal. Both the City and Applicant have vigorously disputed this conclusion. However, the City/Applicant's position is undermined both by the judicial SEPA standards of review adopted by the courts and how the courts have applied them since the legislature adopted SEPA 1971. As noted by the City, the courts have never actually overturned a decision for inadequate review. These results provide some insight as to how deferential the courts have been in applying the adequacy standard, but do not serve to eliminate the oft-repeated judicial requirement that environmental factors must be adequately considered to support a threshold determination.

As recently as 2010, the courts have ruled that an agency's threshold determination is entitled to judicial deference, but the agency must make a showing that "environmental factors were considered in a manner sufficient to make a prima facie showing with the procedural requirements of SEPA." *Chuckanut Conservancy v. Washington State Dept. of Natural* Resources, 156 Wn. App. 274, 286-287, quoting *Juanita Bay Valley Community Ass'n v. City of Kirkland*, 9 Wn. App. 59, 73 (1973). In applying this adequacy standard, on several occasions the courts have examined how thoroughly the responsible official reviewed environmental impacts in addition to assessing whether a proposal has probable significant adverse environmental impacts. See, e.g., *Boehm v. City of Vancouver*, 111 Wn. App. 711 (2002), *Moss v. City of Bellingham*, 109 Wn. App. 6 (2001). In *Moss*, for example, the court recited the *prima facie* rule and then applied it as follows:

> *The record indicates that the project received a great deal of review. The environmental checklist was apparently deemed insufficient, and therefore the SEPA official asked for additional information in the form of an EA. The City gathered extensive comments from agencies and the public, held numerous public meetings, and imposed additional mitigation measures on the project before finally approving it. Notably, although appellants complain generally that the impacts were not adequately analyzed, they have failed to cite any facts or evidence in the record demonstrating that the project as mitigated will cause significant environmental impacts warranting an EIS.*

109 Wn. App. at 23-24.

Given this judicial background, it is difficult to see how an assessment of adequacy can simply be ignored, as apparently advocated by the City and Applicant.

In its briefing, the Applicant notes that the prima facie standard requires compliance with SEPA rules and the SEPA rules expressly address adequacy of review. Agreed. WAC 197-11-335 provides that a threshold determination shall be "be based upon information reasonably sufficient to evaluate the environmental impact of a proposal". The standard of review on adequacy, therefore, is that the SEPA responsible official must make a prima facie showing that he has based his determination upon information reasonably sufficient to evaluate the impacts of a proposal.

A somewhat confusing facet of the standard requiring adequate review is WAC 197-11-680(3)(a)(ii). This WAC provision prohibits the appeal of intermediate steps of SEPA and only

allows administrative appeals of threshold determinations and the adequacy of an EIS. SEPA Appellant arguments such as the SEPA checklist is incomplete arguably seeks a ruling on intermediate steps of SEPA review, i.e. the adequacy of the checklist. The judicial standard requiring adequate environmental review was formulated before the adoption of WAC 197-11-680(3)(a)(ii) in 1984, but as demonstrated in the *Moss* case quoted above it was still applied to SEPA threshold appeals well after 1984. The courts have yet to address the arguable conflict between WAC 197-11-680(3)(a)(ii) and the judicial adequacy of SEPA review standard. The ultimate resolution may be that WAC 197-11-680(3)(a)(ii) prohibits administrative agencies from assessing adequacy of review but the courts are still free to do so. Unless and until the issue of whether adequacy of review is germane to an administrative appeal is judicially resolved, the prudent approach is to consider the issue as is done currently with cases such as *Moss*. Doing so will avoid the need for an evidentiary remand should a reviewing court determine that adequacy is something the Examiner should have considered.

Practically speaking, a consideration of the adequacy of review rarely results in a reversal of a threshold determination. In order to meet its burden of proof on adequacy, the SEPA appellant must often present the information the SEPA responsible official should have considered at the SEPA appeal hearing. After the information is presented, the SEPA responsible official is often asked whether they still believe the project has no probable significant adverse environmental impacts. If the responsible official responds that he or she does not see any reason to change the threshold determination, the issue of adequate review becomes moot. This result is allowed because the courts will consider information or mitigation supporting a determination wasn't reviewed or imposed until after issuance of the threshold determination. Again, the *Moss* decision is instructive on the allowance for this type of post hoc rationalization. In *Moss*, the City of Bellingham added SEPA mitigation measures after the SEPA responsible official issued the MDNS. The court sustained the MDNS on the basis of subsequently imposed mitigation measures as follows:

> *Although the DNS was issued prematurely, it is difficult to see how the appellants were prejudiced. The city council imposed many additional mitigation measures on the project before approving it, thereby making it more environmentally friendly than the version in the DNS. Appellants suggest that the DNS misled the city council into believing that all of the impacts were capable of mitigation, but the record indicates that the project received a considerable degree of scrutiny. Furthermore, WAC 197-11-350 requires an EIS where a proposal continues to have a significant adverse environmental impact, even with mitigation measures. While all of the required mitigation measures should have been imposed before the DNS was issued, the appellants still have not shown that the approved project, as it was mitigated, remains above the significance threshold.*

109 Wn. App. at 25.

B. Collateral Attacks. (**Conclusion of Law No. II(B)**)

As previously discussed, the SEPA Appellants have been very concerned about promises for deferred SEPA review that never materialize. This section addresses the opposite concern shared by the Applicant and City – that promises that impacts have been resolved are ignored. Such are the hazards of phased environmental review.

The Applicant and City concerns in this regard are termed in this decision as collateral attacks on previously made decisions. The City Council has taken extraordinary measures to assure that its decisions won't be revisited. Examples abound. Wetland delineations and wildlife corridors in the Villages DA are deemed "complete and final". The mitigation agreement between the Enumclaw School District, City and Applicant has a provision that decrees that the agreement is the final word on school mitigation. As shall be discussed, the law is fairly clear that final land use decisions are binding on subsequent land use applications addressing the same issues. Similarly, it is also fairly clear that environmental review decisions are binding on subsequent environmental review addressing the same issues. What is not so clear is whether land use decisions are binding on SEPA review. There is no case law that directly addresses this issue. However, the courts and the SEPA statutes strongly suggest an independence of decision making between permitting and environmental review that allows SEPA review and mitigation for impacts purportedly already addressed through permitting.

1. Collateral Attack between Land Use Permitting Decisions (**Conclusion of Law No. II(B)(1)**). There is an ample amount of case law on the preclusive effect of one land use permitting decision on another. Collateral attacks between land use permitting decisions is clearly not allowed.

   The determinative case on the preclusive effect of the compliance plans is *Chelan County v. Nykreim*, 146 Wn.2d 904 (2002). *Nykreim* stands for the principle that an improperly issued final land use decision cannot be revoked and a judicial appeal of the decision is barred if a judicial appeal is not filed within 21 days of issuance. The courts have expressly ruled that even illegal decisions must be challenged in a timely manner. *Habitat Watch v. Skagit County*, 155 Wn.2d 397 (2005). Further, a land use decision time barred from appeal under LUPA's 21-day appeal deadline cannot be collaterally attacked in the appeal of another land use decision. 155 Wn.2d at 410-411 (petitioners could not attack validity of special use permit whose LUPA appeal had expired through appeal of subsequently issued grading permit); *Wenatachee Sportsmen Ass'n v. Chelan County*, 141 Wn.2d 169, 181 (2000) (petitioner could not collaterally challenge a time barred rezone decision by its LUPA petition challenging a plat approval).

   Under the *Nykreim* decision and its progeny, there is no question that final determinations made by the City Council such as "final and complete" sensitive area delineations cannot be challenged by a subsequent implementing project such as PP1A. The difficult task at this stage of review is determining when the Council has made a final decision intended to preclude further review. It is important to note that the *Nykreim* cases only apply to

final land use decisions and not environmental review. The applicability of the *Nykriem* cases to environmental review is discussed in Section I(B)(3) below. Consequently, *Nykriem* issue preclusion only applies to application of the PP1A preliminary plat criteria and not SEPA review and mitigation.

2. Collateral Attack Between SEPA Decisions (**Conclusion of Law No. II(B)(2)**). Although there is only one case that addresses the preclusive effect of one SEPA decision upon another, that case is as clear as the *Nykreim* decisions that SEPA decisions may not be collaterally attacked in subsequent SEPA review. The one case on the issue is *Glasser v. Seattle*, 139 Wn. App. 728, 738 (2007), which held that "*allowing opponents to use a project EIS to collaterally attack previous programmatic policy decisions would disrupt the finality of the decision and eliminate any benefits of phased review*". *Glasser v. Seattle*, 139 Wn. App. 728, 738 (2007). In this regard methodologies and mitigation found to be adequate in prior environmental review cannot be revisited in this SEPA appeal. By the same token, the prior findings of EIS adequacy must be applied in the context of non-project level review. A finding of adequacy for the review in the Villages MPD FEIS does not translate readily into a finding that more specific project level review is not necessary. Indeed, as repeatedly emphasized by the SEPA Appellants, a significant amount of the Villages MPD FEIS review was expressly based on the premise that environmental review would be done in more detail in subsequent implementing projects such as PP1A. One of the greater challenges of this SEPA Appeal is determining when decisions made in the Villages MPD FEIS were intended to be the final word on a particular impact as opposed to a preliminary analysis to be completed in the review of an implementing development project.

3. Collateral Attack of SEPA on Prior Permitting Decisions (**Conclusion of Law No. II(B)(3)**). The most difficult and probably most significant legal issue of this SEPA Appeal is whether SEPA can be used to add to the requirements of prior land use permitting decisions that were intended to serve as a final resolution of project impacts. There is no court opinion that directly addresses the issue. However, a couple court opinions strongly suggest that SEPA acts independently of the land use permitting process and is not constrained from prior permitting decisions in ensuring that environmental impacts are fully assessed and/or mitigated. It is concluded that prior permitting decisions of the City Council cannot interfere with the responsibility of the SEPA responsible official to ensure that probable significant adverse environmental impacts are adequately assessed or mitigated as required by state statute and implementing SEPA rules (Chapter 197-11 WAC).

   The independence of SEPA review from other decision making has been addressed in at least two court opinions. As discussed in *Victoria Tower Partnership v. Seattle*, 59 Wn. App. 592 (1990), SEPA can be used to impose height limits upon buildings even though the Council has already adopted what it determines to be appropriate height limits through the bulk and dimensional requirements of its zoning code. In a second case, the courts have ruled that even though an impact has been determined non-significant for

purposes of the State Environmental Policy Act ("SEPA"), that same impact can still be used to deny or condition a project under land use permitting criteria. *See Quality Products, Inc. v. Thurston County*, 139 Wn. App. 125 (2007).

Beyond the case law, the independence of SEPA is inherent from the review procedures adopted in the SEPA rules. The SEPA rules authorize a SEPA responsible official, not a legislative body, to review the environmental impacts of a proposal to determine if an environmental impact statement is necessary. The SEPA responsible official is also charged with determining if an environmental impact statement is adequate. Any permitting decision issued with the intent of limiting further environmental review circumvents the independent review process established by the SEPA rules. Such decisions also undermine one of the primary purposes of SEPA, which is to address environmental impacts that have been unwittingly (or not) overlooked or inadequately addressed in the adoption of development standards. The basic purpose of SEPA is to require local government agencies to fully consider a project's total environmental and ecological impacts before taking major actions which significantly impact the quality of the environment. *Sisley v. San Juan County*, 89 Wn.2d 78, 82 (1977). This basic purpose cannot be achieved if legislative enactments are construed as prohibiting environmental review for implementing project applications that haven't even been filed yet.

a. Preclusive Effect of RCW 36.70B.030 on SEPA Decisions (**Conclusion of Law No. II(B)(3)(a)**). Despite the independence of SEPA, the state legislature has tied the hands of SEPA for some limited areas of regulation. One such area concerns fundamental land use choices. As argued in the City's opening briefing, RCW 36.70B.030 operates to preclude SEPA re-evaluation of some fundamental comprehensive plan and development land use choices. Specifically these fundamental choices are density, authorized land uses and levels of service.

   RCW 36.70B.030(2) provides that development regulations that designate type of land use, residential density in urban growth areas and adequacy of public services shall be determinative. In its briefing the City references the first legislative finding for RCW 36.70B.030(2), which is instructive on the scope and intent of RCW 36.70B.030(2) as follows:

> *Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify residential density in urban growth areas, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum*

> *provide the foundation for further project review unless there is a question of code interpretation. The project review process,* ***including the environmental review process under chapter 43.21C RCW*** *and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.*

Emphasis added.

The requirements from RCW 36.70B.030(2) clearly do preclude SEPA reassessment of land uses and densities authorized by zoning codes and also the adequacy of public services for which levels of service have been set by comprehensive plans. However, the restrictions of RCW 36.70B.030 are narrow and do not extend to issues such as protection of environmental resources and traffic safety. This distinction is understandable within the state-wide policies underlying the Growth Management Act (Chapter 36.70A RCW, "GMA"). Density, land use and capital facilities planning are highly integrated from the local to state-wide level under the GMA to ensure that the furtherance of state-wide policies GMA goals of preventing urban sprawl and using infrastructure efficiently. Allowing these fundamental land use choices to be undermined at the permitting level serves to undermine the highly coordinated planning choices made in the adoption of GMA policies and development standards. Protecting critical areas, however, such as wetlands, is not within the fundamental land use choices deemed sacrosanct by RCW 36.70B.030. With good reason – the protection of critical areas is of equal importance under the GMA to its other statewide goals. Protecting environmentally sensitive areas such as wetlands at the project specific level will generally not serve to undermine the coordinated efforts at concentrating urban growth and planning for the funding of capital facilities.

b. Preclusive Effect of RCW 43.21C.240 on SEPA decisions (**Conclusion of Law No. II(B)(3)(b)**). Another potentially applicable statute designed to limit further SEPA review is RCW 43.21C.240. RCW 43.21C.240 prohibits the imposition of SEPA mitigation measures once a city determines that its regulations are sufficient to address all probably significant adverse environmental impacts. It is concluded that this statute has not been exercised by the Black Diamond City Council because no express findings have been made in either the Villages DA or the Villages MPD that the statute has been exercised for the Villages MPD.

More specifically, RCW 43.21C.240 prohibits the imposition of SEPA mitigation and mandates a DNS or MDNS once the "county, city or town" determines that its existing regulations are sufficient to prevent probable significant adverse environmental impacts. This statute's reference to the "county, city or town" authorizes a city council to make determinations that bypass the authority of the

SEPA responsible official to impose conditions as part of a threshold determination.

RCW 43.21C.240 is of relevance to the conditions and requirements imposed by both the Villages MPD and Villages DA because there is some language in those documents that arguably could serve as an implementation of the statute. Some of the findings for some Villages MPD requirements suggest that certain impacts have been adequately mitigated by existing development regulations and/or Villages MPD COAs. As mentioned before, some mitigation measures have language such as the mitigation is to serve as "complete and final" mitigation. The more pertinent provision, however, is Section 4.19 of the Villages DA, which provides in relevant part as follows:

> *The Villages MPD design and mitigation measures described in this Agreement, including the MPD Permit Approval and its Conditions of Approval in Exhibit "C", mitigate any probable significant adverse environmental impact directly identified as a consequence of MPD Permit Approval and this Agreement....Nothing in this section applies to preclude subsequent environmental review of Implementing Projects under the State Environmental Policy Act ("SEPA"), and Implementing Projects are expected to undergo additional SEPA review.*

At first blush, the reference to probable significant adverse environmental impacts would appear to implicate RCW 43.21C.240, because there is no other apparent reason to do so in the development agreement itself. If this was the intent, its applicability is highly ambiguous. The language itself makes it sufficiently clear that it applies to the impacts of the approval of the Villages MPD and Villages DA, but not to the implementing projects of those documents.

Although Section 4.10 clearly only applies to the adoption of the Villages MPD and Villages DA and not to implementing projects, it is significantly more of a challenge to distinguish between the two as intended in 4.10. Taken literally, the provision only applies to the adoption of the Villages MPD and Villages DA. Absent implementing projects, adoption of the Villages MPD and Villages DA had no environmental impacts. The only other logical interpretation is that the provision applies to Villages MPD impacts that operate on a programmatic level as opposed to a project specific level. One could argue that the Council expressly identifies the programmatic level mitigation measures by identifying them as "complete and final" mitigation measures or similar language. Pushing the concept even further, mitigation measures that appear to comprehensively address an impact, such as the Rock Creek safety mitigation measure addressed below, could also qualify.

It is concluded that if RCW 43.21C.240 is to be employed to cut off future SEPA review, it must be clearly identified for that purpose. A legislative determination to prohibit future SEPA review is a highly significant decision given the reliance of citizens upon use of the process to be heard on applications and the strong state legislative policies supporting SEPA. If a legislative body determines that its citizens will no longer have this tool available to them, it should state so clearly by identifying its reliance upon RCW 43.21C.240 and then expressly identifying those impacts that will no longer be subject to any further environmental review. The public is entitled to clear notice when this provision is exercised so that it has the knowledge to timely appeal it and to plan for its effective participation in future project review.

Villages Section 4.1 does not come close to providing the public notice necessary to implement RCW 43.21C.240. The statute isn't even mentioned and no mention is made of the fact that future SEPA review will be curtailed in any way. To the contrary, SEPA review is described as phased in the Villages MPD and Section 4.1 provides that it is not intended to preclude further environmental review for implementing projects. The "complete and final" language and other Villages DA and Villages MPD terms and conditions expressing an intent of finality are completely dissociated from 4.1. It would be entirely reasonable for anyone reading these documents that the finality language adopted by the Council was solely intended to preclude the resurrection of specified issues in permit review, but not in environmental review. Such an interpretation would be consistent with the "gap filling" role of SEPA, as construed in cases such as *Victoria Partnership*, supra. If the Black Diamond City Council had intended Section 4.1 to implement RCW 43.21C.240, it could have easily said so and then listed the environmental impacts that were not to be further considered in SEPA review. This could have been done with minimal effort and provided irrefutable notice to Black Diamond citizens that environmental review of impacts was over for those listed impacts.

## III. SEPA Appeal Issues

Each of the Appellants' appeal issues is addressed separately below in the order presented in their appeal statement, Ex. 198.

### A. Traffic Safety

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the Appellants noted that the FEIS for the Villages had not specifically addressed traffic safety and that the Examiner's FEIS decision had found traffic safety did not need to be addressed at the programmatic stage but rather at the project level review. The Appellants claim that traffic safety analysis should be performed to evaluate the increase of vehicular traffic accidents, pedestrian

accidents and cyclist accidents at several locations external to the project. The Appellants also requested a review of traffic safety related to increased construction traffic near school zones and on unimproved rural roads. The Appellants were particularly concerned with traffic safety related to pedestrian and vehicular crossings of Rock Creek Bridge and at intersections. The Appellants requested the Applicant perform a Traffic Safety SEIS. No mention was made of any specific probable significant adverse impacts related to traffic safety. However, the Appellants assert that no analysis has been done concerning traffic safety and for this reason it is not possible to determine the exact impacts or necessary mitigation to traffic safety.

2. FEIS Analysis. The FEIS analysis addressed traffic safety in FEIS Transportation Finding of Fact No. 6(a) where it stated, "Significant transportation related issues raised during the SEPA EIS hearing and Villages MPD hearing included...safety issues and impacts to area rural roads." The FEIS went on to state, "The FEIS did not identify safety concerns as a probable significant adverse impact" (FEIS Transportation Finding of Fact No. 14). FEIS Transportation Finding No. 14 went on to summarize the testimony of Mr. Matt Nolan from King County's transportation division who expressed concerns regarding safety on SE Green Valley Road and other rural roads with respect to safety issues and issues related to the physical geometry of the roads, problems with site distances, and curves in the roads. Traffic safety issues were brought into the FEIS discussion by the FEIS SEPA Appellants Carrier and Clifford when they presented WSDOT accident history details from 2001 to 2009. The City's consultant John Perlic testified he would initially have expected the number of accidents to increase as traffic volumes increase, however, the WSDOT accident history proved otherwise (FEIS Hearing Transcript pages 1,541-1,543 as cited in FEIS Transportation Finding of Fact No. 14). Mr. Perlic noted that in his traffic analysis, he found no high incident intersections and that the accidents in the study area were random and not tied to any particular hazards on the roads. Mr. Perlic went on to note that some of the safety impacts will be mitigated by the improvements called for in the FEIS, however, the randomness of the accidents makes it difficult to predict and impose more specific mitigation to decrease that risk. He stated there was no known way to analyze safety impacts except to evaluate the particular configuration of a high accident location.
FEIS Transportation Conclusion of Law No. 2 states, "While the FEIS did not identify safety concerns as a probable significant adverse impact, the Appellants did not present evidence that these issues could be adequately addressed at this higher level of review. It is reasonable to conclude that decision-makers would recognize that vehicle accidents will increase proportionately with increased traffic volumes."

3. Villages MPD Conditions. The Villages MPD approval (Black Diamond Ordinance 10-946, Exhibit A) also presented extensive comment on traffic safety. In Villages MPD FOF 6 Traffic Safety, the Council echoed the Examiner's FEIS findings in stating, "vehicle

accident rates are somewhat random and are not necessarily tied to increases in traffic volume" (Villages MPD FOF 6A). The Council further noted, "there are no high accident intersections" in the study area and that "those accidents that did occur in the study area were random and not tied to any particular, identified hazards on roads." The Council stated, "Some of the safety impacts will be mitigated by the improvements called for in the FEIS, and the randomness of accidents makes it difficult to predict and impose more specific mitigation that would decrease the risk. There is no known way to analyze safety impacts except to evaluate the particular configuration of a high incident location" (Villages MPD FOF 6B). The Villages MPD COA do not specifically address traffic safety and there appears to be no specific mention of traffic safety as a concern in the Villages DA.

4. Traffic Safety Analysis. The Applicant provided an analysis of traffic safety (Ex. 42). This analysis reviewed three-year collision summaries at intersections and along roadway segments in the study area from 2009-2011 and included vehicular, pedestrian and cycling accidents. The Transpo study cites the King County High Accident Location classification as an intersection or road segment that experienced more than nine collisions in a three year period. Though there were a number of accidents, one of them resulting in a fatality and three involving cyclists, no high incident locations were found. The Transpo study also evaluated the number of collisions occurring per million vehicle miles traveled. Transpo concluded, "while the addition of traffic through the study area in the future is likely to result in a similarly proportionate increase in the number of collisions, there are no safety issues identified through the review of collision data" (Ex. 42, page 4). Transpo also notes the project's mitigation includes the redesign of some intersections and road segments. These new infrastructure improvements will be built to today's standards. The Applicant stated they had no objection to updating the traffic safety analysis for the plat at the midpoint traffic evaluation (Ex. 137).

   In the Appellants' Transportation Rebuttal (Ex. 132), the Appellants question the effectiveness of the proposed intersection improvement measures to reduce impacts to future traffic safety. Specifically, they note the Applicant's analysis of traffic safety was retrospective and based on existing traffic levels, which are much lower than future traffic conditions under full buildout. The Appellants question the ability of the present collision rates to be effectively extrapolated to predict future collision rates when the basis of traffic volume will change so drastically. The Appellants contend, "traditional safety analysis consists of employing a multidisciplinary approach to both design and implementation of safety features."

   The Applicant's response to the issue of traffic safety is to cite RCW 43.21C.240 and WAC 197.11.158 with respect to the substantial mitigation addressed by local codes. In

essence, safety concerns are addressed as part of the design of roadways, intersections and pedestrian improvements.

The City's traffic expert, John Perlic, testified during the SEPA Appeal hearing that he had reviewed the Applicant's study and concurred with its findings. Under questioning from the Appellant Mr. Rimbos, Mr. Perlic stated that though traffic accidents were likely to increase proportionate to the increase in background and project traffic, he expected the rate per million vehicles miles traveled to remain constant and he did not foresee the creation of new high incident locations. Mr. Perlic further stated reviewing past trends is the standard methodology for analyzing traffic safety. Without a record of accident histories, it is impossible to predict where safety issues might exist in the future (Tr. 181-190). Other than the Rock Creek Bridge, the Appellant provided no specific instances of safety impacts that would result in probable significant adverse environmental impacts. Nor did the Appellant provide a methodology for predicting future traffic safety impacts beyond the standard methodology applied by the Applicant and reviewed by the City. With the exception of the Rock Creek Bridge, there is nothing in the record to suggest that traffic safety issues will create probable significant adverse environmental impacts.

5. Construction Traffic Safety. Construction traffic safety impacts are addressed below in SEPA Appeal Issues III(C).

6. Rock Creek Bridge. Rock Creek Bridge is located along SR 169 between the area known as Morganville and the Villages Plat. The bridge is nearly a century old and is narrow with limited shoulders that, as shown in Ex. 21, are not wide enough to reasonably accommodate pedestrian traffic. The posted speed limit is 25 mph. The City's traffic expert, Mr. Perlic, stated the width of the shoulders on the bridge was "one to two feet" (*See* 11/2/12 Tr. 214). In their Pre-Hearing Brief, the Appellants argued there will be "direct conflicts between construction traffic and school-related traffic (I.E., pedestrian, bicyclists, and vehicles...the width-confined Rock Creek Bridge")(*See* Ex. 111, Page 8). The Appellants argue, "*Impacts on the bridge were not analyzed and, thus, no mitigation was proposed. There is a known pedestrian safety problem on the existing bridge with existing traffic levels. The traffic levels anticipated from Phase 1A probably will create critical safety issues on the bridge.*" (*See* Ex. 111, Page 9). The City's Responsible Official testified at hearing that students from the development would temporarily attend Black Diamond Elementary School until the new school within the plat was constructed by the Enumclaw School District. He stated that PP1A students would be bussed to Black Diamond Elementary until the PP1A school was constructed, but never addressed whether Morganville children would be bussed or walk to attend the new PP1A school. (*See* 11/3/12 Tr. p. 282).

The Appellants are correct in their assertion that the FEIS did not address potential safety impacts to Rock Creek Bridge. No mention of Rock Creek Bridge or of pedestrian traffic from Morganville was mentioned in the FEIS. The Villages MPD Approval did not include any specific findings of fact with respect to pedestrian crossing of Rock Creek Bridge. However, the Villages MPD conclusions in several places express concern over pedestrian safety on Rock Creek Bridge.

Villages MPD COL 78 and 83 both state that the existing Roberts Drive bridge over Rock Creek is "currently unsafe for pedestrians". Villages MPD COL No. 104 acknowledges that a safe sidewalk link is needed between The Villages and Morganville and that "[t]he area of greatest concern is the narrow bridge over Rock Creek".

In order to address pedestrian safety on Rock Creek Bridge, Villages MPD COA 32 requires,

> *"Provided a study confirms engineering feasibility and reasonable and customary construction costs, a connecting sidewalk and safe pedestrian connection to the programmed sidewalk in the Morganville area shall be required along Roberts Drive. Construction timing should be specified in the Development Agreement. The City and Applicant shall work in good faith to seek grants and other funding mechanisms to construct the improvement. The Applicant shall otherwise be responsible for construction costs to the extent authorized by law."*

The Villages DA Section 11.6 states,

> *"Pursuant to Condition of Approval No. 32 of the MPD Permit Approval, and provided an expert study, prepared by the City and paid for by the Master Developer, confirms engineering feasibility and that construction costs will be reasonable and customary, the Master Developer shall provide, prior to issuance of the Certificate of Occupancy for the Villages MPDS's 200th Dwelling Unit, a connecting sidewalk and safe pedestrian connection from the frontage improvements along parcel V13 to the northeast corner of the Guidetti Parcel along Roberts Drive. The City and Master Developer shall work in good faith to seek grants and other funding mechanisms to construct this improvement; however, all construction costs not covered by such grants for funding mechanism shall be the responsibility of the Master Developer."*

The Applicant has proposed a voluntary condition of approval that modifies the condition recommended by staff (Ex. 20, recommended condition of approval No. 30). This condition of approval would read,

*"The Applicant shall comply with the Roberts Drive sidewalk and pedestrian connection in accordance with the requirements of Section 11.6 of TV DA. In addition, the Applicant has voluntarily agreed that, subject to the requirements of Section 11.6 of TV DA, it shall submit a permit application for the sidewalk and pedestrian connection prior to issuance of the Certificate of Occupancy for The Villages Phase 1A Preliminary Plat's 1st Dwelling Unit and such connection shall be substantially complete prior to issuance of the Certificate of Occupancy for The Villages Phase 1A Preliminary Plat's 200th Dwelling Unit."*

The Applicant argues that Rock Creek Bridge's lack of a separated pedestrian walking area is a pre-existing deficiency in the City's transportation network for which the Applicant should not be required to pay the entire cost citing *Benchmark Land Co. v. City of Battle Ground*, 146 Wn.2d 685, 49 P .3d 860 (2002). The Applicant argues they are willing to provide the pedestrian connection but only on the condition that the construction costs are "reasonable and customary" and "capable of being accomplished." The Applicant argues the Appellant are providing a collateral attack on previously adopted decisions (Ex. 192).

The Applicants argued the Appellants had not provided any new evidence regarding Rock Creek Bridge that was not considered by the Black Diamond City Council during their review and approval of the Villages MPD Permit and the Villages DA (Ex. 189).

The Appellants' expressed concern about the structural integrity of Rock Creek Bridge to handle the increase in construction, school and general traffic. The City provided a memorandum from Joe Merth, an engineer working for Parametrix, the City's consultant. In this memorandum, Mr. Merth described Rock Creek Bridge as a 1914 structure with a 16 foot clear span and an interior width of 24 feet. Mr. Merth stated the bridge has no signs of major distress but that there were areas of concrete delamination, rock pockets in the abutment walls, exposed reinforcing and spalling. Mr. Merth stated the bridge was fit to carry all Legal Load vehicles (AASHTO 1, 2 and 3 and Type 3, Type 3S2 and Type 33), but that the bridge needed to be monitored at frequent intervals. He went on to state the bridge has a probable remaining service life of 20 years under normal traffic loading. Mr. Merth reviewed several alternative scenarios with respect to repair and renovation with a pedestrian walkway. Mr. Merth concluded, "a minimum rehabilitation of the existing structure should include repair or replacement of the existing barrier, installation of guardrail transitions on both bridge approaches to enhance motorist safety near the bridge, and concrete patching to prevent further degradation of exposed reinforcement." *See* Ex. 193.

In a Declaration, Austin Fisher of Parametrix defined 'normal load conditions' to include traffic expected to be generated by nearby development, including the proposed Villages Phase 1A Preliminary Plat. Mr. Fisher went on to state that Parametrix had

> *"concluded that all of the bridge repair and replacement alternatives (including the addition of pedestrian access) are feasible from an engineering, permitting and construction perspective. The analysis also includes design sketches and cost estimates for each alternative. The costs for each alternative are reasonable and customary; we identified no extraordinary engineering or design considerations that would adversely affect design, permitting or construction costs or cause them to exceed parameters expected for projects of these types and scale." See* Ex. 193.

7. Public Transportation. The Appellants argue the Applicant failed to accurately account for the lack of public transportation in their trip generation assignments (Ex. 191). The Appellants stated that the Applicant's use of the ITE Trip Generation Manual was inappropriate in this instance because the Manual uses average trip generation rates from studies conducted in areas with no access to transit and that are dissimilar to Black Diamond. The Applicant stated that use of the ITE *Trip Generation Manual* is standard practice for transportation modeling (Ex. 192) and was used in the *Traffic Impact Study*. The Applicant stated the traffic impact studies have not been shown to contain a 'discount' trip generation based on the assumed provision of public transit. The Applicant further acknowledges that the King County Metro stop mentioned in the SEPA Checklist has been discontinued, but argue that the Appellants have not shown that given the densities associated with the preliminary plat, the stop might not be reinstated (Ex. 192).

8. Probable Significant Adverse Environmental Impacts[1]. With the exception of pedestrian safety on Rock Creek Bridge, and as conditioned, there is nothing in the record to suggest that the proposed transportation infrastructure will create probable significant adverse environmental impacts. Safety impacts to pedestrians on the Rock Creek Bridge are a probable significant adverse environmental impact. As acknowledged by the City Council in Villages MPD COA 78, Rock Creek Bridge represents a current safety hazard. As shown in Ex. 21, the shoulder of Robert's Drive across the bridge is very narrow and pedestrians will likely have to walk on the vehicular lanes of travel to cross the bridge.

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[1] It is recognized that in the section of the Appellant's appeal entitled "inadequate analysis" that for the most part they have intended to only address the adequacy of mitigation as opposed to trying to prove any impacts. However, the Appellants have still integrated some assertions of impacts into their adequacy arguments. In order to maximize the consideration of all of the Appellants' arguments, the Examiner is considering impacts in addition to adequacy for every appeal issue raised, even if the issue is labeled as "inadequate mitigation".

Rock Creek Bridge serves as a connector between Morgansville and the school(s) and commercial areas serving PP1A. No one disputes that PP1A will result in an increase in pedestrian traffic across the bridge or that it presents a safety hazard except for testimony from the SEPA responsible official that he rides his bicycle over the bridge and rom John Perlic that pedestrians can safely cross the bridge if they're careful. Yet there was no SEPA or other review that included any assessment of how much pedestrian bridge traffic would be generated, whether students would be walking to school over the bridge, what increase in accidents is estimated as a result of this added pedestrian traffic, how much pedestrian improvements would cost or what options are available for reducing safety risks.

Instead of doing an evaluation over the safety impacts associated with Rock Creek, the City and Applicant simply agree to propose a condition that provides that the Applicant will provide for a pedestrian crossing over Rock Creek if it is found later feasible to do so. The City has provided evidence that providing a pedestrian crossing to the bridge is feasible and reasonable with respect to cost. A condition of approval will require the Applicant to either provide for a safe pedestrian connection to Morganville or prepare an EIS that assesses the pedestrian safety impacts.

9. Adequacy of Review. The Environmental Checklist describes the primary access of the property, the then-existing public transit route and stop, and the proposed new roads and street improvements. The Environmental Checklist also references the *Villages MPD Phase 1A Traffic Impact Study* (Ex. 16) by Transpo. The Applicant provided several supplemental documents in support of the Environmental Checklist including *Villages MPD Preliminary Plat 1A Traffic Impacts to Green Valley Road* (Ex. 46), a *Traffic Monitoring Plan* and responses to comments (Ex. 16, 27 and 94). The City's consultants, Parametrix, prepared the *SE Green Valley Road – Traffic Calming Strategies*. The SEPA Responsible Official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impacts. *See* 11/3/12 Tr. at p. 283-286. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. With the exception of Rock Creek pedestrian safety, the SEPA Responsible Official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of the proposal.

**Conclusions of Law**

1. Collateral Attack. The Applicant argued in its rebuttal brief to the SEPA Appellants Opening briefing that the Appellants' entire Transportation argument should be stricken or

dismissed based on an impermissible collateral attack. As concluded in Conclusion of Law No.II(B), SEPA review can be used to add mitigation and analysis to previously issued permit conditions even if there is overlap, so long as the SEPA review and mitigation does not conflict with prior SEPA decision making. The Villages FEIS contained no significant assessment of traffic safety and made no recommendations on traffic safety mitigation. As previously noted, COL No. 2 of the Examiner decision on the Villages FEIS adequacy appeal specifically deferred safety analysis by providing that lack of detail in safety analysis at the programmatic level was appropriate for that "higher level of review". Consequently, the traffic safety issues raised by the Appellant are not precluded under considerations of collateral attack as asserted by the Applicant.

2. Threshold Determination Sustained. With the exception of the issue of pedestrian safety at Rock Creek Bridge, there are no grounds for overturning the threshold determination of the responsible official as it applies to traffic safety impacts. As demonstrated in Finding of Fact No. III(A)(9), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of traffic safety impacts. As determined in Finding of Fact No. III(A)(8), with the exception of pedestrian safety at Rock Creek Bridge, there are no probable significant adverse environmental impacts resulting from the traffic safety issues generated by the proposal.

   As determined in Finding of Fact No. III(A)(8), as unmitigated Rock Creek Bridge represents a current safety hazard and a probable significant adverse environmental impact to pedestrian safety. A condition of approval will require the Applicant to either fully mitigate the impacts or prepare a limited scope EIS assessing the pedestrian safety issues.

### B. School Traffic Impacts

School Traffic Impacts and Schools generally are discussed below in SEPA Appeal Issues section III(F).

### C. Construction Traffic Impacts

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the Appellants noted that the FEIS for the Villages had not specifically addressed construction traffic and that the Examiner's FEIS decision had found construction traffic did not need to be addressed at the programmatic stage but rather at the project level review. The Appellants argued construction traffic will have a direct impact on area roads with particular concern for SE Auburn-Black Diamond Road and SR 169. The Appellants argued construction traffic will impact overall traffic safety, traffic congestion and traffic noise. In their Pre-Hearing Brief,

the Appellants further elaborated in stating there will be direct conflicts between construction traffic and school related traffic, specifically pedestrians, bicyclists and vehicles. The Appellants asserted that a Traffic Control and Construction Plan should have been prepared prior to the MDNS. The Appellants requested the Applicant perform a Construction Traffic SEIS. No mention was made of any specific probable significant adverse impacts related to construction traffic. However, the Appellants assert that no analysis has been done concerning construction traffic and for this reason it is not possible to determine the exact impacts or necessary mitigation related to construction traffic.

The Appellants' expressed concern regarding construction traffic with respect to its composition with the AM Peak Hour. They are specifically concerned about the mix of construction traffic, school traffic and commuter traffic during the morning commute (Ex. 191).

The Applicant argued in its pre-hearing Rebuttal briefing that the City's existing codes require detailed traffic control plan to be submitted and approved by the City engineer prior to the beginning of construction. The City's standards currently impose compliance with both the WSDOT standards and the Federal Manual on Uniform Traffic Control Devices. The Applicant notes that preliminary plat approval does not approve construction. The Applicant will be required to apply for clearing and grading, right of way and building permits. The Applicant further notes that as part of PP1A review, the Applicant has designated haul routes, limited construction timing to avoid the PM Peak Hour, attempted to minimize truck traffic by balancing the cut and fill on site, and by screening top soil on site.

The Applicant also prepared a study by Transpo entitled *Villages Preliminary Plat 1A – Construction Traffic* (*See* staff Report Ex. 44). This report analyzed the impact of construction traffic during the PM Peak Hour. The report found the total daily trips would be 252 trips during the maximum overlap of earthwork and utility construction with vertical construction. The PM Peak Hour Trips would be about 22 trips on a typical weekday. These assumptions are based on the Applicant's voluntary condition requiring a balance of earthwork on the site (Ex. 43).This finding is not entirely surprising given the Applicant will limit the hours of construction such that they end prior to the beginning of the PM Peak Hour. *See* Staff Report Ex. 44. The majority of impact to peak hour traffic will likely occur in the AM Peak Hour. The Transpo study states,

> *"A construction management plan will be developed by Yarrow Bay in coordination with the City to provide for a safe and efficient construction site and minimize the impacts to traffic operations in the area as required by Section 1.17 of the City of Black Diamond Engineering Design and Construction Standards."*

Additionally, a note on the face of the plat will require the Applicant to submit construction traffic control design as part of final engineering plans for review and approval by the City.

Transpo concluded construction activity related to PP1A does not change the proposed transportation mitigation improvements or timing of improvements identified in the Traffic Impact Study and that a detailed construction management plan will be required in accordance with BDMC 3.1.02(2) which will address traffic control procedures and practices consistent with current engineering practices/standards (Ex. 42).

The City's traffic expert, John Perlic, testified that construction traffic rarely results in additional mitigation because the proportion of trips attributable to construction traffic are much lower than development traffic at build out. Mr. Perlic stated the distribution of truck traffic would be similar to that modeled for the overall development. No additional mitigation is needed to deal with construction traffic (11/2/2012 Tr. 174-180).

2. FEIS Analysis. The FEIS analysis did mention construction traffic as a specific issue in FEIS Transportation Finding of Fact No. 19 when it stated,

   *"The FEIS contains no discussion of the traffic impacts posed by construction of the proposed projects. It is clear that the many years of construction arising out of the extensive development proposed by Applicant will result in ongoing construction traffic impacts."*

   The FEIS Transportation Conclusion of Law No. 14 states,

   *"It is clear that the many years of construction arising out of the extensive development proposed by Applicant will result in ongoing construction traffic impacts. The FEIS did not address the traffic impacts pose by construction of the proposed projects. However, mitigation of such impacts is more appropriately handled at each phase of the project. There is no evidence that addressing these impacts at this stage of environmental review would result in a more effective mitigation. SEPA allows the City to determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decision-making processes, and to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. WAC 197-11-060(5). Construction impacts are such issues not ripe for consideration. The City's Engineering and Construction Standards will require a traffic control plan that will address the specific impacts prior to commencement of construction."*

3. Villages MPD Permit Approval and Developer Agreement Conditions. Neither the Villages MPD Approval Ordinance 10-946 nor the Villages Developer Agreement addresses construction impacts.

4. King County Construction Traffic Impact. In his testimony, the City's Engineer, John Perlic, referenced a letter from Paulette Norman, the County Road Engineer for King County's Road Services Division (Ex. 49) with respect the construction traffic (See 11/2/2012 Tr. 175-176). Ms. Norman's letter, stated,

*"Per King County Code 14.80.030.A, a significant adverse environmental impact occurs when a project sends at least 30 trip-ends in the evaluated peak hour into an analyzed intersection, and, where those 30 trip-ends represent no less than 20% of the projected trip distribution, and, the calculated level-of-service is at or will fall to a calculated "F". Our review of the traffic impact study determined that no King County intersection will fail to meet the minimum King County Level of Service (LOS) standard due to traffic impacts from Phase 1A of The Villages MPD.*

*The traffic analysis by the Applicant's consultants determined that there are 240 existing peak hour trips on Southeast Green Valley Road. Phase 1A will add 23 new peak hour trips to the road, which is a Scenic Road Heritage Corridor. I agree with the submitted traffic engineering assessment that the additional trips will have minimal impact on this road corridor at this phase. In addition, I generally concur with the PM peak hour trip distribution percentages to King County road network and project trip assignments to the King County intersections."*

5. Rock Creek Bridge. As discussed above in SEPA Appeal Issues section IIIA6, the Rock Creek Bridge is located along SR 169 between the area known as Morganville and the Villages Plat. The bridge is nearly a century old and is narrow with limited shoulders. The posted speed limit is 25 mph. The Appellants have expressed concern about the ability of the bridge to withstand the truck traffic that will result from the construction of the projects over the course of the 15-year Villages MPD build out and over the shorter term Plat 1A build out (Ex.191). SEPA Appeal Issues section IIIA6 also details information about a structural integrity study performed on the bridge by the City's consulting engineers, Parametrix. Parametrix found that the bridge is structurally sound, though aged and in need of frequent monitoring. They further found the probable remaining service life of the bridge is 20 years under normal traffic loading. Austin Fisher of Parametrix defined 'normal load conditions' to include traffic expected to be generated by nearby development, including the proposed Villages Phase 1A Preliminary Plat (Ex. 193). Mr. Fisher did not specify whether traffic generated by the nearby development was at build out stage or if it also included anticipated construction traffic. The SEPA Appellants presented no evidence that the bridge was not fit for construction traffic for its remaining 20 year useful life. Given the substantial weight that must be given to the threshold determination of the responsible official, there is insufficient evidence to conclude that Rock Creek Bridge is not fit for construction traffic.

6. Probable Significant Adverse Environmental Impacts. There is nothing in the record to suggest that construction traffic will create probable significant adverse environmental impacts. In their appeal statement the SEPA Appellants assert that the proposal could adversely affect AM Peak Hour traffic and provide a conflict between construction, school and commuter traffic. Appellants also expressed concern about the effect of construction traffic on the Rock Creek Bridge. Beyond the issues identified above, the SEPA Appellants have not identified any adverse impacts associated with construction traffic associated with PP1A. There is nothing in the record to reasonably suggest that the City's engineering and construction standards for construction traffic are insufficient to adequately mitigate the

impacts alleged by the SEPA Appellants. The Applicant will be required to submit a construction management plan for City approval. Substantial weight must be given to the threshold determination of the SEPA responsible official. In this case, the Appellant has provided no evidence of any probable significant adverse environmental impact related to construction traffic.

7. Adequacy of Review. The Environmental Checklist describes the primary access of the property, the then-existing public transit route and stop, and the proposed new roads and street improvements. The Environmental Checklist also references the *Villages MPD Phase 1A Traffic Impact Study* (Ex. 16) by Transpo. The Applicant provided several supplemental documents in support of the Environmental Checklist including *Villages MPD Preliminary Plat 1A Traffic Impacts to Green Valley Road* (Ex. 46), a *Traffic Monitoring Plan* and responses to comments (Ex. 16, 27 and 94). The City's consultants, Parametrix, prepared the *SE Green Valley Road – Traffic Calming Strategies* and a *Rock Creek Bridge Evaluation* (Ex.192). The SEPA Responsible Official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impacts. *See* 11/3/12 Tr. at p. 283-286. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. The SEPA Responsible Official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of the proposal.

**Conclusions of Law**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to construction traffic impacts. As demonstrated in Finding of Fact No. III(C)(7), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of traffic safety impacts. As determined in Finding of Fact No. III(C)(6), there are no probable significant adverse environmental impacts resulting from the construction traffic issues generated by the proposal.

### D. Traffic Impact Analysis

**Findings of Fact:**

1. Overview of Appeal Issues. In their Pre-hearing Brief, the Appellants referenced the findings of the Examiner on FEIS adequacy related to transportation impacts with respect to the traffic model used by the City and Applicant as part of the Villages MPD permit process. The Appellants assert the traffic model used in the Villages MPD process is the same model used to evaluate impacts for the Phase 1A Plat application. The Appellants assert this model has multiple flaws and is therefore unsuitable for use in evaluating the impacts and required mitigation for the plat proposal. The Appellants

asserted there were technical flaws in the transportation methodology related to trip distribution, background traffic growth rates, internal trip capture rates, peak hour factors, and the transportation model itself. The Appellants further stated the existing analysis provides for inadequate mitigation to resolve adverse impacts such as excessive queue length, intersection level of service or safety issues associated with Rock Creek Bridge.

A discussion of safety impacts on Rock Creek Bridge is located above in SEPA Appeal Issues section IIIA and IIIC. A discussion of queue length is located below in SEPA Appeal Issue section IIIU. A discussion of intersection level of service is located in SEPA Appeal Issue section IIIV.

2. FEIS Analysis. The FEIS analysis dealt extensively with the issue of traffic impact analysis and specifically with the transportation model, its underlying assumptions and the conclusions derived from the use of this model. FEIS Transportation Findings of Fact No. 5-9, 11-13 and 21 specifically discuss the transportation model as do Conclusions of Law No. 1, 4, and 12-13. FEIS Transportation Conclusion of Law No. 15 stated,

> *"As is evident from the findings above, the EIS traffic analysis is adequate but in several instances there are more accurate methodologies and assumptions available to ensure more complete mitigation. The Examiner will recommend conditions on the MPD that incorporate the better methodologies and assumptions."*

3. Villages MPD COAs. The Villages MPD Approval Ordinance 10-946 included extensive findings of fact related to the transportation model and its underlying assumptions. Council Finding of Fact No. 5 describes the Council's findings with respect to Villages MPD Project Traffic including a specific discussion on the use of the transportation model in Finding of Fact No. 5(K)(i-vi) (Ordinance 10-946, Ex. A, pages 2-8). Council Conclusion of Law No. 23(B) states,

> *"The conditions of approval in Exhibit C require preparation of a revised transportation demand model, and use of that model at specified points in the future to periodically review traffic impacts of the MPDs as they develop and identify additional mitigation as necessary to meet levels of service for successive phases of development. Mitigation may exceed that identified in the FEIS if necessary to meet level of service standards, so long as the adverse impacts are identified in the relevant environmental document (here, the FEIS), and the mitigation is consistent with an environmental policy adopted by the governmental body and referenced in its decision. WAC 197-11-660(1)(a) and (b); see also Quality Rock Products, Inc. v. Thurston County, 139 Wn. App. 125, 140-141 (Div. II 2007). Here, requiring such additional mitigation is consistent with the City's policy set out in BDMC 18.98.020(G), which is adopted by reference as a SEPA policy in BDMC 19.040240(B)(3).* ***Under these conditions,***

***the first periodic review will be conducted at the point where building permits have been issued for 850 homes for the Villages and Lawson together;*** *subsequent periodic review will occur at such future points specified by the City Council.*

*As discussed in Finding of Fact 5(L),* ***the future periodic reviews utilizing a revised transportation demand model are warranted, because the length of the project build out, and because the existing models are not optimally suited to predict future traffic impacts 15 or more years into the future, particularly given the scale of the two MPD projects and the model's underlying assumptions.*** *Future periodic review will involve re-validation of the transportation demand model by checking the traffic analysis against actual MPD traffic growth."* (Emphasis added.)

The Villages MPD COA included 25 conditions related to transportation. Villages MPD COA 11-14 and 17 related to the creation of a new transportation demand model and its underlying assumptions including to some extent each of the following issues: the current model's transportation network, modeling boundaries, external trip capture, validation, traffic counts, surrounding land uses, peak hour factors including a sensitivity analysis related to their use, the inclusion of funded and unfunded capital improvements from local plans, mode split, transit service plans from local transit providers, the internal trip capture rate and the inclusion of the resultant project impacts and mitigations in the Developer Agreement. Council Villages MPD COA deferred the creation of the new transportation demand model until the point where 850 building permits have been issued for dwelling units in the Villages and Lawson Hills together. The Council's decision eliminated the creation of a new model until after the completion of PP1A.

4. Probable Significant Adverse Environmental Impacts. There is nothing in the record to suggest that the use of the existing transportation model in itself will create probable significant adverse environmental impacts. The Council has determined that the model and its underlying assumptions are adequate and has adopted Villages MPD COA that limit the creation of a new, more project specific model until the issuance of 850 building permits, well after the completion of PP1A. Even if the Examiner's concerns with the traffic modeling in review of the Villages FEIS were still relevant, there is nothing in the record to suggest that the model used for PP1A is inappropriate for the first phase of the project. The Examiner's concerns over the model dealt with its application to the Villages and Lawson Hills MPDs as a whole. The SEPA Appellants have not identified any specific adverse impacts associated with the use of the existing transportation model for PP1A. There is nothing in the record to reasonably suggest that the Applicant's required transportation mitigation measures are insufficient to adequately mitigate transportation impacts. The Examiner must both recognize the Council's required Villages MPD COA and also give substantial give weight to the opinion of the SEPA responsible official that the proposal will not create any probable significant adverse environmental impacts.

5. Adequacy of Review. The Environmental Checklist describes the primary access of the property, the then-existing public transit route and stop, and the proposed new roads and street improvements. The Environmental Checklist also references the *Villages MPD Phase 1A Traffic Impact Study* (Ex. 16) by Transpo. The Applicant also provided several supplemental documents in support of the Environmental Checklist including *Villages MPD Preliminary Plat 1A Traffic Impacts to Green Valley Road* (Ex. 46), a *Traffic Monitoring Plan* and responses to comments (Ex. 16, 27 and 94). The City's consultants, Parametrix, prepared the *SE Green Valley Road – Traffic Calming Strategies*. The SEPA Responsible Official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impacts. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. The SEPA Responsible Official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of the proposal.

**Conclusions of Law**

1. Collateral Attack. The Applicant argued in its rebuttal brief to the SEPA Appellants Opening briefing that the Appellants' entire Transportation argument should be stricken or dismissed based on an impermissible collateral attack. The transportation issues covered under this SEPA appeal issue (as identified in III(D)(1)) are so stricken.

   The Villages MPD conclusions of law expressly identify the Villages MPD COAs addressing transportation as SEPA mitigation measures. Conclusion of Law No. 28(A) of the MPD Ordinance states that "*[a]ll FEIS mitigation* ***and modifications thereto*** *incorporated into the conditions of this MPD should be considered as imposed pursuant to the City's substantive SEPA authority... as well as pursuant to the MPD criterion...*" (Emphasis added).

   All of the transportation COAs found within the FEIS adequacy determination serve to mitigate transportation impacts that the Examiner determined were not adequately addressed in his decision on the FEIS adequacy appeal. In particular, the conditions regarding the transportation model address the significant concern of the Examiner that the transportation model in use by the City is inadequate in both its initial construction and many of its modeling assumption and may not sufficiently address transportation impacts in the FEIS. Consequently, the transportation COAs pertaining to this SEPA appeal issue (III(D)(1)) are construed to be "modifications" to the mitigation recommended in the FEIS under Villages MPD COL 28(A) and, therefore, were imposed through the City Council's SEPA substantive authority.

   The FEIS extensively addressed the transportation model and its assumptions. The Council chose, in an exercise of SEPA substantive authority, to implement the

Examiner's FEIS conditions but to limit their application until the City had issued 850 building permits. The present PP1A SEPA determination cannot be used to modify the past SEPA determination with respect to the FEIS and Villages MPD. The Appellants arguments regarding the transportation model and the modeling assumptions therein are an impermissible collateral attack on prior policy decisions, namely the MPD Permit Approval Ordinance 10-946.

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to the traffic impact analysis. As demonstrated in Finding of Fact No. III(D)(5), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. No. III(D)(4), there are no probable significant adverse environmental impacts resulting from the traffic impact analysis generated by the proposal.

### E. Wastewater Impacts

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that there was insufficient environmental review of the wastewater system proposed for the project. They note that the Villages MPD FEIS did not address wastewater impacts because review of wastewater impacts was deferred to project level review. They also note that the final design of the wastewater system differs from that assessed in the Villages MPD and Villages DA decisions. The appeal statement argues that an SEIS should be prepared "*to evaluate construction impacts, impacts to any stream or wetland crossings, and the potential for overflow and/or odor creation at the pumping/storage site and at the connection to the regional trunk system.*" The record does not contain any other evidence on impacts that may be caused by the wastewater system.

2. Adequacy of Infrastructure. It is determined that the proposed sewer system is adequate to accommodate the wastewater conveyance and treatment demands of the proposal. Wastewater from the proposal will be treated by a regional King County treatment facility, which has sufficient capacity for the proposal. Ex. 55, a letter from the Wastewater Treatment Division of King County, notes that King County treatment facilities currently have capacity for an additional 1,150 ERUs. P. 41 of the Staff Report and the testimony of Dan Ervin, 11/3/12 Tr at p. 11, notes that the proposal will generate demand for 921 ERUs. Ex. 41 exhibits King County concerns over lack of information of future development plans, but these appear to be oriented towards future Black Diamond development that will exceed existing treatment capacity. The conditions of approval require that prior to the issuance of any building permits all off-site sewer facilities necessary to serve the proposal shall be completed. The conditions also require that the Applicant provide estimates of wastewater flows for each application for building and utility permits. It is determined that

the proposed sewer system is adequate to accommodate the wastewater conveyance and treatment demands of the proposal.

3. King County Approval. Pursuant to COA 46 recommended in the staff Report, the Applicants have the choice of either connecting the wastewater conveyance system of the proposal to the City's collection system or connecting it to the regional King County system with King County's approval. A major point of disagreement during the hearing was whether King County approval was required to connect to the City's own collection system. As outlined by King County in Ex. 58, King County Code Section 28.84.050(F) requires King County approval for any sewer system that discharges into the County system. The PP1A sewer system, whether or not it will connect directly to a King County trunk line, will ultimately discharge into the County's system because the County provides the sewage treatment, see p. 3-42 of Villages FEIS. The County's jurisdiction to require approval is based upon the fact that PP1A flows are eventually discharged into King County's sewer system for treatment. There is no evidence to suggest that a need for King County approval would result in any probable significant adverse environmental impacts. In order to prevent any chance that construction work will create unnecessary environmental impacts, a mitigation measure will be added to the MDNS requiring the Applicant to acquire any required King County approvals for discharge and/or connection into King County's sewer system. This clarification will ensure that no substantial work will be done on the project site prior to the institution of an irrevocable commitment to providing adequate wastewater conveyance and treatment.

4. Probable Significant Adverse Environmental Impacts. As conditioned, there is nothing in the record to suggest that the proposed sewer collection and treatment system will create probable significant adverse environmental impacts.

   In their appeal statement the SEPA Appellants assert that the proposal could adversely affect critical areas or create odor. The SEPA Appellants odor concerns appear to be based in part upon a letter from King County, Ex. 57, in which Mark Buscher comments as follows:

   *...the County's preliminary finding is that a connection at the City's preferred location has the potential to limit the ability of the existing Black Diamond (Jones Lake) Pump Station to convey peak wastewater flows and to disrupt the operation of the station. A disruption could lead to overflows at the pump station or in the local sewerage connection lines in the City of Black Diamond...*

   It is unclear from Ex. 57 whether the County's concerns regarding Jones Lake would apply to the wastewater volumes generated by PP1A. PP1A will only generate a portion of the total volumes of the Villages at full build out. Dan Ervin, who has been working on the sewer design for the project and is a qualified wastewater engineer, testified that the County's concerns are limited to volumes that exceed the system's capacity for 1,150 ERUs from Black Diamond. The volumes generated by PP1A are within the 1,150 treatment capacity and will not create any problems at the Jones Lake station. See Ervin

testimony 11/3/12 Tr at p. 19-20. The SEPA Appellants have not presented any evidence to the contrary and it is reasonable to conclude that the County's treatment design is sufficient to accommodate flows within its treatment capacity. It is determined that the proposal will not create any odor or overflow at the Jones Lake pump station that would constitute probable significant adverse environmental impacts.

Similar to the Jones Lake pump station issue, the SEPA Appellants present another letter, Ex. 90, expressing odor and clogging concerns over a proposed wastewater storage facility. In an Ex. 96 declaration from Dan Ervin, Mr. Ervin testifies that the storage facility will not need to be constructed for the flows generated by PP1A because the PP1A flows are within the treatment capacity of King County. The SEPA Appellants provide no evidence to the contrary. It is determined that the proposal will not create an odor or clogging problems created by the proposed wastewater storage facility identified in Ex. 90, because the storage facility does not need to be built for the proposal.

Beyond the issues identified above, the SEPA Appellants have not identified any adverse impacts associated with wastewater collection and treatment for PP1A. There is nothing in the record to reasonably suggest that the City's critical area regulations and applicable sewer design standards are insufficient to adequately mitigate sewer impacts. Given that substantial weight must be given to the opinion of the SEPA responsible official that the proposal will not create any probable significant adverse environmental impacts, this is not even a close or debatable factual issue.

5. Adequacy of Review. The environmental checklist, Ex. 3, references sewer analysis from Triad and required sewer approval form King County. As noted by Ms. Nelson at hearing, 11/2/12 Tr. at p. 85-86, the Villages FEIS, adopted for PP1A, contains a significant amount of information on the sewer needs of the proposal and the proposed sewer connection system is consistent with the collection system outlined in the FEIS. King County has asserted the need for more environmental review in Ex. 57 and 90, but as discussed in Finding of Fact No. III(E)(4), those impacts are associated with later Villages development when Villages wastewater volumes exceed King County's treatment capacity. The SEPA responsible official, Steve Pilcher, reviewed all of this information prior to determining that the proposal would not create probable significant adverse environmental impact. See 11/3/12 Tr. at p. 271-72. Mr. Pilcher did not request any additional analysis of sewer impacts because he determined that there was nothing unique about the proposed system that existing regulations would not adequately mitigate. 11/3/12 Tr. at p. 285. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. Id. at 285-86. The SEPA responsible official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of a proposal.

**Conclusions of Law**

1. Scope of Review. The Applicant argued in its pre-hearing SEPA briefing that sewer impacts are outside the scope of this SEPA appeal because a sewer plant is not part of the proposal. Undoubtedly the sewer system for PP1A up to its connection to the City or King County sewer system is a part of the PP1A proposal. The sewer collection system and treatment plant beyond this connection may not qualify as part of the proposal, but impacts to that part of the treatment and collection system qualify as cumulative impacts subject to the SEPA review of the proposal.

   As recognized in case law presented by the Applicant, "*a cumulative impact analysis need only occur when there is some evidence that the project under review will facilitate future action that will result in additional impacts*". *Boehm v. City of Vancouver,* 111 Wn. App. 711, 720 (2002). *Boehm* involved an appeal of an MDNS, but this didn't stop the court from quoting from a case that applies to EIS adequacy in concluding that

   > *"implicit in [SEPA] is the requirement that the decision makers consider more than what might be the narrow, limited environmental impact of the immediate, pending action. The agency cannot close its eyes to the ultimate probable environmental consequences of its current action."*

   111 Wn. App. At FN6, citing *Cheney v. City of Mountlake Terrace*, 87 Wn.2d 338, 344 (1976).

   Even if the sewer system is not considered a part of the proposal, there is no question that the proposed subdivision will result in the construction of major sewer improvements. The City cannot close its eyes to any significant impacts that the sewer proposal will create. More specific environmental review will no doubt be more effective and appropriate when a specific sewer design is presented for approval. However, failure to consider more generalized impacts at this stage of environmental review could limit mitigation options down the line. Now is the time to consider the optimization of the locations for utility lines and other issues that may be frozen out of consideration once the location of interior roads and other design features are set by preliminary plat approval.

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to waste water impacts. As demonstrated in Finding of Fact No. III(E)(5), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. No. III(E)(4), there are no probable significant adverse environmental impacts resulting from the wastewater generated by the proposal.

**F. School Traffic Impacts and School Construction.**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the environmental impacts of building schools necessary to serve the project must be evaluated. It was noted that King County is currently considering the adoption of countywide planning policies that would prohibit the siting of schools in rural areas. No mention was made of any specific probable significant adverse impacts from the construction of the schools. In its pre-hearing reply brief on its SEPA Appeal, the SEPA Appellants elaborated that at least in the initial years before school construction is completed that children will have to be bussed to schools 22-24 miles away. In the SEPA Appellants' pre-hearing SEPA rebuttal brief, the SEPA Appellants raise safety concerns about students who may have to walk across Rock Creek Bridge from outside the Villages MPD to go to school within the Villages MPD. No other adverse impacts are identified.

2. Probable Significant Adverse Environmental Impacts. Safety impacts associated with students walking to school over the Rock Creek Bridge is addressed in SEPA Appeal Issues section III(A). The only remaining impacts identified by the SEPA Appellants are traffic impacts and the potential inability to construct schools within rural areas. There is nothing in the record to suggest that school traffic will create probable significant adverse environmental impacts. As discussed in Finding of Fact 10(E) supporting adoption of the Villages MPD ordinance, the FEIS programmatic traffic analysis for the Villages MPD has already taken into account school traffic. As further determined in those findings, a change in school location would not create any significant change in traffic analysis because those impacts affect AM numbers and the traffic analysis is based upon accommodating higher PM peak hour traffic counts. The fact that some students may have to be bussed to Enumclaw does not lead to any reasonable inference that this additional traffic, outside of the PM peak hour, would lead to any significant change in trip estimates and corresponding mitigation needs. The SEPA Appellants have not presented any evidence that would lead one to reasonably conclude that the additional AM traffic generated by school traffic would create any material difference in use of the higher PM trip counts used to assess mitigation needs, let alone enough evidence to override the substantial deference to the SEPA responsible official's determination that the proposal will not create significant adverse environmental impacts attributable to school traffic.

   The fact that the King County Council may prohibit schools from being constructed within rural areas is also of no significance because the Comprehensive School Mitigation Agreement Ex. 12 requires the Applicant to provide sites within the City's urban growth area should the county prohibit construction of schools within rural areas.

3. Adequacy of Review. The environmental checklist, Ex. 3, addresses schools at several locations, noting that the proposal will accommodate two school sites, that school impacts are addressed by the Comprehensive School Mitigation Agreement, Ex. 12. The SEPA responsible official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impact. See 11/3/12 Tr. at p. 271-72. Mr. Pilcher also had the Enumclaw School District Capital Facilities Plan at this disposal, adopted into the City's comprehensive plan. The capital facilities plan

contains level of services standards and projected capital facilities needs with growth projections that include the Villages and Lawson Hills master plans. Finally, Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and still concluded that the proposal would not create any probable significant adverse environmental impacts. Id. at 285-86. The SEPA responsible official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of a proposal.

**Conclusions of Law**

1. Scope of Review. The Applicant argued in its pre-hearing SEPA briefing that school impacts are outside the scope of this SEPA appeal because a school is not part of the proposal. For the same reasons identified in Conclusion of Law No. III(E)(1) for sewer impacts, school impacts should be addressed as a cumulative impact at a general level because the proposal will clearly result in school construction and increased use of schools.

2. School Agreement. In their prehearing SEPA briefing, the Applicant asserts that the Comprehensive School Mitigation Agreement, Ex. 12, prohibits any further environmental review. Paragraph 3.1 of the Agreement provides that the Agreement constitutes "full, total, compete and sufficient mitigation" for school impacts and further that the City agrees that it will not seek or impose any additional mitigation measures or impact fees. The Applicant cannot circumvent the requirements of SEPA by a contractual arrangement with the City. There are no SEPA statutes that authorize such an arrangement. RCW 43.21C.240 authorizes a City to forego SEPA review upon a determination that its development regulations adequately mitigate environmental impacts, but no such determination has been made in this case. Further, RCW 43.21C.240(2) requires that this determination be made "in the course of project review". It is debatable that the Agreement, which is not a development agreement governed by Chapter 36.70B or any development regulation adopted under Chapter 36.70A RCW, would qualify as a document executed "in the course of project review". Finally, the agreement by its own terms only precludes additional mitigation. It does not preclude assessment of environmental impacts.

3. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to school impacts. As demonstrated in Finding of Fact No. III(F)(3), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of school impacts. As determined in Finding of Fact No. , No. III(F)(2) there are no probable significant adverse environmental impacts resulting from schools generated by the proposal.

**G. Noise**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that construction noise impacts have not been adequately assessed in the SEPA threshold determination. The Appellants note that the Examiner had concluded in his decision on the adequacy of the Villages FEIS that "the duration of construction noise impacts is a significant impact that has not been adequately addressed in the EIS." The Appellant asserts that although some mitigation has been adopted, there has been no analysis done on the impacts of the construction noise and for this reason it is not possible to determine whether the mitigation is adequate.

2. FEIS Findings on Noise Impacts. The SEPA Appellants accurately summarize the findings of the Examiner on FEIS adequacy related to noise impacts. As discussed in Conclusion of Law No. 4 on noise impacts in the FEIS decision, the FEIS essentially dismissed construction noise impacts as temporary. The Examiner concluded that construction noise was not temporary, since the scale of the project necessitated a 15 year build out involving 150,000 truck trips. As concluded in Conclusion of Law No. 5 in the FEIS Decision, the TV FEIS did not adequately address noise impacts, but since the appeal was just limited to the impacts on three properties it was determined that the deficiency was limited and did not render the FEIS as a whole inadequate. It was reasoned that mitigation could be adequately addressed in the Villages MPD conditions of approval.

3. Noise Mitigation Measures. The Villages MPD COA of approval include 11 COAs to reduce noise impacts. None require any evaluation of how noise generated by the proposal would affect surrounding residents.

4. Noise Reduction Plan. COA No. 35 of the Villages MPD requires the Applicant to submit a plan for reducing short term construction noise for each implementing development. In response, the Applicant submitted Ex. 39 to the Staff Report. Ex. 39 simply repeats the Villages MPD noise COAs and adds nothing more, except to limit the COAs by providing that they would be followed "whenever feasible".

5. Adequacy of Review. The final environmental checklist references the Villages MPD COAs for noise reduction, which the Council has found adequate to address noise impacts. The checklist went through two iterations at the direction of the SEPA responsible official and the revisions included disclosure of noise impacts. The SEPA responsible official also had the Villages FEIS and Villages DA at his disposal, which also addressed noise impacts. Finally, Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and still concluded that the proposal would not create any probable significant adverse environmental impacts. Id. at 285-86. The SEPA responsible official's conclusions on the noise impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of a proposal.

**Conclusions of Law:**

1. Collateral SEPA Attack. With one exception, the SEPA Appellants' appeal of noise impacts is a prohibited collateral attack on prior SEPA programmatic policy decisions.

   As concluded in Conclusion of Law No.II(B)(2), SEPA review cannot be used to collaterally attack prior SEPA decisions. As discussed below, the noise COAs imposed by the Villages MPD were imposed under the Council SEPA substantive authority and further mitigation would constitute a collateral challenge to those COAs.
   The conclusions of law expressly identify the Villages MPD COAs addressing noise as SEPA mitigation measures. Conclusion of Law No. 28(A) of the MPD Ordinance states that "*[a]ll FEIS mitigation* ***and modifications thereto*** *incorporated into the conditions of this MPD should be considered as imposed pursuant to the City's substantive SEPA authority... as well as pursuant to the MPD criterion...*" (Emphasis added).

   It is concluded that all of the noise mitigation required by the Villages MPD was imposed through the City's SEPA authority. All of the Villages MPD noise COAs that are not already recommended in the FEIS are considered "modifications thereto" as identified in Conclusion of Law No. 28(A) and thus constitute SEPA mitigation measures. All of the noise COAs serve to mitigate noise impacts that the Examiner determined were not adequately addressed in his decision on the FEIS adequacy appeal. In particular, the conditions regarding construction noise address the significant concern of the Examiner that construction noise impacts were not sufficiently addressed in the FEIS. Villages MPD noise conditions were recommended by the Examiner in part to make up for the deficiencies in the FEIS. For these reasons, all of the noise COAs of the Villages MPD are concluded to have been imposed under the substantive SEPA authority of the City Council.

   Since the Noise COAs are determined to be exercises of SEPA substantive authority, it must next be determined whether any requirements for further SEPA review or mitigation imposed by this decision would be inconsistent with the COAs. Most pertinent to this appeal issue, it must be determined whether the City Council intended the noise COAs to serve as complete mitigation of noise impacts, or whether additional analysis and mitigation would be appropriate for implementing project review. In Villages MPD FOF 9(F), the City Council determined that the noise COAs imposed by the Villages MPD approval "will appropriately mitigate the noise impacts of the Villages MPD". Given this finding, it is determined that the noise COAs of the Villages MPD were intended to serve as complete mitigation of Villages MPD noise impacts and that any further requirements for noise evaluation or mitigation would be a prohibited collateral attack on this Council determination.

2. Noise Reduction Plan. As noted in the opening sentence to the preceding Conclusion of Law, the SEPA Appellants' challenge to noise mitigation is a prohibited collateral attack "with one exception". The one exception is the noise mitigation plan submitted by the

Applicant, staff Report Ex. 39. Although the SEPA Appellants cannot challenge or request additional SEPA analysis/mitigation as outlined in the preceding Conclusion of Law, they can assert probable significant adverse environmental impacts if the Applicant fails to comply with previously adopted SEPA mitigation measures. Implicitly, the City Council's determination that its SEPA mitigation measures were sufficient to mitigate probable significant adverse environmental impacts is based upon the understanding that the Applicant would comply with those mitigation measures.

The Applicant has clearly not complied with Villages MPD COA No. 35. COA No. 35 requires the Applicant to prepare a plan for reducing short term construction noise for each implementing development project. As determined in Finding of Fact No. III(G)(4), the Applicant's noise mitigation "plan" simply listed the noise COAs already required for the project. Clearly, this is not what the Council had in mind with Villages MPD COA No. 35. A "plan" that only parrots what is already required by other COAs accomplishes nothing, since those other requirements are already required.

In order to remedy this deficiency an additional mitigation measure will be added to the MDNS requiring that the Applicant provide a detailed noise reduction plan that identifies with specificity how best management practices will be implemented to reduce noise impacts. The noise mitigation plan will be subject to review and input from the Noise Review Committee created by Villages MPD COA No. 45. COA No. 45 already requires the Committee to review and monitor compliance with Villages MPD noise requirements, which should have included the plan required by Villages MPD COA No. 35.

3. Threshold Determination Sustained. With the additional mitigation specified in Conclusion of Law No. III(G)(2) above, there are no grounds for overturning the threshold determination of the responsible official as it applies to noise impacts. As demonstrated in Finding of Fact No. III(G)(5) the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Conclusion of Law No. III(G)(1) above, any mitigation or environmental review required beyond compliance with Villages MPC COA 35 is prohibited as a collateral attack on prior programmatic FEIS policy decisions made by the Council.

### H. Public Services

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the SEPA responsible official did not have a finalized fiscal impact analysis (required by Villages DA Section 13.6) available at the time he issued his threshold determination and that the finalized version did not contain an adequate analysis of fiscal issues. Subsequent SEPA briefing by the SEPA Appellants identified what they perceived to be flaws in the fiscal impact analysis.

2. Impact on Public Services. The SEPA Appellants have provided no evidence on fiscal impacts to public services. They only generally assert that the fiscal impacts of the project have not been adequately estimated and that, consequently, it is possible public services may be inadequately funded and that this lack of funding will impair the ability of the City to provide adequate services.

3. Probable Significant Adverse Environmental Impacts. The SEPA Appellants have argued that the fiscal impacts of the project have not been properly estimated, but have provided no information or evidence as to what the fiscal impacts would be or how they would adversely affect the provision of public services. Their primary argument, outlined in their pre-hearing response brief, is that the Applicant's yearly funding contribution required by the Villages MPD Funding Agreement is not off-set by the expenditures funded by that Agreement. There is nothing in the fiscal impact analysis, Ex. 40, to suggest that expenditures funded by the Villages MPD Funding Agreement have not already been factored into the yearly net general fund balance in Table 2 of the fiscal impact analysis. In point of fact this would be expected given the narrative of the fiscal impact analysis, which purports to include all general staffing expenses in the computation of general fund expenses. The only factor supporting the Appellant's position in this regard is that both the City and the Applicant did not contest the Appellant's assertion that expenses covered by the Villages MPD funding agreement are not included in the computation of the yearly net general fund balance.

   The SEPA Appellants also take the position that Table 2 of the fiscal impact analysis shows a "modified cumulative general fund" surplus of $1,653,685 for 2012 and asserts that the City will run a deficit in 2012. The actual general fund balance for 2012 is not in evidence. At any rate, the Appellants have not provided any information or evidence to suggest that the "modified cumulative general fund" of Table 2 is intended to correlate with the actual ending fund balance of the City. It would appear that the "Net Annual General Fund Surplus (Deficit)" in Table 2 is what represents the yearly ending balance of the City, not the "modified cumulative general fund" as asserted by the SEPA Appellants. No ending balance is estimated for 2012 in the "Net Annual General Fund Surplus (Deficit)." Again, the City and the Applicant have surprisingly not addressed the position taken by the Appellants on this issue, so how to interpret Table 2 remains a little unclear.

   More likely than not, it appears that the "Net Annual General Fund Surplus (Deficit)" in Table 2 represents the yearly net general fund balance of the City, after expenses created by the Villages MPD are taken into account. As is readily evident from Table 2, the yearly deficits projected for City's general fund are amply covered by the Applicant's yearly $1,653,685 contribution. The Applicant has even proposed a new condition, Ex. 91, COA No. 6, which is adopted as a condition of PP1A approval, as revised by the City, that requires the Applicant's funding contribution to cover, at a minimum, any annual deficit predicted in the fiscal impact analysis.

Since the Applicant will cover any deficit's projected for the City's general fund, it cannot be concluded that the City's ability to provide adequate public services will be impaired by fiscal impacts. Of course, this conclusion assumes that the fiscal impact analysis uses accurate estimates for the costs of providing public services at appropriate level of service standards. The Appellants do not challenge the fiscal impact analysis on this basis (except as to police level of service, addressed separately) and there is no evidence suggesting that the fiscal impact analysis is inaccurate in this regard. In addition to the foregoing analysis, it is also compelling that the fiscal impact analysis has been subject to independent peer review by the City's financial consultant Randy Young, as outlined in the Applicant's pre-hearing SEPA rebuttal brief.

It is determined that the fiscal impacts of the proposal will not impair the City's ability to provide public services for the following reasons: (1) the fiscal impacts analysis is reasonably accurate given its preparation by a qualified expert subject to peer review by a City qualified expert; (2) the absence of any evidence that fiscal impacts would impair the City's ability to provide public services; (3) the mitigation measure requiring the Applicant to cover general fund deficits; and (4) the substantial weight that must be given to the SEPA responsible official's threshold determination. It is further determined that since the fiscal impacts of the proposal will not impair the City's ability to provide public services, the fiscal impacts of the proposal will not create any probable significant adverse environmental impacts that must be addressed by SEPA.

It is acknowledged that the "modified cumulative general fund" is suspect, given that its starting point is based upon an assumption of a balanced general fund for 2012. If the 2012 general fund will end in a deficit as claimed by the Appellants, the cumulative total is in error from the start. However, the "modified cumulative general fund" has not been used to assess environmental impacts in this decision. The "modified cumulative general fund" is of no consequence in assessing the environmental impacts of the proposal.

4. Use of Draft Fiscal Impact Analysis. The SEPA Appellants assert that the SEPA responsible official only had a draft fiscal impact analysis available to him at the time he issued his threshold determination. As outlined in the pre-hearing SEPA rebuttal brief of the Applicant, Ex. 116, the draft was approved unchanged as the final version of the fiscal impact analysis determined to comply with the requirements of Section 13.6 of the Villages DA.

5. Adequacy of Review. The final environmental checklist references the fiscal impact analysis, which as determined in Finding of Fact No. III(H)(4) above was ultimately approved by the City as compliant with Section 13.6 of the Villages DA. The fiscal impact analysis provided sufficient detail to support the conclusion that the funding impacts of the proposal would not significantly impair the City's ability to provide adequate public services. The SEPA responsible official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the fiscal impacts to the City's ability to provide adequate public services.

**Conclusions of Law**

1. Fiscal Impacts not an Environmental Impact. The City and Applicant have both argued that fiscal impacts are not an environmental impact subject to review. The City and Applicant are correct on this point. However, fiscal impacts can be so severe that they can create secondary impacts that are environmental. In this case the SEPA Appellants asserted that the fiscal impacts of the proposal would impair the ability of the City to provide adequate public services, which is recognized by the SEPA rules as an environmental impact. The SEPA Appellants were given an opportunity to prove this connection, but ultimately did not do so as determined in the findings of fact above.

   The inapplicability of SEPA to fiscal impacts is well known and well established in the SEPA rules. WAC 197-11-448(2) specifically notes that "socioeconomic" is not a part of the SEPA rules or statutes and is not part of the definition of impacts to be considered in environmental review. No economic impacts of any kind are identified in WAC 197-11-444, which defines the elements of the environment that can be considered when assessing environmental impacts. However, public services and utilities are expressly included in the definition of environment. See WAC 197-11-444(2)(d). Certainly, at least theoretically a project could so severely deplete the coffers of a city that it adversely affects its ability to provide for adequate public services. As noted in Settle's treatise on SEPA case law, given the wide breadth of impacts subject to SEPA review through its definition as environmental, "*it is difficult to imagine many significant effects which might not be characterized as 'environmental'*" despite the restrictions governing review of socioeconomic impacts. Settle, *The Washington State Environmental Policy Act*, Section 14.01[2].

   As determined in the findings of fact, the Applicants have not established that the fiscal impacts of the proposal would impair the ability of the City to provide adequate public services. Without establishing that preliminary connection between fiscal impacts and impacts to public services, the discussion of fiscal impacts cannot[2] be addressed in the context of SEPA review.

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to fiscal and public services impacts. As demonstrated in Finding of Fact No. III(H)(5), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(H)(3), there are no probable significant adverse impacts associated with the proposal.

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[2] In their pre-hearing SEPA reply brief the SEPA Appellants raise a good argument that the fact that fiscal impacts don't qualify as environmental impacts subject to SEPA review only means that the City is not compelled to review the impacts but is not prohibited from doing so. This may or may not be the case, but the issue is moot since it is determined that the financial impacts do not create any significant adverse environmental impacts.

### I. Police Service

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the fiscal impact analysis, Ex. 40, does not employ a "comparable city" as required by the Villages DA to assess funding of police services because the "comparable city" is the City of Black Diamond itself. The Appellants also dispute the level of service used to determine funding needs for police services. The fiscal impact analysis used the level of service assigned by the Comprehensive Plan, which designates the police level of service as "proposed".

2. Probable Significant Adverse Impacts. The fiscal impact analysis use of Black Diamond as a comparable city and use of the "proposed" level of police service from the Comprehensive Plan will not result in any probable significant adverse impacts. The SEPA Appellants have not presented any evidence that the methodology of the fiscal impact analysis will in any way result in the provision of inadequate police services. In point of fact, the only evidence on funding impacts is that the use of Black Diamond as a comparable city as opposed to a separate city will result in a greater estimate of police department expenditures, which in turn can serve to increase the Applicant's funding obligation. Cf. Ex. 39 and 40, Villages DA Section 13.6. The City may or may not be bound to use the "proposed" level of police service from the Comprehensive Plan, but the SEPA Appellants have not demonstrated that the proposed level of service is inadequate for the Black Diamond community. In the absence of any other guidance on what is an acceptable police level of service, the "proposed" level of service adopted by the elected representatives of the Black Diamond community in the Comprehensive Plan is by far the most appropriate standard to apply.

3. Adequacy of Review. The final environmental checklist references the fiscal impact analysis, which as determined in Finding of Fact No. III(H)(4) was ultimately approved by the City as compliant with Section 13.6 of the Villages DA. The fiscal impact analysis contains a detailed accounting of fiscal impacts to police services prepared by a qualified expert and subject to review by a City consultant who is also a qualified expert. The SEPA responsible official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the fiscal impacts to the City's ability to provide adequate public services.

**Conclusions of Law:**

1. Comparable Cities. Section 13.6(e) of the Villages DA clearly contemplates the use of a city other than Black Diamond when using the comparable city methodology for estimating police department expenditures. As determined in the findings of fact, this error does not result in any probable significant adverse environmental impacts so the error is irrelevant for purposes of SEPA review. However, the preliminary plat criteria do require compliance with the Villages DA, which includes Section 13.6(e). The plat

conditions will require use of a separate city for estimating police expenditures. The Applicant will be given the option of continuing to use Black Diamond as the comparable city should its funding obligation be higher using Black Diamond itself. Ultimately the SEPA Appellant's insistence on using a separate city as a comparable city may result in a reduction of Applicant funding to the City, but the Examiner has no choice but to require compliance with Section 13.6(e) since compliance has been raised by the SEPA Appellants.

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to police services. As demonstrated in Finding of Fact No. III(I)(3), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(I)(2), there are no probable significant adverse impacts associated with the proposal.

**SEPA Appeal Issues II(C): Wetlands**

The SEPA Appellants have filed nine separate appeal issues regarding wetlands. Generally applicable findings and conclusions are listed below and then each separate wetlands issue is assessed more specifically with its own findings and conclusions.

**J. General Wetlands Findings of Fact:**

1. Wetlands Affected by Proposal. It is uncontested that there are four wetlands affected by the proposal. These wetlands are designated as Wetland E1, located to the southeast of the proposal (see PP8 of staff Report Ex. 2); Wetlands S and D4, both located in the southern portion of the proposal west of the school site (see PP7 of staff Report Ex. 2); and wetland T located to the west of wetland D4 adjoining the southwest of the proposal (see PP4 of staff Report Ex. 2). The proposal is generally located to the north of wetlands S, D4 and T and to the west of Wetland E1.

2. Wetland Classifications. staff have recommended classifications for each of the four wetlands identified in Finding of Fact III(J)(1). Wetland E1 has been classified as a Type II wetland with 225 foot buffers. The remaining wetlands are classified as Type III[3] wetlands with 60 foot buffers. See Ex. 184 and Staff Report Ex. 22.

3. No filling of wetlands is proposed. The proposal will not involve any filling of wetlands. Scott Brainard testified that PP1A will not involve any filling of wetland. 11/2/12 Tr at

[3] The classification of D4 is somewhat ambiguous. In the final wetland review memo, Ex. 22 of the Staff Report, WRI asserts that D4 is a Category IV wetland but "agrees" to a 60 foot buffer, which cannot be required for a Category IV wetland. Given this ambiguous information, it is presumed that the City has classified wetland D4 as a Category III wetland.

p. 37. No filling is evident from any of the evidence in the record and no specific filling is alleged by the SEPA Appellants.

4. Wetland Review Process. Several highly qualified wetland consultants have been involved in the delineation and classification of wetlands for the proposal. The Applicant has used the services of Wetland Resources Inc. ("WRI") to prepare the initial delineations and classifications. Scott Brainard has represented WRI in testimony and evidence presented at hearing. The work of WRI has been subject to third party review by Perteet, Inc., who was hired by the City. Jason Walker has presented testimony and evidence on behalf of Perteet. The Applicant also hired Bill Shiels of Talasera to conduct an additional third party review of the classification of the wetlands. The wetland review process is documented by five letters and memoranda from WRI and Perteet in the administrative record: May 9, 2012 Sensitive Area Study by WRI, Ex. 11 to Staff Report; June 13, 2012 memo from Perteet, Ex. 187; July 17, 2012 letter from WRI, Ex. 186; July 17, 2012 Revised Sensitive Area Study, Ex. 21 of Staff Report; July 25, 2012 Perteet review of revised WRI wetlands review, Ex. 184; July 30, 2012 WRI response to July 25, 2012 Perteet memo, Ex. 22 to Staff Report.

5. MDRT Not Subject to Undue Influence. In Dr. Cooke's written SEPA rebuttal comments, Ex. 133, Dr. Cooke asserts that the City's Major Development Review Team ("MDRT") did not have as much independence and authority as typically associated with the review of major development projects, at least implying that the MDRT lacked independent professional judgment. The evidence does not support this position and it is determined that there is insufficient evidence to establish that the MDRT was subject to any undue or inappropriate influence from the Applicant.

   In their Ex. 145 response to Dr. Cooke's written rebuttal, the Applicants object to this issue on the basis that it exceeds the scope of the appeal and the scope of rebuttal. Those objections are overruled. The independence of the MDRT affects the credibility of their findings. MDRT findings and conclusions are used by the Applicant and City in defending against most of the wetland appeal issues. Consequently, MDRT credibility is relevant to resolving those appeal issues.

   Dr. Cooke states in Ex. 133 that an MDRT is composed of expert consultants with expertise and/or resources that a planning department does not have to review major development projects. She noted that in her experience an MDRT typically reviews the work of a developer and then dictates what changes need to be made. In a subsequent reply statement, Dr. Cooke noted that it is not commonly accepted practice to have the Applicant's wetland consultant "peering over their [City's third party wetland consultant] shoulder and being allowed to contest every one of their decisions". Ex. 160, par. 7. Instead of requiring the Applicant to comply with the decisions of the MDRT team, Dr. Cooke asserts that City staff told the MDRT to work out any differences it had with the Applicant and to come to an agreement. Ex. 133. Dr. Cooke testified that the only time the City gained the upper hand in these negotiations was when a concession would not reduce the development potential of the proposal. Dr. Cooke appears to be arguing that

the MDRT was negotiating wetland mitigation and ratings when it should have been dictating them.

Dr. Cooke presents a substantial amount of evidence in support of her claim that the MDRT lacked sufficient independence and authority to classify the wetlands. In her Ex. 133 SEPA rebuttal, Dr. Cooke presents a chart of the history of the wetland negotiations to show that the MDRT accepted several wetland ratings that were contrary to its initial June 13, 2012 assessment. According to Table 1of Ex. 133, in its June 13, 2012 memo, Ex. 187, Perteet classified wetland E1 as a Category I wetland with a 110 foot buffer[4] and classified wetlands S and T as Category III wetland with rating scores that would result in 110 foot buffers[5]. As shown in Finding of Fact No. III(J)(2), the final categories recommended by the City for these wetlands followed the requests of WRI, which were classifying E1 a Category II wetland and classifying S and T as Category III wetlands with 60 foot buffers. Perteet reversed its 6/13/12 position on the buffer for E1 and expanded it from 110 feet to 225 feet, which is the buffer recommended by the City. The expansion of the buffer was based upon Perteet's determination, unrecognized by WRI, that a stream meandered through the wetland. The documentation in the administrative record does not identify why Perteet agreed to reduce its buffer requirements for wetlands S and T.

In her concerns over the MDRT process, Dr. Cooke also asserts that the categorization of E1 blatantly fails to follow the guidelines of Hruby, 2006, *Wetland Rating for Western Washington*. She notes that E1 should be considered a part of a larger complex that has already been classified as a Category I wetland. WRI, Perteet and Mr. Shields have all concluded that E1 can be classified separately since it is separated from the rest of the complex by a topographic break. Dr. Cooke asserts that the Hruby manual does not allow this type of change in topography to segregate out a wetland except for large contiguous wetlands in valleys. There is no valley associated with E1. It does not appear that City regulations require use of the Hruby 2006 manual, as BDMC 19.10.210(B)(3) requires use of the 2004 *Wetland Rating System for Western Washington*[6]. Nonetheless, the Applicant and City do not address the applicability of the *Hruby* manual or whether segregation is consistent with the guidelines of the *Hruby* manual. Instead, the Applicant asserts that the issue is moot because the 225 foot buffer required for E1 is the same buffer that would be required if it were classified a Category I wetland. As discussed in the Conclusions of Law below, the issue is not moot because the restrictions that apply to Category I wetlands differ from those that apply to Category II wetlands.

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[4] Dr. Cooke's Table 1, Ex. 133, incorrectly states that Perteet assigned a buffer of 225 feet. The June 13, 2012 memo clearly assigned a buffer of 110 feet to E1. It is acknowledged, however, that during review of the Villages DA both Perteet and apparently WRI agreed that E1 was a Category I wetland with a 225 foot buffer since this was proposed for the constraints map initially proposed for the Villages DA.

[5] Perteet expressly stated that the scores required 110 foot buffers in their June 13, 2012 memorandum, Ex. 187.

[6] It is recognized that the City required manual may simply be another edition of the Hruby manual. There is simply no way to confirm that from the record.

Another MDRT concern raised by Dr. Cooke in Ex. 133 is that the MDRT team did not receive information it requested from the Applicant. In Ex. 133, Dr. Cooke noted that Perteet requested wetland delineation data in its June 13, 2012 memo, Ex. 187, but the Applicant simply refused to provide the data on the basis that the Villages DA prohibit the revisiting of the wetland delineations. Perteet backed down on this request in its July 25, 2012 memo, Ex. 184, concluding that "the wetland boundaries submitted with the application are acceptable on the basis of the vested [development] agreement."

There is no compelling evidence that the Applicant exerted any undue influence on the professional judgment of Perteet in its 3rd party review of the wetland categorizations. On Perteet's failure to follow through on its request for delineation data, it was reasonable (though not necessarily correct) for Perteet to conclude that the Villages DA prohibited the consideration of delineation issues as outlined in the Conclusions of Law below. On the issue of segregating E1 from the adjoining core wetland complex, whether or not that was correct is far from clear in the record, but one potential mistake does not lead to the conclusion that the decision was guided by anything other than the rating criteria. Contrary to the assertion made by Dr. Cooke at hearing, the Applicant did agree to changes requested by Perteet that were against its interest. Specifically, the expansion of the E1 buffer from 110 feet to 225 feet resulted in the loss of developable space from Tract 34B, as shown in PP8 of Ex. 2 to the Staff Report. Finally, although not specifically mentioned by Dr. Cooke, the fact that Perteet and the Applicant "agreed" on the classifications does not mean that Perteet would not have required a classification to which the Applicant did not agree.

The one troubling factor on the ratings issue is that Perteet has never explained why it agreed to go from its initial recommendation of 110 foot buffers for Wetlands S and T to 60 foot buffers. Given the extensive documentation between Perteet and WRI, it would appear to be prudent and common practice to provide a good explanation as to why Perteet changed its original assessment. It is also puzzling that Perteet never once explained this change in position during the hearing and the extensive battle of written argument allowed after the hearing. Mr. Brainard has skillfully addressed every other issue that could conceivably undermine his position except for his change in position on the buffers for Wetlands S and T. However, the SEPA Appellants never asked Mr. Brainard about this issue even though he was subject to cross-examination. Although this gaping hole in Perteet's defense is a cause for suspicion, there is nothing else to suggest that Perteet's conclusions were based upon anything other than its impartial application of the rating criteria. Given the substantial weight that is due the threshold determination of the responsible official, who clearly has complete confidence in Perteet's work, no other conclusion can be reached on this issue.

Given Dr. Cooke's substantial expertise, the Examiner must give substantial weight to Dr. Cooke's opinion that unilaterally dictating wetland boundaries as opposed to engaging in a collaborative process with the Applicant is commonly accepted practice. However, such a unilateral approach does not appear to be in the City's interests from both an environmental and a legal stand point. From an environmental standpoint,

Walker, Brainard and Shiels (11/1/12 Tr at 195) all testified that wetland ratings are a subjective process and it is common to have disagreement on scoring. Brainard testified that in Hruby's wetland's ratings class it was common for students to engage in lengthy discussion and collaboration to resolve differences of opinion on wetland rating scores.

The shortcomings of Dr. Cooke's methodology are most evident when applied to Dr. Cooke herself. Dr. Cooke testified that she welcomes peer review of her work and that the added review gives her an added assurance of accuracy. In that situation accuracy would even be better served if Dr. Cooke were given the opportunity to defend her work against an adverse peer review finding. Given her tremendous expertise, it is the unfortunate third party reviewer who would likely be left with the short end of the exchange. Dr. Cooke appears to be opposed to that type of exchange. She would apparently prefer that the third party reviewer's contrary findings be left unchallenged and unmodified, no matter how erroneous, and that the City move forward without the expertise of Dr. Cooke's rebuttal. Such a scenario makes no sense. A wetland rating is clearly a subjective determination and accuracy would be enhanced by a healthy debate between the City and the Applicant.

The benefits of a collaborative approach to wetland determinations are even more significant from a legal standpoint. As previously noted, on-going discussion between the City and Applicant ensures accuracy. Accuracy obviously promotes legal defensibility. It is also in the City's legal interest to seek agreement from the Applicant. In most cases an Applicant cannot legally challenge a development condition or requirement if they have agreed to it. Given the legal advantages of securing the Applicant's agreement on development restrictions, it is always preferable to see if the Applicant will agree to a restriction before resorting to imposing it over the protest of the Applicant.

Ultimately, a discussion and debate between an Applicant and municipality over wetland determinations is preferable to the municipality blindly dictating requirements with no receptivity to feedback. So long as the municipality maintains its impartiality and bases its final decision on what it believes to be consistency with code requirements, there is nothing wrong with seeking input from the Applicant and making modifications to initial positions as error becomes apparent. The change in buffers of wetlands S and T are troubling, but beyond this there is nothing in this administrative record to suggest that the impartiality of Perteet has been compromised in any way by its deliberations with the Applicant.

6. Adequacy of Review. The final environmental checklist references a Sensitive Area study prepared by Scott Brainard as well as several wetland mitigation measures. Ex. 3. Mr. Pilcher was also involved in the preparation of the Villages DA, where after considering argument and evidence on the issue the City Council adopted "final and complete" wetland delineations in Section 8.2.1 of the Agreement. Subsequent to issuance of the checklist, an additional five wetlands reports involving the City's third party reviewer were issued assessing wetland ratings in detail. The Applicant also had

another wetlands consultant, William Shiels, do a third party review of the ratings and Mr. Shiels testified on his findings at the SEPA Appeal hearings. Mr. Shiels based his conclusions on two site visits and Mr. Walker on three site visits. See 11/1/12 at 203 (Shiels) Tr at 119 and 11/2/12 Tr at 119 (Walker). Mr. Pilcher was present during the entire course of the hearing and has examined all six wetland reports as well as the testimony and declarations of Mr. Shiels, Mr. Brainard, Mr. Walker and Dr. Cooke. 11/3/12 Tr at 285-86. In assessing wetland issues Mr. Pilcher relied upon the input of the City's wetland expert, Jim Walker from Perteet. Id. at 274. The Villages FEIS, adopted for the proposal, also contained a discussion of wetlands. Villages FEIS, 4-49 through 4-64. With all this information he still concluded that the proposal would not create any probable significant adverse environmental impacts. Id. The SEPA responsible official's conclusions on the environmental impacts of the wetland delineations are based upon information reasonably sufficient to evaluate those impacts.

### K. Wetland Delineations

**Findings of Fact:**

1. Overview of Appeal Issues. Section 8.2.1 of the Villages DA locks in wetland delineations for twenty years. In their appeal statement, the SEPA Appellants question the accuracy of these delineations and also assert that locking in wetland delineations for twenty years is counter to state and federal law.

2. Probable Significant Adverse Environmental Impacts. The Appellants have not demonstrated that PP1A will create probable significant adverse environmental impacts to wetlands in regards to the delineation set by the Villages DA. The Appellants must demonstrate that the wetland delineations are inadequate to protect the wetlands from PP1A probable significant adverse environmental impacts. The Appellants have not presented any direct evidence to prove this point. The Appellants point out that federal law only allows wetland delineations to stand for a maximum of five years. While that fact serves as circumstantial evidence that the wetland delineations more than five years may be too dated to serve their purpose, that evidence is inapplicable to the proposal at hand because the delineations were made in 2008, less than five years ago. The Appellants also claim that the wetland delineations were not properly verified. The wetland delineations were in fact verified by Parametrix, the City's third party qualified wetlands consultant. More importantly, the wetland delineations were set by the qualified experts of the Applicant and the Appellant has provided no evidence that any of the delineations are in error. It is determined that with or without the substantial weight due the determination of the responsible official that the wetland delineations set for the proposal will not create any significant adverse environmental impacts.

3. Soil Data. During her hearing testimony, Dr. Sarah Cooke, the Appellants' wetlands expert, noted that soil data used for the delineations was not made a part of the public record and was not made available to Perteet for its third party review of the delineations. See 11/1/12 Tr. At 181-82. Dr. Cooke further noted that she needed the soil data to verify the accuracy of the wetland delineations. Scott Brainard, who did the delineations for the Applicant, testified that he did make the soil data available to the City by appending the data to sensitive area reports submitted to the City. See 11/2/12 Tr at p. 26. As noted in email rulings issued by the Examiner, Ex. 182, if the Appellants had requested this information prior to the hearing and was denied on the basis of Public Record Act exemptions, the Examiner did not have the authority to rule on the applicability of those exemptions. If the Appellants were improperly denied access to those records, as discussed in the email rulings the Appellants should have the opportunity to supplement the record on judicial appeal with information pertaining to their evaluation of soil data.

**Conclusions of Law:**

1. Collateral Attack. The Applicant and the City have both argued that SEPA cannot be used to review the environmental impacts of the wetland delineations set by the Villages DA, because Section 8.2.1 of the Agreement provides that the delineations are to be "final and complete" through the term of the Agreement and that if the boundaries are found to differ during construction from those set by the Agreement that the boundaries of the Agreement shall prevail. It is concluded that the City cannot preclude environmental review through its development agreement.

   As concluded in Conclusion of Law No. II(B)(3), the requirements of the Villages DA cannot preclude SEPA review. The delineations may be "complete and final" as to subsequent implementing permit criteria, but not to the threshold determination made by the SEPA responsible official. Even if Section 8.2.1 has to be construed as prohibiting inconsistent SEPA mitigation measures, SEPA can still be used to require an assessment of environmental impacts, which can still be of significant use in serving as the foundation for other types of mitigation. The environmental impacts of the wetland delineations can and should be considered in the SEPA evaluation of this project.

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to the adequacy of the wetland delineations to protect wetlands from PP1A impacts. As demonstrated in Finding of Fact III(J)(6), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(K)(2), there are no probable significant adverse impacts associated with the proposal.

**L. Wetlands T and D4 may not be isolated from Wetland S.**

Dismissed by Order on Dismissal, Ex. 123, as moot.

**M. Potential Wetland Impacts Haven't Been Sufficiently Analyzed.**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that impacts to wetlands have not been sufficiently assessed. They note that Perteet had determined that the Villages FEIS did not adequately address wetland impacts and that this issue should addressed during implementing project review.

2. Roadway Impact. The only specific impact to wetlands cited by the SEPA Appellants is an encroachment of Ash Ave SE and SE Dogwood St to the building setback line of wetland T. This was also a concern shared by the Muckleshoot Tribe in its SEPA comments on the proposal. Dr. Cooke noted that it's not possible to build a road without equipment getting into areas adjacent to it. 11/1/12 Tr at 179-80. She also noted that vehicles would park along the shoulder in the setback.

   It is determined that construction of the road within the building setback line will not create any probable significant adverse environmental impacts. This finding is based upon the City's development standards, the project design and project conditions. As noted by the Applicant during the hearing, BDMC 19.10.160(D)(4) authorizes roads to be built within building setback lines. See 11/1/12 Tr at 148-49. An MDNS condition and Villages MPD COA 117 require split rail fencing along wetland boundaries. Scott Brainard testified that silt fencing will be required by the City's stormwater regulations to prevent erosion impacts during construction. 11/2/12 Tr at 55. As testified by Bill Shiels, it is possible to build and design a road without encroaching into an adjoining wetland setback. 11/1/12 Tr at 197. As noted in a declaration from Scott Brainard, a sidewalk will separate the Ash and Dogwood streets from the setback line, eliminating the potential for the buffer area to serve as a road shoulder. See Ex. 143, att 1.

3. Classification of E1. The classification of Wetland E1 as a Category II wetland may be erroneous. This improper classification may result in probable significant adverse environmental impacts. A mitigation measure will be added to the MDNS requiring re-evaluation of the classification for Wetland E1.

   The administrative record does not support the classification of wetland E1 as a Category II wetland. As discussed in the general findings of fact, Dr. Cooke references a reputable wetland ratings manual as unambiguously prohibiting the segregation of a wetland from a larger wetland complex unless the wetland is in a valley. The Applicant and City do not dispute this and only counter that the issue is moot because the buffer required for the wetland is the same as a Category 1 wetland. Even with the substantial weight given to the SEPA responsible official, it cannot be determined that the wetland classification is correct. Dr. Cooke is a highly qualified wetland scientist. Her conclusions on this issue are what she claims to be based upon unambiguous guidelines in a reputable ratings

manual. The failure to correctly classify E1 can potentially lead to probable significant adverse environmental impacts because, as concluded in the Conclusions of Law, incorrect classification will result in less protection of the wetland than has been determined necessary in the City's critical areas ordinance. In order to ensure that the impacts of the proposal are still below the MDNS threshold, the MDNS will be revised to require that either (1) Perteet[7] re-evaluate the classification of E1 taking into account the Hruby guideline raised by Dr. Cooke to the extent that guideline is relevant to the ratings manual adopted by City code and revise the classification accordingly; or (2) acquiring agreement from the Applicant to reclassify E1 as a Category I wetland.

4. Sufficiency of Wetland Buffers to Protect Wetlands. It is determined that the wetland buffers required for this project in conjunction with other development standards and conditions are sufficient to protect the wetlands from probable significant adverse environmental impacts generated by the proposal.

   Dr. Cooke testified that DOE studies have concluded that 60 foot wetland buffers are ineffective. 11/1/12 Tr at 176. She said that additional mitigation could still be added to augment the buffers, such as fencing, plantings and monitoring. At the same time, Dr. Cooke agreed that in PP1A there is not a lot of potential for impacts, but this application sets a precedent. 11/1/12 Tr at 169-70. Beyond the road encroachment issue addressed in Finding of Fact No. III(M)(1), groundwater impacts (addressed elsewhere) and her skepticism over the wetland classifications for the project (also addressed elsewhere), Dr. Cooke did not identify any project specific impacts that are not adequately mitigated by the proposed wetland buffers.

   Mr. Walker, Mr. Brainard and Mr. Shiels all testified that the proposal would not result in any probable significant adverse environmental impacts to wetlands. See 11/1/12 Tr at 197 (Sheils); Declaration of Brainard, Ex. 32, par. 4; 11/2/12 Tr at 121 (Walker). As testified by Mr. Brainard, the proposal will not encroach into any wetlands or their buffers and no wetland filling is proposed. 11/2/12 Tr at 121. As noted previously, after hearing all the evidence presented at the hearing, the SEPA responsible official still determined that the proposal would not create any probable significant adverse environmental impacts to wetlands.
   Given the substantial weight that must be accorded to the determinations the SEPA responsible official, it must be determined that the wetland buffers proposed for the project, along with all other wetland mitigation, is sufficient to prevent probable significant adverse environmental impacts to wetlands. The buffers imposed by the City's critical areas ordinance have been legislatively determined by the City Council to be adequate to protect wetlands using best available science as required by the Growth Management Act, Chapter 36.70A RCW. Additional mitigation measures may

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[7] As noted in Finding of Fact No. III(J)(5), the ratings manual cited by Dr. Cooke does not appear to be the ratings manual adopted by City Code. The City must apply the guidelines of the adopted ratings manual. If the segregation guidelines in the Hruby manual are irrelevant to the ratings guidelines of the manual adopted by the City, the classification of E1 should not be changed.

sometimes be necessary for project specific impacts not anticipated in the critical areas ordinance, but in order to justify these mitigation measures and overcome the substantial weight due the responsible official's threshold determination there must be a compelling showing made that a specific impact is not adequately mitigated. No such finding has been made in this SEPA appeal.

**Conclusions of Law:**

1. E1 Classification Not Moot. In its response to Dr. Cooke written testimony in Ex. 145, the Applicant asserts that the issue should be ruled moot since the wetland for E1 as a Category II wetland are 225 feet, which is the maximum buffer that could be required for a Category I wetland. The issue is not moot. Even though the buffer may not change, Category I wetlands are otherwise more protected than Category II wetlands. As outlined in applicable regulations, the following are more restricted within Category I wetlands and/or buffers than in Category II wetlands and/or buffers: outdoor recreational and educational activities; the harvesting of crops; drilling for utilities; placement of overhead utility lines; placement of trails; placement of roadways; utility facilities; and roadways See BDMC 19.10.220(A) and (B).

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to wetland impacts with the additional mitigation measures imposed by this decision. As demonstrated in Finding of Fact No. III(J)(6), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(M)(2)-(4), there are no probable significant adverse impacts associated with the proposal.

**N. Cumulative Wetland Impacts**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that cumulative impacts have not been sufficiently assessed. Dr. Cooke elaborated in her written SEPA rebuttal, Ex. 133, that an adequate evaluation of cumulative impacts should include a consideration of surface water or groundwater conveyance changes resulting from constructing of the development; the impacts of clearing, grading, loss of habitat, changes on hydrologic regime from compaction; and changes to topography and corresponding alterations to surface water flows.

2. Adequacy of Review. The SEPA responsible official has conducted an adequate review of cumulative impacts. The FEIS has already done a limited general cumulative impact analysis, configuring project design to maximize protection of wetlands The SEPA responsible official has also considered impacts to wetlands in general as previously

discussed. Finally, the SEPA responsible official has also considered the arguments and concerns presented by the SEPA Appellants and has still concluded that the proposal will not create any probable significant adverse environmental impacts.

3. Probable Significant Adverse Environmental Impacts. The Appellants have not demonstrated that PP1A will create probable significant adverse environmental impacts to wetlands in regards to cumulative impacts. The Appellants must demonstrate that PP1A will contribute to cumulative impacts that rise to the level of probable significant adverse environmental impacts. The Appellants have limited their appeal to addressing failure to adequately analyze cumulative impacts as opposed to asserting that any exist.

**Conclusions of Law:**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to cumulative wetland impacts. As demonstrated in Finding of Fact III(J)(6) and Finding of Fact No. III(N)(2) above, the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(N)(3) above, there are no probable significant adverse impacts associated with the proposal.

**O. Groundwater Impacts to Wetlands**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that hydrology inputs to the affected wetlands of the project have not been analyzed and that there should be a discussion of those impacts because wetlands are completely surrounded by development. In their pre-hearing brief, the Appellants assert that development surrounding wetlands can disrupt groundwater flows and, in turn, wetlands, citing *Wetlands and Urbanization, Implications for the Future*, 2001. Azous and Horner [(5)]; Chapter 8, *The Effects of Watershed Development on Hydrology*, Chapter 14. They also reference Chapter 3.4 in *Wetlands in Washington State, Vol .1 a Synthesis of the Science*.

2. Affected Wetlands Not Surrounded by Development. The Appellants' evidence on groundwater impacts relies upon the testimony of Dr. Cooke that wetlands D4, S, T and W are "surrounded by development". Dr. Cooke referred to studies that have determined that wetlands surrounded by more than 14% development may be adversely affected by changes in groundwater hydrology. 11/1/12 Tr. at p. 138, 161-163. Dr. Cooke has participated in some of these studies. Id. at 138-39. In subsequent rebuttal testimony Dr. Cooke wrote that 3.5% impervious surface is also a threshold. Ex. 133. It is determined that the proposal is not surrounded by development in an amount sufficient to trigger the thresholds of adverse impacts referenced by Dr. Cooke.

Dr. Cooke appears to have been the most knowledgeable and qualified person to speak on the impacts of surrounding development on groundwater inputs to wetlands. However, the evidence supporting Dr. Cooke's conclusions on this issue is not compelling. Dr. Cooke does not provide any precise definition of "surrounding development", except to point to the PP1A maps, Ex. 2, to show that portions of the proposal are proximate to the affected wetlands. If "surrounded by development" was indeed something like all areas within 200 feet of the wetland buffers, then more than 60% of the surrounding area for some of the wetlands (particularly wetland S) could be considered developed.

Scott Brainard provides a more logical definition of "surrounding development", limiting it to development within the drainage basins that feed into the wetlands (hereinafter referred to as "contributing basins"). If the issue at hand is how development affects groundwater that feeds into a wetland, it would appear logical to assess development impacts to those areas from which that groundwater flows. Mr. Brainard also notes that glacial till in the surrounding area is very close to the ground surface; such that the topography of the till dictates the direction of ground and surface water flows. See Ex. 32, p. 3 and 4 of 10/16/12 letter. Mr. Brainard provided a site plan with his 10/16/12 letter that shows the location of the contributing basins. The contributing basins will clearly have very little proposed development within them. As shown on the site plan and later testified by Mr. Brainard, only 0.31% of the contributing basins will be altered by development. Mr. Brainard concluded that this would create a de minimus impact.

Dr. Cooke did not address Mr. Brainard's use of the existing drainage basins until her written comments on November 13, 2012, Ex. 160. In Ex. 160 Dr. Cooke argues that it is not appropriate to use existing drainage boundaries because the proposed grading will change the drainage boundaries. However, Dr. Cooke does not identify any grading that could change the drainage basins that feed the affected wetlands. In point of fact none of the finished contour lines shown in the proposal's grading plans, Ex. 2, encroach into the drainage basins of the affected wetlands or result in any lowering of the lip of the basins except for a nominal area identified on the site plans attached to the first and second declarations of Mr. Brainard. As previously noted, this 0.31% of disturbed area was determined by Mr. Brainard to create de minimus impacts.

Dr. Cooke also asserts in Ex. 160 that a contributing basin is only one of many factors used in modeling wetland hydrology. Dr. Cooke does not identify these other factors or explain how they would affect hydrology within the contributing basins. Since glacial till is located near the ground surface for this proposal, it would appear that water would somehow have to flow uphill in order for the proposed development to change the hydrology of the affected wetlands. Some more detailed explanation from Dr. Cooke was necessary to explain these circumstances. Dr. Cooke's testimony was based upon several studies that she referenced, but there is nothing in the record to suggest that these studies would apply to circumstances where almost no surrounding development will occur in the contributing basins and shallow glacial till is so prevalent that it dictates both groundwater and surface water flows.

The evidence in support of the Applicant's position on groundwater impacts is overwhelming. All of the project specific evidence supports a finding that affected wetlands will not be adversely impacted by changes in groundwater flows. Dr. Cooke has established that as a general proposition surrounding development can adversely affect groundwater hydrology for wetlands. However, there is nothing in the record to suggest that the general studies relied upon by Dr. Cooke would apply to development located primarily outside of contributing basins in areas composed of shallow glacial till. It is not beyond the realm of possibility that adverse impacts could occur, but the SEPA Appellants have not provided any evidence that could reasonably lead to such a determination.

3. Adequacy of Review. The SEPA responsible official has conducted an adequate review of groundwater impacts. In addition to the information outlined in Finding of Fact No. III(J)(6), the SEPA responsible official was also able to consider the substantial amount of information provided by the SEPA Appellants and Mr. Brainard and Mr. Shiels on the issue. The SEPA responsible official's conclusions on groundwater impacts are based upon information reasonably sufficient to evaluate those impacts.

4. Probable Significant Adverse Environmental Impacts. The Appellants have not demonstrated that PP1A will create probable significant adverse environmental impacts to wetlands in regards to groundwater impacts. The Appellants must demonstrate that PP1A will affect groundwater flows to an extent that those altered flows will result in probable significant adverse environmental impacts to wetlands. The Appellants base their arguments on groundwater impacts to the impacts created by surrounding development. For the reasons identified in Finding of Fact No. III(O)(3) above, there in insufficient evidence to overcome the substantial weight that must be given the SEPA responsible officials determination that the proposal will not create any probable significant adverse environmental impacts.

**Conclusions of Law:**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to groundwater impacts on wetlands. As demonstrated in Finding of Fact No. III(J)(6) and Finding of Fact No. III(O)(4) above, the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. No. III(O)(5) above, there are no probable significant adverse impacts associated with the proposal.

**P. Wetland E1 buffer.**

This issue has been dismissed in the Examiner's 10/31/12 Order on Dismissal as moot.

**Q. Post-construction hydrologic support of wetlands needs to be verified.**

The threshold determination is sustained on this issue for the same reasons it was sustained for wetland groundwater impacts. As testified by Mr. Brainard in Ex. 32, the contact zone on top of the shallow glacial till of the contributing basins "is of uniform thickness and generally follows the surface topography". Mr. Brainard's characterization of the topography in this regard is uncontested and found to be accurate. As a consequence, the contributing basins are the source of all groundwater and surface water that feed wetlands D4, T, S and E1. For the same reasons outlined on wetland groundwater impacts, the SEPA responsible official has engaged in adequate review of post-construction hydrologic support, there will be no probable significant adverse impacts relating to the hydrologic support and the threshold determination should be sustained on this issue.

**R. Wetland Delineation methodology outdated.**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the delineation methodology applied to the proposal through the Villages DA is dated because the Army Corps of Engineers supplemented their delineation manual in 2008. The Appellants assert that the Washington State Department of Ecology allowed and preferred the use of the supplement from the time it was adopted on June 28, 2008 until it was required to be used starting March 14, 2011. The federal supplement was not used for the delineations set by 8.2.1 of the Villages DA.

2. Federal Supplement is Circumstantial Evidence. If the federal supplement would result in stricter delineations, this would serve as circumstantial evidence that the delineations applied to this proposal do not adequately protect against probable significant adverse environmental impacts. As determined in Conclusion of Law No. II(B)(3), SEPA can be used as a "gap filler" to address impacts where currently adopted regulations fall short. The federal supplement is required for Army Corps permits and wetlands subject to the City's shoreline master program. See WAC 173-22-035. The supplement is not required for delineation of wetlands not subject to the City's shoreline master program. See BDMC 19.10.210(A)(adopting a 1997 DOE delineation manual). A stricter delineation by itself may suggest that further investigation of impacts is warranted, but it would not be sufficient to show that the proposal would create probable significant adverse environmental impacts to wetlands. In this case there has been no showing made that any stricter delineation would result of applying the Federal supplement or that any difference in delineations would result in probable significant adverse environmental impacts. In point of fact the only evidence on the likelihood of a different delineation is that it's unlikely that the delineation will change. In *Recent Advances in Wetland Delineation-Implications and impact of Regionalization*, by Jacob Berkwitz in Wetlands, Att. E to Ex.

188, the federal delineation supplement was applied to 232 wetlands that had been delineated under the prior federal manual. The wetland boundary did not change in 82% of the cases, with the boundary increasing in 12% (28 sites) of the cases. Consequently, without any other evidence it must be concluded that the delineations will not change as a result of applying the federal delineation supplement.

3. Adequacy of Review. The SEPA responsible official has conducted an adequate review of groundwater impacts. In addition to the information outlined in Finding of Fact No. III(J)(6), the SEPA responsible official was also able to consider the substantial amount of information provided by the SEPA Appellants and Mr. Brainard on this issue. The SEPA responsible official's conclusions on wetland delineation impacts are based upon information reasonably sufficient to evaluate those impacts.

4. Probable Significant Adverse Environmental Impacts. The Appellants have not demonstrated that PP1A will create probable significant adverse environmental impacts to wetlands in regards to wetland delineations. The Appellants must demonstrate that the delineations of PP1A wetlands will inadequately protect against probable significant adverse environmental impacts. The Appellants have provided no evidence that the delineations would provide inadequate protection, other than referring to the federal delineation supplement that could lead to a stricter delineation 12% of the time. This circumstantial evidence is insufficient to establish that the delineations will create probable significant adverse environmental impacts when giving substantial weight to the threshold determination made by the SEPA responsible official.

**Conclusions of Law:**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to not applying the federal delineation supplement for wetland delineations. As demonstrated in Finding of Fact No. III(J)(6) and Finding of Fact No. III(R)(4) above, the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wetland impacts. As determined in Finding of Fact No. III(R)(5) above, there are no probable significant adverse impacts associated with the proposal.

**S. Differences in Wetland Ratings Between Applicant and City**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the City and Applicant should have resolved differences on wetland ratings prior to making a threshold determination.

2. Wetlands Classified Prior to Issuance of MDNS. As discussed in Conclusion of Law No. II(A)(2)(quoting *Moss v. City of Bellingham*, 109 Wn. App. 6, 25 (2001)), information

used to support a threshold determination can be based upon information submitted after issuance of the threshold determination. Beyond this, however, the SEPA Appellants contention that wetland classifications had not been resolved prior to issuance of the threshold determination is incorrect. WRI sent a letter to Perteet expressing its agreement to all wetland classifications and boundaries on July 30, 2012. See Ex. 22 to Staff Report. The MDNS was issued a month later, on August 31, 2012.

3. Differences in Opinion. The SEPA Appellants find fault with the wetland ratings and buffer determinations because there were some initial differences of opinion between Perteet and WRI. As determined in Finding of Fact No. III(J)(5), the fact that these determinations appear to have been negotiated does not reasonably suggest that Perteet compromised its professional judgment or agreed to determinations that are in conflict with applicable regulations. The differences of opinion are not probative of the accuracy of the final ratings. Indeed, as discussed in Finding of Fact No. III(J)(5), the deliberative process involved in an honest exchange of competing ideas can serve to improve the accuracy of the ratings as opposed to detract from them.

4. No Probable Significant Adverse Environmental Impacts. There are no probable significant adverse environmental impacts resulting from the wetland classifications and ratings recommended by staff. Except for the classification of Wetland E1, which is addressed in another SEPA Appeal issue, the SEPA Appellants have provided no evidence that the ratings and classifications create adverse impacts other than to point out that Perteet changed its initial position on some ratings after deliberating about the proper rating with WRI. As determined in Finding of Fact No. III(J)(5), this deliberative process does not establish any compromised impartiality on behalf of Perteet and so is not probative of adverse impacts.

**Conclusions of Law:**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to the allegedly negotiated process employed to set the wetland ratings and classifications recommended by staff. As demonstrated in Finding of Fact No. III(J)(6), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(S)(4) above, there are no probable significant adverse impacts associated with the proposal.

**T. Baseline Phosphorous Load for Rock Creek**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the SEPA Appellants assert that the Applicant has undertaken inadequate sampling to establish baseline phosphorous loading for Lake Sawyer. The appeal statement further asserts that an annual

phosphorous goal has not been set as required by SEPA and the Water Quality Committee has not conducted required review.

2. Baseline Monitoring Added to Project Instead of Reduced. Pre-construction baseline sampling has been an understandable source of tremendous confusion for the SEPA Appellants. The SEPA Appellants have contended throughout their briefing that baseline monitoring in the adopted stormwater monitoring program (Ex. O to the Villages DA) has been significantly reduced from baseline monitoring that was proposed in the draft monitoring program initially proposed for the project, Ex. 189. The SEPA Appellants have misconstrued a new and additional baseline monitoring program as a substitute for the draft baseline monitoring requirements. The draft monitoring requirements are in fact still required. The new requirements only add to what was already required in the draft requirements. As a result, contrary to the arguments made by the SEPA Appellants, the final stormwater monitoring program added monitoring requirements to the draft program instead of reducing them.

   As previously noted, the Appellants' confusion on this issue is completely understandable. The new monitoring program added in the final adoption was labeled a "monitoring" program. The pre-existing monitoring requirements were labeled as "baseline monitoring", even though the "baseline monitoring" program is required to be commenced after the initial "monitoring" program. The draft version of the stormwater monitoring plan, Ex. 189, contained a 1/3/11 memo from Triad that summarized the monitoring requirements of the Quality Assurance Project Plan ("QAPP"), another part of Ex. O. The final version of Ex. O failed to include this summary by what the Applicant termed "administrative error", see Ex. 148, Applicant Rebuttal Comments and Closing Remarks, FN. 2, and instead included a memo that summarized the far less stringent requirements of the newly added baseline requirements. Given this confusing use of terminology and the "error" in omitting the 1/3/11 Triad memos, it was reasonable for the SEPA Appellants to believe that baseline monitoring requirements had been significantly reduced.

3. Applicant Has Complied with Newly Added Baseline Monitoring Program. It is uncontested that the Applicant has complied with the newly added baseline monitoring requirements in Ex. O, referenced in Finding of Fact No. 2 above. The new baseline monitoring requires three samples from three locations on Rock Creek taken at three separate times. The Applicant has complied with this requirement. See Ex. 9.

4. Applicant Has Set Annual Phosphorous Goal. The SEPA Appellants assert that the City has not complied with Villages MPD COA 81, which requires the Applicant prior to Villages DA approval to identify the estimated maximum annual volume of total phosphorous that will be discharged from runoff in the Villages MPD. This required information was provided by the Applicant in Ex. 37 and the methodology and estimate was approved by the City's third party reviewer, Tetra Tech, in Ex. 38. Ex. 37 and 38 were prepared in January, 2011 and the Villages DA was approved in December, 2011.

5. Water Quality Committee Has Met. The SEPA Appellants assert that the water quality committee has not been convened as required by Villages MPD COA No. 85. Villages MPD COA No. 85 requires the committee to meet at least once per year. As demonstrated by the letter from Colin Lund to Mayor Olness, Ex. 38, the water quality the committee has met twice. The meeting requirement is satisfied.

6. Adequacy of Sampling and Methodology. In Ex. 27, p. 3, Rob Zisette concludes that the baseline monitoring requirements in the QAPP (those initially required in the draft monitoring plan and adopted into the final plan) were flawed due to inadequate sampling and inaccurate methodology. Mr. Zissette concluded that samples from several hundred storm events were necessary to accurately determine baseline conditions as opposed to the six to eight events recommended in the QAPP.

   The Applicant and City have provided no evidence to counter the sampling and methodology flaws asserted by Mr. Zisette at p. 3 of Ex. 27. The Applicant simply argues that the sampling methodology cannot be challenged because it has been set by the Villages DA. Mr. Zisette is an expert in stormwater management. There is no reason to reasonably conclude that his conclusions on p. 3 of Ex. 27 are in error and there has been no expert testimony provided to counter those conclusions. Given these circumstances, it must be concluded that the methodology used to compute baseline phosphorous conditions of Rock Creek is flawed and will not generate reasonably accurate results.

   It is of no consequence that Mr. Zisette was unaware that the newly adopted "monitoring" requirements differed from the "baseline monitoring" requirements of the draft monitoring plan, as discussed in Finding of Fact No. III(T)(2). As outlined in the conclusions of law below, PP1A triggers the baseline monitoring of the draft plan in addition to the new monitoring plan added upon the adoption of the Villages DA. Further, even though the newly adopted monitoring plan was instituted for the sole purpose of assessing how differences in hydrologic conditions between years has an influence on water quality conditions, there is nothing to suggest that the methodology flaws cited by Mr. Zisette would not similarly cause problems in the results generated for the newly added monitoring regime.

7. Probable Significant Adverse Environmental Impacts. The sampling methodology proposed to set baseline phosphorous conditions is determined to create probable significant adverse environmental impacts. The extensive phosphorous monitoring required for the project has little value if baseline conditions are inaccurate. Inaccurate baseline measurements could result in phosphorous levels that exceed TMDL levels, which as determined in the FEIS would create probable significant adverse environmental impacts.

   The impacts of the monitoring program can be brought back below the SEPA threshold if a reasonably accurate methodology is employed. A condition will be added to the MDNS requiring that the concerns of Mr. Zisette expressed in the first two full paragraphs of p. 3 of Ex. 27 shall be evaluated by the City's MDRT team and that his

methodology be incorporated into setting baseline phosphorous readings. At a minimum, the revised baseline monitoring shall include a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows.

**Conclusions of Law:**

1. Baseline Monitoring Required. The baseline monitoring required in the QAPP has been triggered by this implementing project. The September 19, 2011 letter from Alan Fure in Exhibit O to the Villages DA requires QAPP baseline monitoring "[p]rior to construction of the first implementing project within the Lake Sawyer drainage basin". It is uncontested that PP1A will include two SR 169 improvements within the Lake Sawyer drainage basin. Section 14 of the Villages DA defines an implementing project as a development project that implements the Villages DA and Villages MPD, "including but not limited to Construction Permits and Land Use Permits". Inclusion of the term "construction permits" in the definition establishes that the size of the development is not a significant factor in determining whether development qualifies as an implementing project. If an implementing project was intended to only include large scale development, it would not have referenced construction permits. Further, the SR 169 improvements satisfy, and thus implement, the transportation mitigation requirements of the Villages DA and/or Villages MPD. The plain meaning of the September 19, 2011 letter requires QAPP baseline monitoring prior to construction of the SR 169 improvements.

2. It is recognized that from an environmental protection standpoint, requiring baseline monitoring at this stage of development is not ideal. Deferring baseline monitoring to a later day will allow for baseline monitoring over a more extended period of time (because it would be done with the monitoring already completed), which may provide for more useful results. Since the SR 169 improvements in the Lake Sawyer drainage basin are also relatively minor, inaccurate readings in the newly adopted baseline monitoring (those added to the draft at the Villages DA adoption) caused by the methodology problems identified by Mr. Zisette are unlikely to result in any significant adverse environmental impacts, especially with the phosphorous control conditions adopted by this decision for those improvements. While potentially not providing for any significant environmental benefit, the QAPP monitoring requirements could create significant delays in the Applicant's construction schedule. If requiring QAPP baseline monitoring for this project does become unduly burdensome on the Applicant, the City may be required under constitutional due process requirements to allow for a more flexible interpretation of the timing of QAPP baseline monitoring. It is not immediately clear from the record what impacts this interpretation will have on the Applicant. The Applicant is invited to request reconsideration if it is able to demonstrate from the administrative record that due process mandates a more flexible interpretation.

3. DA Monitoring Requirements Don't Preclude SEPA Review. As determined in Conclusion of Law No. II(B)(3), Villages DA requirements cannot be used to preclude

SEPA review and mitigation unless the requirement is itself and exercise of SEPA substantive authority that was intended to be final mitigation of the impact at hand. There is nothing in the record to suggest that the monitoring requirements were adopted as an exercise of SEPA Authority. The accuracy of the methodology used to set baseline conditions is still subject to SEPA review and can be mitigated accordingly.

4. Threshold Determination Sustained. As additionally mitigated, there are no grounds for overturning the threshold determination of the responsible official as it applies to the allegedly negotiated process employed to set the wetland ratings and classifications recommended by staff. As demonstrated in General Finding of Fact No. 6, in conjunction with all the stormwater information the responsible official has reviewed over the course of the hearing, the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of wastewater impacts. As determined in Finding of Fact No. III(T)(7) above, there are no probable significant adverse impacts associated with the proposal as further mitigated by this decision.

**U. Excessive Queue Lengths**

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the Appellants noted that the *Traffic Impact Study* and its updates (Ex. 16) show mitigated queue lengths at some intersections which are very long, despite the intersection as a whole functioning at a sufficient level of service (LOS). Additionally, though the whole intersection may have a sufficient LOS, individual legs fall to LOS D. The Appellants argue that while averaging intersection LOS may be common practice, additional mitigation, such as traffic signal timing, should be evaluated when one intersection leg is predicted to have an uncharacteristically long queue length. In their Pre-Hearing Brief, the Appellants note that for the intersections of SE Covington-Sawyer Road/216th Avenue SE and SE Auburn-Black Diamond Road/Main Street, certain intersection legs are predicted to exceed the 95th percentile for volume/capacity and that the queue may be even longer than those shown in the Applicant's *Traffic Impact Study*.

   In the Applicant's Rebuttal Brief (Ex. 116), the Applicant argued that the roadways all have enough capacity to hold the predicted queues without causing gridlock. Dan McKinney of Transpo provided a memorandum to the City entitled Villages Preliminary Plat 1A – Response to September 21, 2012 Transportation Comments (*See* McKinney Declaration Ex. 42). Mr. McKinney stated,

   *"Queue lengths ... represent the estimated 95th percentile queues during the weekday PM peak hour Phase 1A buildout. The 95th percentile queue is used to ensure adequate storage length for roadway design and represents the queue length that will only be exceeded approximately 5 percent of the analysis period. Traffic volumes used in the*

*analysis represent the peak 15 minute period during the peak one hour interval of the afternoon/evening commute period, which typically have the highest volumes throughout the entire day."*

Mr. McKinney goes on to state the 507 foot queue, the longest predicted, is located at SE Covington-Sawyer Road/216th Avenue SE, and equates to approximately 20 vehicles. Queues would typically clear the intersection during each cycle of the signal. Mr. McKinney stated, "based on the forecasted queue length and intersection operations, additional mitigation measures are not necessary in the professional opinion of Transpo" (Ex. 42, page 6).

The City's transportation expert, Mr. Perlic, testified that he had reviewed the Applicant's methodology with respect to queue lengths and found it to be the standard methodology used in the profession. Mr. Perlic stated his team had not found any issues with the way the Applicant calculated queue length or the intersection level of service. He stated the calculation of queue lengths is embedded in the level of service calculations which were performed in the intersection analysis that served primarily as the basis for the required mitigation at several intersections. Mr. Perlic stated standard practice is to design intersections to accommodate the 95th percentile of traffic. Mr. Perlic testified that the longest queue length, of 507 feet, though being rather long does not represent a significant adverse environmental impact. This is because the intersection overall still operates at a level of service B with an average vehicle delay of 20 seconds. (*See* 11/02/21012 Tr. 154-161) Mr. Perlic also noted that King County concurred with his analysis in a letter by Paulette Norman of the King County Road Services Division (Ex. 49).

2. FEIS Analysis. The FEIS analysis did mention intersection queue lengths as a specific issue in FEIS Transportation Finding of Fact No. 9 when it stated, in part,

   *"The FEIS did not include a detailed analysis of potential queue lengths resulting from increased traffic... A queue analyses at the project level will allow consideration of signal timing, actual volumes, intersection design, and will more accurately predict what the specific mitigation needs would be..."*

   The FEIS Transportation Conclusion of Law No. 11 states,

   *"It was not necessary for the FEIS to analyze queue lengths. Review of queue lengths is more appropriately done at the project level, rather than the programmatic stage. Such analysis should be done when looking at specific improvements in the construction phase, so that determinations of significant adverse impacts can occur in conjunction with construction, rather than trying to guess what will happen 15 years from now. The FEIS contained a reasonably thorough discussion to inform the City of the environmental impacts of traffic while recognizing that more detailed information on environmental impacts will be available with subsequent project proposals. However, the Hearing Examiner will recommend additional conditions for this topic as part of the MPD."*

3. Villages MPD Permit Approval. The Villages MPD FOF 5(K)(vii) addressed queue lengths by deferring their analysis to the project level. The MDP COL and COA did not specifically address queue lengths.

4. Probable Significant Adverse Environmental Impacts. There is nothing in the record to suggest that the queue lengths at intersections as mitigated will create probable significant adverse environmental impacts. In their appeal statement the SEPA Appellants assert that additional mitigation measures, such as traffic signal timing, should have been considered. Beyond the issues identified above, the SEPA Appellants have not identified any adverse impacts associated with intersection queue length as mitigated or with the use of averaged interaction level of service associated with PP1A. The City's consultant concurs that the Applicant's methodology is standard industry practice and that there will be no gridlock. Even during the busiest 15 minutes of the day, most cars should be able to pass through the busiest intersection during the first cycle. Substantial weight must be given to the threshold determination of the SEPA responsible official. In this case, the Appellant has provided no evidence of any probable significant adverse environmental impact related to intersection level of service and associated queue lengths.

5. Adequacy of Review. The Environmental Checklist describes the primary access of the property, the then-existing public transit route and stop, and the proposed new roads and street improvements. The Environmental Checklist also references the *Villages MPD Phase 1A Traffic Impact Study* (Ex. 16) by Transpo. The Applicant provided several supplemental documents in support of the Environmental Checklist including *Villages MPD Preliminary Plat 1A Traffic Impacts to Green Valley Road* (Ex. 46), a *Traffic Monitoring Plan* and responses to comments (Ex. 16, 27 and 94). The City's consultants, Parametrix, prepared the *SE Green Valley Road – Traffic Calming Strategies* and a *Rock Creek Bridge Evaluation* (Ex.192). The SEPA Responsible Official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impacts. *See* 11/3/12 Tr. at p. 283-286. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. The SEPA Responsible Official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of the proposal.

**Conclusions of Law**

1. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to queue lengths. As demonstrated in Finding of Fact No. III(U)(5), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of queue lengths. As determined in Finding of Fact No. III(U)(4), there are no probable significant adverse environmental impacts resulting from the queue lengths generated by the proposal.

## V. Inadequate Intersection Mitigation

**Findings of Fact:**

1. Overview of Appeal Issues. In their appeal statement, the Appellants argue the Applicant's Traffic Impact Study (Ex. 16) is not credible with respect to the efficacy of proposed intersection mitigation. Specifically, the Appellants question the ability of the proposed mitigation to affect 10-fold reductions in modeled intersection delay after mitigation. In their pre-hearing brief, the Appellants further note that for two critical intersections, SR 169/Roberts Drive and SR 169/SE Black Diamond-Ravensdale Road, the PP1A traffic analysis proposed evaluated mitigations that exceeded those required by the DA. The Appellants further argued that the Applicant's Interim Improvements at these two intersections are simply placeholders.

   In the Applicant's Rebuttal Brief (Ex. 116), the Applicant argued "transportation impacts of PP1A have been thoroughly analyzed and necessary mitigation has been imposed" (*See* Ex. 116, page 10). Dan McKinney of Transpo provided a memorandum to the City entitled Villages Preliminary Plat 1A – Response to September 21, 2012 Transportation Comments (*See* McKinney Declaration Ex. 42). Mr. McKinney stated the large differences in traffic delay for each mitigated intersection is explained by the differences in LOS reporting standards for signalized or roundabouts versus stop-controlled intersections. He stated,

   > *"At intersections controlled by traffic signals or roundabouts, the LOS of the intersection is reported based on the average delay for every vehicle entering the intersection during a specified time period.*
   >
   > *For side-street stop-controlled intersections, LOS is defined in terms of the average vehicle delay of the worst performing approach or movement at the intersection. ... The lower volume of traffic on the side street will experience a high level of delay, which results in the poor level of service for that minor movement."* (*See* Ex. 42, pages 6-7)

   The previously stop controlled intersections would have very high delays on the side streets in an unmitigated condition. After the mitigation of either a signal or a roundabout, the average delay for the entire intersection decreases.

   In a declaration, the City's traffic expert, John Perlic, stated he concurred with both the Applicant's methodology and their conclusion regarding the substantial decrease in intersection delay reported by Transpo (Ex. 135). Mr. Dan Ervin testified the signal improvements proposed for the SR 169/Roberts Drive and SR 169/SE Black Diamond-Ravensdale Road intersections will have a 50-year lifespan. (11/3/2012 Tr. 7).

2. FEIS Analysis. The FEIS analysis discussed individual intersection improvements in a limited way in FEIS Transportation Finding of Fact No. 10 when it stated, in part,

*"The FEIS did not address individual turning movement failures at the various "legs' of each intersection. The FEIS concluded that all proposed alternatives would result in increased traffic volumes and delays, some resulting in failing levels of service. The Transportation Technical Report analyzed individual turning movements, but the FEIS itself only addressed failing intersections."*

FEIS Transportation Finding of Fact No. 15 also addressed intersections,

*"The FEIS addressed levels of service and* ***included a reasonable discussion of the impacts resulting from increased traffic volumes and decreased levels of service.*** *The FEIS generally describes mitigation measures in general and in more extensive terms in the body and technical appendices. The Applicant has also proposed a monitoring plan and a mid-point review condition to analyze transportation impacts and ensure the mitigation measures are effective. ... Forty-six intersections were identified for review in the scoping process, an unprecedented number for a non-project FEIS.* ***In accordance with standard practice and the City of Black Diamond code, entire intersections (rather than portions thereof) were studied at PM peak hours, to address the most congested time of day. When the levels of service become unacceptable, mitigation is identified to reduce delays and return to acceptable levels of service.*** *Additional review and potential additional mitigation will be done in conjunction with specific projects."* (Emphasis added.)

The FEIS Transportation Conclusion of Law No. 5 states,

*"Analysis of whole intersection failure was sufficient to establish necessary mitigation. The City's LOS standards for intersections applies to the whole intersection....it is standard practice to analyze the entire intersection because mitigation is tied to failure of [the] whole intersection...Analysis of the LOS at intersections contained a reasonably thorough discussion of significant aspects of probable environmental consequences."*

3. Villages MPD Permit Approval and Developer Agreement Conditions. The Villages MPD Approval Ordinance 10-946 contained a broad discussion of impacts to intersections and required mitigation in Villages MPD Findings of Fact No. 5(B, C, H, J, and K(v)) and Villages MPD Conclusions of Law No. 23(A) and 30(F). The Villages MPD COA required an extensive list of Applicant improvements to intersections (Villages MPD COA No. 10, 15, 16, 18, 19, 20, and 25). The Villages DA Section 11.5 provides for the timing, construction and funding of off-site regional infrastructure improvements including transportation intersection improvements (TVDA Table 11-5-1 and Exhibits Q and R).

4. Probable Significant Adverse Environmental Impacts. There is nothing in the record to suggest that proposed intersection mitigation will create probable significant adverse environmental impacts. In their appeal statement the SEPA Appellants assert that the proposed mitigation is essentially too good to be true. There is nothing in the record to reasonably suggest that the City's engineering and construction standards for intersection design are insufficient to adequately mitigate traffic impacts. Substantial weight must be

given to the threshold determination of the SEPA responsible official. In this case, the Appellant has provided no evidence of any probable significant adverse environmental impact related to the proposed intersection mitigation.

5. Adequacy of Review. The Environmental Checklist describes the primary access of the property, the then-existing public transit route and stop, and the proposed new roads and street improvements. The Environmental Checklist also references the *Villages MPD Phase 1A Traffic Impact Study* (Ex. 16) by Transpo. The Applicant provided several supplemental documents in support of the Environmental Checklist including *Villages MPD Preliminary Plat 1A Traffic Impacts to Green Valley Road* (Ex. 46), a *Traffic Monitoring Plan* and responses to comments (Ex. 16, 27 and 94). The City's consultants, Parametrix, prepared the *SE Green Valley Road – Traffic Calming Strategies* and a *Rock Creek Bridge Evaluation* (Ex.192). The SEPA Responsible Official, Steve Pilcher, reviewed this information prior to determining that the proposal would not create probable significant adverse environmental impacts. *See* 11/3/12 Tr. at p. 283-286. Mr. Pilcher also considered all of the evidence presented by the SEPA Appellants on alleged impacts during the hearing and concluded that the proposal would not create any probable significant adverse environmental impacts. The SEPA Responsible Official's conclusions on the environmental impacts of the proposal are based upon information reasonably sufficient to evaluate the environmental impact of the proposal.

**Conclusions of Law**

1. Collateral Attack. The methodology for assessing impacts to intersection was expressly found to be adequate in the Examiner decision approving the adequacy of the FEIS, as outlined in the findings of fact above. Consequently, the methodology used for assessing impacts to intersections cannot be challenged in subsequent SEPA review as outlined in Conclusion of Law No. II(B)(2).

2. Threshold Determination Sustained. There are no grounds for overturning the threshold determination of the responsible official as it applies to intersection mitigation. As demonstrated in Finding of Fact No. III(V)(5), the SEPA responsible official has made a showing that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA in his review of traffic safety impacts. As determined in Finding of Fact No. III(V)(4), there are no probable significant adverse environmental impacts resulting from the intersection mitigation generated by the proposal.

**W. SEPA Checklist Deficiency A.9**

The SEPA Appellants assert that the Applicant has filed a permit application for development of land that adjoins the proposal to the west. The Appellants have not provided any information on this adjacent permit application beyond the permit number. There is no evidence presented that the adjoining development would create any environmental impacts that would affect the impacts created by the proposal. In the absence of any such information, there is no basis to conclude

that the SEPA responsible official should have investigated the permit application further to amount to prima facie compliance with the procedural requirements of SEPA and there is certainly no basis to conclude that the adjoining permit application would result in the creation of probable significant environmental impacts by PP1A. The alleged failure to include information on the adjoining development is not sufficient to overturn the threshold determination.

### X. SEPA Checklist Deficiency A.10

The SEPA Appellants devote a substantial amount of their appeal asserting that required governmental approvals are not identified in the environmental checklist. The failure to identify a required government approval, by itself, is not sufficient to invalidate a threshold determination. The adequacy of a checklist is not grounds for administrative appeal. The SEPA rules clearly provide that the only administrative appeal allowed in the SEPA review process is an appeal of a threshold determination or the adequacy of an FEIS. See WAC 197-11-680(3)(a)(ii). As previously discussed, the only grounds for overturning a SEPA threshold determination are that there are unmitigated probable significant adverse environmental impacts or that the SEPA responsible official failed to establish that he conducted a prima facie review of environmental impacts. As is evident from the permits more specifically addressed below, it is unlikely that failure to disclose a required government approval would ever result in any probable significant adverse environmental impacts or provide any significant amount of information that could support finding that the SEPA responsible official failed to make a prima facie showing of adequately reviewing environmental impacts.

1. King County Stormwater Approval. The SEPA Appellants assert that the SEPA checklist failed to identify King County approval for PP1A discharges to Horseshoe Lake to "actively control the level of the lake to pre-development conditions". Alan Fure, in his declaration admitted as Ex. 44, states that no King County approval is required because the Villages DA 7.4.3.F requires that post-construction stormwater flow volumes into Horseshoe Lake are approximately the same as pre-construction volumes. The SEPA Appellants have not provided any reference to any ordinance or statute that would require King County approval. Further, the SEPA Appellants have provided no evidence that a requirement for a King County approval would result in any probable significant environmental impacts. In the absence of any such information, there is no basis to conclude that the SEPA responsible official should have investigated the permit application further to amount to prima facie compliance with the procedural requirements of SEPA and there is no basis to conclude that the adjoining permit application would result in the creation of probable significant environmental impacts by PP1A. The alleged failure to include information on King County approval, which most likely isn't even required, is not sufficient to overturn the threshold determination.

2. HPA Approval. The SEPA Appellants assert that the checklist fails to address HPA approval for proposed stream crossings (specifically additions to the Rock Creek Bridge and a water main crossing), outfall installations and potential wetland fills. The arguments pertaining to the HPA issue were primarily presented during the testimony of Cindy Proctor. See 11/1/12 Tr at 55-79. In their testimony, the Appellants claim that the

Rock Creek Bridge will be widened based upon its inclusion in the City's six year transportation plan, Ex. 23, and a photograph showing that the bridge is narrow and has no shoulders, Ex. 22. The Appellants also testified that twelve inch water mains will be constructed over the bridge. The Appellants note that City standards require a 15 foot access easement for public water lines, which shows that there isn't room within the existing footprint of the bridge to accommodate a water line. The SEPA Appellants also noted that the Department of Fish and Wildlife rely upon the disclosure of the need for an HPA in SEPA checklists to trigger their review. The SEPA Appellants presented an email from a WDFW official, Ex. 24,that noted an HPA would not be required for water or sewer lines built on the bridge but would be required for the construction of a new trestle to support the utility lines. Ms. Proctor noted that in the Applicant's Motion for Dismissal, the Applicant had asserted that a new trestle may be constructed to support a pedestrian crossing. The SEPA Appellants also argued that it's disingenuous to assert that the Applicant will add pedestrian safety features to the bridge if determined necessary as required by Villages DA 11.6, but at the same time argue that no widening of the bridge is currently proposed.

The City and Applicant responded that the City's six year transportation plan only requires further study of the bridge and also shows the widening of Robert's Road up to but not including the Rock Creek Bridge. Mr. Sterbank also pointed out that the WDFW official who authored Ex. 24 is not an attorney and is not competent to represent WDFW on legal matters. Mr. Sterbank noted that the HPA regulations require an HPA permit only when structures are placed within the bed of a stream or a project otherwise uses the water of a stream or diverts or changes the natural flow of a stream. He also noted that if pedestrian improvements were made via a trestle that the trestle could span the river in such a manner that no portion of it would affect stream flows or be built within the stream bed.

HPA permits are unquestionably an important means of ensuring that impacts to streams are adequately mitigated. However, the failure to identify the requirement of an HPA permit in the environmental checklist from a threshold appeal standpoint is ultimately of little significance. Since an HPA permit is definitely within the realm of possibility for work on Rock Creek Bridge, the environmental checklist should have said that a permit "may be required". Even the Applicant concedes that an HPA permit "may be required" depending on what pedestrian improvements are made to the Rock Creek Bridge. See Fure Declaration, Ex. 44, p. 8 of 11 of 10/30/12 letter. It is acknowledged that the checklist only requires "permits that <u>will</u> be needed for your proposal" (emphasis added), but identifying permits that "may" be needed to this response is consistent with the "worst case" analysis required by WAC 197-11-080(3)(b).

If the checklist had identified that the HPA permit "may be required", this may have made it more likely that WDFW would require an HPA permit and it may also have triggered more SEPA comment from WDFW. However, the record is far from clear that the failure to include this information will result in probable significant adverse environmental impacts. In the uncertain event that the Applicant does work that triggers

an HPA requirement, there is nothing to suggest that the Applicant won't take the initiative to apply for an HPA permit. Indeed, given the monitoring by the SEPA Appellants and other community members, it would be foolish for the Applicant not to apply for a permit if it were required to do so. If a permit is ultimately required and approved it is unlikely that the result would lead to any probable significant adverse impacts given the strict criteria applicable to HPAs and the potential additional SEPA review that may go along with it. In the unlikely event that the Applicant manages to construct improvements without a required HPA permit it becomes a little more likely that probable adverse environmental impacts will result, but the Appellants have not overcome the substantial weight standard to establish this level of impact. Indeed the Appellants have not identified any specific impacts that could result.

In order to remove any doubt as to the marginal impacts of failing to identify the HPA in the SEPA checklist, a new MDNS condition will be imposed requiring the City to revise the checklist to identify that an HPA permit may be required for pedestrian improvements to Rock Creek Bridge. The revised checklist will be sent to WDFW with an invitation for extended comment and an explanation that staff have been granted the authority to impose additional SEPA mitigation in response to any comments provided by WDFW. It should be understood that sole purpose of requiring the revised checklist is to trigger whatever policies WDFW may have for requiring HPA permits and also to trigger comment from WDFW. If the checklist revision is insufficient to provide these triggers, that is WDFWs problem. WDFW has the authority to comment with or without references to HPA permits in environmental checklists and it can and should enforce HPA permitting requirements without their references in checklists as well.

2. Army Corp and DOE Wetland Fill Permits. The SEPA Appellants assert that the proposal may include wetland fill that will trigger permits from the Army Corps of Engineers and DOE. The Applicants emphatically deny that any wetland filling will occur and nothing in the record suggests that filling will occur.

3. Fish and Wildlife Conservation Area Permit Triggers. In their appeal statement, the SEPA Appellants assert that construction work near the fish and wildlife conservation areas will trigger WDFW and Army Corps permitting requirements. The Appellants have not identified what permits would be required or what permitting criteria would be implicated by the Applicant's proposal beyond the HPA issues addressed above. Without this explanation the Examiner can only speculate as to what the SEPA Appellants are alleging and he will only do so for a few limited issues.

   It is determined that the only work that will be within the ordinary high water mark to Rock Creek or within its wetlands is some potential pedestrian crossing improvements as discussed under the HPA improvements above. There is no other Rock Creek Bridge work required of the Applicant. A study for needed improvements is budgeted in the City's six year transportation plan, See Ex. 22 and 23, but the City has no concrete plans beyond this study within the foreseeable future to improve the bridge itself. Linking the

Applicant's proposal to City initiated bridge improvements that may or may not occur, with or without the Applicant's proposal, is too remote and speculative for SEPA review.

As outlined in Mr. Fure's declaration, Ex. 44, p. 8 of 10/30/12 letter, the proposed water main crossing of Rock Creek will occur below the pavement grade of the bridge but above the bottom of the bridge. The SEPA Appellants have not identified any WSDF or Army Corps permitting requirement that would be triggered by this construction activity and none is immediately apparent.

In their appeal statement, the SEPA Appellants assert that the wetland delineations will require WDFW and Army Corps permits. No reason for such permits is apparent from the record. If the SEPA Appellants are asserting that the wetland delineations are so wildly inaccurate that the delineations plus their buffers are not sufficient to prevent filling of areas that would be considered wetlands by the Army Corps, that is difficult to believe. As previously discussed, use of the federal supplement delineation manual instead of the manual used by the City only results in an increased wetland boundary 12% of the time. There is nothing in the record to suggest that the wetland boundaries set by the Villages DA, in conjunction with the buffers assigned to them, would encompass an area that is smaller than that covered by Army Corps wetland delineations.

In their appeal statement the SEPA Appellants assert that the wildlife crossing proposed by the Applicant does not conform to the requirements of the FEIS and that this will trigger WDFW and Army Corps permits. There is no explanation as to why the wildlife crossings would trigger a permit requirement or how the proposed wildlife crossing fails to comply with the FEIS. No relevance to Checklist A.10 is apparent on this issue.

### Y. SEPA Checklist Deficiency B.1(a) and B.1(b)

In their appeal statement the SEPA Appellants assert that the checklist description of some isolated 15% slopes are understated and misleading. In their opening brief the SEPA Appellants further elaborate that the checklist fails to identify whether geologically hazardous areas will be avoided. This issue is beyond the scope of the appeal statement pertaining to a description of the slopes of the site. The Applicant is not required to provide information on what it will do to the slopes of the project site in Checklist B.1. The SEPA Appellants have not identified where slopes exceed 15% on the project area or why they consider these slopes to be more than isolated.

### Z. SEPA Checklist Deficiency B.4(d)

In their appeal statement the SEPA Appellants assert that the response to the question on proposed landscaping and use of native plants is incomplete because it only references compliance with the City's tree ordinance and some landscaping proposed for parks. In their opening brief the SEPA Appellants elaborate that greenbelt areas need to be addressed as part of a landscaping plan and that the landscaping for stormwater facilities should be identified. The Appellants note that landscaping information should include root protection zones and that

mature stands of trees should be designated for protection. The SEPA Appellants assert that under the construction recommendations of Golder and Associates Inc. (Exhibit C-5, Geotechnical Report, October 10, 2010, p. 26) all trees and vegetation will be grubbed and removed from the site.

The SEPA checklist includes a reasonably thorough discussion of landscaping, noting that landscaping is proposed within open spaces, trails and park areas and that street trees will be required along streets. The loss of trees per se is not a significant environmental impact on its own. The environmentally significant function that trees play in serving as wildlife habitat is already covered by the City's sensitive area regulations. Beyond this, the aesthetic value of trees is environmentally significant to the extent it is protected by the City's tree preservation and landscaping requirements. Except as noted below, the record does not establish any probable significant adverse impacts that are not already adequately mitigated by the City's sensitive area and landscaping requirements. There is also no information to suggest that the SEPA responsible official has not made a prima facie showing of adequate review of landscaping and tree impacts.

The SEPA Appellants make a compelling point regarding advance planning for root protection zones required by Villages MPD COA No. 118. COA No. 118 sets a legislative standard of environmental significant for the protection of significant tree systems. The location of these root protection zones should be determined prior to any site work that unnecessarily limits the optimal locations for these areas. The MDNS will be revised to include a condition requiring that prior to any site work, the tree plan required by Chapter 19.30 BDMC shall delineate the root protection zones for all significant trees retained, relocated or planted under the plan.

### AA. SEPA Checklist Deficiency B.5(a)

In their SEPA Appeal Statement the SEPA Appellants identify several species of wildlife that have not been identified in the SEPA checklist.

The FEIS discussion on wildlife, referenced in the checklist, contains a thorough discussion of wildlife species and impacts at the site. Consideration of the FEIS easily satisfies the requirement that the SEPA responsible official establish a prima facie showing of adequate review of environmental impacts. Further, the comprehensive and detailed review in the FEIS of wildlife impacts and associated mitigation measures makes it unlikely that wildlife impacts are open to further SEPA consideration under the collateral attack doctrine of *Glasser v. Seattle*, 139 Wn. App. 728, 738 (2007). Even if further evaluation and/or mitigation is still permitted under *Glasser*, the SEPA Appellants have not expressly claimed that any species protected by local, state or federal regulations have not been identified and/or protected by the FEIS and mitigation adopted pursuant to the FEIS. Unless the SEPA Appellants had established to the contrary, only impacts to protected species would be considered probable significant adverse environmental impacts.

### BB. SEPA Checklist Deficiency B.5(c)

The SEPA Appellants assert that the Applicant has inaccurately stated "none known" in response to whether the PP1A site is part of a migration route. The SEPA Appellants note that the project site has been used for elk hunting for years and that elk migration is evidenced by the "beaten-down trails of a large animal, hoof prints, and droppings."

Scott Brainard, wetlands/wildlife expert for the Applicant, contends in his Ex. 32 declaration at p. 7of his 10/16/12 letter that the use of an area by elk for bedding and foraging does not make it a migration route. He notes that the King County Wildlife Habitat Network has identified a wildlife corridor south of the proposal, but none within the proposal. He asserts that no wildlife migration routes have been identified within the boundary of PP1A.

Mr. Brainard limited his comments to major wildlife corridors for large animals such as elk. In their reply on new SEPA evidence, Ex. 191, att. 4, the SEPA Appellants correctly point out that p. 4-75 of the FEIS distinguishes between large wildlife corridors and smaller ones that can connect wetlands and provide for passage of smaller animals such as beaver, river otter, mink and raccoon. The FEIS does not address this more minor category of wildlife corridors, leaving it fair to conclude that type of review is deferred to the implementing projects. There appears to be an opportunity for providing this type of connectivity between wetlands T, D4, S and E1. There are also opportunities to in turn connect these wetlands to the open space located along the western perimeter of the project and possibly even a continuous greenbelt area from the core complex to the western perimeter. As noted by the SEPA Appellants in Ex. 191, att. 4, BDMC 18.98.155(B) requires proposals to be designed to minimize impacts to wildlife habitat and migration corridors.

Since the SEPA Appellants have not provided any evidence on whether Wetlands T, D4, S and E1 can serve as migration corridors, it cannot be concluded under the substantial weight SEPA standard that failure to do so would result in probable significant adverse environmental impacts. However, BDMC 18.98.155(B), which requires minimum impacts to wildlife corridors, is also a requirement that applies to the PP1A application itself. The Applicant has the burden of proof in establishing compliance with that standard. Since the Applicant has provided no evidence on whether or not there is any corridor benefit to connecting the affected wetlands, the PP1A conditions of approval will require an evaluation of the potential for that connectivity. If the evaluation results in any recommended connections that are reasonable and capable of being accomplished, those connections will be made conditions of approval.

### CC. SEPA Checklist B.7(b)(2); B.14(g) and B.15

As noted in the SEPA Appeal itself, the issues arising from these checklist items are covered by other parts of the Appeal.

## IV. SEPA Mitigation Measures

The following mitigation measures are added to the MDNS as a result of the SEPA Appeal in order to ensure that the proposal does not create probable significant adverse environmental impacts.

1. The Applicant has three options for addressing pedestrian traffic safety over the Rock Creek bridge:

    a. The Applicant shall construct a safe pedestrian connection across Rock Creek for pedestrian linkage to Morganville prior to the issuance of the certificate of occupancy of the 200th dwelling unit for the Villages MPD. In lieu of construction, the City shall have a financial commitment in place to complete the improvements within six years of PP1A approval; or

    b. The City's MDRT team shall prepare a study, at the Applicant's expense, assessing PP1A pedestrian safety impacts over Rock Creek Bridge. The study shall identify any mitigation necessary to eliminate any pedestrian safety hazards that constitute a probable significant adverse environmental impact. Mitigation shall be implemented by the Applicant within time frames necessary to avoid probable significant adverse environmental impacts; or

    c. The threshold determination shall be reversed and a limited scope EIS shall be prepared to assess pedestrian safety on Rock Creek Bridge. In addition to the information required in an EIS, the EIS shall also identify the costs of constructing any recommended improvements and the Applicant's proportionate share of those improvements. Approval of PP1A is contingent upon the Examiner sustaining the SEPA responsible official's threshold determination. If the Applicant chooses reversal of the SEPA responsible official's threshold determination, staff shall determine whether re-application will be necessary for further consideration of PP1A or whether the PP1A application will remain vested and reviewed under a second hearing after completion of the limited scope EIS.

PP1A shall not be deemed approved until the Applicant commits to choices (a) and/or (b). A combination of (a) and (b) may be allowed where the Applicant determines the option it desires after the study required in (b) is completed. Nothing in this condition shall be construed as prohibiting the City or any other party from participating in the funding and/or construction of required Rock Creek Bridge pedestrian improvements.

The Applicant shall submit its choice, in writing, to the City within 17 days from the date of issuance of this decision. The City shall post the Applicant's choice on its website within one business day of receipt.

This condition is designed to supplement and not replace Villages MPD COA No. 32 and Villages DA 11.6. Regardless of the option chosen, the Applicant will have to comply with Villages MPD COA No. 32 and Villages DA 11.6. Of course, if the Applicant chooses the limited scope EIS, the City will still retain substantive SEPA authority to require the Applicant to construct some or all of the improvements identified in Options (a) and (b).

*Applicable SEPA Policies: Comp Plan policy LU-27 (encourage walking);T-10 (enhances small town character by maintaining "walkabililty"); T-33 (reduces vehicular traffic); BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare; adequate streets); MPD Design Standard A(5)(community connectivity) and (D)(1)(pedestrian connectivity to services).*

2. Prior to final plat approval of the first division, the Applicant shall acquire all required approvals from King County for the connection and/or discharge of all of PP1A wastewater into King County's wastewater collection and treatment system.

*Applicable SEPA Policies: Comp Plan policy CF-27; BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare, adequate sanitary waste).*

3. The Applicant shall prepare a detailed noise control plan as required by Villages MPD COA 35 that does more than just repeat noise reduction measures already required for the project. The Applicant shall present the plan to the Noise Review Committee created by Villages MPD COA 45 for input. Notice of the Committee meeting shall be mailed to all property owners within 500 feet of PP1A at least ten days in advance. The plan shall be approved by staff prior to the initiation of any on-site construction activities.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); BDMC 17.15.020(A)(8)(compliance with Villages MPD COA 35).*

4. As discussed in Finding of Fact No. III(M)(3), the City's MDRT team shall re-evaluate the Class II designation for Wetland E1 on the basis of whether Wetland E1 was properly segregated under the guidelines of the City's adopted and applicable wetland classification manual. The re-evaluation shall be completed prior to conducting any activities within Wetland E1 or its buffers that would be prohibited in a Class I wetland and no later than issuance of the first certificate of occupancy for a PP1A dwelling unit.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); Comprehensive Plan Policy LU-4 (preserve and protect wetlands).*

5. Off-site improvements required for PP1A within the Lake Sawyer Drainage basin shall be construed as the "first implementing project" as referenced in the September 19, 2011 memo from Alan Fure in Ex. O to the Villages DA. "Baseline monitoring", as referenced in that Fure memo, shall be completed within the timeframes required by Ex. O.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); BDMC 17.15.020(A)(8)(consistency with Villages MPD COA 35); Comprehensive Goal Plan Goal 10 (protect and enhance water quality), UGA Policy NE 3 (protect surface water quality).*

6. The sampling frequencies set by Ex. O of the Villages DA for setting baseline phosphorous levels for Rock Creek shall be increased to the extent necessary to address

the sampling error identified by Robert Zisette in the first two full paragraphs of p. 3 of Ex. 27. An expanded baseline monitoring program in this regard shall be prepared by the MDRT team after consultation with the SEPA Appellants and the Applicant. At a minimum, the revised baseline monitoring shall include a significant increase in the amount of sampling to provide for an acceptable error of 0.05 and the use of hydrograph separation, smearing and other techniques to estimate separate loadings for base flows.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); Comprehensive Goal Plan Goal 10 (protect and enhance water quality), UGA Policy NE 3 (protect surface water quality).*

7. SEPA Checklist A.10 shall be revised to provide that an HPA permit "may" be required for pedestrian improvements across Rock Creek Bridge. The checklist shall be sent to WDFW along with an invitation to comment within ten days. The SEPA Responsible Official is authorized to impose additional MDNS mitigation measures as reasonably necessary to address any impacts identified by WDFW. Except for WDFW comment and response, this condition shall not be construed as re-opening the SEPA review process.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); Comprehensive Plan Goal 8 (protect fisheries), Goal 9 (conserve fish and wildlife habitat); UGA Policy NE 5 (maintain natural stream processes), Objective NE-3 (promote preservation of fish and wildlife habitats), Policy NE-10 (avoid disturbance of valuable fish and wildlife habitat).*

8. Prior to any clearing or grading within a final plat division, the tree plan required by Chapter 19.30 BDMC shall delineate the root protection zones for all significant trees retained, relocated or planted for the division under the plan.

*Applicable SEPA Policies: BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare); BDMC 19.30.010(reduce tree loss, trees important); BDMC 19.30.080(B)(1)(identify root protection zones prior to construction); Villages MPD Design Standard B(3)(protect large stands of trees).*

9. Prior to any clearing or grading of Parcels 34B, 27C, 1L or the area between 1L and 27C, the Applicant shall prepare and have approved an analysis by a qualified expert assessing whether any wildlife corridor connections between wetlands S, T, D4 and E1 have any significant environmental benefit and identify any measures to connect those wetlands that are reasonably feasible. The Applicant's analysis shall be subject to peer review by the City's MDRT team. The SEPA Responsible Official shall be responsible for approving the connectivity analysis and is authorized to impose reasonable mitigation measures to the extent necessary to prevent probable significant adverse environmental impacts.

*Applicable SEPA Policies: BDMC 17.15.020(A)(9)(connectivity of wildlife corridor); BDMC 17.15.020(A)(3)(public use and interest; public health safety and welfare).*

# PRELIMINARY PLAT

## V. FINDINGS OF FACT

**Procedural:**

1. Applicant. B.D. Village Partners, LP
10220 NE Points Drive
Suite 310 Kirkland WA 98033

2. Hearing. A prehearing conference with the SEPA Appellants, Applicant and City was held on October 5, 2012. A consolidated hearing on the application and SEPA appeal was commenced on 11/1/12 and was continued through 11/2/12 and 11/3/12. After the close of the hearing on 11/3/12 the record was left open for written comment from all members of the public on the plat through 11/5/12. The record was left open through The Hearing Examiner conducted a hearing on the application at 10:00 AM at the Black Diamond City Council Meeting Chambers on November 3, 2012. The record was left open for until November 21, 2012 for the Applicant, Appellants and City to provide written comment on several issues. The Applicant agreed to extend the deadline for this decision from December 7, 2012 to December 10, 2012

**Substantive:**

3. Site/Proposal Description. The Applicant has requested preliminary plat approval for a subdivision of 127.3 acres into 413 lots and 98 tracts, consistent with the approved Villages Master Planned Development (MPD) and the Villages MPD Development Agreement. The project will feature 393 residential lots, a 12.5 acre elementary school site (two lots) and 18 lots totaling 14.28 acres for commercial/mixed use. Approximately 22.48 acres of open space will be set aside in parks, trails and landscape tracts. Tract uses include landscaping, natural landscape, parks, sensitive areas and buffers, utilities and access. The project includes off-site street and utility improvements in order to serve the plat and associated site preparation and grading.

4. Characteristics of the Area. The existing site area consists primarily of undeveloped forest land and wetlands. The site is located on the south side of Auburn-Black Diamond Road (Roberts Drive), extending from its intersection with Lake Sawyer Road west to the western city limits and generally ½ mile to the south, within the NW ¼ and the SW ¼ of Section 15, Township 21 North, Range 6 East, Willamette Meridian, King County, WA.

5. Adverse Impacts. There are no significant adverse impacts associated with the proposal that can legally be addressed in permit review. The proposal has been subject to another round of intense SEPA review and scrutiny from the SEPA Appellants. As determined in the decision on the SEPA appeal, as conditioned the proposal has no probable significant adverse environmental impacts. It is recognized that the burden of proof is higher for establishing adverse impacts

under the SEPA appeal than it is under plat review. This has resulted in a finding of some adverse impacts for the plat that were not found for the SEPA appeal. Those impacts have been mitigated through preliminary plat conditions, as discussed in the SEPA appeal decision. In conjunction with SEPA mitigation measures, PP1A has been conditioned to the maximum extent allowed by law as consistent with prior City Council findings of adequate mitigation.
The most significant impacts that cannot be addressed are concerns expressed over the scale of the project, beyond design considerations already incorporated into the project. Erika Morgan, Peter Rimbos, Robert Taeschner, Rich Ostrowski, Kristen Bryant, Karen Watling and Glen Parker all commented that the project is too large and too dense for Black Diamond and that it would ruin their quality of life. The scale and density of the project has been addressed at length in the Villages MPD, FEIS and DA decisions. As outlined in those decisions, the Growth Management Act ("GMA"), Chapter 36.70A RCW, requires urban densities within city limits. RCW 36.70B.030 prohibits a city from re-evaluating those densities once they've been set by local code. In short, once the City Council decided to expand Black Diamond City limits to include the MPD area, it irrevocably committed the City to urban density development, at least so far as the property owner wants to build at urban densities. All that the City can do is ensure that those urban densities are fully mitigated and compatible in design with rural character. Black Diamond has benefitted in that it has had the opportunity to address this urban development in a comprehensive and coordinated fashion via the master plan development process. Of course, the downside is that the development will occur much more quickly than it would occur under multiple separate ownerships.

Concerns were also raised about higher taxes. The Applicant has volunteered a condition that requires it to cover any budget shortfalls estimated in the fiscal impact analysis for the project, Ex. 40. No more can be asked of the Applicant. Further, beyond school levies, there is no indication in the record that the proposal would increase taxes for Black Diamond residents. Indeed one former City Council member testified that approval of PP1A is essential to the financial security of the City.

The Muckleshoot Tribe raised several concerns over environmental impacts in Ex. 105. Most of these concerns were addressed in the SEPA Appeal. The Tribe asserted that the SEPA responsible official had not reviewed sufficient information to assess environmental impacts. As discussed in the SEPA Appeal decision, the standard for adequacy of review sets a low threshold and the SEPA responsible official did in fact consider a large amount of information prepared by several qualified experts in issuing his threshold determination. The Tribe identified concerns over wetland impacts, all of which were raised by the SEPA Appellants and addressed in their Appeal. The Tribe advocated water conservation. Section 7.5 of the Villages DA adopts a water conservation plan. The Tribe asserted that the water needed to serve the project would divert flows from the Green River and adversely affect fish populations in that river. As noted by the Tribe, the issue was addressed in the FEIS responses, where it was stated that the issue had already been studied, and the Tribe has not presented any evidence that would justify further study. In order to provide some basis for a project condition, the Tribe would have to provide some scientific study or well-founded expert opinion that adverse impacts will result from the proposed water use. In the absence of any such evidence, there is no basis to depart from the position taken in the FEIS response. Finally, the Tribe requested stormwater monitoring. Appendix O to the Villages Development Agreement contains a monitoring plan that the City Council has found sufficient for monitoring purposes and the Tribe has not alleged any specific

deficiencies in that plan. The Tribe also advocates enhanced stormwater treatment to reduce dissolved metals. The Applicant asserts in Ex. 148 that it is using enhanced treatment. At any rate, at a minimum the project is subject to the City's stormwater regulations and Villages MPD and DA conditions regarding water quality controls, which serve as a legislative determination of adequacy. The Tribe has not identified anything unique about PP1A that would justify a higher standard. Similarly, the City Council's adopted stormwater controls will address impacts to the widening of Black Diamond and Lake Sawyer Roads and there is nothing to suggest that they are insufficient for that purpose.

David Vournas raised several concerns in Ex. 7(a) and 7(b) to the staff report. His primary issue appears to be that the PP1A includes property that he claims to own. The Examiner does not have jurisdiction to resolve property disputes. Mr. Vournas is also concerned that the Applicant's stormwater infiltration pond would qualify as a wetland with buffers that encroach upon his property and he is requesting that utilities that serve PP1A be designed to connect to his property as well. Mr. Vournas addressed his comments to staff in April 2011 when he noted that he intended to discuss his issues with the Applicant. There is no information in the record as to whether he was able to work out any of his issues with staff or the Applicant. The Applicant cannot be required to design its utilities for the benefit of Mr. Vournas unless necessary to mitigate a project impact. There is also insufficient information in the record to determine whether the infiltration pond would qualify as a wetland. If he hasn't done so already, Mr. Vournas should share his concerns with the Applicant as they are in the best position to accommodate his concerns.

6. Adequacy of Infrastructure and Public Services.

The City has made written findings in their staff Report dated October 12, 2012 on pages 27- 35 that, assuming their recommended conditions of plat approval are imposed on PP1A, appropriate provisions are made by PP1A for the public health, safety and general welfare (through provisions for water, sewer, stormwater, streets, fire, parks/open space, schools and safe walking conditions for students) and therefore, that the public use and interest will be served by PP1A. As conditioned by staff and the Applicant, adequate infrastructure will serve development as follows:

***a. Stormwater Drainage and Water Quality:***

(1) Overview. With the conditions noted below, PP1A also makes appropriate provision for storm drainage.

Under existing conditions, all stormwater from the plat site infiltrates into outwash soils. The overall flow trend for groundwater in the area of PP1A is to the southwest away from Lake Sawyer. A portion of the site is tributary to Horseshoe Lake; however, groundwater from Horseshoe Lake also ultimately flows to the southwest.

The management of stormwater within PP1A is accomplished entirely through infiltration. Low impact designed rain gardens and a water quality and infiltration pond will be provided for stormwater management. Where necessary, catch basins and underground pipe will be used to transport water to a water quality facility prior to infiltration. In several instances, curb inlets will allow stormwater to flow directly into a rain garden with infiltration occurring in the immediate vicinity. The physical

characteristics of PP1A do not increase the risk of flood or inundation conditions on- or off-site. An adaptive management area for fine tuning infiltration has also been incorporated in street design as shown on PP1A Sheet UA1 (Exhibit 2). In addition to the items noted above, a stormwater overflow route has been incorporated to provide safe transport of stormwater in an unlikely flooding event as shown on PP1A Sheet UA1 (Exhibit 2).

The PP1A Drainage Report prepared by Triad Associates dated January 26, 2011 (City's staff Report, Exhibit 42) and Addendum 1 to the Phase 1A Preliminary Plat Drainage Report dated June 28, 2012 (City's staff Report, Exhibit 43) evaluate the proposal for stormwater facilities, provide the preliminary sizing of the facilities and specify the facilities necessary to meet the standards in the Black Diamond Engineering Design and Construction Standards (Exhibit "E") and Section 7.4.1 of The Villages MPD DA (City's staff Report, Exhibit1).

Sheets RS1-9 (Exhibit 2) propose how storm drainage facilities will be constructed as part of the plat. A temporary infiltration facility that is 40% oversized will be located just to the southeast of the Plat. The Villages MPD COA require this temporary facility to be sized to accommodate all future phases of Villages MPD development and that prior to permitting of any future phases the Applicant shall demonstrate that the facility is operating as intended and has sufficient capacity for the future phase. At full build-out of the Villages MPD, this temporary facility will be removed, and drainage from the Phase 1A Plat formerly discharging to the temporary pond will be routed to a regional detention facility located to the southwest of the Phase 1A Plat, as set forth in Section 7.4 of the Villages DA. If that facility is located outside of the City, the requirements of MPD Permit Condition No. 63 for an agreement with King County regarding ownership and maintenance of the off-site facility will be applied and enforced as part of future permit applications for construction of the regional facility and/or as part of permit applications for discharge of stormwater to it.

The interim stormwater pond and infiltration facility will be designed to provide both an aesthetically pleasing facility and an area for recreation and other outdoor activities. Because a significant portion of the facility will be designed for infiltration and to appropriately manage up to a 100-year storm event, the potential for significant excess area that can be used for recreation a majority of the time is being considered. During the City's final engineering review, the potential for utilizing a significant portion of the infiltration area for recreation will be further analyzed. At a minimum, a meandering trail/ access way has been proposed by the Applicant around the water quality pond and infiltration area as shown on PP1A plat sheets RS8 and RS9 in Exhibit 2.

(2) Rain Gardens. Stormwater runoff from Auburn-Black Diamond Road (Roberts Drive) will be directed to rain gardens within the Auburn-Black Diamond Road right-of-way. Additional rain gardens are proposed along portions of Villages Parkway SE, Willow Avenue SE, SE Fir Street, Madrona Avenue SE, Pine Avenue SE, Maple Avenue SE and Alder Lane SE, draining either within the right-of-way or in adjacent open space. The Applicant anticipates that rain gardens will be used within the parking lots of the plat's mixed use areas. Pervious paving is also proposed in Alleys A, B, C, D, E, F, H, I, J, Q, R, S, T, U, V, W, and X and Tract 931 (Cedar Lane) of PP1A. Finally, reduced

roadway widths are proposed in numerous locations throughout PP1A, including the elimination of parking on one or both sides of the road where rain gardens are proposed within the right-of-ways, at pedestrian crossings, at alley and street intersections, and in areas where parking is not needed on one or both sides of the road. *See* PP1A Sheets RS1-RS9 in Exhibit 2 for extent of LID techniques and locations. In order to ensure that additional rain gardens or other facilities do not further reduce parking, as recommended by staff and concurred by the Applicant, a condition shall be added providing that parking may not be further reduced to accommodate stormwater facilities.

(3) Stormwater Management Zones. The Villages DA identifies several different stormwater management zones, and three of those zones exist within PP1A: Zone 1A and Zone 1B and Zone 1C. The boundaries of each zone are shown on sheet UA1 of Ex. 2.

According to the Staff Report, presumably as required by the project's stormwater plan, stormwater within Zone 1A must be fully infiltrated on-site within the boundaries of the zone. This infiltrated stormwater is used to match predevelopment recharge to Horseshoe Lake. Stormwater from pollution generating surfaces in Zone 1A (roadways, for example) may be infiltrated after enhanced water quality treatment or it can be infiltrated within Zone 1B with basic water quality treatment. Stormwater from non-pollution generating surfaces in Zone 1B may be infiltrated in Zone 1A after basic water quality treatment. It is therefore possible to "trade" stormwater between Zone 1A and Zone 1B to minimize the cost of treatment facilities. In other words, for every gallon of dirty stormwater diverted from Zone 1A into Zone 1B, a companion gallon of clean stormwater can be diverted from Zone 1B to Zone 1A (with basic water quality treatment requirements).

Stormwater within Zone 1B is used to recharge wetlands and is infiltrated to match predevelopment recharge to Horseshoe Lake (provided the recharge requirements have not been met within the Zone 1A boundaries). Any excess stormwater, i.e. stormwater that is not needed to recharge wetlands or Horseshoe Lake, may be discharged to the regional stormwater facility.

Stormwater within Zone 1C is used to recharge wetlands and all excess stormwater is discharged to the regional stormwater facility.

Previous studies have analyzed and estimated the average annual recharge required in Zone 1A to match predevelopment hydrology and minimize impacts to Horseshoe Lake. The boundary of Zone 1A has been selected, based on the land use plan, to provide sufficient recharge to meet Villages DA requirements. It may be possible, however, that changing weather patterns and/or unanticipated development impacts may have an impact on the post-development hydrology of Horseshoe Lake. Because the grading within this project is relatively flat, especially within Zone 1B, the stormwater facilities within Zone 1B could be configured to drain to either Zone 1A or Zone 1C through strategically located valves and piping. Sheet UA1 shows an area of "adaptive management" that will be designed and built with the capability to route clean stormwater from rooftops to either discharge in Zone 1A or Zone 1C. The Applicant is responsible for monitoring and maintaining the water balance within the adaptive management zone until all stormwater facilities within the zone are complete and accepted by the City.

In Ex. 48, Michael Irrgang expressed concern over flooding impacts to Horseshoe Lake. Villages MPD No. 62 requires that the project to match total runoff discharges via surface and subsurface conveyance routes to Horseshoe Lake. According to a declaration of Alan Fure, an expert in stormwater impacts, this should prevent the proposal from creating any flooding impacts to Horseshoe Lake.

(4) Water Quality. PP1A proposes to use a combination of rain gardens, pervious pavement, and an offsite stormwater treatment and infiltration facility to meet the water quality requirements of the 2005 DOE Manual pursuant to Section 7.4.3.B of The Villages MPD Development Agreement. See PP1A Sheets RS1-RS9 in Exhibit 2 for the location of stormwater facilities. PP1A is not tributary to Lake Sawyer or any other phosphorous sensitive water body. Although not tributary to Lake Sawyer, the Applicant has proposed a stormwater facility for PP1A that consists of basic treatment prior to infiltrating stormwater in soils more than one-quarter mile from a fish bearing water body. This proposal is considered by the 2005 DOE Manual to provide an acceptable method of phosphorous treatment. Additionally, pursuant to The Villages MPD COA No. 9, PP1A Homeowners Association(s) conditions, covenants and restrictions (CCRs) will include provisions, to be enforced by the HOA, prohibiting washing of cars in driveways or other paved surfaces, except for commercial car washes, and limiting the use of phosphorous fertilizers in common areas, so as to limit phosphorous loading in stormwater. The CCRs will be reviewed by the MDRT for compliance with Villages MPD COA No. 9 pursuant to Plat Condition #29 proposed in the City's staff Report for PP1A. These CCRs, along with the proposed water quality facilities mentioned above, will provide a reduction in phosphorous in onsite stormwater from PP1A.

The proposal also triggers phosphorous monitoring requirements both because it is the first Villages MPD implementing project and because some off-site improvements will be constructed in the drainage basin to Lake Sawyer. The phosphorous monitoring is addressed in the SEPA Appeal. Mitigation measures addressing phosphorous monitoring should also be considered conditions of approval for PP1A. In order to further protect Lake Sawyer from phosphorous impacts, the Applicant has volunteered a condition requiring that the Lake Sawyer off-site improvements to the "then current, applicable phosphorous treatment standard". This will be made a condition of approval.

The Applicant has coordinated with the Department of Ecology and states it has received an exemption from the state mandated NPDES requirements due to the fact that all of the stormwater from this project will be infiltrated and will not leave the site. A condition of approval requires that, prior to approval for the first clearing or grading permit, the Applicant shall provide written confirmation, from the Department of Ecology, that an NPDES permit is not required for any phase of this Preliminary Plat, including utility installation and building construction. In the alternative, the Applicant may obtain the applicable NPDES Permit, if required.

***b. Transportation:***

Overview. With the conditions noted below, PP1A also makes appropriate provision for streets, alleys and other public ways. PP1A has accounted for the roadways, alleys, access tracts and easements necessary for safe and viable mobility throughout the project boundary as indicated on PP1A Sheets RS1-RD1 (staff Report Ex. 2). The Villages DA Section 6.3 provides the standards for roadways within the project. The standards apply equally to public and private streets with no distinction made for function or appearance, except that pervious roads may be used for stormwater control and if used, pervious roadways must remain privately owned and maintained. Unless specifically noted otherwise, details of the street design comply with adopted City street standards.

The street network generally consists of a ring or perimeter road that interconnects with an interior gridded street pattern providing auto and pedestrian access to all of the lots and tracts in the project. Some changes will be made to Roberts Drive to accommodate the new development (see staff Report Ex. 37). Those changes must be complete and accepted by the City as detailed in staff Report Ex. 37 regional infrastructure plan. Extensions from the perimeter road to the south and east are anticipated with future phases of development in The Villages.

(1) Deviations. Pursuant to Section 6.2 of The Villages DA, the Applicant requested consideration and approval of three deviations to alley sections: (1) to allow alleys to be constructed within a 20-foot wide tract instead of a 20-foot wide ROW, (2) to allow the use of alternative cross sections instead of relying on the single slope cross section with a curb and gutter on one side, and (3) to allow the drive isle width to be increased from 16-feet wide to 20-feet in isolated locations.

The Applicant has requested that a new element, a stormwater rain garden, be added to the allowable roadway elements. The proposed rain garden is 11.5 feet wide and would displace portions of the landscape strip and on-street parking where applied. Specifically, the Applicant requested consideration and approval of two deviations to road sections: (1) to allow a wider planter strip for the purpose of installing a rain garden within the ROW between the curb and sidewalk and (2) to allow the use of a single slope road cross section as opposed to a crowned road cross section for PP1A.

These alley and road section deviation requests were approved on July 27, 2012 (staff Report Ex. 17 and 18). Conditions of approval will be added to address improvements to Roberts Drive, on-street parking locations, bike lanes on Ash Avenue SE, street trees, and alleys (specifically Alleys I and F).

(2) Proposed Street Network. The Applicant proposes to create two main roads, the Villages Parkway SE (also known as the Villages Community Connector) and Willow Avenue SE/SE Dogwood Street (also known as the Ring Road). Villages Parkway SE is proposed as a two-way, two lane roadway with a center landscape island. Sidewalks on each side of the roadway are separated from the travel lane by landscaping and meander through adjacent landscape tracts. This roadway includes bike lanes on each side. In some locations, where necessary for traffic capacity, additional through lanes and turn lanes are provided. The Villages Parkway SE will be the primary access to PP1A. This segment through PP1A will bisect the center of PP1A and provide a centralized corridor for pedestrians, bikes and vehicles. The road will have a park-like appearance with views

of Mt. Rainier and landscape, park and pedestrian tracts ranging from 25 feet wide to over 100 feet wide lining both sides of the roadway. The road is adjacent to the westerly boundary of a 1.63 acre park and encircles another 1.17 acre park within an elongated roundabout. The road will have a 5-foot meandering walkway on the west side and an 8-foot wide paved trail on the east side.

Willow Avenue SE/SE Dogwood Street will consist of a single lane in each direction with bike lanes, rain gardens, landscaping, sidewalks and on-street parking on both sides. Rain gardens will break up the line of on-street parking. There will be no direct driveway access from this roadway and the design of PP1A provides for several open spaces fronting onto the roadway. The northernmost terminus of Willow Ave SE, in conjunction with the re-alignment of the Lake Sawyer Road/SE Auburn Black Diamond Road intersection, will include a roundabout.

(3) Access Points. In his testimony, Peter Rimbos expressed concern that PP1A violates Villages MPD COA 27 which states that no more than 150 residential units shall be permitted with a single point of access, though up to 300 units may be allowed on an interim basis, provided that a secondary point of access is provided. The Applicant's response in its Closing Remarks (11/9/2012) is that the requirement is not an access capacity requirement, but a circulation and safety requirement. The Applicant states they are not required to provide one access for every 150 units but are instead required to make sure that PP1A has more than one once the 150 unit threshold is met. The Applicant argues the purpose of the requirement is to allow fire and emergency service alternative access routes in the event one access road is blocked. The Applicant states three access points are more than enough to ensure emergency operations work well and that there are multiple circulation routes for emergency access.

(4) Transportation Model. In his testimony, Peter Rimbos discussed his concerns regarding the adequacy of the transportation model and some of its underlying assumptions. This issue was discussed in the SEPA Appeal Decision under SEPA Appeal Issues Section III(D). The Applicant argues any discussion of the transportation model as part of the PP1A is a collateral attack on prior decisions, namely the Villages MPD Permit Approval. However, they do note in their Closing Remarks (11/9/2012) that one of the modeling assumptions Mr. Rimbos is concerned about, Peak Hour Factor, has been updated to include current data at most of the study intersections (see Declaration of Dan McKinney Ex. 42) as part of the PP1A *Traffic Impact Study* (Ex. 16)).

(5) On-Site Intersection Improvements. The Applicant has proposed to construct a single lane roundabout at SE Auburn-Black Diamond Road (Roberts Drive) and Village Parkway SE. This roundabout will eventually serve as the western terminus of the future Pipeline Road extension. The roundabout design provides for future expansion to a dual lane roundabout if warranted by future vehicle volumes. The roundabout will be landscaped and will serve as a gateway for those vehicles traveling from the west as they transition from the County into the City of Black Diamond.

The Applicant has proposed to realign the intersection of Lake Sawyer Road/SE Auburn-Black Diamond Road and construct a single lane roundabout with the goal of improving traffic safety and improve efficiency for vehicular traffic over existing conditions. Like

the roundabout at Villages Parkway SE, this roundabout design has also provided for future expansion to a dual lane roundabout if warranted by future vehicle volumes.

The project proposes to construct a traffic signal at SR 169 and Main Street.

(6) Frontage Improvements. Frontage improvements along SE Auburn-Black Diamond Road (Roberts Drive) will provide over 2,700 lineal feet of sidewalks and 5 foot bike lanes on both sides of the road. The southern side will include landscaped areas ranging from 25 feet wide to over 50 feet in width. A meandering walkway will be provided westerly of the Villages Parkway SE and a more formal sidewalk will be provided easterly of the Parkway. In addition, there will be left and right turn lanes in conjunction with the proposed roundabouts at Villages Parkway SE and Willow Avenue SE, and at the signal controlled intersection of SE Auburn-Black Diamond Road (Roberts Drive) and Village Parkway SE.

(7) On-Street Parking. On-street parking is provided on most streets in accordance with the applicable street standard. Some parking is displaced by rain gardens where those facilities are proposed to meet the stormwater treatment and discharge requirements. Rain garden locations shown might change depending on site soil suitability. The quantity of on-street parking shown in the application is the minimum acceptable amount and supersedes the location and placement of rain gardens or other utility systems. A condition of approval sets the minimum amount of on-street parking and defines the relationship of on-street parking to rain gardens and utility placement.

(8) Bike Lanes. Bike Lanes are generally consistent with the bike lanes shown and required in Section 6.3 and Figure 6.3 of Villages DA. The bike lanes end near the intersection (conversion) of Ash Ave SE and SE Dogwood Street, without an apparent extension of the bike facility to other destinations. A condition of approval requires the bike lane to be extended to Tract 984 to connect to the Cross Community Trail.

(9) Street Trees. Street trees are not required but not adequately demonstrated on the PP1A drawings. The Villages DA allows the trees to be placed in groves where other roadside facilities (such as rain gardens) compromise an even spacing. A condition of approval will require the Applicant to show street trees and to demonstrate that the number of trees required within a single block are placed within that same block, although they may be placed in groves instead of uniformly spaced along the roadway.

(10) Street Lighting. Street lighting is required on all streets consistent with City standards, including spacing, pole height, and fixture type. Street lighting will be reviewed as part of the Utility Permit review.

(11) Alleys. Alley I and Alley F within the application are used for Fire Department access to several properties in PP1A. In order to meet the emergency access requirements, these alleys will be as wide as the travel way of adjacent local streets. It may be possible; therefore, that these alleys may be used by residents as "cut-through" streets. In order to prevent this, and ensure that these alleys function as direct lot access only, a condition of approval will require these alleys to be designed and constructed with traffic calming features to prevent cut-through traffic.

(12) Future Connection and Access Points. PP1A provides four connection points to future implementing projects within The Villages MPD. These include right of way dedication/roadway construction of Pine Avenue SE south, Willow Avenue SE/SE Dogwood Street, as well as three curb radius returns along the south side of Willow Avenue SE/SE Dogwood Street that depict where future roads will connect to PP1A. Except for these four points of access provided along Auburn/Black-Diamond Road, no street stubs to off-site abutting properties are provided in PP1A. Street stubs to future implementing projects within the Villages MPD that include potential connection points to adjacent properties are provided. *See* PP1A Sheets RS6 through RS8 (staff Report Ex. 2).

(13) Off-Site Transportation Infrastructure. Villages MPD FOF 5(B, C, H, J, and K(v)) and Villages MPD COL 23(A) and 30(F) discussed off-site regional infrastructure improvements required by the Applicant. The Villages MPD COA required an extensive list of transportation improvements required by the Applicant for the entire Villages MPD build out (Villages MPD COA No. 10, 15, 16, 18, 19, 20, and 25). The Villages DA Section 11.5 provides for the timing, construction and funding of off-site regional infrastructure improvements including transportation improvements for the entire Villages MPD build out (Villages DA Tables 11-5-1 and 11-5-2 and Ex. Q and R).

A detailed implementation schedule for the PP1A regional infrastructure improvements was approved by the Designated Official in August 2012 (Ex. 37). Villages DA Ex. K incorporated the Phasing Plan from the Villages MPD COA. The Applicant will be constructing all improvements depicted in the table, with the exception of the regional wastewater storage facility which is not required at this time because the number of ERUs contained within the PP1A does not trigger the need for the facility to be built. The number of dwelling units per Ex. K anticipated to be built in Phase 1A is 850; PP1A proposes 782 units.

(14) Rock Creek Bridge. As addressed in Finding of Fact 6(g) below, several citizens including Mr. Edelman, Ms. Wheeler and Mr. Rimbos expressed concern about children walking to school or to the commercial centers of the Villages from Morganville and across the Rock Creek Bridge on SR 169. The record is unclear as to whether children will be walking across this bridge to school. This issue was discussed in the SEPA Appeal Decision under SEPA Appeal Issues Section III(A)(6). The SEPA MDNS found that the pedestrian safety issue at the Rock Creek Bridge represented a probable significant adverse impact. The MDNS mitigation measure require the Applicant to either (1) commit to doing the pedestrian improvements, or (2) the threshold determination is reversed and the SEPA responsible official is directed to do a limited scope EIS on the pedestrian safety impacts arising from increased pedestrian traffic over the Rock Creek Bridge.

(15) Multi-modal connectivity. As shown in Ex. 2 and on PP1A Sheets RS1-9, the proposed sidewalks, bike lanes, trails and roadways are designed to provide an interconnected network of multi-modal motorized and non-motorized transportation routes within and surrounding PP1A.

### c. *Parks and Open Space:*

PP1A makes adequate provision for parks and open space. The proposal incorporates an extensive amount of open space and trails that is readily accessible to all PP1A residents and that also provides a ready connection to surrounding areas. As determined in the Conclusions of Law, PP1A satisfies all legislative standards for open space as well.

(1) General Overview. Approximately 22.84 acres of open space has been provided in PP1A in a variety of ways, including parks, trails, landscape, pedestrian access and sensitive areas and buffers. Public spaces within PP1A include developed parks ranging in size from small common greens to pocket parks to larger community parks, plazas, pedestrian trails, and natural open space. Sheet CV5 of Ex. 2 provides a site plan of the open space and trails of the proposal.

The smallest of the parks, known as common greens, serve as small, intimate open spaces directly in front of homes that do not front a street. These spaces allow for pedestrian access and serve as a collective front yard for children to play in. Common greens can be found throughout PP1A, for example, Tract 958, which can be found on PP1A Sheet PP6 in Ex. 2. Pocket parks, which are parks one half acre or less in size, are intended to serve the informal needs of the immediately adjacent residents and may provide tot-lots, small open areas to play, seating areas, etc. These pocket parks can also be found throughout PP1A, for example, Tract 948, which can be found on PP1A Sheet PP4 in Ex. 2. Neighborhood parks, generally one half to one acre in size, are less frequently found in PP1A. Neighborhood parks meet the social and recreational needs of neighborhoods and include a variety of amenities and activities including tot lots, small playfields, seating areas, pea patches, etc. An example of a Neighborhood Park is Tract 932, which can be found on PP1A Sheet PP4 included in Ex. 2.

The largest of the parks, community parks, are generally one acre or greater in size and are destinations that serve the recreational, social, and civic needs of the community as a whole. Community parks are focal points within the community and include amenities such as larger play fields, tot lots, civic gathering areas, sports courts, etc. The framework of PP1A is built around the community parks located in Tracts 916 and 917. See PP1A Sheets PP1 and PP4 included in Ex. 2 for locations.

There are locations within PP1A that are areas shown as natural open space in the figure on Page 5-7 of the Villages MPD application. The first area is the 100' trail corridor along the western boundary of the plat (Tracts 944 and 946) and the second area is along the south side of Roberts Drive from the western boundary of the plat extending east to Villages Parkway SE (Tract 990). The tract table on PP1A Sheets CV5 and CV6 (Exhibit 2) show Tracts 944 and 946 as open space tracts, with natural landscape (NL) and pedestrian access (PA) uses, and Tract 990 is shown as an open space tract with landscape use (LA). In order to enhance the natural landscape features of PP1A, staff has recommended and this decision adopts a condition that would Tract 990 shall be designated for natural landscape use.

Trail plans meeting City standards will be provided to the City as part of the landscape plans that will be submitted on a division-by-division basis, when the Applicant seeks

final engineering plan review and approval. To further provide guidance on the timing of trail construction, the Applicant has proposed a condition in Ex. 91, to require that trails be constructed or bonded prior to final plat approval. This condition will be adopted into the PP1A conditions of approval to provide a clear standard on timing of trail improvements.

(2) Connectivity of Parks and Open Space. The parks and open space of PP1A are well connected with the proposed housing and other land uses. The open space is linked through a network of sidewalks, trails and pathways. See PP1A Sheets RS1–RS9 (Exhibit 2) for a depiction of the numerous sidewalks, trails and pathways that provide multiple links to adjacent open space. As shown on PP1A Sheet CV5 (Exhibit 2), PP1A is designed with clusters of compact residential lots that are in close proximity to shared open space, rather than suburban-style large lots with little common open space.

(3) Maintenance. The Applicant has also sought to clarify responsibilities by a proposed condition in Ex. 91, Condition 10, making the Villages Master Developer or Homeowner's Association responsible for the maintenance of neighborhood parks, trails and community parks. This condition has been adopted into the PP1A COAs.

(4) Staff and Citizen Concerns. Page 50 of the Staff Report notes that several parks identified on Sheet CV5 are incorrectly identified as Neighborhood Parks and Pocket Parks. The Applicant has proposed a condition, Ex. 91, Condition 14, that has been adopted with some modification to resolve the discrepancy by requiring that the proper terms are substituted, as approved by staff.

In public testimony, Cindy Wheeler Rich Ostrowski expressed concern that one of the planned open space parks is within a roundabout and is identified as a community park. Although this is not usually the most appropriate place for a park facility, the open space area within this roundabout is 51,000 square feet in size and serves as a dramatic visual focal point for the residents of PP1A as they daily commute through their neighborhood. A legitimate concern inherent in these comments is that there are dangers involved in children crossing the roads to get to this park as well as children chasing balls and the like out of the park into traffic. The conditions of approval will require the Applicant to acquire approval from staff for a plan for Tract 917 park use that assures that use of the park will not present a danger to pedestrians or children due to the proximity of the surrounding roads.

***d. Water:***

There is adequate provision for water. Water service will be provided by the City of Black Diamond. As indicated by Section 7.2.1 of The Villages DA and the water availability letter from the City dated June 11, 2012, Ex. 45, adequate water is available to serve the PP1A. An approximately 98 acre portion of PP1A is currently subject to a water service area dispute with the Covington Water District, but as discussed in the conclusions of law the conditions of approval will ensure that the proposal will be served by adequate water while the dispute runs its course.

In general, the new water system will consist of looped water mains that are located in city-owned rights-of-way and easements and served from an extension of the City's existing 750 pressure zone. The general lay out of the new water system is depicted in Sheets SSWA1-8 of Ex. 2. The pipes are looped for redundancy and reliability and are equipped with strategically located valves and inter-connections so that short-term failures can be isolated and repaired with a minimum of service disruptions. In some portions of the project there are dual water mains as it is anticipated that future phases will need service from higher pressure pipelines (the 850-zone). Therefore, both a low pressure and high pressure pipeline may be constructed side-by-side or one above the other. The Villages MPD COA require that where possible, future 850-zone mains should be interconnected to the 750-zone to improve service to the Phase 1A customers and to prevent stagnation of water in unused pipelines. These mains may be isolated from the 750-zone in the future when buildings are constructed in the 850 zone.

The City can provide needed water to the project through its existing water rights and future connections to a City of Tacoma supply pipeline. The existing water mains are supplied by the City's existing springs near the Green River. Equalizing, fire flow, and standby storage are provided by the 850-zone reservoir and delivered to the 750-zone through existing pressure reducing stations. There is sufficient capacity in the 850 reservoir and in the city-wide supply water distribution system to support the uses shown in this application; namely 921 ERU.

The on-site water distribution system is generally composed of loops of 12-inch diameter pipe proposed to be located within the completed rights-of-way. According to the Staff Report, the water conveyance system as designed is consistent with City standards and requirements. All elevations within the project can be served, including the highest anticipated finished floor elevations within future structures, without booster pump stations. Water mains are sized to provide the required flow rates during maximum fire flow conditions, while meeting the minimum pressure criteria. The conditions of approval require all water mains to be located in public rights of way or within utility easements that provide a minimum of 15' of unobstructed space for access and maintenance.

The Villages MPD Permit Condition #58, and Villages DA Section 7.2.5, set forth water conservation and monitoring requirements. The water conservation plan requirements applicable to water fixtures will be applied during future building permit review and approval; the monitoring requirements will be implemented by the Designated Official, per Section 7.2.5 of Villages DA.

### *e. Sewer:*

Sewer service is available through off-site connections to either the City or King County collection system. Under either connection, sewer will ultimately be discharged into the Metro Treatment Plant in Renton, Washington.

As outlined in FOF(III)(E)(2) of the SEPA appeal decision, the Renton treatment plant has adequate capacity to accommodate PP1A wastewater. PP1A will generate demand

for 921 ERUs and the treatment plant can accommodate 1,150 ERUs from Black Diamond. To assure that concerns about the adequacy of capacity of the existing sewer system are satisfied, the City in its closing preliminary plat comments, Ex. 149, has requested that the Hearing Examiner require an additional condition with preliminary plat approval. The new condition would require the Applicant to conduct a wet season inspection of the existing collection system to determine 'that there are no root intrusions, blockage, breakage, or other deficiency that would render the City's existing sewer system downstream of the proposed point of connection insufficient to convey the sanitary sewer flows anticipated from the PP1A." Given that the PP1A wastewater discharges are close to the 1,150 ERU treatment capacity, the condition is reasonably necessary to ensure that sewer can be adequately treated and will be imposed.

The sewer plan for the proposal is located at SSWA1-8 of Ex. 2. The actual location, pipe sizes and the details of construction will be specified in subsequent Utility Permits and may differ from the schematic configuration shown in this application. The Applicant will construct the lines identified in those plans and then either (1) connect them to the City's collection system at a manhole located near the intersection of Union Drive and Robert's Drive; or (2) connect to the County's collection system to the Black Diamond Trunk Line located on Lake Sawyer Road. The conditions of approval require a connection to the City's collection system unless King County approves a connection to its system.

The Applicant proposes an interim pumping station to be located directly adjacent to PP1A and just north of the interim stormwater pond. The pump station will pump wastewater to the two connection points referenced in the preceding paragraph by force mail. The pump station will serve all of PP1A and portion of future phases of the Villages MPD that drain to this location. It will likely be removed in the future as a permanent wastewater pump station is located further to the south in several years. A recommended condition of approval is for the lift station to be complete and operational before the first building permit (for a building or structure that may generate sewage) is issued. The temporary lift station will pump the collected sewage to the City or County connection points referenced above.

From the City connection point near Union and Robert's Drive, the wastewater would flow by gravity to the City's Morganville Lift Station. From the Morganville Lift Station, the sewage would then be pumped to a gravity line within Morgan Street. From this Morgan Street gravity line, the PP1A effluent would flow by gravity to the Metro Lift Station by Jones Lake. From this Metro Lift Station, the sewage is pumped through a force main back along Morgan Street and Roberts Drive eventually discharging to the Black Diamond Trunk Line in Lake Sawyer Road. Ultimately, under both the City and County connections, the wastewater will enter the Black Diamond Trunk Line. Although the trunk line is called the "Black Diamond Trunk Line", it is important to understand that it is a county facility.

The Black Diamond Trunk Line is a gravity system and flows north and west out of the City of Black Diamond, through Soos Creek Sewer and eventually to a Metro trunk line, which ties into its Renton Treatment Plant.

Extensions to the sewer system, within the project, will be in accordance with Villages DA and adopted codes and standards. In general, the new sewer system will consist of gravity sewer pipes that are installed within public rights-of-way and easements. The pipes direct flow toward the south and generally converge at a point near the regional stormwater pond, where the sewage is collected and discharged to the wet well of the temporary lift station. In the future, the gravity piping system will be extended further to the south through future projects, where sewage will be collected in a future permanent lift station.

It is anticipated that future phases of development may flow through the pipelines constructed as part of PP1A, toward a permanent lift station that is located to the south of PP1A. Therefore, some oversizing of pipelines in the PP1A is anticipated (both in the gravity collection system and in the force main) to accommodate future capacity. Excess sewage capacity, both in gravity pipelines and force mains, can present operational and maintenance impacts as residence times increase or velocities are reduced. A condition of approval requires that for any pipelines that are designed with excess capacity to include provisions to minimize the operational impacts due to the oversizing.

Citizen and Staff Concerns. Ms. Cindy Proctor and Ms. Cindy Wheeler gave oral testimony during the preliminary plat portion of the hearing. Mr. Jack Sperry submitted written testimony for the hearing record. Issues raised or concerns expressed were:

- Lack of adequate system capacity
- Overflow at lift station or blockages in existing system
- No King County approval
- Proposed collection system is conceptual only
- Location of the proposed large storage facility will impact the decision on where the PP1A collection system will discharge

System capacity is adequate as determined in the SEPA appeal. There is no evidence in the record that City and County development standards are inadequate to prevent overflow. As discussed in the SEPA Appeal, King County raised concerns about overflow and blockages in Ex. 90, but these concerns were for wastewater flows that exceed current system capacity. PP1A will not exceed current capacity. Further, Mr. Ervin, a registered professional engineer with expertise in wastewater system design, testified that there are no concerns about environmental impacts from any overflow at the lift station or from blockages in the existing system.

In order to address concerns over required County approvals for the sewer system, County approval will be required prior to final plat approval of the first division of PP1A. In any event, given that PP1A will be discharging within existing treatment capacity, there is no reasonable basis to conclude that County approval will not be forthcoming.

The proposed sewer collection system at pages SSWA1-8 of Ex. 2 is indeed conceptual and as noted in the Conclusions of Law to this decision no more detail is required. Ex. 2 provides sufficient information to evaluate the proposed sewer system and there is nothing in the record to suggest that on-site conditions would require any major alteration

to the final layout of the sewer lines that would necessitate any significant changes in project design.

The location of the proposed large storage facility identified in Ex. 90 does not need to be determined at this time due to any design issues with the PP1A sewer system. As noted in the second declaration of Alan Fure, Ex. 95, the storage facility alternatives can be served by either extending a force main up Lake Sawyer Road or using the existing City collection system.

### *f. Schools:*

The proposal provides adequate provision for school sites. Lots 1L and 2L within PP1A have been provided for dedication to the Enumclaw School District for an elementary school site. PP1A provides a 12.5 acre elementary school site (lots 1L and 2L) pursuant to the Comprehensive School Mitigation Agreement (CSMA) dated January 24, 2011 (recorded under King County recording no. 20110624001156). The site will be of sufficient size to accommodate necessary school buildings, parking and typical sports fields and playgrounds associated with an elementary school use. The elementary school site is located within one-half mile of residential areas within PP1A, consistent with Villages MPD COA No. 98. In addition, Per Section 13.3 of Villages DA, school mitigation is accomplished through the CSMA, which requires payment of a school mitigation fee. The mitigation fee is based on the Enumclaw School District's calculations concerning the expected student generation rate of The Villages MPD and the anticipated cost of new school facilities. Section 3.1 of the CSMA provides that the Agreement "constitutes full, total, complete and sufficient mitigation of the impact of full build out of The Villages MPD on school facilities of the District."

The Enumclaw School District ultimately determines when it will start construction of the elementary school for PP1A. The Applicant, however, will transfer ownership of the elementary school site within PP1A soon after it receives final plat approval for Division 1L, within which the school site is located. The Enumclaw School District has been notified of the PP1A. As of the date of this report, no comments have been received.

Ms. Proctor suggested a condition of approval in which quarterly reports be made to the Enumclaw School District with project infrastructure and timeline updates. She further asserted that the District needed more than 30 days to approve CC&Rs. She requested that the Applicant make a yearly report to the District, that the Applicant advise the District when the 180 day contingency of the CSMA is triggered, that the District be given more than 30 days to review CC&Rs as provided in the CSMA, that the Applicant help fund school levies and that divisional approval of PP1A not be allowed because that would impair the Applicant's obligations to provide for school mitigation. In its written closing comments, Ex. 148, the Applicant stated it had no objection to providing quarterly updates to the school district and that it would make yearly reports to the District if requested by the District.

Ms. Wheeler testified that Enumclaw School district taxpayers are not aware of the impacts to their school system because no public hearings have been held on the issue. If

school levies are not passed within a 12-month period, the school sites are deeded back to the developer.

Mr. Ostrowski testified that there was no adequate school preparation for the plat, and that if the school sites are not in place for this first plat, then the next ones will not be adequate either. According to the school agreement, no schools will be sited outside the UGA; however, two middle schools are sited in that area.

### *g. Sidewalks to and from School:*

All of the streets within PP1A will have sidewalks, along with an extensive trail network as discussed in the open space/park findings of this decision. This network of sidewalks and trails provides for adequate walking conditions to and from school within PP1A. Offsite there are potential problems with children walking to school within PP1A from Morganville. Mr. Edelman and Ms. Wheeler both expressed concerns about this issue during the preliminary plat portion of the hearing. It's unclear from the record whether Morganville residents would go to school in PP1A and whether they would be bussed as opposed to walk. Nonetheless, any impacts to school children are adequately addressed in the SEPA Appeal decision. Under the SEPA conditions, the Applicant will have to construct pedestrian improvements that safely connect Morganville to PP1A if reasonably feasible. If not reasonably feasible, the Applicant will either have to complete a limited scope EIS to assess the issue or complete the improvements anyway. This is the most that can be legally required of the Applicant to address off-site walking conditions for school children.

### *h. Fire Protection:*

There is adequate provision for fire protection and paramedic services. Fire and paramedic services will be provided by the Mountain View Fire and Rescue, also known as King County District No. 44. PP1A is within 1.5 miles travel distance upon built roads of Station 99 located at 25313 Baker Street. In addition, Station 98 is located at 22015 SE 296th Street.

Required fire flows are estimated to range from 2,500 gpm to 3,500 gpm. The Fire Marshall will establish actual requirements during building permit review. Fire hydrants will be provided in rights-of-way. Additional hydrants may be required around some buildings as determined by Fire Department review and approval of building permits. Sprinklers will be provided in buildings according to the requirements of the International Fire Code.

Section 13.4 of the Villages DA comprehensively addresses fire mitigation, including requirements that pertain to the design and construction of a satellite fire station that are triggered by the certificate of occupancy for the 250th dwelling unit for the Villages

MPD. These Villages DA requirements are referenced in the conditions of approval for this decision. On September 20, 2012 the City also adopted fire impact fees, which will take the place of the fire mitigation fees required in Section 13.4.

As indicated in the City's staff Report dated October 12, 2012 on page 34, the Fire Department reviewed the proposed subdivision for adequacy of water supply and access for fire protection and medical aid purposes and provided comments and recommended conditions. Those recommended conditions have been adopted for this decision.

## VI. CONCLUSIONS OF LAW

**Procedural:**

1. Authority of Hearing Examiner: BDMC 18.08.030 provides that preliminary plat applications are classified as Type 3 applications. BDMC 18.08.060 provides that the Hearing Examiner shall make final decisions on preliminary plat applications after holding an open record hearing. BDMC 19.04.250 requires the Examiner to hear SEPA Appeals and also requires that the appeals be consolidated with the hearing on the underlying permit application.

**Substantive:**

2. Zoning Designation: MPD, Master Planned Development

3. Review Criteria and Application. BDMC 17.15.020 governs the criteria for preliminary plat approval. Those criteria are quoted in italics below and applied to the proposal under corresponding Conclusions of Law.

**BDMC 17.15.020(A)(1):** *The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;*

**BDMC 17.15.020(A)(1)(a):** *The proposed subdivision meets all city zoning regulations.*

4. Consistency with Zoning Regulations. Bulk, dimensional and use standards typically associated with "zoning regulations" are set in the MPD zoning district by the required MPD ordinance and development agreement. The Staff Report contains a detailed assessment of compliance with MPD standards as well as the Villages MPD COAs and Villages Development Agreement at p. 29-58. The review and analysis, including any Findings of Fact and Conclusions of Law included therein, are incorporated by this reference as if set forth in full. Zoning requirements are also addressed in Finding of Fact 28 and 29 of the Staff Report, which are also incorporated by this reference as if set forth in full.

Added SEPA condition No. 8 will also be imposed as a PP1A condition in order to comply with BDMC 19.30.080(B)(1), which requires the delineation of tree root protection zones prior to construction.

**BDMC 17.15.020(A)(1)(b):** *The proposed subdivision is consistent with the City's comprehensive plan maps and policies*

5. Consistency with Comprehensive Plan. The Comprehensive Plan designation of the properties is Low Density Residential, Mixed Use and Master Planned Development Overlay. Regarding the MPD Overlay, the BDCP states, "*Areas with an MPD overlay designation are intended to develop only subsequent to approval of an MPD permit pursuant to Black Diamond Municipal Code." The Villages Phase 1A Preliminary Plat is an implementing project of the approved Villages MPD. It is therefore consistent with the "Master Planned Development Overlay*" Comprehensive Plan map designation. The proposal also implicates other Comprehensive Plan policies. Those policies are identified and applied at pages 9-15 of the staff Report, which are adopted and incorporated by this reference as if set forth in full, including all findings of fact and conclusions of law therein.

6. SEPA/Plat Conditions Implementing Comprehensive Plan Policies. As noted in BDMC 19.04.240, the Comprehensive Plan serves as a part of the City's SEPA policies in addition to a source of regulatory authority for subdivision approval under the criterion quoted above. Consequently, the following SEPA mitigation measures added by the SEPA appeal are imposed both as SEPA mitigation measures via the comprehensive plan SEPA policies and as conditions of the preliminary plat in order to assure compliance with BDMC 17.15.020(A)(1)(b):

a. Added SEPA Mitigation Measure No. 2 (King County Approval of Sewer): Policy CF-27 (ensure adequate sewer available prior to development).
b. Added SEPA Mitigation Measure No. 4 (Verify Wetland E1 Classification). Policy LU-4 (preserve and protect wetlands).
c. Added SEPA Mitigation Measure No. 5 (Rock Creek Baseline Monitoring): Goal 10 (protect and enhance water quality); UGA Policy NE 3 (protect surface water quality).
d. Added SEPA Mitigation Measure No. 7 (HPA in checklist): Goal 8 (protect fisheries); Goal 9 (conserve fish and wildlife habitat); UGA Policy NE 5 (maintain natural stream processes); Objective NE-3 (promote preservation of fish and wildlife habitats); Policy NE-10 (avoid disturbance of valuable fish and wildlife habitat).

**BDMC 17.15.020(A)(1)(c):** The *proposed subdivision is consistent with the Black Diamond Design Guidelines, where applicable*

7. The City of Black Diamond Design Guidelines consist of the following different sets of guidelines: MPD Framework Design Standards & Guidelines; Residential Uses in the Historic Village Core; Multi-Family Development; Business Park / Industrial Areas; Commercial Zones; and The Historic Town Center. Of these different sets of guidelines, only the MPD Framework Design Standards & Guidelines are applicable to the Phase 1A Preliminary Plat.

The Multi-Family Development and Commercial Zones Design Guidelines, along with Exhibits H and I of Villages DA, will be applied to certain specific Implementing Approvals within the

PP1A, specifically, at the site plan review and building permit stage, after building and site plan details are known.

The proposal is consistent with the MPD Framework Design Standards and Guidelines. The Design Review Committee (DRC) has reviewed project design and has issued a letter stating it is compliant. See Ex. 20. The Staff Report also contains a detailed application of the applicable design standards and has found the project to be consistent with them. The analysis in the Staff Report, at pages 16-26, is adopted and incorporated by this reference as if forth in full, including any findings or conclusions therein.

In order to enhance the ability to protect large stands of trees as required by MPD Design Standard B(3), added SEPA mitigation measure no. 8 will be added to the PP1A conditions of approval in order to require the delineation of root protection zones prior to the removal of any trees.

**BDMC 17.15.020(A)(2)***: The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;*

8. Compliant Density. The allowable maximum density for MPD properties is set forth in BDMC 18.98.120(F), which allows a density of 18 units per gross acres, with multi-family housing at up to 30 units per gross acre. Sheet CV4 of PP1A (Exhibit 2) contains a section entitled "Land Use Capacity Table" which denotes an overall Phase 1A gross residential parcel density of 10.65 units/acre and an overall Phase 1A net residential parcel density of 12.48 units/acre for the project. PP1A is equal to or less than the allowable maximum density established by BDMC 18.98.120(F).

The applicable minimum density requirement is specified in BDMC Section 18.98.120(E), which is the base density designated in any applicable pre-annexation agreement or development agreement and in the absence of any such agreement, the minimum density designated in the comprehensive plan. The base density specified in the Black Diamond Comprehensive Plan for MPD properties is 4 units per gross acre; the density specified in the Black Diamond Urban Growth Area agreement is 4 units per acre. In addition, the Villages MPD COA #131 (Exhibit C of Villages DA) states that a minimum density of 4 du/per net acre for residential development shall be required for implementing projects, and shall be calculated for each development parcel using the boundaries of that parcel (or the portion thereof to be developed) as shown on the Land Use plan map (Figure 3-1, as updated July 8, 2010).

As shown on Sheet CV4, "Land Use Capacity Table," the PP1A proposes a gross residential density of 10.65 units per acre, and a net density of 12.48 units per acre, which is equal to or greater than the applicable minimum density requirements specified in the BDUGAA, the Comprehensive Plan, and Villages MPD Permit Condition No. 131.

**BDMC 17.15.020(A)(3):** *The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

9. Adequate Infrastructure. As determined in Finding of Fact No. 6, the subdivision provides for adequate infrastructure as contemplated in the standard quoted above. There are also no probable significant adverse environmental impacts associated with the proposal, as determined by the SEPA responsible official and sustained on administrative appeal in this consolidated proceeding. No other significant adverse impacts are related to the project, as determined in Finding of Fact No. 5. The proposal serves to accommodate urban growth within an urban growth area in furtherance of the goals and policies of the Washington State Growth Management Act and also serves to implement the Villages Master Plan Ordinance and Development Agreement as intended by the City Council that approved those documents. For all these reasons, the proposal makes appropriate provision for public health, safety and welfare and is in the public interest.

In order to provide for adequate sanitary waste, SEPA added condition no. 2 will be added to the PP1A conditions in order to require all necessary King County approvals prior to final plat approval of the first PP1A division for the connection and/or discharge of all PP1A wastewater into the King County sewer system. In order to ensure that PP1A is constructed in the public interest and consistent with public health and welfare, SEPA added mitigation measure no. 3 will be added to the PP1A conditions in order to require that the Applicant prepares a detailed noise mitigation plan as required by Villages MPD No. 35. In order to ensure that wetlands are adequately protected in furtherance of the public interest and public health and welfare, SEPA added mitigation measure no. 4 is added as a PP1A condition of approval in order to require the re-evaluation of the classification of Wetland E1. In order to ensure that water quality is adequately protected in furtherance of the public interest and public health, safety and welfare, SEPA added mitigation measure no. 5 is added to the PP1A conditions of approval. In order to ensure that trees are adequately protected in the public interest and public safety and welfare, SEPA added mitigation measure no. 8 will be added to the PP1A conditions of approval to require delineation of root zones for trees prior to any clearing. In order to ensure that wildlife are protected in the public interest and welfare, SEPA added mitigation measure no. 9 will be added to the PP1A conditions of approval in order to require an assessment of potential wildlife corridors between wetlands.

10. Multiple Access. During his plat comments, Mr. Rimbos asserted that the proposal fails to comply with the access requirements of Villages MPD COA No. 27. As discussed in Finding of Fact 6(a), MPD COA No. 27 prohibits more than 150 residential units to be accessed via a single access point, except that up to 300 units may be permitted on an interim basis provided a secondary access point is eventually constructed. The Applicant is correct in its assertion that it is not required to provide an access point for every 150 units, but is instead only required to provide more than one access point once the 150 unit threshold is met. The PP1A, as proposed, provides adequate access for circulation and emergency vehicles.

11. Covington Water District Service Area Dispute. In Ex. 66 and at hearing, the Covington Water District ("CWD") disputes the adequacy of water provision because it lays claim to 98 acres of the water service area for PP1A. The City maintains it has rights to serve this area. The conditions of approval assures that all uses within PP1A will be served with adequate water in full conformance with all applicable development standards.

As noted by the Applicant's briefing on the issue, the Applicant need only make a threshold showing at the preliminary plat stage that the completed development is able to comply with applicable zoning ordinances and health regulations and that the plat can only be denied on the basis of inconsistency with matters specified by regulation or ordinance if infirmities or conditions exist that would preclude any possibility of plat approval. Knight v. City of Yelm, 173 Wn.2d 325, 343-44 (2011); Topping v. Pierce County Board of Commissioners, 29 Wn. App. 781, 783-85 (1981).

The proposal clearly makes a threshold showing for adequacy of water. The proposal has adequate water availability as determined in Section 7.2.1 of the DA. The preliminary plat COAs require that any waterlines or other water utility facilities constructed prior to resolution of the water service area dispute shall comply with the design and development standards of both the CWD and the City of Black Diamond. The COAs also require a connection plan to be built into the water system plan that allows for the connection to the legally entitled service provider should a court or other decision maker of competent jurisdiction determine that PP1A is served by the incorrect water service provider. These conditions will guarantee adequate water service according to the development and design standards of whichever provider is entitled to serve the disputed area. As conditioned, there are no infirmities or conditions that exist that would preclude any possibility of plat approval. Consequently, denial of the plat is not justified under Knight and there is no need for the examiner to impose more stringent conditions as requested by CWD in Ex. 66.

In its legal argument, Ex. 66, CWD also asserts that the proposal fails to comply with BDMC 17.12.010(B), which requires a plat application to contain "utility plans showing proposed location, sizing and alignment", as well as BDMC 17.12.020(J) and (N), which require preliminary plan documents that have generalized plans of proposed water distribution systems and that show utility connections to adjacent Villages MPD properties. It is doubtful that compliance with application requirements is within the scope of review for compliance with preliminary plat criteria, although the failure to provide required information will certainly be used against an applicant if the information is necessary to ascertain permit criteria. Beyond this, the Applicant has complied with these requirements as outlined in the findings of fact in that its plat drawings do show the general lay out of water lines. The exact connection points to the City or CWD system is not currently known, but the COAs ensure that a connection point will be designated prior to final plat approval. In sum, the utility information required for a preliminary plat application is satisfied to the extent necessary to meet the "threshold" standard for preliminary plat review discussed under the Knight and Topping decisions.

In crafting the COAs addressing the service area dispute, the Examiner has declined to incorporate the COA suggested by the Applicant in its written closing comments, Ex. 148. The COA suggested by the Applicant would preclude final plat approval for the affected service areas until the water service dispute is resolved. This condition could lead to a situation where land is cleared, improvements installed and then no further development occurs for years as protracted litigation over the service area between the City and CWD extend for years. Such partially developed land can serve as a visual blight to the Black Diamond community. PP1A COA 99 enables the full development of the PP1A as the service area dispute continues. Should the Applicant determine it legally cannot connect to the City or CWD prior to resolution of the water

service area dispute it will be in the same position as it would be under its proposed COA, i.e. no final plat approval until the dispute is resolved. .

12. Conceptual Sewer Plans. In his written comments Jack Sperry asserted that the sewer plans submitted by the Applicant could not be conceptual. BDMC 17.12.020(1) only requires "generalized" plans of proposed sewerage systems. The sewer plans in Ex. 2 satisfy this requirement.

13. School Mitigation. Ms. Wheeler, Ms. Proctor and Mr. Ostrowski made several comments and/or requests regarding school mitigation. Villages MPD 98 provides that the CSMA provides for "adequate mitigation of impacts to school facilities" and the CSMA itself provides that it serves as complete mitigation for all school impacts. Villages MPD COA 98 precludes any further mitigation through PP1A as discussed in II(B)(1) of the SEPA appeal decision. Further, many of Ms. Proctor's requests amounted to renegotiating terms of the CSMA, which presumably was found satisfactory to the Enumclaw School District. The District itself would be expected to have a better understanding than Ms. Proctor of what CSMA terms it needs to mitigate school impacts. Nonetheless, in its written PP1A closing, Ex. 148, the Applicant has volunteered to provide quarterly reports to the District as requested by Ms. Proctor and also to meet yearly with the District if requested by the District. The conditions of approval will require that these reports identify when the 180 day contingency period was initiated if this information had not already been transmitted to the District prior to submittal of the report. Further, the conditions will require the Applicant to meet yearly with the District to discuss construction progress as it relates to school impacts, if requested by the District. Finally, a condition of approval will require staff to consider the impacts of dividing final plat approval into divisions and condition the divisions as necessary to ensure that the connectivity of all infrastructure requirements is not adversely affected and that the sequencing will not adversely affect school mitigation. It is not immediately apparent how dividing final plat approval will impair the Applicant's obligations to provide mitigation under the CSMA, but if the SEPA Appellants or the District have any specific concerns they can relay them to staff for their review of any proposed divisions.

**BDMC 17.15.020(A)(4):** *The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;*

14. Flood Potential. As determined in Finding of Fact No. V(6)(a), the physical characteristics of the PP1A utilizes appropriate storm water facilities designed in accordance with the 2005 SWMWW, and infiltrate stormwater via LID rain gardens and a temporary water quality pond and infiltration facility. As conditioned, the proposal will not increase the risk of flood or inundation, either on-site or off-site (except for storms larger than 100-year event, which are not required to be regulated).

**BDMC 17.15.020(A)(5):** *Applicable city development standards are met or exceeded;*

15. Consistency with Development Standards. The proposed subdivision has been reviewed by staff for consistency with applicable portions of Title 17 (Divisions of Land), Title 18 (Zoning), and Title 19 (Environment), plus Villages DA and Villages MPD COA. With the

exception of the allowable deviations described in staff Report Findings of Fact #21-24, all other development standards or permit or Villages DA conditions are met or exceeded.

**BDMC 17.15.020(A)(6):** *All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

16. No Significant Adverse Environmental Impacts. As determined in Finding of Fact No 5, there are no significant adverse impacts associated with the proposal, including significant adverse environmental impacts.

**BDMC 17.15.020(A)(7):** *Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

17. The staff report concludes that following completion of the improvements listed in the PP1A application and in accordance with the conditions of approval in the Staff Report, concurrency exists for the City's water, sewer and stormwater systems. There is no evidence to the contrary.

**BDMC 17.15.020(A)(8):** *If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;*

18. Consistency with MPD Requirements. As determined in Conclusion of Law No. 4, the proposal is consistent with the Villages MPD and Villages DA as well as the MPD design standards.

In order to provide for consistency with Villages MPD COA No. 35, SEPA added mitigation measure no. 3 is added as a condition of approval to PP1A to require stormwater baseline phosphorous monitoring be completed prior to construction as required in Appendix O to the Villages DA.

**BDMC 17.15.020(A)(9):** *There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or proposed routes or corridors on adjacent properties;*

19. Connectivity. As determined in Finding of Fact No. V(6)(b)(12) and (14), the proposed trials, sidewalks, bike routes and roadways provides an interconnected, multi-modal network within PP1A and to the surrounding area and also provides for connectivity to adjoining properties.

The connectivity of wildlife corridors for large animals has been fully addressed in the FEIS and no major wildlife corridors are designated for PP1A. However, the FEIS also recognizes a benefit to connecting more minor wildlife corridors between wetlands. Further study of that issue has been required via a new SEPA mitigation measure (added condition no. 9) resulting from the SEPA Appeal of this proposal. This SEPA mitigation measure will be added as a PP1A

condition to implement the criteria quoted above. Implementation of this condition may result in connecting some wetlands located to the south of the proposal.

**BDMC 17.15.020(A)(10):** *The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;*

20. Cul-de-sac. No cul-de-sacs are proposed at full build-out of the PP1A. However, final platting is proposed to occur in phases; the proposed divisions are shown on Sheet CV3 of PP1A (Exhibit 2). Portions of roads within the preliminary plat will be built in conjunction with final plats, necessitating the use of temporary turnarounds (to accommodate emergency access). As divisions within PP1A receive final plat approval, the roads will be extended and connected and the temporary turnarounds will be eliminated.

**BDMC 17.15.020(A)(11):** *Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

21. Dedications. Numerous tracts are proposed for access and utilities; see the Tract Table on Sheet CV6 (Exhibit 2). Sheet CV5 and 6 clearly identify property that is to be publicly owned. Per Section 6.5 of Villages DA, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include alleys, auto courts serving less than 20 dwelling units and Main Street (Village Pl. SE). A recommended condition of approval will require all dedications to be shown on the final plats within PP1A.

The subdivision provides a 12.5 acre elementary school site (lots 1L and 2L) pursuant to the CSMA dated January 24, 2011 (recorded under King County recording no. 20110624001156). The CSMA provides for the timing of conveyance of the school site to the Enumclaw School District. Per Section 13.3 of Villages DA, additional school mitigation is accomplished through the CSMA, which includes payment of a school mitigation fee.

Villages DA 13.4 requires the Applicant to pay fire impact fees when adopted by the City Council. As determined in FOF No. V(6)(h), the City adopted fire impact fees in September, 2012. The Applicant will have to pay these fees per the terms of the impact fee ordinance. DA 13.4 further requires the Applicant to design and construct a satellite fire station. This requirement is triggered by the certificate of occupancy for the 250th dwelling unit for the Villages MPD. These DA requirements are referenced in the conditions of approval for this decision.

Section 13.9 of the Villages DA addresses general government facilities mitigation, which includes payment of a general government facilities mitigation fee and/or dedication of land and/or construction of general government facilities. A recommended condition of approval will require payment of the general government facilities mitigation fee pursuant to Section 13.9 of the Villages DA.

Given the above, and subject to the recommended conditions of approval, this code requirement is met.

**BDMC 17.15.020(A)(12):** *The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;*

22. Compatible Streetscape and Open Space. PP1A is the first implementing plat for The Villages MPD. No adjacent properties have been developed as an MPD.

**BDMC 17.15.020(A)(13):** *The proposed subdivision provides safe walking conditions for students who walk to and from school; and*

**23.** Safe Walking Conditions for School Children. As determined in Finding of Fact V(6)(g), the proposal provides for safe walking conditions to and from school.

**BDMC 17.15.020(A)(14):** *The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.*

24. A significant tree report for PP1A was prepared by International Forestry Consultants, Inc. on January 31, 2011 and was submitted with the initial preliminary plat application. Since that report did not address the area of the proposed off-site storm drainage facility, staff requested supplemental information. A second report, prepared by S.A. Newman, dated March 14, 2011, was provided on July 3, 2012. The two reports along with a Significant Tree Inventory Exhibit address all areas of The Villages MPD proposed for disturbance as a result of PP1A (Exhibits 12-14).

Given the size of the preliminary plat site, significant tree coverage densities were determined based upon modeling work, with "ground truthing" being conducted by the two consultants. Summary tables are provided in the reports; they indicate that a large number of significant trees will be removed as a result of site development. Since these figures are based upon modeling (as opposed to a precise inventory), staff finds it is more appropriate to address tree removal and compliance with BDMC 19.30 (Tree Preservation) more specifically as each division of the plat is proposed for actual physical development.

Recommended conditions of approval related to tree removal:

a. Concurrent with submittal of Utility Permits for any final plat, the Applicant shall submit a report with the exact number of significant trees to be removed in that plat and identify mitigation per BDMC 19.30.070 (e.g., planting of replacement trees or payment into the City tree mitigation fund).

b. Trees proposed for replanting shall be native trees per Villages MPD COA 122.

A new SEPA condition imposed as a result of the SEPA Appeal also requires that the tree report identified in the preceding paragraph shall delineate root protection zones.

# DECISION

The proposed subdivision is approved if the Applicant commits to constructing Rock Creek Bridge pedestrian improvements as outlined in SEPA mitigation measure No. 1, identified in Section IV(1) of this decision, subject to the following conditions:

1. The Master Developer shall execute the drainage easement for the off-site stormwater pond shown on Sheets RS7-9 (Exhibit 2) prior to final plat approval of any division within PP1A.
2. Pursuant to BDMC 19.10.220.D, wetland buffer boundaries adjacent to land within this plat shall be permanently delineated by split-rail fencing and identification signs, as approved by the City. Fencing shall be installed prior to final plat approval of any plat division adjacent to wetland buffers.
3. The proponent shall submit a wetland buffer vegetation management plan prepared in accordance with BDMC 19.10.230.F for review and approval prior to the issuance of any site development permits for lands adjacent to wetland buffers.
4. Wetlands and all required wetland buffers shall be defined as separate tracts in the final plat (BDMC 19.10.150.B). These tracts shall be as shown on the proposed preliminary plat drawings, except as may be modified pursuant to BDMC 19.10.230 prior to final plat approval.
5. Prior to final plat approval of any division within PP1A, the proponent shall re-channelize the south leg of the intersection of SE 288th St. and 216th Ave. SE to provide a refuge/merge area for westbound left-turning vehicles.
6. Stationary construction equipment shall be located distant from sensitive receiving properties wherever possible. Where this is infeasible, or where noise impacts would still be likely to occur, portable noise barriers shall be placed around the equipment (pumps, compressors, welding machines, etc.), with the opening directed away from sensitive receiving properties.
7. All equipment required to use backup alarms shall utilize ambient-sensing alarms that broadcast a warning sound loud enough to be heard over background noise, but without having to use a preset, maximum volume. Alternatively, use broadband backup alarms instead of typical pure tone alarms.
8. Operators shall be required to lift, rather than drag materials wherever feasible.
9. Electric pumps shall be used whenever pumps are required.
10. The proponent shall establish a noise control "hotline" to allow neighbors affected by noise to contact both the City and the construction contractor to ask questions or to complain about violations of the noise reduction program per Condition of Approval #41 of The Villages MPD permit.
11. The proponent shall provide construction noise attenuation for existing residents adjoining development parcels Villages V10, V13 and V15 as set forth in Villages MPD COA #44 of The Villages MPD permit.
12. Work hours of operation shall be limited to 7:00 a.m. and 7:00 p.m. on weekdays, 9:00 a.m. and 5:00 p.m. on Saturday, and shall be prohibited on Sundays and City holidays, subject to emergency construction and repair needs as set forth in BDMC 8.12.040.C.
13. The Master Developer shall ensure that the short term construction noise mitigation plan for the PP1A is implemented during construction.

14. The Master Developer shall establish the noise control hotline prior to commencement of any development activity on the PP1A site.
15. The Master Developer shall form The Villages MPD Noise Review Committee no later than one week after commencement of any development activity on the Phase 1A site.
16. The Master Developer shall notify the City in writing of the status of their compliance with Section 13.7 (Noise Attenuation) of Villages DA with regard to The Villages development parcels V10, V13 and V15 at the time of submittal of Utility Permits for those development parcels.
17. Prior to issuance of certificates of occupancy for the 726th ERU (equivalent residential unit), the proponent shall construct a single-lane roundabout at the realigned intersection of Lake Sawyer Rd. SE and SE Auburn-Black Diamond Rd. (Roberts Dr.)
18. Prior to issuance of certificates of occupancy for the 327th ERU (equivalent residential unit), the proponent shall install a traffic signal at the intersection of SE Auburn-Black Diamond Rd. (Roberts Dr.) and Village Pl. SE (aka Main St.).
19. Prior to the issuance of certificates of occupancy for the 1,128th ERU (equivalent residential unit), the proponent shall construct a single-lane roundabout at the intersection of SE Auburn-Black Diamond Rd. (Roberts Dr.) and Villages Parkway SE (aka Community Connector "A").
20. The proponent shall model and monitor traffic at the midpoint of occupancy of Phase 1A (596th equivalent residential unit) and determine what additional requirements may be necessary to comply with the transportation concurrency requirements of the Comprehensive Plan.
21. In addition to the applicable owners association, the Master Developer shall also be responsible for maintenance of Tract 901 (Village Pl SE).
22. All road grades shall not exceed 15%.
23. At the time of building permit application, structures will be required to either have required fire flow available or to have a fire sprinkler system installed to allow for a reduction in required fire flow.
24. All alleys shall be posted "No-Parking" with signage according to the International Fire Code; provisions for enforcement of these no parking zones shall be defined and accepted by the Designated Official prior to final plat approval of any plat division in which alleys are provided.
25. If the final design length of Alley A from its intersection with Alley B exceeds 150 feet, an approved Fire Department turnaround shall be provided at its end, per the IFC.
26. All ways-of-travel shall maintain a minimum 20 foot unobstructed driving surface per the IFC. Bike lanes may be a component of this 20 foot width. The fire hydrant and water supply system shall meet IFC Requirements, and shall be installed prior to the beginning of combustible construction materials being placed on site. Construction materials refers to the lumber (framing) packages and not to a job shack.
27. All dedications shall be shown on the final plat.

28. The Applicant shall make provision for a satellite fire station in accordance with the requirements of Section 13.4 of the Villages DA.

29. Prior to final plat approval of any plat division, the Applicant shall submit Covenants, Conditions and Restrictions (CCRs) for such division for review and approval by the Designated Official as defined in The Villages MPD Development Agreement. The Designated Official's review and approval shall be limited to the CCRs compliance with the Conditions of Approval of The Villages MPD Permit (Black Diamond Ord. No. 10-946) and the provisions of The Villages MPD Development Agreement dated December 12, 2011 (Black Diamond Ord. No. 11-970). Provided, if CCRs have already been submitted and approved by the Designated Official that bind a certain plat division, this condition shall be deemed satisfied for purposes of such division.

30. The Applicant shall comply with the Roberts Dr. sidewalk and pedestrian connection in accordance with the requirements of Section 11.6 of the Villages DA. In addition, the Applicant has voluntarily agreed that, subject to the requirements of Section 11.6 of the Villages DA, it shall submit a permit application for the sidewalk and pedestrian connection prior to issuance of the Certificate of Occupancy for The Villages Phase 1A Preliminary Plat's 1st Dwelling Unit and such connection shall be substantially complete prior to issuance of the Certificate of Occupancy for The Villages Phase 1A Preliminary Plat's 200th Dwelling Unit."

31. Tract 990 (as shown on Sheets CV5 and CV6 of Exhibit 2) shall be designated for natural landscape (NL) use.

32. Any division of a final plat requiring TDRs will not be processed or approved until the Master Developer has acquired title to the needed TDRs and they have been assigned by the Master Developer to the applicable division of the final plat.

33. Prior to final plat approval, the Master Developer shall either comply with Villages MPD COA #69 and obtain the Directors' approval, or dedicate more open space as may be necessary to minimum standards.

34. The Master Developer shall comply with Exhibit Q of Villages DA.

35. The Master Developer shall comply with Exhibit R of Villages DA.

36. Prior to final plat approval of the last division of PP1A, the Master Developer shall submit a status report to the Designated Official verifying compliance with Exhibit P of Villages DA.

37. Tracts 908 and 954-956 shall be maintained by the Master Developer (M.D.)/Applicable Owners Association (A.O.A.).

38. All existing water mains within public rights of way shall remain in-service during construction. This condition will be enforced during Utility Permit review and approval.

39. Water connections will be required to both the 750 and the 850 pressure zones in order to meet fireflow requirements and provide proper pressures to future development areas.

40. All water mains shall be located in public rights of way or within utility easements that provide a minimum of 15' of unobstructed width for access and maintenance. This condition will be applied during Utility Permit review and approval.

41. If the Applicant builds off-site improvements to the City's springs water source as a sole-source project, then those improvements shall be completed or bonded prior to the first Final Plat Approval within PP1A. In addition, the improvements shall be in-service and accepted by the City before the first building permit is issued. If the Applicant elects to use the terms of the WSFFA to complete the off-site springs water source improvements, then the Applicant shall notify the City, in writing, of this decision prior to the first Final Plat approval. In addition, a Final Plat within PP1A may not be approved until the City has designed and bid the necessary improvements. Building permits shall not be issued until the improvements are complete and in-service.

42. Where possible, 850 zone mains for service to future areas of the project shall be interconnected to the 750 zone to improve service to the Phase 1A customers and to prevent stagnation of water in unused pipelines. These mains may be isolated from the 750 zone in the future when buildings are constructed in the 850 zone. This condition will be applied during Utility Permit review and approval.

43. If the Coordinated Water Service Area Boundary dispute has not been resolved prior to Final Plat approval of any final plat that includes building lots within the disputed area, then the water system that is designed for service to areas within the disputed boundary for this area shall be designed to be compatible with both the Covington Water District Standards and the City of Black Diamond Standards. The City will be the permitting agency for water system improvements in the disputed area, even if the area is served by the Covington Water District. This condition will be enforced during Utility Permit review.

44. Prior to Final Plat approval of any final plat that includes building lots within the disputed area, a metes and bounds description of the line that is graphically shown on Sheet CV2 and labeled "Coordinated Water Service Area Boundary" in the application will be provided by the Applicant and this description will be used as the actual location of the boundary.

45. If, as part of a final plat within the PP1A, some properties straddle the Coordinated Water Service Area Boundary, and if the disputed area is served by the Covington Water District, service to the properties straddling the line will be from the City's water system.

46. Sanitary sewer shall be discharged to the existing City collection system, unless King County approves direct discharge into the regional King County collection system.

47. All existing sewer mains shall remain in-service during construction of any new sanitary sewer facilities. This condition will be applied during Utility Permit review and approval.

48. Prior to issuing the first building permit for any structure that might discharge sanitary sewer into the utility system, the temporary sanitary sewer lift station shall be complete, operational and accepted by the City. This condition will be applied during building permit review and approval.

49. Prior to issuing the first building permit for any structure that might discharge sanitary sewer into the utility system, the off-site pipelines connecting the temporary lift station to the point of discharge shall be completed and accepted by the City. This condition will be applied during building permit review and approval.

50. Any sewage pipelines (either gravity or force-main) that are designed with excess capacity shall include provisions to minimize potential operational impacts due to the oversizing. This condition will be applied during Utility Permit review and approval.

51. On the face of each plan set for building and Utility permits in PP1A, the DRC (in conjunction with their notification of approval to the City) shall include the following sewage flow information as applicable; the total building square footage included in that application, the number of fixture units, the Average Dry Weather Flow (ADWF), and the Peak Wet Weather Flow (PWWF) associated with the improvements in that application. The information shall be in tabular form.

52. Stormwater from the rooftops in the area labeled "adaptive management" shall be configured, through valves and piping, with the option of discharging into either the Zone 1A infiltration facilities or into the Zone 1C stormwater facility located south of PP1A and designed and managed to meet the target recharge flow rates and volumes to Horseshoe Lake. The Applicant shall be responsible for monitoring and maintaining the water balance within the adaptive management zone until all stormwater facilities within the zone are complete and accepted by the City. The default position will set for Zone 1A. This condition will be enforced during Utility Permits.

53. The stormwater facility located to the south of the PP1A and shown on plat sheets RS7 through RS9 dated 8/23/2012 shall be designed and built at this time to accommodate all future phases of The Villages MPD that may potentially drain to it. This condition will be applied during Utility Permit review and approval.

54. Prior to permitting for any future Villages MPD phase that may discharge to the stormwater facility shown on PP1A sheets RS7 through RS9 dated 8/23/2012, the Applicant shall demonstrate, through on-site real-time monitoring, that the 1 infiltration system located to the south of the Phase 1A Plat is operating as-designed and has sufficient capacity for those future phases. This condition will be applied during preliminary plat, final plat and/or Utility Permit review for Villages MPD phases subsequent to Phase 1A.

55. Prior to approval of the first clearing or grading permit, the Applicant shall provide written confirmation, from the Department of Ecology, that an NPDES permit is not required for any division of PP1A, including utility installation and building construction. Alternatively, the Applicant shall obtain any required NPDES permit. This condition will be applied during grading and/or clearing permit review and approval.

56. Improvements to Roberts Drive, as necessary to provide suitable access to the Project, shall be completed and accepted by the City as detailed in Exhibit 37 regional infrastructure plan. This condition will be applied during subsequent permit review and approval.

57. The on-street parking locations shown in the application shall be considered the minimum acceptable number of parking spaces. To the extent that additional stormwater facilities are required (namely rain gardens), these facilities shall be located outside the right-of-way and shall not displace or eliminate any on-street parking spaces. This condition will be applied during Utility Permit review and approval for rain garden and/or street construction.

58. Extend the bike lanes on Ash Ave SE to Tract 984 (or as necessary) to connect to the Cross Community Trail so that bikes may access the regional trail network. This condition will be applied during Utility Permit review and approval.

59. Street trees may be placed in groves, but shall be counted on a block-by-block basis. In other words, the number of trees required within a single block shall be placed within that same block, although they may be placed in groves instead of uniformly spaced along the roadway. This condition will be applied during Utility Permit review and approval for street construction.

60. Alley I and Alley F shall be designed and constructed with traffic calming features to prevent cut-through traffic, as acceptable to the Designated Official. This condition will be enforced during Utility Permit review and approval for Alley I and F construction.

61. All implementing projects and permits for PP1A shall comply with the terms and conditions set forth in the Traffic Impact Study prepared by Transpo Group dated February 2011, updated on May 15, 2012, and approved by the City on August 30, 2012."

62. All implementing projects and permits for PP1A shall comply with the terms and conditions set forth in the Detailed Implementation Schedule of Phase 1A Regional Infrastructure Improvements dated August 25, 2012 and approved by the City on August 27, 2012.

63. The Master Developer shall implement the following strategies to further reduce PP1A's construction traffic: (1) Adjust PP1A's site grading to achieve an approximate earthwork balance notwithstanding limited import of the following: (i) topsoil of approximately 7,000 CY; and (ii) import approximately 7,000 CY of material for rain garden materials (estimated at 52 rain gardens of average size 11.5' W x 75' L x 4.5'D); (2) Screen PP1A strippings onsite to obtain topsoil for re-use onsite; (3) Rocks obtained through the screening of topsoil on PP1A should be used as fill or crushed for use as base material onsite; (4) Sticks obtained through the screening of topsoil on PP1A should be "chipped" and used for soft surface trails or erosion protection onsite; and (5) Limit deliveries via trucks larger than Single Unit (SU) trucks to before 3:30 p.m. Monday – Friday.

64. All implementing projects and permits for PP1A shall be reasonably consistent, as determined by City staff, with the terms and conditions set forth in the Overall Grading Plan dated June 25, 2012 and the Triad memorandum dated September 28, 2012 re: The Villages PP1A Construction Trips.

65. Prior to any clearing or grading activities within a division of PP1A, clearing limits shall be marked in the field with continuous ribbon, silt fence or orange construction fence where appropriate to clearly indicate clearing limits. Trees within or near clearing limits

to be saved shall be clearly marked. Orange construction fence shall be installed as a tree protection fence outside of drip lines of trees to be saved prior to the start of clearing and grading operations.

66. In order to ensure that The Villages MPD will not have an adverse financial impact upon the City after Phase1A, the Master Developer shall pay to the City an amount for each year that, when combined with the Master Developer's Total Funding Obligation paid for that year pursuant to the Funding Agreement, will be at least equal to the Net Annual General Fund Deficit (if any) shown for that year in Table 2 of The Villages Phase 1A Fiscal Impact Analysis dated September 20, 2012. The Master Developer shall make this payment each year until the earlier of: (1) a new fiscal analysis is prepared pursuant to Section 13.6 of the Villages MPD Development Agreement and approved by the Designated Official, demonstrating that there is further no Net Annual General Fund Deficit; (2) the City and Master Developer mutually agree to amend the Funding Agreement to include the amounts of any payments needed to offset any Net Annual General Fund Deficit for Phase 1A within the Total Funding Obligation required to be paid under the Funding Agreement; or (3) pursuant to Villages MPD COA 156, the Master Developer identifies mechanisms other than interim funding to address projected shortfalls. No implementing permits or building permits shall be issued by the City of Black Diamond for Phase 1A of The Villages MPD if the Master Developer fails to make the payment required herein according to a payment schedule mutually agreed to by the Master Developer and MDRT as part of the Annual Review. All capitalized terms not otherwise defined in this condition shall be as defined in the MPD Funding Agreement (Exhibit "N" of The Villages MPD Development Agreement).

67. The following mechanisms shall be utilized in PP1A where feasible so as to integrate Low Impact Development techniques into The Villages MPD build-out: (1) reduced roadway widths, (2) infiltration wells, (3) rain gardens, (4) bioswales, (5) media filter strips, (6) reduced driveway lengths, (7) pervious asphalt and concrete in alleys, (8) pervious pavers, and (9) install pet waste stations in common areas.

68. Trails within a Division of PP1A shall be constructed or bonded prior to issuance of a certificate of occupancy, final site plan approval or final plat approval (whichever occurs first) for that Division within PP1A.

69. All Neighborhood Parks, trails and Community Parks in PP1A will be owned and maintained by the applicable Owners' Association (OA) or Master Developer pursuant to the provisions of Subsection 5.5.7 of The Villages MPD Development Agreement, except for any owned by a school district.

70. Required open spaces identified with the PP1A sheets will be conserved or conveyed to the City on a division-by-division basis during the final plat process.

71. The westerly boundary of Tract 953 shall be modified prior to final plat submittal and approval for Division 1L to include all portions of the 60-foot buffer of Wetland S as indicated on PP1A Sheet PP7. Such boundary modification shall be exempt from the plat alteration process set forth in BDMC §17.20.090(B) because it is required by a preliminary plat condition of approval.

72. Prior to final plat approval of the Division in which such lot is located and in order to ensure compliance with the first bullet under "Lot Sizes and Front Yard Setbacks (Single Family Detached)" of Chapter 4 of the MPD Project Specific Design Standards and Guidelines (Exhibit "H" of The Villages MPD Development Agreement), which reads "Corner lots side yard setback on the street side shall be at least 5 feet wider than interior lots" (emphasis added), the Master Developer shall either: (i) amend the lot lines of Lots 25I and 25K, as shown on PP1A sheets dated 8/23/2012, to accommodate 5 feet wider side yard setbacks; or (ii) require smaller residential building footprints such that 5 feet wider side yard setbacks can be accommodated on Lots 25I and 25K.

73. Prior to final plat submittal of any Division within PP1A, the park types in Open Space Tract Table on PP1A CV5 shall be amended as follows: (i) Tract 910 is too small to be a Neighborhood Park; (ii) Tract 918 is too small to be a Neighborhood Park; and (iii) Tract 941 is too large to be a Pocket Park per the park type definitions in Section 14 of The Villages MPD Development Agreement. Correct park types shall be substituted as approved and determined necessary by City staff.

74. Prior to final plat submittal of any Division within PP1A, the Master Developer shall correct PP1A Sheet CV3 as follows: (i) Roberts Drive is incorrectly labeled as Richards Drive; and (ii) the Lot Summary table incorrectly gives unit values for Division 1A Lots 1A-10A, Division 1F Lots 1F-3F, Division 1L and Division 1M; these lots are intended for mixed use commercial development and a school site.

75. To the extent that PP1A requires construction of off-site improvements to roads that currently drain to Lake Sawyer, the Applicant will be required to treat the runoff from the improvements and the right-of-way in the immediate vicinity of the improvements to the then current, applicable phosphorous treatment standard. This condition will be applied during the review and approval of any Utility Permits for design and/or construction of any such off-site road improvements.

76. Concurrent with submittal of Utility Permits for any Division of PP1A, the Applicant shall submit a report with the exact number of significant trees to be removed in such Division and identify mitigation per BDMC 19.30.070 (e.g., planting of replacement trees or payment to the City tree mitigation fund). Trees proposed for replanting shall be native trees per The Villages MPD COA 122.

77. Pursuant to Villages MPD COA No. 52, should new water distribution alternatives be desired by the Applicant that are not consistent with the City's Water Comprehensive Plan in effect as of the date of The Villages MPD Permit Approval, the Applicant shall be responsible for the cost of updating the Plan, if needed..

78. The Applicant shall make payment of the general government facilities mitigation fee pursuant to Section 13.9 of the Villages DA.

79. Prior to the approval of the first utility permit for construction of sanitary sewer utilities, the Applicant shall conduct wet season inspection and/or monitoring sufficient to confirm to the City's satisfaction that there no root intrusion, blockage, breakage or other deficiency that would render the City's existing sewer system downstream of the proposed point of connection insufficient to convey the sanitary sewer flows anticipated

from PP1A. If inspection/monitoring identifies any condition indicating there is not sufficient capacity to convey such flows, the Applicant shall provide any improvements the City deems necessary to remedy the deficiency prior to issuance of the first certificate of occupancy for the first division of the Phase 1A plat.

80. The Applicant may seek approval of PP1A final plat by division, as depicted at CV3 of Ex. 2. However, no division shall be approved unless the Applicant demonstrates to the satisfaction of staff that there is no reasonable possibility that piecemeal approval will adversely impact the continuity of required infrastructure and other mitigation. Every approved division should be able to stand on its own in terms of connections to infrastructure networks. staff is authorized to impose mitigation, such as requiring the posting of security devices, to the extent necessary to ensure that the continuity of required improvements is not permanently impaired if remaining un-built divisions are never completed. Final plat approval by division also may not impair any other mitigation requirements, specifically including any required school mitigation.

81. If requested by the Enumclaw School Board, the Applicant shall meet with the Board on a yearly basis to discuss construction activities and activities conducted to mitigate school impacts.

82. Unless waived by the Enumclaw School Board, the Applicant shall prepare a written quarterly report addressed to the Board identifying progress in construction of the Villages MPD as well as any school mitigation required for the MPD. The report shall specifically identify if the 180 day contingency period of the CSMA has been triggered, if this information has not already been provided to the Enumclaw School District by the Applicant.

83. The comparable city used in the fiscal impact analysis, Ex. 40, shall be revised to use a city other than the City of Black Diamond for purposes of estimating police service costs. The Applicant may opt to continue to be subjected to its funding obligation under the current fiscal impact analysis should its funding obligation be more than the funding obligation resulting from the revisions required by this condition. The revisions shall be approved by City staff prior to the issuance of any certificates of occupancy for PP1A.

84. Off-site improvements required for PP1A within the Lake Sawyer Drainage basin shall be construed as the "first implementing project" as referenced in the September 19, 2011 memo from Alan Fure in Ex. O to the Villages Development Agreement. "Baseline monitoring", as referenced in that Fure memo, shall be completed within the timeframes required by Ex. O.

85. Prior to final plat approval of the first division, the Applicant shall acquire all required approvals from King County for the connection and/or discharge of all of PP1A wastewater into King County's wastewater collection and treatment system.

86. The Applicant shall prepare a detailed noise control plan as required by Villages MPD COA 35 that does more than just repeat noise reduction measures already required for the project. The Applicant shall present the plan to the Noise Review Committee created by Villages MPD COA 45 for input. Notice of the Committee meeting shall be mailed to all

property owners within 500 feet of PP1A at least ten days in advance. The plan shall be approved by staff prior to the initiation of any on-site construction activities.

87. As discussed in Finding of Fact No. III(M)(3), the City's MDRT team shall re-evaluate the Class II designation for Wetland E1 on the basis of whether Wetland E1 was properly segregated under the guidelines of the City's adopted and applicable wetland classification manual. The re-evaluation shall be completed prior to conducting any activities within Wetland E1 or its buffers that would be prohibited in a Class I wetland and no later than issuance of the first certificate of occupancy for a PP1A dwelling unit.

88. Prior to any clearing or grading within a final plat division, the tree plan required by Chapter 19.30 BDMC shall delineate the root protection zones for all significant trees retained, relocated or planted for the division under the plan.

89. Prior to any clearing or grading of Parcels 34B, 27C, 1L or the area between 1L and 27C, the Applicant shall prepare and have approved an analysis by a qualified expert assessing whether any wildlife corridor connections between wetlands S, T, D4 and E1 have any significant environmental benefit and identify any measures to connect those wetlands that are reasonably feasible. The Applicant's analysis shall be subject to peer review by the City's MDRT team. The SEPA Responsible Official shall be responsible for approving the connectivity analysis and is authorized to impose reasonable mitigation measures to the extent necessary to prevent probable significant adverse environmental impacts.

90. In the disputed water service area between the City and CWD, see Ex. 66, the Applicant shall be responsible for selecting the appropriate water service provider. If the Applicant chooses to designate a water provider prior to resolution of the water service dispute, the design of the water system will include a plan for connecting to the other service provider should the City and CWD subsequently agree that the Applicant has selected the incorrect water service provider or a court or other tribunal of competent jurisdiction rules that the service provider selected by the Applicant is not entitled to provide service to the disputed area. The alternate connection plan shall ensure that an alternate connection can be achieved with minimal disruption of completed plat improvements, no disruption in water service and no impacts to environmentally sensitive areas. The alternate connection plan shall be subject to the approval of the alternate water service provider, provided that approval is not unreasonably withheld. The alternate connection plan shall be deemed approved if no response is provided the alternate provider within ten working days of receipt. No final plat approval shall be provided for areas that need water service within the disputed water service area until either the Applicant has secured an approved connection plan or the water service area dispute for the area in question has been resolved.

91. Prior to final plat approval of Division 1A, the Applicant shall acquire approval from City staff for a park use and design of Tract 917 that assures that children and other Tract 917 users will not be endangered by the proximity of adjoining roads.

Dated this 10th day of December, 2012.

Phil Olbrechts
Hearing Examiner
City of Black Diamond

**Appeal Right and Valuation Notices**

This land use decision is final and subject to appeal to superior court as governed by Chapter 36.70C RCW. Appeal deadlines are short and procedures strictly construed. Anyone wishing to file a judicial appeal of this decision should consult with an attorney to ensure that all procedural requirements are satisfied.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Enumclaw SCHOOL DISTRICT
*all students achieving at high levels*

July 22, 2014

Andy Williamson
Community Development Director
City of Black Diamond
Black Diamond, WA. 98010

Dear Mr. Williamson:

The Enumclaw School District (the "District") respectfully requests that the City of Black Diamond (the "City") adopt the District's 2014 Capital Facilities Plan as a sub-element of the City's Comprehensive Plan and adopt a school impact fee ordinance to reflect the fees identified for the City in the Capital Facilities Plan.
As you know, the District previously forwarded to the City the 2013 Capital Facilities Plan.

The District completed SEPA review of the Capital Facilities Plan and the District's Board of Directors adopted the 2014 Capital Facilities Plan on July 21, 2014. The King County School Technical Review Committee reviewed and approved the 2014 Capital Facilities Plan and the associated school impact fees in June of 2014. The King County Council will consider approval as a part of the Council's budget process in the fall of 2014. (King County currently collects school impact fees on behalf of the District in the amounts set forth in the District's 2013 Capital Facilities Plan.) The District has also requested that the City of Enumclaw adopt the Plan and update the City's school impact fee ordinance.

As a reminder, beginning January 24th, 2016, the City's adoption of a school impact fee ordinance and updated school impact fees significantly affects the amount of school mitigation that the District receives under the Comprehensive School Mitigation Agreement between the City, the District, and BD Lawson Partners, LP/BD Villages Partners LP."

Sincerely,

Tim Madden
Director, Business and Operations

2929 McDougall Avenue ■ Enumclaw, Washington ■ 98022-7499 ■ 360-802-7100
**Board of Directors** ■ Bryan Stanwood ■ Corey Cassell ■ Tina McGann ■ Nancy Merrill ■ April Schroeder

Auburn School District No. 408

# CAPITAL FACILITIES

Adopted by the Auburn School District Board of Directors
June 9, 2014

AUBURN SCHOOL DISTRICT

ENGAGE • EDUCATE • EMPOWER

915 Fourth Street NE
Auburn, Washington 98002

(253) 931-4900

Serving Students in:
Unincorporated King County
City of Auburn
City of Algona
City of Kent
City of Pacific
City of Black Diamond

## BOARD of DIRECTORS

Ray Vefik

Lisa Connors

Carol Seng

Anne Baunach

Laurie Bishop

Dr. Dennis Kip Herren, Superintendent

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Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section I

## Executive Summary

Auburn School District No. 408
CAPITAL FACILITIES PLAN
2014 through 2020

## I. Executive Summary

This Six-Year Capital Facilities Plan (the "Plan") has been prepared by the Auburn School District (the "District") as the District's principal planning document, in compliance with the requirements of Washington's Growth Management Act and the adopted ordinances of the counties and cities served by the District. This Plan was prepared using data available in the spring of 2014.

This Plan is consistent with prior long-term capital facilities plans adopted by the District. However, this Plan is not intended to be the sole plan for all of the District's needs. The District may prepare interim and periodic long-range Capital Facilities Plans consistent with Board Policies and actions, taking into account a longer or a shorter time period; other factors and trends in the use of facilities; and other needs of the District as may be required. However, any such plan or plans will be consistent with this Six-Year Capital Facilities Plan.

To enable the collection of impact fees in the unincorporated areas of King County and within the City of Auburn and City of Kent; the King County Council, the City of Auburn and the City of Kent will adopt this Plan by reference as part of each jurisdiction's respective comprehensive plan. To enable the collection of impact fees in the Cities of Algona, Pacific and Black Diamond, these municipalities must also adopt this Plan and adopt school impact fee ordinances.

Pursuant to the requirements of the Growth Management Act and the local ordinances, the Plan will be updated on an annual basis, and any changes in the fee schedule(s) adjusted accordingly.

The Plan establishes the District's "standard of service" in order to ascertain the District's current and future capacity. While the State Superintendent of Public Instruction establishes square footage guidelines for capacity, those guidelines do not account for the local program needs of the District. The Growth Management Act and the school impact fee ordinance authorize the District to define its standard of service based on the District's specific needs. In general, the District's current standard provides that class size for grades K-2 should not exceed 25 students and 20.3 students for school designated as serving high poverty areas; class size for grades 3-4 should not exceed 27 students; class size for grade 5 should not exceed 30 students. When averaged over the six elementary grades, this computes to 24.8 students per classroom. Class size for grades 6-12 should not exceed 30 students, with some subject areas restricted to lesser numbers. (See Section III for more specific information.)

The capacity of the schools in the District is calculated based on this standard of service and the existing inventory of facilities including transitional classrooms. The District's 2013-14 capacity was 13,203. The actual number of individual students was 14,971 as of October 1, 2013. (See Section V for more specific information.)

The Capital Construction Plan shown in Section VI addresses the additions and proposed modernization to the District's existing facilities. This provided for a new high school, Auburn Mountainview, approved by the voters in February 2003 and opened in September 2005; and the addition of two new elementary schools approved by the voters in February 2005; with Lakeland Hills Elementary opening in the Fall of 2006 and Arthur Jacobsen Elementary opening in the Fall of 2007. The plan includes the construction of a new middle school and a new elementary school, as well as the acquisition of a future school site to accommodate growth. The new facilities are required to meet the projected student population increase to be generated from the large development areas within the Auburn School District. Three areas that have significant impact on the school district are the Lakeland South, the Lea Hill, and the north Auburn valley areas of the district. There are other pockets of development that impact the District as well. The City of Kent has an area of approximately 158 acres that was sold to developers in 2004. The economic downturn has slowed development in these areas, but recent new construction is beginning to pick back up.

The District completed a comprehensive review of all district facilities and in October 2008. A Steering Committee made recommendations to the Board for capital improvements to existing facilities and replacement of seven schools over the next ten years. These recommendations led to a capital improvements levy and a bond issue that was placed on the ballot in March 2009. Both ballot measures were unsuccessful in March. The board determined to rerun only the capital improvements levy in November 2009, which the voters approved. In the Fall of 2011 the school board determined to move forward with the Auburn High School Modernization and Reconstruction Project and placed the project before the voters in February of 2012. The bond issue was supported by the community at nearly 57% approval rate, but was short of the super majority requirement of 60%. In March of 2012 the school board determined to rerun the bond again in November of 2012. In November 2012, the bond passed at 62% and construction for the Auburn High School Modernization and Reconstruction Project began on February 25, 2013. Phase 1 of the three phase project is nearing completion. Approximately 60% of the total new building area will be occupied by Auburn High School students and staff in the fall of 2014.

The School Impact Fee Ordinances adopted by King County, the City of Auburn and the City of Kent provide for the assessment of impact fees to assist in meeting some of the fiscal impacts incurred by a district experiencing growth and development. Section VII sets forth the proposed school impact fees for single family and multi-family dwelling units. The student generation factors have been developed using the students who actually attend school in the Auburn School District from single family and multi-family developments constructed in the last five years. There have been dramatic changes in the student generation factors for multi-family in 2013 and 2014. The District plans to carefully monitor the numbers over the next several years to determine if this is a trend or an anomaly. The method of collecting the data is with the use of GIS mapping software, data from King County and Pierce County GIS; and to integrate the mapping with student data from the District's student data system. This method gives the District actual student generation numbers for each grade span for identified developments. This data is contained in Appendix A.3.

EXECUTIVE SUMMARY

Listed below is a summary level outline of the changes from the 2013 Capital Facilities Plan that are a part of the 2014 Plan. The changes are noted by Section for ease of reference.

**Section I**

**Executive Summary**

A. Updated to reflect new information within the Plan.
B. Summary level list of changes from previous year.

**Section II**

**Enrollment Projections**

Updated projections. See Appendices A.1 & A.2.

**Section III**

**Standard of Service**

A. Increase of 11 full-day kindergarten classrooms at elementary level.
B. Reduction of maximum K-2 class size from 25 to 20.3 students at 11 elementary schools designated as serving high poverty areas.

**Section IV**

**Inventory of Facilities**

A. Add 2 portables at Lakeland Hills Elementary.
B. Remove 7 portables at Auburn High School due to the Auburn High School Modernization and Reconstruction Project.
C. Add 2 portables at Alpac Elementary.
D. Add 1 portable at Dick Scobee Elementary.
E. Add 1 portable at Evergreen Heights Elementary.
F. Add 2 portables at Gildo Rey Elementary.
G. Add 2 portables at Hazelwood Elementary.
H. Add 2 portables at Ilalko Elementary.
I. Add 2 portables at Pioneer Elementary.
J. Add 1 portable at Terminal Park Elementary.
K. Add 1 portable at Washington Elementary.

**Section V**

**Pupil Capacity**

Removal of seven portable classrooms from Auburn High School results in a reduction in student capacity of 210 students (7 classrooms x 30 students per classroom). No change in student capacity results from the 16 additional elementary school portables which meet facility needs resulting from transition to full day kindergarten and class size reduction rather than increased enrollment.

EXECUTIVE SUMMARY

**Impact Fees** ***CHANGES TO IMPACT FEE DATA ELEMENTS 2013 to 2014***

| DATA ELEMENTS | CPF 2013 | CPF 2014 | EXPLANATION |
|---|---|---|---|
| **Student Generation Factors** | | | |
| Single Family | | | Consistent with King County Ordinance 11621, |
| Elementary | 0.2270 | 0.1650 | Student Generation Factors are calculated |
| Mid School | 0.0850 | 0.0760 | by the school district based on district |
| Sr. High | 0.1290 | 0.0890 | records of average actual student generation |
| Multi-Family | | | rates for new developments constructed |
| Elementary | 0.1720 | 0.2230 | over the last five years. |
| Mid School | 0.0700 | 0.0910 | |
| Sr. High | 0.0960 | 0.0920 | |
| **School Construction Costs** | | | |
| Elementary | $25,000,000 | $29,800,000 | Updated estimates for 2014. |
| Middle School | $48,800,000 | $52,800,000 | Updated estimates for 2014. |
| **Site Acquisition Costs** | | | |
| Cost per acre | $308,155 | $356,728 | Updated estimate on land costs. |
| **Area Cost Allowance** **Boeckh Index** | $200.40 | $200.40 | Updated to projected SPI schedule. (July 2013) |
| **Match % - State** | 59.19% | 62.31% | Updated to current SPI schedule. |
| **Match % - District** | 40.81% | 37.69% | Computed |
| **District Average AV** | | | |
| Single Family | $199,919 | $210,210 | Updated from March 2014 King County Dept of Assessments data. |
| Multi-Family | $75,278 | $78,449 | Updated from March 2014 King County Dept of Assessments data using weighted average. |
| **Debt Serv Tax Rate** | $2.11 | $2.12 | Current Fiscal Year |
| **GO Bond Int Rate** | 3.74% | 4.38% | Current Rate (Bond Buyers 20 Index 3-14) |

**Section VIII**
**Appendices**

Appendix A.1 - Updated enrollment projections from October 1, 2013
Appendix A.2 - Updated enrollment projections with anticipated buildout schedule from March 2014.
Appendix A.3 - Student Generation Survey April 2014

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section II

## Enrollment Projections

The Auburn School District uses a modified cohort survival model to project future enrollment for all of the District's operations. Table II.1 is an extract from the comprehensive projection model found in Appendix A.2 titled "CAPITAL FACILITIES PLAN Enrollment Projections". This Table shows the anticipated enrollment for the next six years based on the previous 6 year history of the District under the assumptions set forth in the comprehensive projections, Appendix A.1, and the projection for additional students generated from new developments in the district as shown in Appendix A.2.

| **TABLE II.1** | **ASD ENROLLMENT PROJECTIONS (March 2014)** | | | | | | |
|---|---|---|---|---|---|---|---|
| GRADE | 2013-14 Actual | 2014-15 Projected | 2015-16 Projected | 2016-17 Projected | 2017-18 Projected | 2018-19 Projected | 2019-20 Projected |
| KDG | 1170 | 1215 | 1258 | 1300 | 1342 | 1381 | 1417 |
| 1 | 1188 | 1230 | 1272 | 1315 | 1357 | 1397 | 1432 |
| 2 | 1124 | 1211 | 1250 | 1293 | 1335 | 1375 | 1410 |
| 3 | 1125 | 1142 | 1227 | 1266 | 1308 | 1348 | 1384 |
| 4 | 1123 | 1163 | 1178 | 1263 | 1302 | 1341 | 1377 |
| 5 | 1075 | 1147 | 1185 | 1200 | 1284 | 1321 | 1357 |
| K - 5 | 6805 | 7108 | 7370 | 7637 | 7928 | 8163 | 8377 |
| 6 | 1076 | 1088 | 1157 | 1195 | 1210 | 1292 | 1324 |
| 7 | 1072 | 1106 | 1116 | 1186 | 1224 | 1236 | 1314 |
| 8 | 1116 | 1083 | 1115 | 1125 | 1194 | 1229 | 1238 |
| 6 - 8 | 3264 | 3277 | 3388 | 3506 | 3628 | 3757 | 3876 |
| 9 | 1159 | 1301 | 1267 | 1300 | 1310 | 1378 | 1409 |
| 10 | 1229 | 1171 | 1312 | 1277 | 1311 | 1319 | 1381 |
| 11 | 1240 | 1221 | 1160 | 1300 | 1266 | 1296 | 1299 |
| 12 | 1274 | 1313 | 1291 | 1232 | 1371 | 1335 | 1360 |
| 9 - 12 | 4902 | 5006 | 5030 | 5109 | 5258 | 5328 | 5449 |
| **TOTALS** | 14,971 | 15,391 | 15,788 | 16,252 | 16,814 | 17,248 | 17,702 |
| | | | | | | | |
| GRADES K-12 | Actual | Projected | Projected | Projected | Projected | Projected | Projected |
| K-5 | 6805 | 7108 | 7370 | 7637 | 7928 | 8163 | 8377 |
| 6-8 | 3264 | 3277 | 3388 | 3506 | 3628 | 3757 | 3876 |
| 9-12 | 4902 | 5006 | 5030 | 5109 | 5258 | 5328 | 5449 |
| **K-12** | **14,971** | **15,391** | **15,788** | **16,252** | **16,814** | **17,248** | **17,702** |

Note: The District is currently operating Full Day Kindergarten in fourteen elementary schools. This includes State funded Full Day Kindergartens at ten elementary schools. The State projects to fully implement Full Day Kindergarten by 2018.

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section III

## Standard of Service

*The School Impact Fee Ordinances adopted by King County, the City of Auburn and the City of Kent indicate that each school district must establish a "Standard of Service" in order to ascertain the overall capacity to house its projected student population. The Superintendent of Public Instruction establishes square footage "capacity" guidelines for computing state funding support. The fundamental purpose of the SPI guidelines is to provide a vehicle to equitably distribute state matching funds for school construction projects. By default these guidelines have been used to benchmark the district's capacity to house its student population. The SPI guidelines do not make adequate provision for local district program needs, facility configurations, emerging educational reform, or the dynamics of each student's educational program. The Auburn School District Standard of Service addresses those local considerations that require space in excess of the SPI guidelines. The effect on the space requirements for both permanent and relocatable facilities is shown below for each grade articulation pattern. Conditions that may result in potential space needs are provided for information purposes without accompanying computations.*

***OVERVIEW***

The Auburn School District operates fourteen elementary schools housing 6,805 students in grades K through 5. The four middle schools house 3,264 students in grades 6 through 8. The District operates three comprehensive senior high schools and one alternative high school, housing 4,902 students in grades 9 through 12.

***CLASS SIZE***

The number of pupils per classroom determines the number of classrooms required to house the student population. Specialists create additional space needs. Class sizes are subject to collective bargaining agreements. Changes to class size agreements can have significant impact on available space.

The current pupil/teacher limit across all elementary programs is an average of 24.8 students per teacher. Consistent with this staffing limit, room capacities are set at 24.8 students per room at grades K - 5. At grades 6 - 12 the limit is set at 30 pupils per room. The SPI space allocation for each grade articulation level, ***less*** the computed reduction for the Auburn School District Standard of Service, determines the District's capacity to house projected pupil populations. These reductions are shown below by grade articulation level.

## ELEMENTARY SCHOOLS

***STRUCTURED LEARNING FOR DEVELOPMENTALLY DISABLED SPECIAL EDUCATION***

The Auburn School District operates a structured learning program for students with moderate to severe disabilities at the elementary school level which currently uses ten classrooms to provide for 96 students. The housing requirements for this program are provided for in the SPI space guidelines. No loss of capacity is expected unless population with disabilities grows at a disproportionate rate compared to total elementary population.

***ADAPTIVE BEHAVIOR***

The Auburn School District operates an adaptive behavior program for students with behavior disabilities at the elementary school level. The program uses one classroom to provide for seven students. The housing requirements for this program exceed the SPI space allocations by one classroom.

| | | |
|---|---|---|
| Loss of Permanent Capacity 1 room @ 24.8 each | = | (25) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each | = | 0 |
| Total Capacity Loss | | (25) |

***SPECIAL EDUCATION RESOURCE ROOMS***

The Auburn School District operates a resource room program at the elementary level for special education students requiring instruction to address their specific disabilities. Fourteen standard classrooms are required to house this program. The housing requirements for this program exceed the SPI space guidelines by seven standard classrooms. Continued loss of capacity is expected as growth in program is larger than the total elementary population.

| | |
|---|---|
| Loss of Permanent Capacity 7 rooms @ 24.8 each = | (174) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (174) |

***NATIVE AMERICAN RESOURCE ROOM***

The Auburn School District operates two resource rooms to support the education of Native American students at the elementary level. Two standard classrooms are fully dedicated to serve these students.

| | |
|---|---|
| Loss of Permanent Capacity 2 rooms @ 24.8 each = | (50) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (50) |

***HEAD START***

The Auburn School District operates a Head Start program for approximately 114 pre-school aged children in six sections of 1/2 day in length. The program is housed at three elementary schools and utilizes three standard elementary classrooms and auxiliary office spaces. The housing requirements for this program are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 3 rooms @ 24.8 each = | (74) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (74) |

***EARLY CHILDHOOD SPECIAL EDUCATION***

The Auburn School District operates a pre-school program for young children with disabilities below age five. This program is housed at seven different elementary schools and currently uses 10 standard classrooms. The housing requirements for this program are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 10 rooms @ 24.8 each = | (248) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (248) |

***READING LABS***

The Auburn School District operates a program for students needing remediation and additional language arts instruction. These programs utilize non-standard classroom spaces if available in each elementary school. Four elementary schools do not have non-standard rooms available, thus they are housed in a standard classroom. The housing requirements for this program are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 4 rooms @ 24.8 each = | (99) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (99) |

***MUSIC ROOMS***

The District elementary music programs require one acoustically modified classroom at each elementary school for music instruction. The housing requirements are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 14 rooms @ 24.8 each = | (347) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (347) |

***ENGLISH AS A SECOND LANGUAGE PROGRAM***

The Auburn School District operates a pullout program at the elementary school level for students learning English as a second language. This program requires fourteen standard classrooms that are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 14 rooms @ 24.8 each = | (347) |
| Loss of Temporary Capacity 0 rooms @ 24.85 each = | 0 |
| Total Capacity Loss | (347) |

***SECOND GRADE TOSA PROGRAM***

The Auburn School District provides a TOSA reading specialist program for eight highly impacted elementary schools. This pullout model provides direct instruction to students who are not at grade level and do not receive other services. This program requires eight standard classrooms that are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 8 rooms @ 24.8 each = | (198) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (198) |

***ELEMENTARY LEARNING SPECIALIST PROGRAM***

The Auburn School District provides a learning specialist program to increase literacy skills for first and second graders. This program model was originally created from the I-728 funds and currently has the specialist going into existing teacher classrooms, as well as pulling out students into designated classrooms. The district is utilizing classrooms at all fourteen elementary schools.

| | |
|---|---|
| Loss of Permanent Capacity 14 rooms @ 24.8 each = | (347) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (347) |

***FULL DAY KINDERGARTEN***

The Auburn School District provides Full-Day Kindergarten programs to increase academic skills for kindergarten students. This program model has been created from tuition, Title I funds, LAP funds, and currently there are ten schools receiving state funding for 2013-14 school year. The district is utilizing 50 classrooms at all fourteen elementary schools. Housing requirements exceed the OSPI space guidelines for this program by 25 classrooms.

| | |
|---|---|
| Loss of Permanent Capacity 25 rooms @ 24.8 each = | (620) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (620) |

***EARLY CHILDHOOD EDUCATION ASSISTANCE PROGRAM***

The Auburn School District provides an Early Childhood Education program to meet local needs for disadvantaged students. The State has fund an increase of 12 ECEAP seats. This program will require one new classrooms for 2014-15.

| | |
|---|---|
| Loss of Permanent Capacity 1 rooms @ 24.8 each = | (25) |
| Loss of Temporary Capacity 0 rooms @ 24.8 each = | 0 |
| Total Capacity Loss | (25) |

## MIDDLE SCHOOLS

***SPECIAL EDUCATION RESOURCE ROOMS***

The Auburn School District operates a resource room program for each grade at the middle school level. This is to accommodate special education students needing remedial instruction to address their specific disabilities. Eight classrooms are required at the middle school level to provide for approximately 316 students. The housing requirements for this program are not entirely provided for in the SPI space guidelines.

***ADAPTIVE BEHAVIOR SPECIAL EDUCATION***

The Auburn School District offers a self-contained program for students with moderate to severe behavior diabilities. The program is housed at one of the middle schools and uses two classrooms. One of the two classrooms for this program are provided for in the SPI space allocations.

| | |
|---|---|
| Loss of Permanent Capacity 1 rooms @ 30 each = | (30) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (30) |

***STRUCTURED LEARNING CENTER AND DEVELOPMENTALLY DISABLED SPECIAL EDUCATION***

The Auburn School District operates five structured learning classrooms at the middle school level for students with moderate to severe disabilities and one developmentally disabled classroom for students with profound disabilities. Two of the five classrooms for this program are provided for in the SPI space allocations.

| | |
|---|---|
| Loss of Permanent Capacity 3 rooms @ 30 each = | (90) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (90) |

***MIDDLE SCHOOL COMPUTER LABS***

The Auburn School District operates a minimum of one computer lab at each middle school. This program utilizes a standard classroom per middle school. The housing requirements for this program are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 4 rooms @ 30 each = | (120) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (120) |

***ENGLISH AS A SECOND LANGUAGE***

The Auburn School District operates a pullout program at the middle school level for students learning English as a second language. This program requires four standard classrooms that are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 4 rooms @ 30 each = | (120) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (120) |

***ROOM UTILIZATION***

The Auburn School District provides a comprehensive middle school program that includes elective options in special interest areas. Facilities to accommodate special interest activities are not amenable to standard classroom usage. The district averages 95% utilization of all available teaching stations. SPI Report #3 dated 12/14/11 identifies 148 teaching stations available in the mid-level facilities. The utilization pattern results in a loss of approximately 8 teaching stations.

| | |
|---|---|
| Loss of Permanent Capacity 8 rooms @ 30 each = | (240) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (240) |

## SENIOR HIGH SCHOOLS

***SENIOR HIGH COMPUTER LABS***

The Auburn School District operates two computer labs at each of the senior high schools. This program utilizes two standard classrooms at comprehensive high schools and one at West Auburn. The housing requirements for this program are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 7 rooms @ 30 each = | (210) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (210) |

***ENGLISH AS A SECOND LANGUAGE***

The Auburn School District operates a pullout program at three comprehensive high schools for students learning English as a second language. This program requires three standard classrooms that are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 3 rooms @ 30 each = | (90) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (90) |

***ADAPTIVE BEHAVIOR SPECIAL EDUCATION***

The Auburn School District offers a self-contained program for students with moderate to severe behavior diabilities. The program is housed at one of the high schools and uses one classroom. The housing requirements for this program are not provided for in the SPI space allocations.

| | |
|---|---|
| Loss of Permanent Capacity 1 rooms @ 30 each = | (30) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (30) |

***STRUCTURED LEARNING CENTER PROGRAM***

The Auburn School District operates nine structured learning center classrooms for students with moderate to severe disabilities. This program requires five standard classrooms that are not provided for in the SPI space guidelines.

| | |
|---|---|
| Loss of Permanent Capacity 5 rooms @ 30 each = | (150) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (150) |

### *SPECIAL EDUCATION RESOURCE ROOMS*

The Auburn School District operates a resource room program at the senior high level for special education students requiring instruction to address their specific learning disabilities. The current high school program requires 10 classrooms to provide program to meet educational needs of the students. The SPI space guidelines provide for one of the 10 teaching stations.

| | |
|---|---|
| Loss of Permanent Capacity 10 rooms @ 30 each = | (300) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (300) |

### *PERFORMING ARTS CENTERS*

Auburn High School includes 25,000 square feet used exclusively for a Performing Arts Center. The SPI Inventory includes this space when computing unhoused student capacity. This space was not intended for nor is it usable for classroom instruction. It was constructed to provide a community center for the performing arts. Using SPI capacity guidelines, 25,000 square feet computes to 208 unhoused students or 8.33 classrooms.

| | |
|---|---|
| Loss of Permanent Capacity 8.33 rooms @ 30 each = | (250) |

### *ROOM UTILIZATION*

The Auburn School District provides a comprehensive high school program that includes numerous elective options in special interest areas. Facilities to accommodate special interest activities are not amenable to standard classroom usage. The district averages 95% utilization of all available teaching stations. There are 185 teaching stations available in the senior high facilities. The utilization pattern results in a loss of approximately 10 teaching stations.

| | |
|---|---|
| Loss of Permanent Capacity 10 rooms @ 30 each = | (300) |
| Loss of Temporary Capacity 0 rooms @ 30 each = | 0 |
| Total Capacity Loss | (300) |

### *STANDARD OF SERVICE COMPUTED TOTALS*

| | |
|---|---|
| ELEMENTARY | |
| Loss of Permanent Capacity = | (2,554) |
| Loss of Temporary Capacity | 0 |
| Total Capacity Loss | (2,554) |
| MIDDLE SCHOOL | |
| Loss of Permanent Capacity = | (600) |
| Loss of Temporary Capacity | 0 |
| Total Capacity Loss | (600) |
| SENIOR HIGH | |
| Loss of Permanent Capacity = | (1,330) |
| Loss of Temporary Capacity | 0 |
| Total Capacity Loss | (1,330) |
| TOTAL | |
| Loss of Permanent Capacity = | (4,484) |
| Loss of Temporary Capacity | 0 |
| Total Capacity Loss | (4,484) |

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section IV

## Inventory of Facilities

Table IV.1 shows the current inventory of permanent district facilities and their OSPI rated capacities.

Table IV.2 shows the number and location of each portable unit by school. The district uses relocatable facilities to:

1. provide interim housing in school attendance areas uniquely impacted by increasing school populations that would otherwise require continual redistricting,
2. make space available for changing program requirements and offerings determined by unique student needs, and
3. provide housing to cover district needs until permanent facilities can be financed and constructed.

Relocatable facilities are deemed to be interim, stop gap measures that often place undesirable stress on existing physical plants. Core facilities (i.e. gymnasiums, restrooms, kitchens, labs, lockers, libraries, etc.) are not of sufficient size or quantity to handle the increased school population served by adding relocatable classrooms.

Table IV.1 Permanent Facilities @ OSPI Rated Capacity (December 2013)

## District School Facilities

| Building | Capacity | Acres | Address |
|---|---|---|---|
| **Elementary Schools** | | | |
| Washington Elementary | 486 | 5.40 | 20 E Street Northeast, Auburn WA, 98002 |
| Terminal Park Elementary | 408 | 6.70 | 1101 D Street Southeast, Auburn WA, 98002 |
| Dick Scobee Elementary | 477 | 10.50 | 1031 14th Street Northeast, Auburn WA, 98002 |
| Pioneer Elementary | 441 | 8.30 | 2301 M Street Southeast, Auburn WA, 98002 |
| Chinook Elementary | 440 | 8.75 | 3502 Auburn Way South, Auburn WA, 98092 |
| Lea Hill Elementary | 450 | 10.00 | 30908 124th Avenue Southeast, Auburn WA, 98092 |
| Gildo Rey Elementary | 551 | 10.00 | 1005 37th Street Southeast, Auburn WA, 98002 |
| Evergreen Heights Elem. | 456 | 8.09 | 5602 South 316th, Auburn WA, 98001 |
| Alpac Elementary | 497 | 10.60 | 310 Milwaukee Boulevard North, Pacific WA, 98047 |
| Lake View Elementary | 559 | 16.40 | 16401 Southeast 318th Street, Auburn WA, 98092 |
| Hazelwood Elementary | 580 | 12.67 | 11815 Southeast 304th Street, Auburn WA, 98092 |
| Ilalko Elementary | 585 | 12.00 | 301 Oravetz Place Southeast, Auburn WA, 98092 |
| Lakeland Hills Elementary | 594 | 12.00 | 1020 Evergreen Way SE, Auburn WA, 98092 |
| Arthur Jacobsen Elementary | 614 | 10.00 | 29205 132nd Street SE, Auburn WA, 98092 |
| ELEM CAPACITY | 7,138 | | |
| **Middle Schools** | | | |
| Cascade Middle School | 829 | 17.30 | 1015 24th Street Northeast, Auburn WA, 98002 |
| Olympic Middle School | 921 | 17.40 | 1825 K Street Southeast, Auburn WA, 98002 |
| Rainier Middle School | 843 | 26.33 | 30620 116th Avenue Southeast, Auburn WA, 98092 |
| Mt. Baker Middle School | 837 | 30.88 | 620 37th Street Southeast, Auburn WA, 98002 |
| MS CAPACITY | 3,430 | | |
| **Senior High Schools** | | | |
| West Auburn High School | 233 | 5.10 | 401 West Main Street, Auburn WA, 98001 |
| Auburn Senior High | 2,101 | 18.60 | 800 Fourth Street Northeast, Auburn WA, 98002 |
| Auburn Riverside HS | 1,387 | 33.00 | 501 Oravetz Road, Auburn WA, 98092 |
| Auburn Mountainview HS | 1,443 | 40.00 | 28900 124th Ave SE, Auburn WA, 98092 |
| SH CAPACITY | 5,164 | | |
| **TOTAL CAPACITY** | **15,732** | | |

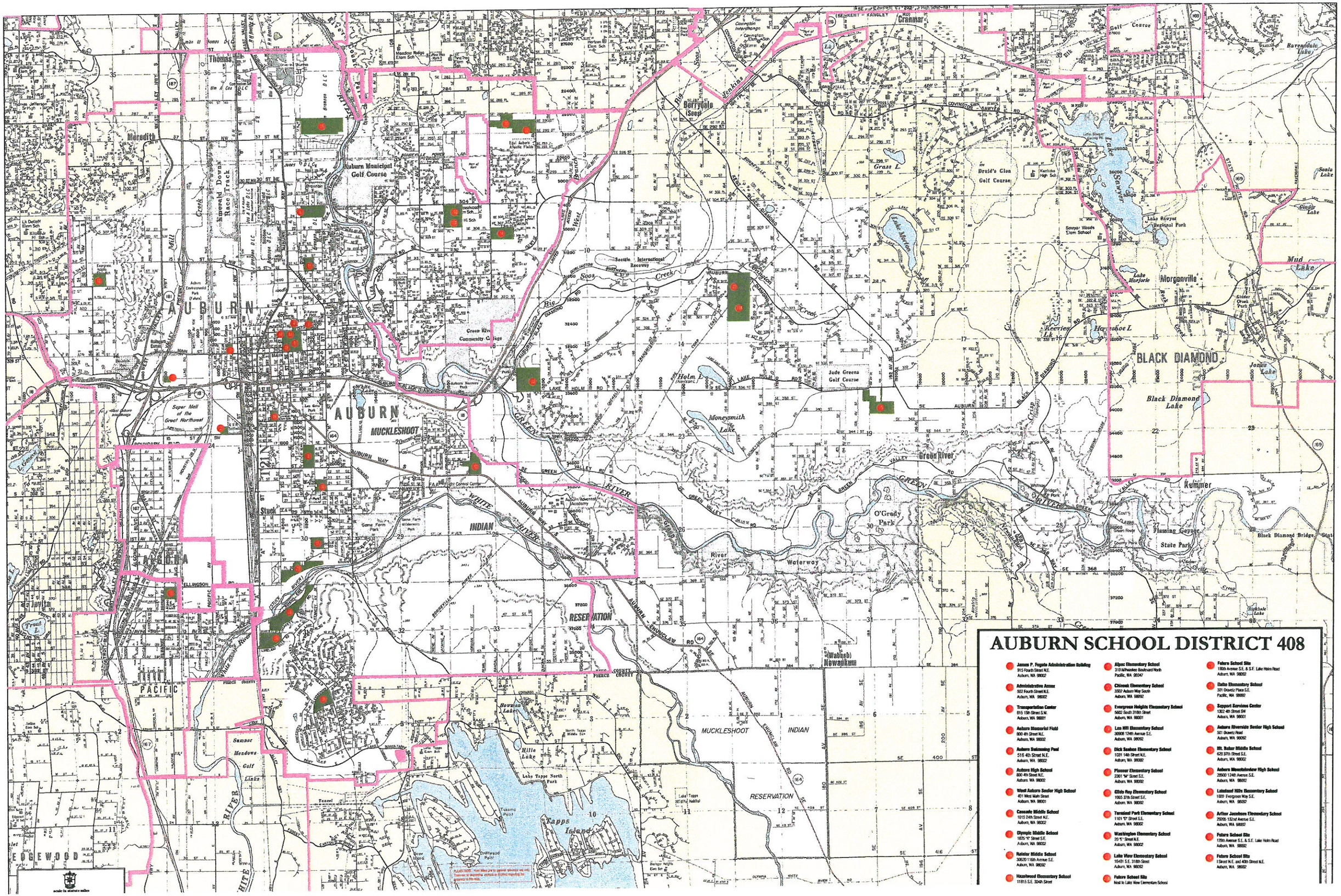

AUBURN SCHOOL DISTRICT 408
1 James P. Fugate Administration Building
915 Fourth Street N.E.
Auburn, WA 98002
2 Administrative Annex
502 Fourth Street N.E.
Auburn, WA 98002
3 Transportation Center
815 15th Street S.W.
Auburn, WA 98001
4 Auburn Memorial Field
800 4th Street N.E.
Auburn, WA 98002
5 Auburn Swimming Pool
516 4th Street N.E.
Auburn, WA 98002
6 Auburn High School
800 4th Street N.E.
Auburn, WA 98002
7 West Auburn Senior High School
401 West Main Street
Auburn, WA 98001
8 Cascade Middle School
1015 24th Street N.E.
Auburn, WA 98002
9 Olympic Middle School
1825 "K" Street S.E.
Auburn, WA 98002
10 Rainier Middle School
30620 116th Avenue S.E.
Auburn, WA 98092
11 Hazelwood Elementary School
11815 S.E. 304th Street
12 Alpac Elementary School
310 Milwaukee Boulevard North
Pacific, WA 98047
13 Chinook Elementary School
3302 Auburn Way South
Auburn, WA 98092
14 Evergreen Heights Elementary School
5602 South 316th Street
Auburn, WA 98001
15 Lea Hill Elementary School
30908 124th Avenue S.E.
Auburn, WA 98092
16 Dick Scobee Elementary School
1031 14th Street N.E.
Auburn, WA 98002
17 Pioneer Elementary School
2301 "M" Street S.E.
Auburn, WA 98002
18 Gildo Rey Elementary School
1005 37th Street S.E.
Auburn, WA 98002
19 Terminal Park Elementary School
1101 "D" Street S.E.
Auburn, WA 98002
20 Washington Elementary School
20 "E" Street N.E.
Auburn, WA 98002
21 Lake View Elementary School
16401 S.E. 318th Street
Auburn, WA 98092
22 Future School Site
Next to Lake View Elementary School
23 Future School Site
180th Avenue S.E. & S.E. Lake Holm Road
Auburn, WA 98092
24 Ilalko Elementary School
301 Dorotiz Place S.E.
Pacific, WA 98092
25 Support Services Center
1307 4th Street SW
Auburn, WA 98001
26 Auburn Riverside Senior High School
501 Oravetz Road
Auburn, WA 98092
27 Mt. Baker Middle School
620 37th Street S.E.
Auburn, WA 98002
28 Auburn Mountainview High School
28900 124th Avenue S.E.
Auburn, WA 98092
29 Lakeland Hills Elementary School
1809 Evergreen Way S.E.
Auburn, WA 98092
30 Arthur Jacobsen Elementary School
25205 132nd Avenue S.E.
Auburn, WA 98092
31 Future School Site
175th Avenue S.E. & S.E. Lake Holm Road
Auburn, WA 98092
32 Future School Site
I Street N.E. and 40th Street N.E.
Auburn, WA 98002
AUBURN
MUCKLESHOOT
INDIAN
RESERVATION
PACIFIC
EDGEWOOD
BLACK DIAMOND
Morgantown
Kummer
Green River
Green River Community College
Auburn Municipal Golf Course
Emerald Downs Race Track
Druid's Glen Golf Course
Jade Greens Golf Course
Lake Sawyer Regional Park
Black Diamond Lake
Flaming Geyser State Park
Black Diamond Bridge
O'Grady Park
Kapps Island
Lake Tapps North Park
Summer Meadows Golf Links
Super Mall of the Great Northwest
Seattle International Raceway
Waterway
Scale in statute miles

**TABLE IV.2 TEMPORARY/RELOCATABLE FACILITIES INVENTORY (March 2014)**

| Elementary Location | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|---|---|---|---|---|---|---|---|
| Washington | 1 | 2 | 3 | 3 | 3 | 3 | 3 |
| Terminal Park | 3 | 3 | 4 | 4 | 4 | 4 | 4 |
| Dick Scobee | 4 | 4 | 4 | 5 | 5 | 5 | 5 |
| Pioneer | 5 | 6 | 6 | 6 | 6 | 6 | 6 |
| Chinook | 5 | 5 | 5 | 6 | 6 | 6 | 6 |
| Lea Hill | 5 | 5 | 5 | 6 | 6 | 6 | 6 |
| Gildo Rey | 4 | 5 | 5 | 6 | 6 | 6 | 6 |
| Evergreen Heights | 1 | 2 | 3 | 3 | 4 | 4 | 4 |
| Alpac | 4 | 4 | 5 | 5 | 5 | 5 | 5 |
| Lake View | 2 | 2 | 2 | 3 | 3 | 3 | 3 |
| Hazelwood | 2 | 2 | 3 | 3 | 4 | 4 | 4 |
| Ilalko | 4 | 5 | 6 | 6 | 6 | 6 | 6 |
| Lakeland Hills Elementary | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| Arthur Jacobsen Elementary | 0 | 0 | 1 | 1 | 2 | 2 | 2 |
| TOTAL UNITS | 46 | 51 | 58 | 63 | 66 | 66 | 66 |
| TOTAL CAPACITY | 1,141 | 1,265 | 1,438 | 1,562 | 1,637 | 1,637 | 1,637 |

| Middle School Location | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|---|---|---|---|---|---|---|---|
| Cascade | 0 | 0 | 2 | 2 | 2 | 2 | 2 |
| Olympic | 0 | 0 | 2 | 2 | 2 | 2 | 2 |
| Rainier | 5 | 7 | 7 | 8 | 8 | 8 | 8 |
| Mt. Baker | 8 | 8 | 8 | 8 | 8 | 8 | 8 |
| TOTAL UNITS | 13 | 15 | 19 | 20 | 20 | 20 | 20 |
| TOTAL CAPACITY | 390 | 450 | 570 | 600 | 600 | 600 | 600 |

| Sr. High School Location | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|---|---|---|---|---|---|---|---|
| West Auburn | 0 | 0 | 1 | 1 | 1 | 1 | 1 |
| Auburn High School | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Auburn High School - *TAP | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Auburn Riverside | 13 | 13 | 13 | 13 | 13 | 13 | 13 |
| Auburn Mountainview | 2 | 2 | 4 | 4 | 4 | 4 | 4 |
| TOTAL UNITS | 16 | 16 | 19 | 19 | 19 | 19 | 19 |
| TOTAL CAPACITY | 480 | 480 | 570 | 570 | 570 | 570 | 570 |

*TAP - Transition Assistance Program for 18-21 year old students with special needs.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **COMBINED TOTAL UNITS** | **75** | **82** | **96** | **102** | **105** | **105** | **105** |
| **COMBINED TOTAL CAPACITY** | **2,011** | **2,195** | **2,578** | **2,732** | **2,807** | **2,807** | **2,807** |

*Note: Reduction of portables at Auburn High School is due to the Auburn High School Modernization and Reconstruction Project.

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section V

## Pupil Capacity

Auburn School District No. 408

## CAPITAL FACILITIES PLAN

2014 through 2020

## PUPIL CAPACITY

While the Auburn School District uses the SPI inventory of permanent facilities as the data from which to determine space needs, the District's educational program requires more space than that provided for under the formula. This additional square footage is converted to numbers of pupils in Section III, Standard of Service. The District's capacity is adjusted to reflect the need for additional space to house its programs. Changes in the capacity of the district recognize new unfunded facilities. The combined effect of these adjustments is shown on Line B in Tables V.1 and V.2 below. Table V.1 shows the Distict's capacity with relocatable units included and Table V.2 without these units.

| | **Table V.1** | **Capacity WITH relocatables** | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|---|---|
| | A. | SPI Capacity | 15,732 | 15,732 | 15,732 | 15,732 | 15,732 | 15,732 | 16,532 |
| | A.1 | SPI Capacity-New Elem | | | | | | | 550 |
| 1/ | A.2 | SPI Capacity- New MS | | | | | | 800 | |
| | B. | Capacity Adjustments | (2,529) | (2,473) | (2,289) | (1,906) | (1,752) | (1,677) | (1,677) |
| | C. | Net Capacity | 13,203 | 13,259 | 13,443 | 13,826 | 13,980 | 14,855 | 15,405 |
| | D. | ASD Enrollment | 14,791 | 15,391 | 15,788 | 16,252 | 16,814 | 17,248 | 17,702 |
| 3/ | E. | ASD Surplus/Deficit | (1,588) | (2,132) | (2,345) | (2,426) | (2,834) | (2,393) | (2,297) |
| | CAPACITY ADJUSTMENTS | | | | | | | | |
| | | Include Relocatable | 1,955 | 2,011 | 2,195 | 2,578 | 2,732 | 2,807 | 2,807 |
| 2/ | | Exclude SOS (pg 14) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) |
| | | Total Adjustments | (2,529) | (2,473) | (2,289) | (1,906) | (1,752) | (1,677) | (1,677) |

| | **Table V.2** | **Capacity WITHOUT relocatables** | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|---|---|
| | A. | SPI Capacity | 15,732 | 15,732 | 15,732 | 15,732 | 15,732 | 15,732 | 16,532 |
| | A.1 | SPI Capacity-New Elem | | | | | | | 550 |
| 1/ | A.2 | SPI Capacity- New MS | | | | | | 800 | |
| | B. | Capacity Adjustments | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) |
| | C. | Net Capacity | 11,248 | 11,248 | 11,248 | 11,248 | 11,248 | 12,048 | 12,598 |
| | D. | ASD Enrollment | 14,791 | 15,391 | 15,788 | 16,252 | 16,814 | 17,248 | 17,702 |
| 3/ | E. | ASD Surplus/Deficit | (3,543) | (4,143) | (4,540) | (5,004) | (5,566) | (5,200) | (5,104) |
| | CAPACITY ADJUSTMENTS | | | | | | | | |
| 2/ | | Exclude SOS (pg 14) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) |
| | | Total Adjustments | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) | (4,484) |

1/ New facilities shown in 2017-18 and 2018-19 are not funded under the current Capital Facilities Plan.

2/ The Standard of Service represents 26.61% of SPI capacity. When new facilities are added the Standard of Service computations are decreased to 24.51% of SPI capacity.

3/ Students beyond the capacity are accomodated in other spaces (commons, library, theater, shared teaching space).

Auburn School District No. 408

# CAPITAL FACILITIES PLAN

2014 through 2020

## PUPIL CAPACITY

**PERMANENT FACILITIES**
**@ SPI Rated Capacity**
**(March 2014)**

A. Elementary Schools

| Building | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|
| Washington | 486 | 486 | 486 | 486 | 486 | 486 | 486 |
| Terminal Park | 408 | 408 | 408 | 408 | 408 | 408 | 408 |
| Dick Scobee | 477 | 477 | 477 | 477 | 477 | 477 | 477 |
| Pioneer | 441 | 441 | 441 | 441 | 441 | 441 | 441 |
| Chinook | 440 | 440 | 440 | 440 | 440 | 440 | 440 |
| Lea Hill | 450 | 450 | 450 | 450 | 450 | 450 | 450 |
| Gildo Rey | 551 | 551 | 551 | 551 | 551 | 551 | 551 |
| Evergreen Heights | 456 | 456 | 456 | 456 | 456 | 456 | 456 |
| Alpac | 497 | 497 | 497 | 497 | 497 | 497 | 497 |
| Lake View | 559 | 559 | 559 | 559 | 559 | 559 | 559 |
| Hazelwood | 580 | 580 | 580 | 580 | 580 | 580 | 580 |
| Ilalko | 585 | 585 | 585 | 585 | 585 | 585 | 585 |
| Lakeland Hills | 594 | 594 | 594 | 594 | 594 | 594 | 594 |
| Arthur Jacobsen | 614 | 614 | 614 | 614 | 614 | 614 | 614 |
| Elementary #15 | | | | | | | 550 |
| ELEM CAPACITY | 7,138 | 7,138 | 7,138 | 7,138 | 7,138 | 7,138 | 7,688 |

B. Middle Schools

| Building | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|
| Cascade | 829 | 829 | 829 | 829 | 829 | 829 | 829 |
| Olympic | 921 | 921 | 921 | 921 | 921 | 921 | 921 |
| Rainier | 843 | 843 | 843 | 843 | 843 | 843 | 843 |
| Mt. Baker | 837 | 837 | 837 | 837 | 837 | 837 | 837 |
| Middle School #5 | | | | | | 800 | 800 |
| MS CAPACITY | 3,430 | 3,430 | 3,430 | 3,430 | 3,430 | 4,230 | 4,230 |

C. Senior High Schools

| Building | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|
| West Auburn | 233 | 233 | 233 | 233 | 233 | 233 | 233 |
| Auburn | 2,101 | 2,101 | 2,101 | 2,101 | 2,101 | 2,101 | 2,101 |
| Auburn Riverside | 1,387 | 1,387 | 1,387 | 1,387 | 1,387 | 1,387 | 1,387 |
| Auburn Mountainview | 1,443 | 1,443 | 1,443 | 1,443 | 1,443 | 1,443 | 1,443 |
| SH CAPACITY | 5,164 | 5,164 | 5,164 | 5,164 | 5,164 | 5,164 | 5,164 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **COMBINED CAPACITY** | **15,732** | **15,732** | **15,732** | **15,732** | **15,732** | **16,532** | **17,082** |

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section VI

## Capital Construction Plan

The formal process used by the Board to address current and future facility needs began in 1974 with the formation of a community wide citizens committee. The result of this committee's work was published in the document titled '*Guidelines for Development*.' In 1985 the Board formed a second Ad Hoc citizens committee to further the work of the first and address the needs of the District for subsequent years. The work of this committee was published in the document titled *'Directions for the Nineties.'* In 1995 the Board commissioned a third Ad Hoc citizens committee to make recommendations for improvements to the District's programs and physical facilities. The committee recommendations are published in the document titled *'Education Into The Twenty-First Century - - A Community Involved.'*

The 1995 Ad Hoc committee recommended the District develop plans for the implementation, funding, and deployment of technology throughout the District's programs. The 1996 Bond proposition provided funding to enhance the capacity of each facility to accommodate technological applications. The 1998 Capital Levy provided funding to further deploy technology at a level sufficient to support program requirements in every classroom and department. In 2005 and 2014, replacement technology levies were approved to continue to support technology across all facets of the District's teaching, learning and operations.

In addition to the technology needs of the District, the Ad Hoc committee recognized the District must prepare for continued student enrollment growth. As stated in their report, "the District must pursue an appropriate high school site as soon as possible." The Ad Hoc recommendation included commentary that the financing should be timed to maintain consistent rates of tax assessments.

A proposition was approved by the voters on April 28, 1998 that provided $8,000,000 over six years to address some of the technology needs of the District; and $5,000,000 to provide funds to acquire school sites.

During the 1997-98 school year, a Joint District Citizen's Ad Hoc Committee was appointed by the Auburn and Dieringer School Boards to make recommendations on how best to serve the school population from an area that includes a large development known as Lakeland South. Lakeland South at that time was immediately adjacent to the southern boundary of the Auburn School District. On June 16, 1998 the Ad Hoc Committee presented its recommendation at a joint meeting of the Auburn and Dieringer Boards of Directors. On June 22, 1998 the Auburn School Board adopted Resolution No. 933 authorizing the process to initiate the adjustment of the boundaries of the District in accordance with the Ad Hoc Committee's recommendation. On June 23, 1998 the Dieringer School Board adopted a companion Resolution No. 24-97-98 authorizing the process to initiate the adjustment of the boundaries in accordance with the Ad Hoc Committee's recommendation. These actions resulted in the transfer of an area from Dieringer to Auburn containing most of the Lakeland South development and certain other undeveloped properties.

Property for the third comprehensive high school was acquired in 1999. The Board placed the proposition on the ballot four times prior to passing in 2003. Each election was extremely close to passing. After the fourth failure a community meeting was held and from that meeting the Board determined need for further community study.

In April of 2002, the Board formed a fifth citizen's Ad Hoc committee to address the following two items and make recommendations to the Board in the Fall of 2002:

a. A review of the conclusion and recommendations of 1985 and 1995 Ad Hoc Committees related to accommodating high school enrollment growth. This included the review of possible financing plans for new facilities.
b. Develop recommendations for accommodating high school enrollment growth for the next 10 years if a new senior high school is not built.

This committee recommended the Board place the high school on the ballot for the fifth time in February 2003. The February election approved the new high school at 68.71% yes votes. The school opened in the Fall of 2005.

In the Fall of 2003 the school board directed the administration to begin the planning and design for Elementary #13 and Elementary #14. In the Fall of 2004, the Auburn School Board passed Resolution No. 1054 to place two elementary schools on the ballot in February 2005. The voters approved the ballot measure in February of 2005 at 64.72%. Lakeland Hills Elementary (Elementary #13) opened in the Fall of 2006. Arthur Jacobsen Elementary (Elementary #14) is located in the Lea Hill area and opened in the Fall of 2007. These two elementary schools were built to accommodate the housing growth in Lakeland Hills and Lea Hill areas of the school district.

In the 2004-05 school year, the Board convened a sixth Citizen's Ad Hoc committee to again study and make recommendations about the future impacts in the District. One of the areas of study was the need for New Facilities and Modernization. The committee made a number of recommendations including school size, the need for a new middle school, and to begin a capital improvements program to modernize or replace facilities based upon criterion.

During the 2005-06 school year, a Joint District Citizen's Ad Hoc Committee was appointed by the Auburn and Kent School Boards to make recommendations on how best to serve the school population that will come from an area that includes a number of projected developments in the north Auburn valley. On May 17, 2006 the Ad Hoc Committee presented its recommendation at a joint meeting of the Auburn and Kent Boards of Directors. On June 14, 2006 the Kent School Board adopted Resolution No. 1225 authorizing the process to initiate the adjustment of the boundaries of the District in accordance with the Ad Hoc Committee's recommendation. On June 26, 2006 the Auburn School Board adopted a companion Resolution No. 1073 authorizing the process to initiate the adjustment of the boundaries in accordance with the Ad Hoc Committee's recommendation. These actions resulted in the transfer of an area from the Kent School District to the Auburn School District effective September 29, 2006.

In October of 2008, after two years of review and study, a Steering Committee made recommendations to the school board regarding the capital improvements program to modernize or replace facilities as recommended by the 2004-05 Citizen's Ad Hoc Committee. These recommendations, based on specific criteria, led to the school board placing a school improvement bond and capital improvements levy on the ballot in March 2009. Voters did not approve either measure that would have updated 24 facilities and replaced three aging schools. The board decided to place only a six-year Capital Levy on the ballot in November of 2009, which passed at 55.17%. The levy will fund $46.4 million of needed improvement projects at 24 sites over the next seven school years. Planning for the replacement of aging schools has started with educational specifications and schematic design process beginning in 2010 for Auburn High School. A future bond issue will be necessary to fund these projects.

The school district acquired a site for a future middle school in 2009 and will need to consider possibilities for a site for elementary school #15. The Special Education Transition Facility opened in February of 2010. This facility is designed for students with disabilities that are 18 to 21 years old.

In the November 2012 election, the community supported the $110 million bond issue for the Auburn High School Modernization and Reconstruction Project at 62%. The groundbreaking occurred in February 2013 and construction began. This phased project is scheduled to be completed within the next three years. Phase I is nearing completion. Approximately 60% of the total new building area will be occupied by Auburn High School students and staff in the fall of 2014.

Within the six-year period, the District is projecting 2,172 additional students mostly from new development in the Lakeland, Lea Hill, and north Auburn valley areas. This increase in student population will require the construction of a new middle school and acquiring a new elementary school site and constructing an elementary school during the six-year window.

Based upon the District's capacity data and enrollment projections, as well as the student generation data included in Appendix A.3, the District has determined that approximately eighty-six percent of the capacity improvements are necessary to serve the students generated from new development, with the remaining additional capacity required to address existing need.

The table below illustrates the current capital construction plan for the next six years. The exact timelines are wholly dependent on the rate of growth in the school age population and passage of bond issues and/or capital improvement levies.

**2014-20 Capital Construction Plan**
**(March 2014)**

| | Project | Funded | Projected Cost | Fund Source | Project Timelines 13-14 | 14-15 | 15-16 | 16-17 | 17-18 | 18-19 | 19-20 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | All Facilities - Technology Modernization | Yes | $22,000,000 | 2013 6 Year Cap Levy | XX | XX | XX | XX | XX | XX | XX |
| 1/ | Portables | Yes | $2,100,000 | Impact Fees | XX | XX | XX | XX | XX | XX | XX |
| 1/ | Property Purchase New Elementary | No | $3,500,000 | Impact Fees | XX | XX | XX | XX | | | |
| | Multiple Facility Improvements | Yes | $46,400,000 | Capital Levy | XX | XX | XX | XX | | | |
| 1/ | Middle School #5 | No | $52,800,000 | Bond Impact Fee | | | | XX plan | XX const | XX open | |
| 1/ | Elementary #15 | No | $29,800,000 | Bond Impact Fee | | | | | XX plan | XX const | XX open |
| | AHS Modernization | Yes | $110,000,000 | Bond Issue | XX const | XX const | XX open | | | | |

1/ These funds may be secured through local bond issues, sale of real property, impact fees, and state matching funds.
The District currently is not eligible for state assistance at the elementary school level for new construction. The district is eligible for state matching funds for modernization.

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section VII

## Impact Fees

Auburn School District No. 408

# CAPITAL FACILITIES PLAN

**2014 through 2020**

## *IMPACT FEE COMPUTATION (Spring 2014)*

Middle School #5 within 5 year period

Elementary #15 within 5 year period

### *I. SITE COST PER RESIDENCE*

Formula: ((Acres x Cost per Acre)/Facility Size) x Student Factor

| | Site Acreage | Cost/ Acre | Facility Capacity | Student Generation Factor Single Family | Student Generation Factor Multi Family | Cost/ Single Family | Cost/ Multi Family |
|---|---|---|---|---|---|---|---|
| Elem (K - 5) | 12 | $356,728 | 550 | 0.1650 | 0.2230 | $1,284.22 | $1,735.64 |
| Middle Sch (6 - 8) | 25 | $0 | 800 | 0.0760 | 0.0910 | $0.00 | $0.00 |
| Sr High (9 - 12) | 40 | $0 | 1500 | 0.0890 | 0.0920 | $0.00 | $0.00 |
| | | | | | | ***$1,284.22*** | ***$1,735.64*** |

### *II. PERMANENT FACILITY CONSTRUCTION COST PER RESIDENCE*

Formula: ((Facility Cost/Facility Size) x Student Factor) x (Permanent to Total Square Footage Percentage)

| Single Family | Facility Cost | Facility Size | % Perm Sq Ft/ Total Sq Ft | Student Generation Factor Single Family | Student Generation Factor Multi Family | Cost/ Single Family | Cost/ Multi Family |
|---|---|---|---|---|---|---|---|
| Elem (K - 5) | $29,800,000 | 550 | 0.9626 | 0.1650 | 0.2230 | $8,605.49 | $11,630.45 |
| Mid Sch (6 - 8) | $52,800,000 | 800 | 0.9626 | 0.0760 | 0.0910 | $4,828.31 | $5,781.27 |
| Sr High (9 - 12) | $0 | 1500 | 0.9626 | 0.0890 | 0.0920 | $0.00 | $0.00 |
| | | | | | | ***$13,433.80*** | ***$17,411.72*** |

### *III. TEMPORARY FACILITY CONSTRUCTION COST PER RESIDENCE*

Formula: ((Facility Cost/Facility Size) x Student Factor) x (Temporary to Total Square Footage Ratio)

| Single Family | Facility Cost | Facility Size | % Temp Sq Ft/ Total Sq Ft | Student Generation Factor Single Family | Student Generation Factor Multi Family | Cost/ Single Family | Cost/ Multi Family |
|---|---|---|---|---|---|---|---|
| Elem (K - 5) | $150,000 | 24.8 | 0.0374 | 0.1650 | 0.2230 | $37.34 | $50.47 |
| Mid Sch (6 - 8) | $150,000 | 30 | 0.0374 | 0.0760 | 0.0910 | $14.22 | $17.02 |
| Sr High (9 - 12) | $150,000 | 30 | 0.0374 | 0.0890 | 0.0920 | $16.65 | $17.21 |
| | | | | | | ***$68.20*** | ***$84.70*** |

### *IV. STATE MATCH CREDIT PER RESIDENCE*

Formula: (Boeckh Index x SPI Footage x District Match x Student Factor)

| | Boeckh Index | SPI Footage | State Match | Student Generation Factor Single Family | Student Generation Factor Multi Family | Cost/ Single Family | Cost/ Multi Family |
|---|---|---|---|---|---|---|---|
| Elem (K - 5) | $200.40 | 90 | 62.31% | 0.1650 | 0.2230 | $1,854.31 | $2,506.13 |
| Mid Sch (6 - 8) | $200.40 | 117 | 62.31% | 0.0760 | 0.0910 | $1,110.34 | $1,329.48 |
| Sr High (9 - 12) | $0.00 | 130 | 62.31% | 0.0890 | 0.0920 | $0.00 | $0.00 |
| | | | | | | ***$2,964.65*** | ***$3,835.62*** |

## *V. TAX CREDIT PER RESIDENCE*

Formula: Expressed as the present value of an annuity
TC = PV(interest rate,discount period,average assd value x tax rate)

| | Ave Resid Assd Value | Curr Dbt Serv Tax Rate | Bnd Byr Indx Ann Int Rate | Number of Years | Tax Credit Single Family | Tax Credit Multi Family |
|---|---|---|---|---|---|---|
| Single Family | $210,210 | $2.12 | 4.38% | 10 | ***$3,547.16*** | |
| Multi Family | $78,449 | $2.12 | 4.38% | 10 | | ***$1,323.78*** |

## *VI. DEVELOPER PROVIDED FACILITY CREDIT*

Formula: (Value of Site or Facility/Number of dwelling units)

| | Value | No. of Units | Facility Credit |
|---|---|---|---|
| Single Family | $0.00 | 1 | ***$0.00*** |
| Multi Family | $0.00 | 1 | ***$0.00*** |

| FEE RECAP SUMMARY | PER UNIT IMPACT FEES | | |
|---|---|---|---|
| | Single Family | | Multi Family |
| Site Costs | $1,284.22 | | $1,735.64 |
| Permanent Facility Const Costs | $13,433.80 | | $17,411.72 |
| Temporary Facility Costs | $68.20 | | $84.70 |
| State Match Credit | ($2,964.65) | | ($3,835.62) |
| Tax Credit | ($3,547.16) | | ($1,323.78) |
| FEE (No Discount) | $8,274.42 | | $14,072.67 |
| FEE (50% Discount) | $4,137.21 | | $7,036.34 |
| Less ASD 50% Discount | $0.00 | | ($3,518.17) |
| Facility Credit | $0.00 | | $0.00 |
| ***Net Fee Obligation*** | ***$4,137.21*** | | ***$3,518.17*** |

Auburn School District No. 408

# CAPITAL FACILITIES PLAN

**2014 through 2020**

| IMPACT FEE ELEMENTS | | SINGLE FAMILY | | | MULTI FAMILY | | |
|---|---|---|---|---|---|---|---|
| | | Elem K - 5 | Mid Sch 6 - 8 | Sr High 9 - 12 | Elem K - 5* | Mid Sch 6 - 8* | Sr High 9 - 12* |
| Student Factor | Single Family - Auburn actual count (3/14) | 0.165 | 0.076 | 0.089 | 0.223 | 0.091 | 0.092 |
| New Fac Capacity | | 550 | 800 | 1500 | 550 | 800 | 1500 |
| New Facility Cost | Elementary Cost Estimates April 2014 | $26,000,000 | $50,700,000 | | $26,000,000 | $50,700,000 | |
| | Middle School Cost Estimate April 2014 | | | | | | |
| Temp Rm Capacity | ASD District Standard of Service. | 24.8 | 30 | 30 | 24.8 | 30 | 30 |
| | Grades K - 5 @ 24.8 and 6 - 12 @ 30. | | | | | | |
| Temp Facility Cost | Relocatables, including site work, set up, and furnishing | $150,000 | $150,000 | $150,000 | $150,000 | $150,000 | $150,000 |
| Site Acreage | ASD District Standard or SPI Minimum | 12 | 25 | 40 | 12 | 25 | 40 |
| Site Cost/Acre | See below | $356,728 | $356,728 | $356,728 | $356,728 | $356,728 | $356,728 |
| Perm Sq Footage | SPI Rpt #3 dated December 14, 2011 | 1,695,317 | 1,695,317 | 1,695,317 | 1,695,317 | 1,695,317 | 1,695,317 |
| Temp Sq Footage | 75 portables at 832/896 sq. ft. each + TAP 3500 | 65,900 | 65,900 | 65,900 | 65,900 | 65,900 | 65,900 |
| Total Sq Footage | Sum of Permanent and Temporary above | 1,761,217 | 1,761,217 | 1,761,217 | 1,761,217 | 1,761,217 | 1,761,217 |
| % - Perm Facilities | Permanent Sq. Footage divided by Total Sq. Footage | 96.26% | 96.26% | 96.26% | 96.26% | 96.26% | 96.26% |
| % - Temp Facilities | Temporary Sq. Footage divided by Total Sq. Footage | 3.74% | 3.74% | 3.74% | 3.74% | 3.74% | 3.74% |
| SPI Sq Ft/Student | From SPI Regulations | 90 | 117 | 130 | 90 | 117 | 130 |
| Boeckh Index | From SPI schedule for December 2012 | $200.40 | $200.40 | $200.40 | $200.40 | $200.40 | $200.40 |
| Match % - State | From SPI Webpage December 2012 | 62.31% | 62.31% | 62.31% | 62.31% | 62.31% | 62.31% |
| Match % - District | Computed | 37.69% | 37.69% | 37.69% | 37.69% | 37.69% | 37.69% |
| Dist Aver AV | King County Department of Assessments March 2014 | $210,210 | $210,210 | $210,210 | $78,449 | $78,449 | $78,449 |
| Debt Serv Tax Rate | Current Fiscal Year | $2.12 | $2.12 | $2.12 | $2.12 | $2.12 | $2.12 |
| G. O Bond Int Rate | Current Rate - (Bond Buyer 20 Index March 2014) | 4.38% | 4.38% | 4.38% | 4.38% | 4.38% | 4.38% |

*student generation rates 2012 for multi-family

## *Site Cost Projections*

| Recent Property Acquisitions | Acreage | Purchase Year | Purchase Price | Purchase Cost/Acre | Adjusted Present Day | Projected Annual Inflation Factor | Sites Required | Latest Date of Acquisition | Projected Cost/Acre |
|---|---|---|---|---|---|---|---|---|---|
| Lakeland | 12.00 | 2002 | $2,701,043 | $225,087 | $310,687 | | | | |
| Labrador | 35.00 | 2008 | $7,601,799 | $217,194 | $223,710 | | | | |
| Lakeland East | 27.00 | 2009 | $9,092,160 | $336,747 | $336,747 | | | | |
| **Total** | **74.00** | | $19,395,002 | $262,095 | $290,381 | 5.00% | Elementary | 2017 | $356,728 |

Auburn School District No. 408

# Capital Facilities Plan

2014 through 2020

## Section VIII

## Appendix

Appendix A.1 - Student Enrollment Projections

Appendix A.2 - CAPITAL FACILITIES PLAN Enrollment Projections

Appendix A.3 - Student Generation Survey

# Appendix A.1 - Student Enrollment Projections

# Auburn School District #408

## Student Enrollment Projections

October 2013

**Introduction**

The projective techniques give some consideration to historical and current data as a basis for forecasting the future. In addition, the 'projector' must make certain assumptions about the operant variables within the data being used. These assumptions are "judgmental" by definition. Forecasting can be defined as the extrapolation or logical extension from history to the future, or from the known to the unknown. The attached tabular data reviews the history of student enrollment, sets out some quantitative assumptions, and provides projections based on these numerical factors.

The projection logic does not attempt to weigh the individual sociological, psychological, economic, and political factors that are present in any demographic analysis and projection. The logic embraces the assumptions that whatever these individual factors have been in the past are present today, and will be in the future. It further moderates the impact of singular factors by averaging data over thirteen years and six years respectively. The results provide a trend, which reflects a long (13-year) and a short (6-year) base from which to extrapolate.

Two methods of estimating the number of kindergarten students have been used. The first uses the average increase or decrease over the past 13 and 6-year time frame and adds it to each succeeding year. The second derives what the average percentage Auburn kindergartners have been of live births in King County for the past 5 years and uses this to project the subsequent four years.

The degree to which the actuals deviate from the projections can only be measured after the fact. This deviation provides a point of departure to evaluate the effectiveness of the assumptions and logic being used to calculate future projections. Monitoring deviation is critical to the viability and credibility of the projections derived by these techniques.

**Tables**

*Table 1 – Thirteen Year History of October 1 Enrollments* – page 3

The data shown in this table is the baseline information used to project future enrollment. This data shows the past record of enrollment in the district on October 1 of each year.

*Table 2 – Historical Factors Used in Projections* - page 4

This table shows the three basic factors derived from the data in Table 1. These factors have been used in the subsequent projections. The three factors are:

- **Factor 1 – Average Pupil Change Between Grade Levels**
  This factor is sometimes referred to as the "holding power" or "cohort survival." It is a measure of the number of pupils gained or lost as they move from one grade level to the next.
- **Factor 2 - Average Pupil Change by Grade Level**
  This factor is the average change at each grade level over the 13 or 6-year period.
- **Factor 3 – Auburn School District Kindergarten Enrollment as a Function of King County Live Births.**
  This factor calculates what percent each kindergarten class was of the King County live births in the five previous years. From this information has been extrapolated the kindergarten pupils expected for the next four years.

*Table 3 – Projection Models* – pages 5-13
This set of tables utilizes the above mentioned variables and generates several projections. The models are explained briefly below.

- Table 3.13 (pg 5) – shows a projection based on the 13-year average gain in kindergarten (Factor 2) and the 13-year average change between grade levels (Factor 1). The data is shown for the district as a whole.

- Table 3.6 (pg 5) – shows a projection using the same scheme as Table 3.13 except it shortens the historical data to only the most recent 6 years.

- Table 3.13A and 3.6A (pg 6) – uses the same factors above except Factor 3 is substituted for Factor 2. The kindergarten rates are derived from the King County live births instead of the average gain.

- Tables 3E.13, 3E.6, 3E.13A, 3E.6A (pg 7) – breaks out the K-5 grades from the district projection. Summary level data is provided for percentage gain and pupil gain by grade articulation.

- Tables 3MS.13, 3MS.6, 3MS.13A, 3MS.6A (pg 8) – breaks out the 6-8 grades from the district projection. Summary level data is provided for percentage gain and pupil gain by grade articulation.

- Tables 3SH.13, 3SH.6, 3SH.13A, 3SH.6A (pg 9) – breaks out the 9-12 grades from the district projection. Summary level data is provided for percentage gain and pupil gain by grade articulation.

- Table 4 (pg 10) – Collects the four projection models by grade group for ease of comparison.

- Table 5 (pgs 11-13) – shows how well each projection model performed when compared with actual enrollments. Data is provided in both number and percent formats for the past 13 years.

## Summary

This year is the second consecutive year of an increase in enrollment after three consecutive years of declining enrollment. The increase of 375 students changes our historical average gain/loss in students. Over the past 6 years the average gain is now .48% annually, which equates to an average annual gain of 69 students.

Using the cohort survival models, the data below is a summary of the range of variation between the four models. This data can be used for planning for future needs of the district.

The models show changes in the next six years:

- Elementary level show increases ranging from 342 to 1328. (page 7)
- Middle School level show increases ranging from 489 to 538. (page 8)
- High School level show increases ranging from 353 to 410. (page 9)

The models show these changes looking forward thirteen years:

- Elementary level show increases ranging from 2341 to 2773. (page 7)
- Middle School level show increases ranging from 442 to 1248. (page 8)
- High School level show increases ranging from 795 to 1401. (page 9)

This data does not factor new developments that are currently under construction or in the planning stages.

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

TABLE 1 Thirteen Year History of October 1 Enrollments(Rev 10/13)

| GRADE | 01-02 | 02-03 | 03-04 | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | 09-10 | 10-11 | 11-12 | 12-13 | Actual **13-14** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 846 | 905 | 922 | 892 | 955 | 941 | 996 | 998 | 1032 | 1010 | 1029 | 1098 | 1170 |
| 1 | 968 | 900 | 982 | 960 | 963 | 1012 | 995 | 1015 | 1033 | 1066 | 1068 | 1089 | 1188 |
| 2 | 949 | 961 | 909 | 992 | 963 | 1002 | 1019 | 1024 | 998 | 1016 | 1097 | 1083 | 1124 |
| 3 | 966 | 940 | 996 | 918 | 1002 | 1031 | 997 | 1048 | 993 | 1013 | 996 | 1111 | 1125 |
| 4 | 1077 | 973 | 947 | 1016 | 939 | 1049 | 1057 | 1044 | 1073 | 1024 | 1022 | 1038 | 1123 |
| 5 | 1108 | 1062 | 1018 | 957 | 1065 | 998 | 1078 | 1069 | 1030 | 1079 | 1018 | 1070 | 1075 |
| 6 | 1028 | 1104 | 1111 | 1020 | 1004 | 1058 | 1007 | 1096 | 1040 | 1041 | 1063 | 1041 | 1076 |
| 7 | 1017 | 1021 | 1131 | 1124 | 1028 | 1014 | 1057 | 1034 | 1125 | 1060 | 1032 | 1086 | 1072 |
| 8 | 1004 | 1026 | 1052 | 1130 | 1137 | 1072 | 1033 | 1076 | 1031 | 1112 | 1046 | 1017 | 1116 |
| 9 | 1405 | 1441 | 1473 | 1461 | 1379 | 1372 | 1337 | 1256 | 1244 | 1221 | 1273 | 1200 | 1159 |
| 10 | 1073 | 1234 | 1249 | 1261 | 1383 | 1400 | 1368 | 1341 | 1277 | 1238 | 1170 | 1278 | 1229 |
| 11 | 1090 | 927 | 1010 | 1055 | 1182 | 1322 | 1352 | 1350 | 1303 | 1258 | 1233 | 1164 | 1240 |
| 12 | 930 | 933 | 902 | 886 | 1088 | 1147 | 1263 | 1352 | 1410 | 1344 | 1316 | 1321 | 1274 |
| TOTALS | 13,461 | 13,427 | 13,702 | 13,672 | 14,088 | 14,418 | 14,559 | 14,703 | 14,589 | 14,482 | 14,363 | 14,596 | **14,971** |
| Percent of Gain | | (0.25)% | 2.05% | (0.22)% | 3.04% | 2.34% | 0.98% | 0.99% | (0.78)% | (0.73)% | (0.82)% | 1.62% | 2.57% |
| Pupil Gain | | (34) | 275 | (30) | 416 | 330 | 141 | 144 | (114) | (107) | (119) | 233 | 375 |

| | | | |
|---|---|---|---|
| Average % Gain for 1st 6 years. | 1.32% | Average % Gain for last 6 years | 0.48% |
| Average Pupil Gain for 1st 6 years. | 183 | Average Pupil Gain for last 6 years | 69 |
| Average % Gain for 13 years. | 0.90% | | |
| Average Pupil Gain for 13 years. | 126 | | |

TABLE 1A Grade Group Combinations

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 846 | 905 | 922 | 892 | 955 | 941 | 996 | 998 | 1032 | 1010 | 1029 | 1098 | 1170 |
| K,1,2 | 2763 | 2766 | 2813 | 2844 | 2881 | 2955 | 3010 | 3037 | 3063 | 3092 | 3194 | 3270 | 3482 |
| K - 5 | 5914 | 5741 | 5774 | 5735 | 5887 | 6033 | 6142 | 6198 | 6159 | 6208 | 6230 | 6489 | 6805 |
| K - 6 | 6942 | 6845 | 6885 | 6755 | 6891 | 7091 | 7149 | 7294 | 7199 | 7249 | 7293 | 7530 | 7881 |
| 1 - 3 | 2883 | 2801 | 2887 | 2870 | 2928 | 3045 | 3011 | 3087 | 3024 | 3095 | 3161 | 3283 | 3437 |
| 1 - 5 | 5068 | 4836 | 4852 | 4843 | 4932 | 5092 | 5146 | 5200 | 5127 | 5198 | 5201 | 5391 | 5635 |
| 1 - 6 | 6096 | 5940 | 5963 | 5863 | 5936 | 6150 | 6153 | 6296 | 6167 | 6239 | 6264 | 6432 | 6711 |
| 6 - 8 | 3049 | 3151 | 3294 | 3274 | 3169 | 3144 | 3097 | 3206 | 3196 | 3213 | 3141 | 3144 | 3264 |
| 7 - 8 | 2021 | 2047 | 2183 | 2254 | 2165 | 2086 | 2090 | 2110 | 2156 | 2172 | 2078 | 2103 | 2188 |
| 7 - 9 | 3426 | 3488 | 3656 | 3715 | 3544 | 3458 | 3427 | 3366 | 3400 | 3393 | 3351 | 3303 | 3347 |
| 9 - 12 | 4498 | 4535 | 4634 | 4663 | 5032 | 5241 | 5320 | 5299 | 5234 | 5061 | 4992 | 4963 | 4902 |
| 10 - 12 | 3093 | 3094 | 3161 | 3202 | 3653 | 3869 | 3983 | 4043 | 3990 | 3840 | 3719 | 3763 | 3743 |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 2 | Factors Used in Projections |
|---|---|

| Factor 1 | Average Pupil Change Between Grade Levels | | |
|---|---|---|---|
| 13 YEAR BASE | | 6 YEAR BASE | |
| K to 1 | 53.92 | K to 1 | 49.33 |
| 1 to 2 | 11.42 | 1 to 2 | 12.67 |
| 2 to 3 | 13.08 | 2 to 3 | 8.17 |
| 3 to 4 | 24.50 | 3 to 4 | 27.67 |
| 4 to 5 | 21.67 | 4 to 5 | 13.83 |
| 5 to 6 | 9.08 | 5 to 6 | 2.17 |
| 6 to 7 | 14.25 | 6 to 7 | 20.17 |
| 7 to 8 | 9.92 | 7 to 8 | 0.67 |
| 8 to 9 | 256.67 | 8 to 9 | 173.00 |
| 9 to 10 | (52.83) | 9 to 10 | 0.33 |
| 10 to 11 | (73.00) | 10 to 11 | (20.67) |
| 11 to 12 | (0.83) | 11 to 12 | 59.50 |
| total | 287.83 | total | 346.83 |

Factor 1 is the average gain or loss of pupils as they move from one grade level to the next. Factor 1 uses the past (12) OR (5) years of changes.

| Factor 2 | Average Pupil Change By Grade Level | | |
|---|---|---|---|
| 13 YEAR BASE | | 6 YEAR BASE | |
| K | 27.00 | K | 34.40 |
| 1 | 18.33 | 1 | 34.60 |
| 2 | 14.58 | 2 | 20.00 |
| 3 | 13.25 | 3 | 15.40 |
| 4 | 3.83 | 4 | 15.80 |
| 5 | (2.75) | 5 | 1.20 |
| 6 | 4.00 | 6 | (4.00) |
| 7 | 4.58 | 7 | 7.60 |
| 8 | 9.33 | 8 | 8.00 |
| 9 | (20.50) | 9 | (19.40) |
| 10 | 13.00 | 10 | (22.40) |
| 11 | 12.50 | 11 | (22.00) |
| 12 | 28.67 | 12 | (15.60) |

Factor 2 is the average change in grade level size from 01/02 OR 08/09.

| Factor 3 | AUBURN SCHOOL DISTRICT KINDERGARTEN ENROLLMENTS AS FUNCTION OF KING COUNTY LIVE BIRTH RATES | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| CAL-ENDAR YEAR | TOTAL LIVE BIRTHS | 2/3rds BIRTHS | 1/3rds BIRTHS | YEAR OF ENROLL | ADJUSTED LIVE BIRTHS | KDG ENROLL. | | AUBURN KINDERGARTEN ENROLLMENT AS A % OF ADJUSTED LIVE BIRTHS | |
| 1973 | 13,449 | 8,966 | 4,483 | 79/80 | 13,478 | 618 | | 4.585% | |
| 1974 | 13,493 | 8,995 | 4,498 | 80/81 | 13,524 | 600 | | 4.436% | |
| 1975 | 13,540 | 9,027 | 4,513 | 81/82 | 13,687 | 588 | | 4.296% | |
| 1976 | 13,761 | 9,174 | 4,587 | 82/83 | 14,375 | 698 | | 4.856% | |
| 1977 | 14,682 | 9,788 | 4,894 | 83/84 | 14,958 | 666 | | 4.452% | |
| 1978 | 15,096 | 10,064 | 5,032 | 84/85 | 16,048 | 726 | | 4.524% | |
| 1979 | 16,524 | 11,016 | 5,508 | 85/86 | 16,708 | 792 | | 4.740% | |
| 1980 | 16,800 | 11,200 | 5,600 | 86/87 | 17,000 | 829 | | 4.876% | |
| 1981 | 17,100 | 11,400 | 5,700 | 87/88 | 18,241 | 769 | | 4.216% | |
| 1982 | 18,811 | 12,541 | 6,270 | 88/89 | 18,626 | 817 | | 4.386% | |
| 1983 | 18,533 | 12,355 | 6,178 | 89/90 | 18,827 | 871 | | 4.626% | |
| 1984 | 18,974 | 12,649 | 6,325 | 90/91 | 19,510 | 858 | | 4.398% | |
| 1985 | 19,778 | 13,185 | 6,593 | 91/92 | 19,893 | 909 | | 4.569% | |
| 1986 | 19,951 | 13,301 | 6,650 | 92/93 | 21,852 | 920 | | 4.210% | |
| 1987 | 22,803 | 15,202 | 7,601 | 93/94 | 21,624 | 930 | | 4.301% | |
| 1988 | 21,034 | 14,023 | 7,011 | 94/95 | 24,062 | 927 | | 3.853% | |
| 1989 | 25,576 | 17,051 | 8,525 | 95/96 | 26,358 | 954 | | 3.619% | |
| 1990 | 26,749 | 17,833 | 8,916 | 96/97 | 24,116 | 963 | | 3.993% | |
| 1991 | 22,799 | 15,199 | 7,600 | 97/98 | 20,973 | 978 | | 4.663% | |
| 1992 | 20,060 | 13,373 | 6,687 | 98/99 | 21,573 | 854 | | 3.959% | |
| 1993 | 22,330 | 14,887 | 7,443 | 99/00 | 22,129 | 849 | | 3.837% | |
| 1994 | 22,029 | 14,686 | 7,343 | 00/01 | 24,013 | 912 | | 3.798% | |
| 1995 | 25,005 | 16,670 | 8,335 | 01/02 | 22,717 | 846 | | 3.724% | |
| 1996 | 21,573 | 14,382 | 7,191 | 02/03 | 21,622 | 905 | | 4.186% | |
| 1997 | 21,646 | 14,431 | 7,215 | 03/04 | 22,023 | 922 | | 4.186% | |
| 1998 | 22,212 | 14,808 | 7,404 | 04/05 | 22,075 | 892 | | 4.041% | |
| 1999 | 22,007 | 14,671 | 7,336 | 05/06 | 22,327 | 955 | | 4.277% | |
| 2000 | 22,487 | 14,991 | 7,496 | 06/07 | 22,014 | 941 | | 4.274% | |
| 2001 | 21,778 | 14,519 | 7,259 | 07/08 | 21,835 | 996 | | 4.562% | |
| 2002 | 21,863 | 14,575 | 7,288 | 08/09 | 22,242 | 998 | | 4.487% | |
| 2003 | 22,431 | 14,954 | 7,477 | 09/10 | 22,726 | 1032 | | 4.541% | **Last 5** |
| 2004 | 22,874 | 15,249 | 7,625 | 10/11 | 22,745 | 1010 | | 4.441% | **year** |
| 2005 | 22,680 | 15,120 | 7,560 | 11/12 | 23,723 | 1029 | | 4.338% | **Average** |
| 2006 | 24,244 | 16,163 | 8,081 | 12/13 | 24,683 | 1098 | | 4.448% | **4.480%** |
| 2007 | 24,902 | 16,601 | 8,301 | 13/14 | 25,094 | ***1162*** | ***Actual*** | 4.631% | |
| 2008 | 25,190 | 16,793 | 8,397 | 14/15 | 25,101 | ***1124*** | <--Prjctd | Last 5 | |
| 2009 | 25,057 | 16,705 | 8,352 | 15/16 | 24,695 | ***1106*** | <--Prjctd | Last 5 | |
| 2010 | 24,514 | 16,343 | 8,171 | 16/17 | 24,591 | ***1102*** | <--Prjctd | Last 5 | |
| 2011 | 24,630 | 16,420 | 8,210 | 17/18 | 24,898 | ***1115*** | <--Prjctd | Last 5 | |
| 2012 | 25,032 | 16,688 | 8,344 | 18/19 | | * number from DOH | | | |

Source: Center for Health Statistics, Washington State Department of Health

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 3.13 | DISTRICT PROJECTIONS Based on 13 Year History | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 |
| KDG | 1170 | 1197 | 1224 | 1251 | 1278 | 1305 | 1332 | 1359 | 1386 | 1413 | 1440 | 1467 | 1494 | 1521 |
| 1 | 1188 | 1224 | 1251 | 1278 | 1305 | 1332 | 1359 | 1386 | 1413 | 1440 | 1467 | 1494 | 1521 | 1548 |
| 2 | 1124 | 1199 | 1235 | 1262 | 1289 | 1316 | 1343 | 1370 | 1397 | 1424 | 1451 | 1478 | 1505 | 1532 |
| 3 | 1125 | 1137 | 1213 | 1248 | 1275 | 1302 | 1329 | 1356 | 1383 | 1410 | 1437 | 1464 | 1491 | 1518 |
| 4 | 1123 | 1150 | 1162 | 1237 | 1273 | 1300 | 1327 | 1354 | 1381 | 1408 | 1435 | 1462 | 1489 | 1516 |
| 5 | 1075 | 1145 | 1171 | 1183 | 1259 | 1295 | 1322 | 1349 | 1376 | 1403 | 1430 | 1457 | 1484 | 1511 |
| 6 | 1076 | 1084 | 1154 | 1180 | 1192 | 1268 | 1304 | 1331 | 1358 | 1385 | 1412 | 1439 | 1466 | 1493 |
| 7 | 1072 | 1090 | 1098 | 1168 | 1195 | 1207 | 1282 | 1318 | 1345 | 1372 | 1399 | 1426 | 1453 | 1480 |
| 8 | 1116 | 1082 | 1100 | 1108 | 1178 | 1204 | 1217 | 1292 | 1328 | 1355 | 1382 | 1409 | 1436 | 1463 |
| 9 | 1159 | 1373 | 1339 | 1357 | 1365 | 1435 | 1461 | 1473 | 1549 | 1585 | 1612 | 1639 | 1666 | 1693 |
| 10 | 1229 | 1106 | 1320 | 1286 | 1304 | 1312 | 1382 | 1408 | 1420 | 1496 | 1532 | 1559 | 1586 | 1613 |
| 11 | 1240 | 1156 | 1033 | 1247 | 1213 | 1231 | 1239 | 1309 | 1335 | 1347 | 1423 | 1459 | 1486 | 1513 |
| 12 | 1274 | 1239 | 1155 | 1032 | 1246 | 1212 | 1230 | 1238 | 1308 | 1334 | 1347 | 1422 | 1458 | 1485 |
| TOTALS | 14,971 | 15,182 | 15,455 | 15,838 | 16,372 | 16,719 | 17,126 | 17,543 | 17,979 | 18,372 | 18,765 | 19,173 | 19,533 | 19,884 |
| Percent of Gain | | 1.41% | 1.80% | 2.48% | 3.37% | 2.12% | 2.44% | 2.43% | 2.48% | 2.19% | 2.14% | 2.18% | 1.88% | 1.80% |
| Pupil Gain | | 211 | 273 | 384 | 533 | 347 | 408 | 417 | 436 | 393 | 393 | 408 | 360 | 351 |

| TABLE 3.6 | DISTRICT PROJECTIONS Based on 6 Year History | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 |
| KDG | 1170 | 1204 | 1239 | 1273 | 1308 | 1342 | 1376 | 1411 | 1445 | 1480 | 1514 | 1548 | 1583 | 1617 |
| 1 | 1188 | 1219 | 1254 | 1288 | 1323 | 1357 | 1391 | 1426 | 1460 | 1495 | 1529 | 1563 | 1598 | 1632 |
| 2 | 1124 | 1201 | 1232 | 1266 | 1301 | 1335 | 1370 | 1404 | 1438 | 1473 | 1507 | 1542 | 1576 | 1610 |
| 3 | 1125 | 1132 | 1209 | 1240 | 1275 | 1309 | 1343 | 1378 | 1412 | 1447 | 1481 | 1515 | 1550 | 1584 |
| 4 | 1123 | 1153 | 1160 | 1237 | 1268 | 1302 | 1337 | 1371 | 1405 | 1440 | 1474 | 1509 | 1543 | 1577 |
| 5 | 1075 | 1137 | 1167 | 1174 | 1250 | 1282 | 1316 | 1350 | 1385 | 1419 | 1454 | 1488 | 1522 | 1557 |
| 6 | 1076 | 1077 | 1139 | 1169 | 1176 | 1253 | 1284 | 1318 | 1353 | 1387 | 1421 | 1456 | 1490 | 1525 |
| 7 | 1072 | 1096 | 1097 | 1159 | 1189 | 1196 | 1273 | 1304 | 1338 | 1373 | 1407 | 1442 | 1476 | 1510 |
| 8 | 1116 | 1073 | 1097 | 1098 | 1160 | 1190 | 1197 | 1273 | 1305 | 1339 | 1373 | 1408 | 1442 | 1477 |
| 9 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1446 | 1478 | 1512 | 1546 | 1581 | 1615 |
| 10 | 1229 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1447 | 1478 | 1512 | 1547 | 1581 |
| 11 | 1240 | 1208 | 1139 | 1269 | 1225 | 1250 | 1251 | 1313 | 1342 | 1349 | 1426 | 1457 | 1492 | 1526 |
| 12 | 1274 | 1300 | 1268 | 1198 | 1328 | 1285 | 1309 | 1310 | 1372 | 1402 | 1409 | 1486 | 1517 | 1551 |
| TOTALS | 14,971 | 15,248 | 15,534 | 15,887 | 16,343 | 16,704 | 17,142 | 17,591 | 18,072 | 18,527 | 18,986 | 19,472 | 19,917 | 20,364 |
| Percent of Gain | | 1.85% | 1.88% | 2.27% | 2.87% | 2.21% | 2.62% | 2.62% | 2.74% | 2.51% | 2.48% | 2.56% | 2.28% | 2.25% |
| Pupil Gain | | 277 | 286 | 352 | 456 | 361 | 438 | 449 | 482 | 454 | 459 | 486 | 444 | 447 |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 3.13A | DISTRICT PROJECTIONS Based on Birth Rates & 13 Year History | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 |
| K | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | |
| 1 | 1188 | 1224 | 1178 | 1160 | 1156 | 1169 | | | | | | | | |
| 2 | 1124 | 1199 | 1235 | 1190 | 1172 | 1167 | 1181 | | | | | | | |
| 3 | 1125 | 1137 | 1213 | 1248 | 1203 | 1185 | 1180 | 1194 | | | | | | |
| 4 | 1123 | 1150 | 1162 | 1237 | 1273 | 1227 | 1209 | 1205 | 1218 | | | | | |
| 5 | 1075 | 1145 | 1171 | 1183 | 1259 | 1295 | 1249 | 1231 | 1226 | 1240 | | | | |
| 6 | 1076 | 1084 | 1154 | 1180 | 1192 | 1268 | 1304 | 1258 | 1240 | 1235 | 1249 | | | |
| 7 | 1072 | 1090 | 1098 | 1168 | 1195 | 1207 | 1282 | 1318 | 1272 | 1254 | 1250 | 1263 | | |
| 8 | 1116 | 1082 | 1100 | 1108 | 1178 | 1204 | 1217 | 1292 | 1328 | 1282 | 1264 | 1259 | 1273 | |
| 9 | 1159 | 1373 | 1339 | 1357 | 1365 | 1435 | 1461 | 1473 | 1549 | 1585 | 1539 | 1521 | 1516 | 1530 |
| 10 | 1229 | 1106 | 1320 | 1286 | 1304 | 1312 | 1382 | 1408 | 1420 | 1496 | 1532 | 1486 | 1468 | 1463 |
| 11 | 1240 | 1156 | 1033 | 1247 | 1213 | 1231 | 1239 | 1309 | 1335 | 1347 | 1423 | 1459 | 1413 | 1395 |
| 12 | 1274 | 1239 | 1155 | 1032 | 1246 | 1212 | 1230 | 1238 | 1308 | 1334 | 1347 | 1422 | 1458 | 1412 |
| TOTALS | 14,971 | 15,109 | 15,264 | 15,498 | 15,869 | | | | | | | | | |
| Percent of Gain | | 0.92% | 1.03% | 1.53% | 2.39% | | | | | | | | | |
| Pupil Gain | | 138 | 155 | 234 | 371 | | | | | | | | | |

| TABLE 3.6A | DISTRICT PROJECTIONS Based on Birth Rates & 6 Year History | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 |
| KDG | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | |
| 1 | 1188 | 1219 | 1174 | 1156 | 1151 | 1165 | | | | | | | | |
| 2 | 1124 | 1201 | 1232 | 1186 | 1168 | 1164 | 1177 | | | | | | | |
| 3 | 1125 | 1132 | 1209 | 1240 | 1195 | 1176 | 1172 | 1186 | | | | | | |
| 4 | 1123 | 1153 | 1160 | 1237 | 1268 | 1222 | 1204 | 1199 | 1213 | | | | | |
| 5 | 1075 | 1137 | 1167 | 1174 | 1250 | 1282 | 1236 | 1218 | 1213 | 1227 | | | | |
| 6 | 1076 | 1077 | 1139 | 1169 | 1176 | 1253 | 1284 | 1238 | 1220 | 1215 | 1229 | | | |
| 7 | 1072 | 1096 | 1097 | 1159 | 1189 | 1196 | 1273 | 1304 | 1258 | 1240 | 1236 | 1249 | | |
| 8 | 1116 | 1073 | 1097 | 1098 | 1160 | 1190 | 1197 | 1273 | 1305 | 1259 | 1241 | 1236 | 1250 | |
| 9 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1446 | 1478 | 1432 | 1414 | 1409 | 1423 |
| 10 | 1229 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1447 | 1478 | 1432 | 1414 | 1410 |
| 11 | 1240 | 1208 | 1139 | 1269 | 1225 | 1250 | 1251 | 1313 | 1342 | 1349 | 1426 | 1457 | 1412 | 1394 |
| 12 | 1274 | 1300 | 1268 | 1198 | 1328 | 1285 | 1309 | 1310 | 1372 | 1402 | 1409 | 1486 | 1517 | 1471 |
| TOTALS | 14,971 | 15,168 | 15,322 | 15,502 | 15,766 | | | | | | | | | |
| Percent of Gain | | 1.32% | 1.01% | 1.18% | 1.70% | | | | | | | | | |
| Pupil Gain | | 197 | 154 | 181 | 264 | | | | | | | | | |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

TABLE 3E.13 — K - 5 PROJECTIONS — Based on 13 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1197 | 1224 | 1251 | 1278 | 1305 | 1332 | 1359 | 1386 | 1413 | 1440 | 1467 | 1494 | 1521 | | |
| 1 | 1188 | 1224 | 1251 | 1278 | 1305 | 1332 | 1359 | 1386 | 1413 | 1440 | 1467 | 1494 | 1521 | 1548 | | |
| 2 | 1124 | 1199 | 1235 | 1262 | 1289 | 1316 | 1343 | 1370 | 1397 | 1424 | 1451 | 1478 | 1505 | 1532 | | |
| 3 | 1125 | 1137 | 1213 | 1248 | 1275 | 1302 | 1329 | 1356 | 1383 | 1410 | 1437 | 1464 | 1491 | 1518 | | |
| 4 | 1123 | 1150 | 1162 | 1237 | 1273 | 1300 | 1327 | 1354 | 1381 | 1408 | 1435 | 1462 | 1489 | 1516 | | |
| 5 | 1075 | 1145 | 1171 | 1183 | 1259 | 1295 | 1322 | 1349 | 1376 | 1403 | 1430 | 1457 | 1484 | 1511 | | |
| K - 5 TOT | 6805 | 7052 | 7256 | 7460 | 7679 | 7850 | 8012 | 8174 | 8336 | 8498 | 8660 | 8822 | 8984 | 9146 | 1207 | 2341 |
| Percent of Gain | | 3.62% | 2.89% | 2.82% | 2.94% | 2.23% | 2.06% | 2.02% | 1.98% | 1.94% | 1.91% | 1.87% | 1.84% | 1.80% | | |
| Pupil Gain | | 247 | 204 | 204 | 219 | 171 | 162 | 162 | 162 | 162 | 162 | 162 | 162 | 162 | | |

TABLE 3E.6 — K - 5 PROJECTIONS — Based on 6 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1204 | 1239 | 1273 | 1308 | 1342 | 1376 | 1411 | 1445 | 1480 | 1514 | 1548 | 1583 | 1617 | | |
| 1 | 1188 | 1219 | 1254 | 1288 | 1323 | 1357 | 1391 | 1426 | 1460 | 1495 | 1529 | 1563 | 1598 | 1632 | | |
| 2 | 1124 | 1201 | 1232 | 1266 | 1301 | 1335 | 1370 | 1404 | 1438 | 1473 | 1507 | 1542 | 1576 | 1610 | | |
| 3 | 1125 | 1132 | 1209 | 1240 | 1275 | 1309 | 1343 | 1378 | 1412 | 1447 | 1481 | 1515 | 1550 | 1584 | | |
| 4 | 1123 | 1153 | 1160 | 1237 | 1268 | 1302 | 1337 | 1371 | 1405 | 1440 | 1474 | 1509 | 1543 | 1577 | | |
| 5 | 1075 | 1137 | 1167 | 1174 | 1250 | 1282 | 1316 | 1350 | 1385 | 1419 | 1454 | 1488 | 1522 | 1557 | | |
| K - 5 TOT | 6805 | 7046 | 7260 | 7478 | 7724 | 7927 | 8133 | 8340 | 8546 | 8753 | 8959 | 9165 | 9372 | 9578 | 1328 | 2773 |
| Percent of Gain | | 3.54% | 3.03% | 3.01% | 3.28% | 2.63% | 2.60% | 2.54% | 2.47% | 2.42% | 2.36% | 2.30% | 2.25% | 2.20% | | |
| Pupil Gain | | 241 | 214 | 218 | 246 | 203 | 206 | 206 | 206 | 206 | 206 | 206 | 206 | 206 | | |

TABLE 3E.13A — K - 5 PROJECTIONS — Based on Birth Rates & 13 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 4 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| K | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | | |
| 1 | 1188 | 1224 | 1178 | 1160 | 1156 | 1169 | | | | | | | | | |
| 2 | 1124 | 1199 | 1235 | 1190 | 1172 | 1167 | 1181 | | | | | | | | |
| 3 | 1125 | 1137 | 1213 | 1248 | 1203 | 1185 | 1180 | 1194 | | | | | | | |
| 4 | 1123 | 1150 | 1162 | 1237 | 1273 | 1227 | 1209 | 1205 | 1218 | | | | | | |
| 5 | 1075 | 1145 | 1171 | 1183 | 1259 | 1295 | 1249 | 1231 | 1226 | 1240 | | | | | |
| K - 5 TOT | 6805 | 6979 | 7065 | 7120 | 7177 | | | | | | | | | | 372 |
| Percent of Gain | | 2.56% | 1.23% | 0.78% | 0.80% | | | | | | | | | | |
| Pupil Gain | | 174 | 86 | 55 | 57 | | | | | | | | | | |

TABLE 3E.6A — K - 5 PROJECTIONS — Based on Birth Rates & 6 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 4 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | | |
| 1 | 1188 | 1219 | 1174 | 1156 | 1151 | 1165 | | | | | | | | | |
| 2 | 1124 | 1201 | 1232 | 1186 | 1168 | 1164 | 1177 | | | | | | | | |
| 3 | 1125 | 1132 | 1209 | 1240 | 1195 | 1176 | 1172 | 1186 | | | | | | | |
| 4 | 1123 | 1153 | 1160 | 1237 | 1268 | 1222 | 1204 | 1199 | 1213 | | | | | | |
| 5 | 1075 | 1137 | 1167 | 1174 | 1250 | 1282 | 1236 | 1218 | 1213 | 1227 | | | | | |
| K - 5 TOT | 6805 | 6966 | 7047 | 7094 | 7147 | | | | | | | | | | 342 |
| Percent of Gain | | 2.37% | 1.16% | 0.66% | 0.75% | | | | | | | | | | |
| Pupil Gain | | 161 | 81 | 47 | 53 | | | | | | | | | | |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 3MS.13 | MIDDLE SCHOOL PROJECTIONS Based on 13 Year History | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | | |
| 6 | 1076 | 1084 | 1154 | 1180 | 1192 | 1268 | 1304 | 1331 | 1358 | 1385 | 1412 | 1439 | 1466 | 1493 | | |
| 7 | 1072 | 1090 | 1098 | 1168 | 1195 | 1207 | 1282 | 1318 | 1345 | 1372 | 1399 | 1426 | 1453 | 1480 | | |
| 8 | 1116 | 1082 | 1100 | 1108 | 1178 | 1204 | 1217 | 1292 | 1328 | 1355 | 1382 | 1409 | 1436 | 1463 | 6 year | 13 year |
| 6 - 8 TOT | 3264 | 3256 | 3352 | 3457 | 3565 | 3679 | 3802 | 3941 | 4030 | 4111 | 4192 | 4273 | 4354 | 4435 | 538 | 1171 |
| Percent of Gain | | (0.24)% | 2.95% | 3.11% | 3.13% | 3.20% | 3.35% | 3.64% | 2.28% | 2.01% | 1.97% | 1.93% | 1.90% | 1.86% | | |
| Pupil Gain | | (8) | 96 | 104 | 108 | 114 | 123 | 138 | 90 | 81 | 81 | 81 | 81 | 81 | | |

| TABLE 3MS.6 | MIDDLE SCHOOL PROJECTIONS Based on 6 Year History | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | | |
| 6 | 1076 | 1077 | 1139 | 1169 | 1176 | 1253 | 1284 | 1318 | 1353 | 1387 | 1421 | 1456 | 1490 | 1525 | | |
| 7 | 1072 | 1096 | 1097 | 1159 | 1189 | 1196 | 1273 | 1304 | 1338 | 1373 | 1407 | 1442 | 1476 | 1510 | | |
| 8 | 1116 | 1073 | 1097 | 1098 | 1160 | 1190 | 1197 | 1273 | 1305 | 1339 | 1373 | 1408 | 1442 | 1477 | 6 year | 13 year |
| 6 - 8 TOT | 3264 | 3246 | 3333 | 3426 | 3525 | 3638 | 3753 | 3896 | 3996 | 4099 | 4202 | 4305 | 4409 | 4512 | 489 | 1248 |
| Percent of Gain | | (0.55)% | 2.69% | 2.78% | 2.88% | 3.22% | 3.17% | 3.79% | 2.57% | 2.58% | 2.52% | 2.46% | 2.40% | 2.34% | | |
| Pupil Gain | | (18) | 87 | 93 | 99 | 114 | 115 | 142 | 100 | 103 | 103 | 103 | 103 | 103 | | |

| TABLE 3MS.13A | MIDDLE SCHOOL PROJECTIONS Based on Birth Rates & 13 Year History | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | | |
| 6 | 1076 | 1084 | 1154 | 1180 | 1192 | 1268 | 1304 | 1258 | 1240 | 1235 | 1249 | | | | | |
| 7 | 1072 | 1090 | 1098 | 1168 | 1195 | 1207 | 1282 | 1318 | 1272 | 1254 | 1250 | 1263 | | | | |
| 8 | 1116 | 1082 | 1100 | 1108 | 1178 | 1204 | 1217 | 1292 | 1328 | 1282 | 1264 | 1259 | 1273 | | 6 year | 10 year |
| 6 - 8 TOT | 3264 | 3256 | 3352 | 3457 | 3565 | 3679 | 3802 | 3868 | 3840 | 3772 | 3763 | | | | 538 | 499 |
| Percent of Gain | | (0.24)% | 2.95% | 3.11% | 3.13% | 3.20% | 3.35% | 1.73% | (0.72)% | (1.78)% | (0.24)% | | | | | |
| Pupil Gain | | (8) | 96 | 104 | 108 | 114 | 123 | 66 | (28) | (68) | (9) | | | | | |

| TABLE 3MS.6A | MIDDLE SCHOOL PROJECTIONS Based on Birth Rates & 6 Year History | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | | |
| 6 | 1076 | 1077 | 1139 | 1169 | 1176 | 1253 | 1284 | 1238 | 1220 | 1215 | 1229 | | | | | |
| 7 | 1072 | 1096 | 1097 | 1159 | 1189 | 1196 | 1273 | 1304 | 1258 | 1240 | 1236 | 1249 | | | | |
| 8 | 1116 | 1073 | 1097 | 1098 | 1160 | 1190 | 1197 | 1273 | 1305 | 1259 | 1241 | 1236 | 1250 | | 6 year | 10 year |
| 6 - 8 TOT | 3264 | 3246 | 3333 | 3426 | 3525 | 3638 | 3753 | 3816 | 3783 | 3715 | 3706 | | | | 489 | 442 |
| Percent of Gain | | (0.55)% | 2.69% | 2.78% | 2.88% | 3.22% | 3.17% | 1.66% | (0.85)% | (1.81)% | (0.25)% | | | | | |
| Pupil Gain | | (18) | 87 | 93 | 99 | 114 | 115 | 62 | (32) | (68) | (9) | | | | | |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

TABLE 3SH.13 — SR. HIGH PROJECTIONS — Based on 13 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 1159 | 1373 | 1339 | 1357 | 1365 | 1435 | 1461 | 1473 | 1549 | 1585 | 1612 | 1639 | 1666 | 1693 | | |
| 10 | 1229 | 1106 | 1320 | 1286 | 1304 | 1312 | 1382 | 1408 | 1420 | 1496 | 1532 | 1559 | 1586 | 1613 | | |
| 11 | 1240 | 1156 | 1033 | 1247 | 1213 | 1231 | 1239 | 1309 | 1335 | 1347 | 1423 | 1459 | 1486 | 1513 | | |
| 12 | 1274 | 1239 | 1155 | 1032 | 1246 | 1212 | 1230 | 1238 | 1308 | 1334 | 1347 | 1422 | 1458 | 1485 | | |
| 9-12 TOT | 4902 | 4874 | 4847 | 4922 | 5128 | 5190 | 5312 | 5428 | 5612 | 5762 | 5912 | 6078 | 6195 | 6303 | 410 | 1401 |
| Percent of Gain | | (0.57)% | (0.56)% | 1.55% | 4.18% | 1.21% | 2.36% | 2.19% | 3.38% | 2.67% | 2.61% | 2.80% | 1.92% | 1.74% | | |
| Pupil Gain | | (28) | (27) | 75 | 206 | 62 | 123 | 116 | 184 | 150 | 150 | 165 | 117 | 108 | | |

TABLE 3SH.6 — SR. HIGH PROJECTIONS — Based on 6 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1446 | 1478 | 1512 | 1546 | 1581 | 1615 | | |
| 10 | 1229 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1447 | 1478 | 1512 | 1547 | 1581 | | |
| 11 | 1240 | 1208 | 1139 | 1269 | 1225 | 1250 | 1251 | 1313 | 1342 | 1349 | 1426 | 1457 | 1492 | 1526 | | |
| 12 | 1274 | 1300 | 1268 | 1198 | 1328 | 1285 | 1309 | 1310 | 1372 | 1402 | 1409 | 1486 | 1517 | 1551 | | |
| 9-12 TOT | 4902 | 4956 | 4942 | 4983 | 5095 | 5139 | 5255 | 5355 | 5531 | 5675 | 5825 | 6002 | 6136 | 6274 | 353 | 1372 |
| Percent of Gain | | 1.10% | (0.30)% | 0.83% | 2.25% | 0.86% | 2.27% | 1.90% | 3.27% | 2.62% | 2.64% | 3.04% | 2.24% | 2.24% | | |
| Pupil Gain | | 54 | (15) | 41 | 112 | 44 | 117 | 100 | 175 | 145 | 150 | 177 | 135 | 138 | | |

TABLE 3SH.13A — SR. HIGH PROJECTIONS — Based on Birth Rates & 13 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 1159 | 1373 | 1339 | 1357 | 1365 | 1435 | 1461 | 1473 | 1549 | 1585 | 1539 | 1521 | 1516 | 1530 | | |
| 10 | 1229 | 1106 | 1320 | 1286 | 1304 | 1312 | 1382 | 1408 | 1420 | 1496 | 1532 | 1486 | 1468 | 1463 | | |
| 11 | 1240 | 1156 | 1033 | 1247 | 1213 | 1231 | 1239 | 1309 | 1335 | 1347 | 1423 | 1459 | 1413 | 1395 | | |
| 12 | 1274 | 1239 | 1155 | 1032 | 1246 | 1212 | 1230 | 1238 | 1308 | 1334 | 1347 | 1422 | 1458 | 1412 | | |
| 9-12 TOT | 4902 | 4874 | 4847 | 4922 | 5128 | 5190 | 5312 | 5428 | 5612 | 5762 | 5840 | 5887 | 5855 | 5800 | 410 | 898 |
| Percent of Gain | | (0.57)% | (0.56)% | 1.55% | 4.18% | 1.21% | 2.36% | 2.19% | 3.38% | 2.67% | 1.35% | 0.81% | (0.55)% | (0.93)% | | |
| Pupil Gain | | (28) | (27) | 75 | 206 | 62 | 123 | 116 | 184 | 150 | 78 | 48 | (32) | (55) | | |

TABLE 3SH.6A — SR. HIGH PROJECTIONS — Based on Birth Rates & 6 Year History

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1446 | 1478 | 1432 | 1414 | 1409 | 1423 | | |
| 10 | 1229 | 1159 | 1289 | 1246 | 1270 | 1271 | 1333 | 1363 | 1370 | 1447 | 1478 | 1432 | 1414 | 1410 | | |
| 11 | 1240 | 1208 | 1139 | 1269 | 1225 | 1250 | 1251 | 1313 | 1342 | 1349 | 1426 | 1457 | 1412 | 1394 | | |
| 12 | 1274 | 1300 | 1268 | 1198 | 1328 | 1285 | 1309 | 1310 | 1372 | 1402 | 1409 | 1486 | 1517 | 1471 | | |
| 9-12 TOT | 4902 | 4956 | 4942 | 4983 | 5095 | 5139 | 5255 | 5355 | 5531 | 5675 | 5745 | 5789 | 5752 | 5697 | 353 | 795 |
| Percent of Gain | | 1.10% | (0.30)% | 0.83% | 2.25% | 0.86% | 2.27% | 1.90% | 3.27% | 2.62% | 1.23% | 0.77% | (0.64)% | (0.95)% | | |
| Pupil Gain | | 54 | (15) | 41 | 112 | 44 | 117 | 100 | 175 | 145 | 70 | 44 | (37) | (55) | | |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 4 | PROJECTION COMPARISONS BY GRADE GROUP |
|---|---|

KINDERGARTEN

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| E.13 | 1170 | 1197 | 1224 | 1251 | 1278 | 1305 | 1332 | 1359 | 1386 | 1413 | 1440 | 1467 | 1494 | 1521 | 162 | 351 |
| E.6 | 1170 | 1204 | 1239 | 1273 | 1308 | 1342 | 1376 | 1411 | 1445 | 1480 | 1514 | 1548 | 1583 | 1617 | 206 | 447 |
| E.13A | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | | | |
| E.6A | 1170 | 1124 | 1106 | 1102 | 1115 | | | | | | | | | | | |

GRD 1 -- GRD 5

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| E.13 | 5635 | 5855 | 6032 | 6209 | 6401 | 6545 | 6680 | 6815 | 6950 | 7085 | 7220 | 7355 | 7490 | 7625 | 1045 | 1990 |
| E.6 | 5635 | 5842 | 6021 | 6205 | 6416 | 6585 | 6757 | 6929 | 7101 | 7273 | 7445 | 7617 | 7789 | 7961 | 1122 | 2326 |
| E.13A | 5635 | 5855 | 5959 | 6019 | 6062 | | | | | | | | | | | |
| E.6A | 5635 | 5842 | 5941 | 5992 | 6032 | | | | | | | | | | | |

GRD 6 -- GRD 8

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| MS.13 | 3264 | 3256 | 3352 | 3457 | 3565 | 3679 | 3802 | 3941 | 4030 | 4111 | 4192 | 4273 | 4354 | 4435 | 538 | 1171 |
| MS.6 | 3264 | 3246 | 3333 | 3426 | 3525 | 3638 | 3753 | 3896 | 3996 | 4099 | 4202 | 4305 | 4409 | 4512 | 489 | 1248 |
| MS.13A | 3264 | 3256 | 3352 | 3457 | 3565 | 3679 | 3802 | 3868 | 3840 | 3772 | 3763 | | | | | |
| MS.6A | 3264 | 3246 | 3333 | 3426 | 3525 | 3638 | 3753 | 3816 | 3783 | 3715 | 3706 | | | | | |

GRD 9 -- GRD 12

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| SH.13 | 4902 | 4874 | 4847 | 4922 | 5128 | 5190 | 5312 | 5428 | 5612 | 5762 | 5912 | 6078 | 6195 | 6303 | 410 | 1401 |
| SH.6 | 4902 | 4956 | 4942 | 4983 | 5095 | 5139 | 5255 | 5355 | 5531 | 5675 | 5825 | 6002 | 6136 | 6274 | 353 | 1372 |
| SH.13A | 4902 | 4874 | 4847 | 4922 | 5128 | 5190 | 5312 | 5428 | 5612 | 5762 | 5840 | 5887 | 5855 | 5800 | 410 | 898 |
| SH.6A | 4902 | 4956 | 4942 | 4983 | 5095 | 5139 | 5255 | 5355 | 5531 | 5675 | 5745 | 5789 | 5752 | 5697 | 353 | 795 |

DISTRICT TOTALS

| GRADE | ACTUAL 13/14 | PROJ 14/15 | PROJ 15/16 | PROJ 16/17 | PROJ 17/18 | PROJ 18/19 | PROJ 19/20 | PROJ 20/21 | PROJ 21/22 | PROJ 22/23 | PROJ 23-24 | PROJ 24-25 | PROJ 25-26 | PROJ 26-27 | 6 year | 13 year |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 3.13 | 14,971 | 15,182 | 15,455 | 15,838 | 16,372 | 16,719 | 17,126 | 17,543 | 17,979 | 18,372 | 18,765 | 19,173 | 19,533 | 19,884 | 2155 | 4913 |
| 3.6 | 14,971 | 15,248 | 15,534 | 15,887 | 16,343 | 16,704 | 17,142 | 17,591 | 18,072 | 18,527 | 18,986 | 19,472 | 19,917 | 20,364 | 2171 | 5393 |
| 3.13A | 14,971 | 15,109 | 15,264 | 15,498 | 15,869 | | | | | | | | | | | |
| 3.6A | 14,971 | 15,168 | 15,322 | 15,502 | 15,766 | | | | | | | | | | | |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 5 | PROJECTION COMPARISONS BY GRADE GROUP |
|---|---|

Total = October 1 Actual Count AND Projected Counts
Diff = Number Projection is under(-) or over Actual
% = Percent Projection is under(-) or over Actual

Prj 3.13 - 13 YEAR HISTORY & Using Average Kdg Increase
Prj 3.6 - 6 YEAR HISTORY & Using Average Kdg Increase
Prj 3.13A 13 YEAR HISTORY & King Cty Birth Rates
Prj 3.6A - 6 YEAR HISTORY & King Cty Birth Rates

| Grades | 2001-02 | | | 2002-03 | | | 2003-04 | | | 2004-05 | | | 2005-06 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| K - 5 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 5914 | xxx | xxx | 5741 | xxx | xxx | 5774 | xxx | xxx | 5735 | xxx | xxx | 5887 | xxx | xxx |
| Prj 3E.13 | 5827 | (87) | (1.47)% | 5723 | (18) | (0.31)% | 5655 | (119) | (2.06)% | 5761 | 26 | 0.45% | 5750 | (137) | (2.33)% |
| Prj 3E.6 | 5802 | (112) | (1.89)% | 5735 | (6) | (0.10)% | 5662 | (112) | (1.94)% | 5821 | 86 | 1.50% | 5795 | (92) | (1.56)% |
| Prj 3E.13A | 5839 | (75) | (1.27)% | 5743 | 2 | 0.03% | 5605 | (169) | (2.93)% | 5709 | (26) | (0.45)% | 5750 | (137) | (2.33)% |
| Prj 3E.6A | 5831 | (83) | (1.40)% | 5776 | 35 | 0.61% | 5631 | (143) | (2.48)% | 5756 | 21 | 0.37% | 5784 | (103) | (1.75)% |

| Grades | 2001-02 | | | 2002-03 | | | 2003-04 | | | 2004-05 | | | 2005-06 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 - 8 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 3049 | xxx | xxx | 3151 | xxx | xxx | 3294 | xxx | xxx | 3274 | xxx | xxx | 3169 | xxx | xxx |
| Prj 3E.13 | 3025 | (24) | (0.79)% | 3185 | (80) | 1.08% | 3214 | (80) | (2.43)% | 3295 | 21 | 0.64% | 3132 | (37) | (1.17)% |
| Prj 3E.6 | 3011 | (38) | (1.25)% | 3192 | (75) | 1.30% | 3216 | (78) | (2.37)% | 3311 | 37 | 1.13% | 3137 | (32) | (1.01)% |
| Prj 3E.13A | 3025 | (24) | (0.79)% | 3185 | (80) | 1.08% | 3214 | (80) | (2.43)% | 3295 | 21 | 0.64% | 3132 | (37) | (1.17)% |
| Prj 3E.6A | 3011 | (38) | (1.25)% | 3192 | (75) | 1.30% | 3216 | (78) | (2.37)% | 3311 | 37 | 1.13% | 3137 | (32) | (1.01)% |

| Grades | 2001-02 | | | 2002-03 | | | 2003-04 | | | 2004-05 | | | 2005-06 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 - 12 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 4498 | xxx | xxx | 4535 | xxx | xxx | 4634 | xxx | xxx | 4663 | xxx | xxx | 5032 | xxx | xxx |
| Prj 3E.13 | 4455 | (43) | (0.96)% | 4577 | 42 | 0.93% | 4630 | (4) | (0.09)% | 4783 | 120 | 2.57% | 4898 | (134) | (2.66)% |
| Prj 3E.6 | 4476 | (22) | (0.49)% | 4594 | 59 | 1.30% | 4639 | 5 | 0.11% | 4769 | 106 | 2.27% | 4880 | (152) | (3.02)% |
| Prj 3E.13A | 4455 | (43) | (0.96)% | 4577 | 42 | 0.93% | 4630 | (4) | (0.09)% | 4783 | 120 | 2.57% | 4898 | (134) | (2.66)% |
| Prj 3E.6A | 4476 | (22) | (0.49)% | 4594 | 59 | 1.30% | 4639 | 5 | 0.11% | 4769 | 106 | 2.27% | 4880 | (152) | (3.02)% |

| All | 2001-02 | | | 2002-03 | | | 2003-04 | | | 2004-05 | | | 2005-06 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Grades | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 13,461 | xxx | xxx | 13,427 | xxx | xxx | 13,702 | xxx | xxx | 13,672 | xxx | xxx | 14,088 | xxx | xxx |
| Prj 3E.13 | 13,307 | (154) | (1.14)% | 13,485 | 58 | 0.43% | 13,499 | (203) | (1.48)% | 13,839 | 167 | 1.22% | 13,780 | (308) | (2.19)% |
| Prj 3E.6 | 13,289 | (172) | (1.28)% | 13,521 | 94 | 0.70% | 13,517 | (185) | (1.35)% | 13,901 | 229 | 1.67% | 13,812 | (276) | (1.96)% |
| Prj 3E.13A | 13,319 | (142) | (1.05)% | 13,505 | 78 | 0.58% | 13,449 | (253) | (1.85)% | 13,787 | 115 | 0.84% | 13,780 | (308) | (2.19)% |
| Prj 3E.6A | 13,318 | (143) | (1.06)% | 13,562 | 135 | 1.01% | 13,486 | (216) | (1.58)% | 13,836 | 164 | 1.20% | 13,801 | (287) | (2.04)% |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 5 | PROJECTION COMPARISONS BY GRADE GROUP (Continued) |
|---|---|

Total = October 1 Actual Count AND Projected Counts
Diff = Number Projection is under(-) or over Actual
% = Percent Projection is under(-) or over Actual

Prj 3.13 - 13 YEAR HISTORY & Using Average Kdg Increase
Prj 3.6 - 6 YEAR HISTORY & Using Average Kdg Increase
Prj 3.13A 13 YEAR HISTORY & King Cty Birth Rates
Prj 3.6A - 6 YEAR HISTORY & King Cty Birth Rates

| Grades | 2006-07 | | | 2007-08 | | | 2008-09 | | | 2009-10 | | | 2010-11 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| K - 5 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 6033 | xxx | xxx | 6142 | xxx | xxx | 6198 | xxx | xxx | 6159 | xxx | xxx | 6208 | xxx | xxx |
| Prj 3E.13 | 5871 | (162) | (2.69)% | 6085 | (57) | (0.93)% | 6179 | (19) | (0.31)% | 6254 | 95 | 1.54% | 6282 | 74 | 1.19% |
| Prj 3E.6 | 5921 | (112) | (1.86)% | 6138 | (4) | (0.07)% | 6237 | 39 | 0.63% | 6294 | 135 | 2.19% | 6323 | 115 | 1.85% |
| Prj 3E.13A | 5869 | (164) | (2.72)% | 6059 | (83) | (1.35)% | 6129 | (69) | (1.11)% | 6237 | 78 | 1.27% | 6252 | 44 | 0.71% |
| Prj 3E.6A | 5912 | (121) | (2.01)% | 6094 | (48) | (0.78)% | 6172 | (26) | (0.42)% | 6264 | 105 | 1.70% | 6269 | 61 | 0.98% |

| Grades | 2006-07 | | | 2007-08 | | | 2003-04 | | | 2009-10 | | | 2010-11 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 - 8 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 3144 | xxx | xxx | 3097 | xxx | xxx | 3206 | xxx | xxx | 3196 | xxx | xxx | 3213 | xxx | xxx |
| Prj 3E.13 | 3131 | (13) | (0.41)% | 3107 | 10 | 0.32% | 3179 | (27) | (0.84)% | 3242 | 46 | 1.44% | 3234 | 21 | 0.65% |
| Prj 3E.6 | 3146 | 2 | 0.06% | 3116 | 19 | 0.61% | 3195 | (11) | (0.34)% | 3243 | 47 | 1.47% | 3236 | 23 | 0.72% |
| Prj 3E.13A | 3131 | (13) | (0.41)% | 3107 | 10 | 0.32% | 3179 | (27) | (0.84)% | 3242 | 46 | 1.44% | 3234 | 21 | 0.65% |
| Prj 3E.6A | 3146 | 2 | 0.06% | 3116 | 19 | 0.61% | 3195 | (11) | (0.34)% | 3243 | 47 | 1.47% | 3236 | 23 | 0.72% |

| Grades | 2006-07 | | | 2007-08 | | | 2003-04 | | | 2009-10 | | | 2010-11 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 - 12 | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 5241 | xxx | xxx | 5320 | xxx | xxx | 5299 | xxx | xxx | 5234 | xxx | xxx | 5061 | xxx | xxx |
| Prj 3E.13 | 5085 | (156) | (2.98)% | 5190 | (130) | (2.44)% | 5129 | (170) | (3.21)% | 5074 | (160) | (3.06)% | 4921 | (140) | (2.77)% |
| Prj 3E.6 | 5086 | (155) | (2.96)% | 5192 | (128) | (2.41)% | 5155 | (144) | (2.72)% | 5128 | (106) | (2.03)% | 5027 | (34) | (0.67)% |
| Prj 3E.13A | 5085 | (156) | (2.98)% | 5190 | (130) | (2.44)% | 5129 | (170) | (3.21)% | 5074 | (160) | (3.06)% | 4921 | (140) | (2.77)% |
| Prj 3E.6A | 5086 | (155) | (2.96)% | 5192 | (128) | (2.41)% | 5155 | (144) | (2.72)% | 5129 | (105) | (2.01)% | 5027 | (34) | (0.67)% |

| All | 2006-07 | | | 2007-08 | | | 2003-04 | | | 2009-10 | | | 2010-11 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Grades | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % | Total | Diff | % |
| ACTUAL | 14,418 | xxx | xxx | 14,559 | xxx | xxx | 13,672 | xxx | xxx | 14,589 | xxx | xxx | 14,482 | xxx | xxx |
| Prj 3E.13 | 14,087 | (331) | (2.30)% | 13,499 | (173) | (7.28)% | 14,487 | 815 | 5.96% | 14,570 | (19) | (0.13)% | 14,437 | (45) | (0.31)% |
| Prj 3E.6 | 14,153 | (265) | (1.84)% | 13,542 | (130) | (6.99)% | 14,587 | 915 | 6.69% | 14,665 | 76 | 0.52% | 14,586 | 104 | 0.72% |
| Prj 3E.13A | 14,085 | (333) | (2.31)% | 13,447 | (225) | (7.64)% | 14,437 | 765 | 5.60% | 14,553 | (36) | (0.25)% | 14,407 | (75) | (0.52)% |
| Prj 3E.6A | 14,144 | (274) | (1.90)% | 13,510 | (162) | (7.21)% | 14,522 | 850 | 6.22% | 14,636 | 47 | 0.32% | 14,532 | 50 | 0.35% |

# AUBURN SCHOOL DISTRICT STUDENT ENROLLMENT PROJECTIONS - October 2013

| TABLE 5 | PROJECTION COMPARISONS BY GRADE GROUP (Continued) |
|---|---|

Total = October 1 Actual Count AND Projected Counts
Diff = Number Projection is under(-) or over Actual
% = Percent Projection is under(-) or over Actual

Prj 3.13 - 13 YEAR HISTORY & Using Average Kdg Increase
Prj 3.6 - 6 YEAR HISTORY & Using Average Kdg Increase
Prj 3.13A 13 YEAR HISTORY & King Cty Birth Rates
Prj 3.6A - 6 YEAR HISTORY & King Cty Birth Rates

| Grades K - 5 | 2011-12 | | | 2012-13 | | | 2013-14 | | | Average | Average |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Diff | % | Total | Diff | % | Total | Diff | % | Diff | % |
| ACTUAL | 6230 | xxx | xxx | 6489 | xxx | xxx | 6805 | xxx | xxx | xxx | xxx |
| Prj 3E.13 | 6275 | 45 | 0.72% | 6372 | (117) | (1.80)% | 6659 | (146) | (2.15)% | (51) | (0.78)% |
| Prj 3E.6 | 6267 | 37 | 0.59% | 6368 | (121) | (1.86)% | 6632 | (173) | (2.54)% | (27) | (0.39)% |
| Prj 3E.13A | 6266 | 36 | 0.58% | 6346 | (143) | (2.20)% | 6643 | (162) | (2.38)% | (70) | (1.09)% |
| Prj 3E.6A | 6260 | 30 | 0.48% | 6339 | (150) | (2.31)% | 6611 | (194) | (2.85)% | (50) | (0.76)% |

Historical Data is grouped by K - 5, 6-8, 9-12 articulation pattern.

Articulation pattern has no numeric impact on efficacy of projection models.

| Grades 6 - 8 | 2011-12 | | | 2012-13 | | | 2013-14 | | | Average | Average |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Diff | % | Total | Diff | % | Total | Diff | % | Diff | % |
| ACTUAL | 3141 | xxx | xxx | 3144 | xxx | xxx | 3264 | xxx | xxx | xxx | xxx |
| Prj 3E.13 | 3221 | 80 | 2.55% | 3143 | (1) | (0.03)% | 3230 | (34) | (1.04)% | (15) | (0.00)% |
| Prj 3E.6 | 3211 | 70 | 2.23% | 3132 | (12) | (0.38)% | 3213 | (51) | (1.56)% | (13) | 0.05% |
| Prj 3E.13A | 3221 | 80 | 2.55% | 3143 | (1) | (0.03)% | 3230 | (34) | (1.04)% | (15) | (0.00)% |
| Prj 3E.6A | 3211 | 70 | 2.23% | 3132 | (12) | (0.38)% | 3213 | (51) | (1.56)% | (13) | 0.05% |

| Grades 9 - 12 | 2011-12 | | | 2012-13 | | | 2013-14 | | | Average | Average |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Diff | % | Total | Diff | % | Total | Diff | % | Diff | % |
| ACTUAL | 4992 | xxx | xxx | 4963 | xxx | xxx | 4902 | xxx | xxx | xxx | xxx |
| Prj 3E.13 | 4901 | (91) | (1.82)% | 4813 | (150) | (3.02)% | 4773 | (129) | (2.63)% | (81) | (1.70)% |
| Prj 3E.6 | 5017 | 25 | 0.50% | 4906 | (57) | (1.15)% | 4856 | (46) | (0.94)% | (52) | (0.94)% |
| Prj 3E.13A | 4901 | (91) | (1.82)% | 4813 | (150) | (3.02)% | 4773 | (129) | (2.63)% | (81) | (1.70)% |
| Prj 3E.6A | 5017 | 25 | 0.50% | 4906 | (57) | (1.15)% | 4856 | (46) | (0.94)% | (52) | (0.94)% |

| All Grades | 2011-12 | | | 2012-13 | | | 2013-14 | | | Average | Average |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Diff | % | Total | Diff | % | Total | Diff | % | Diff | % |
| ACTUAL | 14,363 | xxx | xxx | 14,596 | xxx | xxx | 14,971 | xxx | xxx | xxx | xxx |
| Prj 3E.13 | 14,397 | 34 | 0.24% | 14,328 | (268) | (1.84)% | 14,662 | (309) | (2.06)% | (57) | (0.84)% |
| Prj 3E.6 | 14,495 | 132 | 0.92% | 14,406 | (190) | (1.30)% | 14,701 | (270) | (1.80)% | 5 | (0.41)% |
| Prj 3E.13A | 14,388 | 25 | 0.17% | 14,302 | (294) | (2.01)% | 14,646 | (325) | (2.17)% | (78) | (0.98)% |
| Prj 3E.6A | 14,488 | 125 | 0.87% | 14,377 | (219) | (1.50)% | 14,680 | (291) | (1.94)% | (17) | (0.56)% |

# Appendix A.2 - CAPITAL FACILITIES PLAN
# Enrollment Projections

***BASE DATA - BUILDOUT SCHEDULE***

**ASSUMPTIONS:**

1. ***Uses Build Out estimates received from developers.***
2. ***Student Generation Factors are updated Auburn data for 2014 as allowed per King County Ordinance***
3. ***Takes area labeled Lakeland and Kersey Projects projects across 2014-2020***
4. ***Takes area labeled Bridges and other Lea Hill area developments and projects across 2014-2020***
5. ***Includes known developments in N. Auburn and other non-Lea Hill and non-Lakeland developments***

**Student Generation Factors**

| **Auburn Factors** 2014 SF 2014 MF | Single Family | Multi-Family |
|---|---|---|
| Elementary | 0.1650 | 0.2230 |
| Middle School | 0.0760 | 0.0910 |
| Senior High | 0.0890 | 0.0920 |
| Total | 0.3300 | 0.4060 |

| ***Table 1*** | ***Auburn School Distri Development*** | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | Total |
|---|---|---|---|---|---|---|---|---|---|
| Lakeland/Kersey Single Family | | 250 | 125 | 75 | 75 | 60 | | | 585 |
| Lea Hill Area Single Family | | 100 | 100 | 125 | 125 | 50 | 50 | 50 | 600 |
| Other Single Family Units | | 25 | 50 | 50 | 50 | 50 | | | 225 |
| Total Single Family Units | | 375 | 275 | 250 | 250 | 160 | 50 | 50 | 1410 |
| Projected Pupils: | | | | | | | | | |
| Elementary Pupils | K-5 | 62 | 45 | 41 | 41 | 26 | 8 | 8 | 233 |
| Mid School Pupils | 6-8 | 29 | 21 | 19 | 19 | 12 | 4 | 4 | 107 |
| Sr. High Pupils | 9-12 | 33 | 24 | 22 | 22 | 14 | 4 | 4 | 125 |
| Total | K-12 | 124 | 91 | 83 | 83 | 53 | 17 | 17 | ***465*** |
| | | | | | | | | | |
| Multi Family Units | | 50 | 50 | 75 | 60 | 50 | 0 | 0 | 285 |
| Total Multi Family Units | | 50 | 50 | 75 | 60 | 50 | 0 | 0 | 285 |
| Projected Pupils: | | | | | | | | | |
| Elementary Pupils | K-5 | 11 | 11 | 17 | 13 | 11 | 0 | 0 | 64 |
| Mid School Pupils | 6-8 | 5 | 5 | 7 | 5 | 5 | 0 | 0 | 26 |
| Sr. High Pupils | 9-12 | 5 | 5 | 7 | 6 | 5 | 0 | 0 | 26 |
| Total | K-12 | 20 | 20 | 30 | 24 | 20 | 0 | 0 | ***116*** |
| | | | | | | | | | |
| Total Housing Units | | 425 | 325 | 325 | 310 | 210 | 50 | 50 | 1695 |
| | | | | | | | | | |
| Elementary Pupils | K-5 | 73 | 57 | 58 | 55 | 38 | 8 | 8 | 296 |
| Mid School Pupils | 6-8 | 33 | 25 | 26 | 24 | 17 | 4 | 4 | 133 |
| Sr. High Pupils | 9-12 | 38 | 29 | 29 | 28 | 19 | 4 | 4 | 152 |
| Total | K-12 | 144 | 111 | 113 | 107 | 73 | 17 | 17 | ***581*** |

| **Cumulative Projection** | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|---|---|---|---|---|---|---|---|
| Elementary - Grades K -5 | 73 | 130 | 188 | 242 | 280 | 288 | 296 |
| Mid School - Grades 6 - 8 | 33 | 59 | 84 | 109 | 125 | 129 | 133 |
| Senior High - Grades 9 - 12 | 38 | 67 | 96 | 124 | 143 | 147 | 152 |
| **Total** | **144** | **255** | **368** | **475** | **548** | **565** | **581** |

| TABLE 2 | New Projects - Annual New Pupils Added & Distributed by Grade Level | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| GRADE | 6 Year Average Enroll. | Percent of average Pupils by Grade & Level | | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
| KDG | 1056 | **7.23%** | | 1170 | 10 | 18 | 27 | 34 | 40 | 41 | 42 |
| 1 | 1077 | **7.36%** | | 1188 | 11 | 19 | 27 | 35 | 40 | 42 | 43 |
| 2 | 1057 | **7.23%** | **43.43%** | 1124 | 10 | 18 | 27 | 34 | 40 | 41 | 42 |
| 3 | 1048 | **7.17%** | | 1125 | 10 | 18 | 26 | 34 | 39 | 40 | 42 |
| 4 | 1054 | **7.21%** | | 1123 | 10 | 18 | 27 | 34 | 40 | 41 | 42 |
| 5 | 1057 | **7.23%** | | 1075 | 10 | 18 | 27 | 34 | 40 | 41 | 42 |
| 6 | 1060 | **7.25%** | | 1076 | 10 | 18 | 27 | 34 | 40 | 41 | 42 |
| 7 | 1068 | **7.31%** | **21.85%** | 1072 | 11 | 19 | 27 | 35 | 40 | 41 | 42 |
| 8 | 1066 | **7.29%** | | 1116 | 11 | 19 | 27 | 35 | 40 | 41 | 42 |
| 9 | 1226 | **8.38%** | | 1159 | 12 | 21 | 31 | 40 | 46 | 47 | 49 |
| 10 | 1256 | **8.59%** | **34.72%** | 1229 | 12 | 22 | 32 | 41 | 47 | 48 | 50 |
| 11 | 1258 | **8.61%** | | 1240 | 12 | 22 | 32 | 41 | 47 | 49 | 50 |
| 12 | 1336 | **9.14%** | | 1274 | 13 | 23 | 34 | 43 | 50 | 52 | 53 |
| Totals | 14617 | **100.00%** | **Total** | 14971 | 144 | 255 | 368 | 475 | 548 | 565 | 581 |

| TABLE 3 | 6 year Historical Data Average Enrollment and Percentage Distributed by Grade Level | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Grade | 08-09 | 09-10 | 10-11 | 11-12 | 12-13 | 13-14 | 6yr Ave | % |
| KDG | 998 | 1032 | 1010 | 1029 | 1098 | 1170 | 1056.17 | 7.23% |
| 1 | 1015 | 1033 | 1066 | 1068 | 1089 | 1188 | 1076.50 | 7.36% |
| 2 | 1024 | 998 | 1016 | 1097 | 1083 | 1124 | 1057.00 | 7.23% |
| 3 | 1048 | 993 | 1013 | 996 | 1111 | 1125 | 1047.67 | 7.17% |
| 4 | 1044 | 1073 | 1024 | 1022 | 1038 | 1123 | 1054.00 | 7.21% |
| 5 | 1069 | 1030 | 1079 | 1018 | 1070 | 1075 | 1056.83 | 7.23% |
| 6 | 1096 | 1040 | 1041 | 1063 | 1041 | 1076 | 1059.50 | 7.25% |
| 7 | 1034 | 1125 | 1060 | 1032 | 1086 | 1072 | 1068.17 | 7.31% |
| 8 | 1076 | 1031 | 1112 | 1046 | 1017 | 1116 | 1066.33 | 7.29% |
| 9 | 1256 | 1244 | 1221 | 1273 | 1200 | 1159 | 1225.50 | 8.38% |
| 10 | 1341 | 1277 | 1238 | 1170 | 1278 | 1229 | 1255.50 | 8.59% |
| 11 | 1350 | 1303 | 1258 | 1233 | 1164 | 1240 | 1258.00 | 8.61% |
| 12 | 1352 | 1410 | 1344 | 1316 | 1321 | 1274 | 1336.17 | 9.14% |
| Totals | 14703 | 14589 | 14482 | 14363 | 14596 | 14971 | 14617.33 | 100.00% |
| % of change | | -0.78% | -0.73% | -0.82% | 1.62% | 2.57% | | |
| change +/- | | (114) | (107) | (119) | 233 | 375 | | |

**TABLE 4** **New Projects - Pupil Projection Cumulative**
**ND 3.13** **by Grade Level** **Updated April 2014**

***Uses a 'cohort survival' model assuming 100% of previous year new enrollees move to the next grade level.***

Kindergarten calculates previous years number plus

Current generation based on % of total enrollment. Other factor uses 100% cohort survival, based on 6 year history.

| GRADE | 2013-14 Actual | 2014-15 Projected | 2015-16 Projected | 2016-17 Projected | 2017-18 Projected | 2018-19 Projected | 2019-20 Projected | 2020-21 Projected |
|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1207 | 1242 | 1278 | 1312 | 1345 | 1373 | 1401 |
| 1 | 1188 | 1235 | 1270 | 1305 | 1340 | 1372 | 1400 | 1429 |
| 2 | 1124 | 1210 | 1254 | 1289 | 1324 | 1356 | 1384 | 1412 |
| 3 | 1125 | 1147 | 1231 | 1275 | 1309 | 1342 | 1370 | 1398 |
| 4 | 1123 | 1160 | 1180 | 1264 | 1307 | 1339 | 1368 | 1396 |
| 5 | 1075 | 1155 | 1190 | 1210 | 1293 | 1334 | 1362 | 1391 |
| K-5 | 6805 | 7114 | 7366 | 7620 | 7885 | 8088 | 8257 | 8426 |
| 6 | 1076 | 1095 | 1172 | 1207 | 1227 | 1307 | 1345 | 1373 |
| 7 | 1072 | 1101 | 1117 | 1195 | 1229 | 1247 | 1323 | 1360 |
| 8 | 1116 | 1092 | 1119 | 1135 | 1213 | 1244 | 1258 | 1334 |
| GR 6-8 | 3264 | 3288 | 3408 | 3537 | 3669 | 3798 | 3926 | 4067 |
| 9 | 1159 | 1385 | 1360 | 1388 | 1405 | 1481 | 1508 | 1522 |
| 10 | 1229 | 1119 | 1342 | 1317 | 1345 | 1359 | 1430 | 1458 |
| 11 | 1240 | 1168 | 1055 | 1279 | 1254 | 1278 | 1288 | 1359 |
| 12 | 1274 | 1252 | 1178 | 1066 | 1289 | 1262 | 1282 | 1291 |
| GR 9-12 | 4902 | 4924 | 4935 | 5050 | 5293 | 5380 | 5508 | 5630 |
| Total | 14971 | 15326 | 15710 | 16206 | 16847 | 17267 | 17691 | 18124 |
| | % of change | 2.37% | 2.50% | 3.16% | 3.95% | 2.49% | 2.46% | 2.45% |
| | change +/- | 355 | 384 | 497 | 640 | 420 | 424 | 433 |

**TABLE 5** **New Projects - Pupil Projection Cumulative**
**ND 3.6** **by Grade Level** **Updated April 2014**

***Uses a 'cohort survival' model assuming 100% of previous year new enrollees move to the next grade level.***

Kindergarten calculates previous years number plus

Current generation based on % of total enrollment. Other factor uses 100% cohort survival, based on 6 year history.

| GRADE | 2013-14 Actual | 2014-15 Projected | 2015-16 Projected | 2016-17 Projected | 2017-18 Projected | 2018-19 Projected | 2019-20 Projected | 2020-21 Projected | 2020-21 Projected | 2021-22 Projected |
|---|---|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1215 | 1257 | 1300 | 1342 | 1382 | 1417 | 1453 | 1469 | 1486 |
| 1 | 1188 | 1230 | 1273 | 1315 | 1358 | 1397 | 1433 | 1469 | 1485 | 1502 |
| 2 | 1124 | 1211 | 1250 | 1293 | 1335 | 1375 | 1410 | 1446 | 1462 | 1479 |
| 3 | 1125 | 1142 | 1227 | 1267 | 1309 | 1348 | 1384 | 1419 | 1436 | 1452 |
| 4 | 1123 | 1163 | 1178 | 1263 | 1302 | 1342 | 1377 | 1413 | 1429 | 1445 |
| 5 | 1075 | 1147 | 1185 | 1200 | 1285 | 1321 | 1357 | 1392 | 1408 | 1424 |
| K-5 | 6805 | 7109 | 7370 | 7638 | 7930 | 8165 | 8379 | 8592 | 8690 | 8788 |
| 6 | 1076 | 1088 | 1157 | 1195 | 1210 | 1292 | 1325 | 1360 | 1376 | 1391 |
| 7 | 1072 | 1107 | 1116 | 1186 | 1224 | 1236 | 1314 | 1346 | 1362 | 1377 |
| 8 | 1116 | 1083 | 1115 | 1125 | 1194 | 1229 | 1238 | 1316 | 1331 | 1346 |
| GR 6-8 | 3264 | 3277 | 3389 | 3506 | 3628 | 3758 | 3877 | 4023 | 4068 | 4114 |
| 9 | 1159 | 1301 | 1267 | 1301 | 1311 | 1379 | 1410 | 1418 | 1434 | 1451 |
| 10 | 1229 | 1172 | 1311 | 1278 | 1311 | 1318 | 1382 | 1413 | 1429 | 1445 |
| 11 | 1240 | 1221 | 1161 | 1300 | 1266 | 1297 | 1299 | 1363 | 1378 | 1394 |
| 12 | 1274 | 1313 | 1291 | 1232 | 1372 | 1335 | 1361 | 1363 | 1379 | 1394 |
| GR 9-12 | 4902 | 5006 | 5030 | 5110 | 5260 | 5329 | 5451 | 5557 | 5620 | 5684 |
| Total | 14971 | 15392 | 15789 | 16255 | 16818 | 17252 | 17706 | 18172 | 18378 | 18586 |
| | % of change | 2.81% | 2.58% | 2.95% | 3.46% | 2.58% | 2.64% | 2.63% | 1.14% | 1.14% |
| | change +/- | 421 | 397 | 465 | 563 | 434 | 455 | 465 | 206 | 209 |

**TABLE 6** **New Developments - Pupil Projection Cumulative**
**ND3.13A** **by Grade Level** **Updated April 2014**

***Uses a 'cohort survival' model assuming 100% of previous year new enrollees move to the next grade level.***

Kindergarten calculates birth rate average plus

Current generation based on % of total enrollment. Other factor uses 100% cohort survival, based on 6 year history.

| GRADE | 2013-14 Actual | 2014-15 Projected | 2015-16 Projected | 2016-17 Projected | 2017-18 Projected | 2018-19 Projected | 2019-20 Projected | 2020-21 Projected |
|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1135 | 1125 | 1128 | 1150 | | | |
| 1 | 1188 | 1235 | 1197 | 1187 | 1190 | 1210 | | |
| 2 | 1124 | 1210 | 1254 | 1216 | 1206 | 1207 | 1221 | |
| 3 | 1125 | 1147 | 1231 | 1275 | 1237 | 1224 | 1220 | 1235 |
| 4 | 1123 | 1160 | 1180 | 1264 | 1307 | 1267 | 1250 | 1246 |
| 5 | 1075 | 1155 | 1190 | 1210 | 1293 | 1334 | 1290 | 1273 |
| | 6805 | 7042 | 7176 | 7280 | 7383 | 6241 | 4982 | 3755 |
| 6 | 1076 | 1095 | 1172 | 1207 | 1227 | 1307 | 1345 | 1300 |
| 7 | 1072 | 1101 | 1117 | 1195 | 1229 | 1247 | 1323 | 1360 |
| 8 | 1116 | 1092 | 1119 | 1135 | 1213 | 1244 | 1258 | 1334 |
| | 3264 | 3288 | 3408 | 3537 | 3669 | 3798 | 3926 | 3995 |
| 9 | 1159 | 1385 | 1360 | 1388 | 1405 | 1481 | 1508 | 1522 |
| 10 | 1229 | 1119 | 1342 | 1317 | 1345 | 1359 | 1430 | 1458 |
| 11 | 1240 | 1168 | 1055 | 1279 | 1254 | 1278 | 1288 | 1359 |
| 12 | 1274 | 1252 | 1178 | 1066 | 1289 | 1262 | 1282 | 1291 |
| | 4902 | 4924 | 4935 | 5050 | 5293 | 5380 | 5508 | 5630 |
| Total | 14971 | 15253 | 15519 | 15867 | 16344 | | | |
| | % of change | 1.89% | 1.74% | 2.24% | 3.01% | | | |
| | change +/- | 282 | 266 | 347 | 478 | | | |

**TABLE 7** **New Projects - Pupil Projection Cumulative**
**ND 3.6A** **by Grade Level** **Updated April 2014**

***Uses a 'cohort survival' model assuming 100% of previous year new enrollees move to the next grade level.***

Kindergarten calculates birth rate average plus

Current generation based on % of total enrollment. Other factor uses 100% cohort survival, based on 6 year history.

| GRADE | 2013-14 Actual | 2014-15 Projected | 2015-16 Projected | 2016-17 Projected | 2017-18 Projected | 2018-19 Projected | 2019-20 Projected | 2020-21 Projected |
|---|---|---|---|---|---|---|---|---|
| KDG | 1170 | 1135 | 1125 | 1128 | 1150 | | | |
| 1 | 1188 | 1230 | 1193 | 1183 | 1186 | 1205 | | |
| 2 | 1124 | 1211 | 1250 | 1213 | 1203 | 1203 | 1218 | |
| 3 | 1125 | 1142 | 1227 | 1267 | 1229 | 1216 | 1212 | 1227 |
| 4 | 1123 | 1163 | 1178 | 1263 | 1302 | 1262 | 1245 | 1241 |
| 5 | 1075 | 1147 | 1185 | 1200 | 1285 | 1321 | 1277 | 1260 |
| | 6805 | 7029 | 7158 | 7254 | 7354 | | | |
| 6 | 1076 | 1088 | 1157 | 1195 | 1210 | 1292 | 1325 | 1280 |
| 7 | 1072 | 1107 | 1116 | 1186 | 1224 | 1236 | 1314 | 1346 |
| 8 | 1116 | 1083 | 1115 | 1125 | 1194 | 1229 | 1238 | 1316 |
| | 3264 | 3277 | 3389 | 3506 | 3628 | 3758 | 3877 | 3943 |
| 9 | 1159 | 1301 | 1267 | 1301 | 1311 | 1379 | 1410 | 1418 |
| 10 | 1229 | 1172 | 1311 | 1278 | 1311 | 1318 | 1382 | 1413 |
| 11 | 1240 | 1221 | 1161 | 1300 | 1266 | 1297 | 1299 | 1363 |
| 12 | 1274 | 1313 | 1291 | 1232 | 1372 | 1335 | 1361 | 1363 |
| | 4902 | 5006 | 5030 | 5110 | 5260 | 5329 | 5451 | 5557 |
| Total | 14971 | 15312 | 15577 | 15871 | 16241 | | | |
| | % of change | 2.28% | 1.73% | 1.88% | 2.34% | | | |
| | change +/- | 341 | 265 | 294 | 371 | | | |

# Appendix A.3 Student Generation Survey

# Auburn School District

Development Growth since 1/1/07

**March, 2014**

## SINGLE FAMILY

| Development Name | Units/ Parcels | Current Occupancy | To Be Occupied | Actual Students Elem | Actual Students Middle | Actual Students HS | Actual Students Total | Projected Students Student Generation Factors Elem | Middle | HS | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Beaver Meadows | 60 | 55 | 5 | 10 | 6 | 10 | 26 | 0.182 | 0.109 | 0.182 | 0.473 |
| Brandon Meadows | 55 | 55 | 0 | 13 | 9 | 11 | 33 | 0.236 | 0.164 | 0.200 | 0.600 |
| Bridges | 386 | 64 | 322 | 12 | 14 | 4 | 30 | 0.188 | 0.219 | 0.063 | 0.469 |
| Carrington Pointe | 24 | 24 | 0 | 5 | 2 | 1 | 8 | 0.208 | 0.083 | 0.042 | 0.333 |
| Greenacres | 16 | 16 | 0 | 3 | 3 | 6 | 12 | 0.188 | 0.188 | 0.375 | 0.750 |
| Kendall Ridge | 106 | 89 | 17 | 7 | 4 | 5 | 16 | 0.079 | 0.045 | 0.056 | 0.180 |
| Lakeland East: Portola | 130 | 114 | 16 | 18 | 16 | 13 | 47 | 0.158 | 0.140 | 0.114 | 0.412 |
| Lakeland: Edgeview | 373 | 347 | 26 | 14 | 2 | 10 | 26 | 0.040 | 0.006 | 0.029 | 0.075 |
| Lakeland: Pinnacle Estates | 76 | 66 | 10 | 35 | 14 | 13 | 62 | 0.530 | 0.212 | 0.197 | 0.939 |
| Lakeland: Villas At … | 81 | 16 | 65 | 4 | 0 | 1 | 5 | 0.250 | 0.000 | 0.063 | 0.313 |
| Lakeland: Vista Heights | 125 | 125 | 0 | 39 | 12 | 15 | 66 | 0.312 | 0.096 | 0.120 | 0.528 |
| Monterey Park | 239 | 191 | 48 | 13 | 7 | 7 | 27 | 0.068 | 0.037 | 0.037 | 0.141 |
| Sterling Court | 8 | 8 | 0 | 2 | 2 | 1 | 5 | 0.250 | 0.250 | 0.125 | 0.625 |
| Trail Run | 169 | 169 | 0 | 44 | 11 | 21 | 76 | 0.260 | 0.065 | 0.124 | 0.450 |
| Vintage Place | 25 | 25 | 0 | 6 | 1 | 4 | 11 | 0.240 | 0.040 | 0.160 | 0.440 |
| **Totals** | 1873 | 1364 | **509** | 225 | 103 | 122 | **450** | **0.165** | **0.076** | **0.089** | **0.330** |

### Current Construction to be Occupied 2014

Estimated Students Based on Student Gen Factor

| Development Name | Units/ Parcels | Current Occupancy | To Be Occupied | Actual Students Elem | Actual Students Middle | Actual Students HS | Actual Students Total | Projected Students Student Generation Factors Elem | Middle | HS | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Beaver Meadows | 60 | 55 | 5 | 10 | 6 | 10 | 26 | 1 | 0 | 0 | 2 |
| Bridges | 386 | 64 | 322 | 12 | 14 | 4 | 30 | 53 | 24 | 29 | 106 |
| Kendall Ridge | 106 | 89 | 17 | 7 | 3 | 5 | 15 | 3 | 1 | 2 | 6 |
| Lakeland East: Portola | 130 | 114 | 16 | 18 | 16 | 13 | 47 | 3 | 1 | 1 | 5 |
| Lakeland: Edgeview | 373 | 347 | 26 | 14 | 2 | 6 | 22 | 4 | 2 | 2 | 9 |
| Lakeland: Pinnacle Estates | 76 | 66 | 10 | 35 | 14 | 13 | 62 | 2 | 1 | 1 | 3 |
| Lakeland: Villas At … | 81 | 16 | 65 | 4 | 0 | 1 | 5 | 11 | 5 | 6 | 21 |
| Monterey Park | 239 | 191 | 48 | 13 | 7 | 7 | 27 | 8 | 4 | 4 | 16 |
| **Totals** | 1451 | 942 | 509 | **113** | **62** | **59** | **234** | **84** | **38** | **46** | **168** |

# Auburn School District

Development Growth since 1/1/07

**March, 2014**

**2014 and up**

| Development Name | Units/ Parcels | Current Occupancy | To Be Occupied |
|---|---|---|---|
| Alicia Glenn | 31 | 0 | 31 |
| Anderson Acres | 14 | 0 | 14 |
| Backbone Ridge | 7 | 0 | 7 |
| Sonata Hill | 78 | 0 | 78 |
| Bridle Estates | 18 | 0 | 18 |
| Cam-West | 99 | 0 | 99 |
| Estes Park | 31 | 0 | 31 |
| Harpreet Kang | 8 | 0 | 8 |
| Hazel Heights | 22 | 0 | 22 |
| Hazel View | 20 | 0 | 20 |
| Lakeland: Forest Glen At .. | 30 | 0 | 30 |
| Lakeland: Park Ridge | 256 | 0 | 256 |
| Lakeland: River Rock | 14 | 0 | 14 |
| Lawson Place | 14 | 0 | 14 |
| Megan's Meadows | 9 | 0 | 9 |
| Mountain View Estates | 37 | 0 | 37 |
| New Hope Lutheran Plat | 8 | 0 | 8 |
| Pacific Lane | 11 | 0 | 11 |
| Ridge At Tall Timbers | 104 | 0 | 104 |
| Spencer Place | 13 | 0 | 13 |
| Stipps Plat | 29 | 0 | 29 |
| Willow Place | 18 | 0 | 18 |
| Yates Plat | 16 | 0 | 16 |
| | 887 | | **887** |

Estimated Students Based on Student Gen Factor

| | Projected Students | | | |
|---|---|---|---|---|
| | Student Generation Factors | | | |
| | **Elem** | **Middle** | **HS** | **Total** |
| | 5 | 2 | 3 | 10 |
| | 2 | 1 | 1 | 5 |
| | 1 | 1 | 1 | 2 |
| | 13 | 6 | 7 | 26 |
| | 3 | 1 | 2 | 6 |
| | 16 | 7 | 9 | 33 |
| | 5 | 2 | 3 | 10 |
| | 1 | 1 | 1 | 3 |
| | 4 | 2 | 2 | 7 |
| | 3 | 2 | 2 | 7 |
| | 5 | 2 | 3 | 10 |
| | 42 | 19 | 23 | 84 |
| | 2 | 1 | 1 | 5 |
| | 2 | 1 | 1 | 5 |
| | 1 | 1 | 1 | 3 |
| | 6 | 3 | 3 | 12 |
| | 1 | 1 | 1 | 3 |
| | 2 | 1 | 1 | 4 |
| | 17 | 8 | 9 | 34 |
| | 2 | 1 | 1 | 4 |
| | 5 | 2 | 3 | 10 |
| | 3 | 1 | 2 | 6 |
| | 3 | 1 | 1 | 5 |
| Totals 2014 and up | **146** | **67** | **79** | **293** |
| **Grand Totals** | **230** | **105** | **125** | **461** |

# Auburn School District

Development Growth since 1/1/07

**March, 2014**

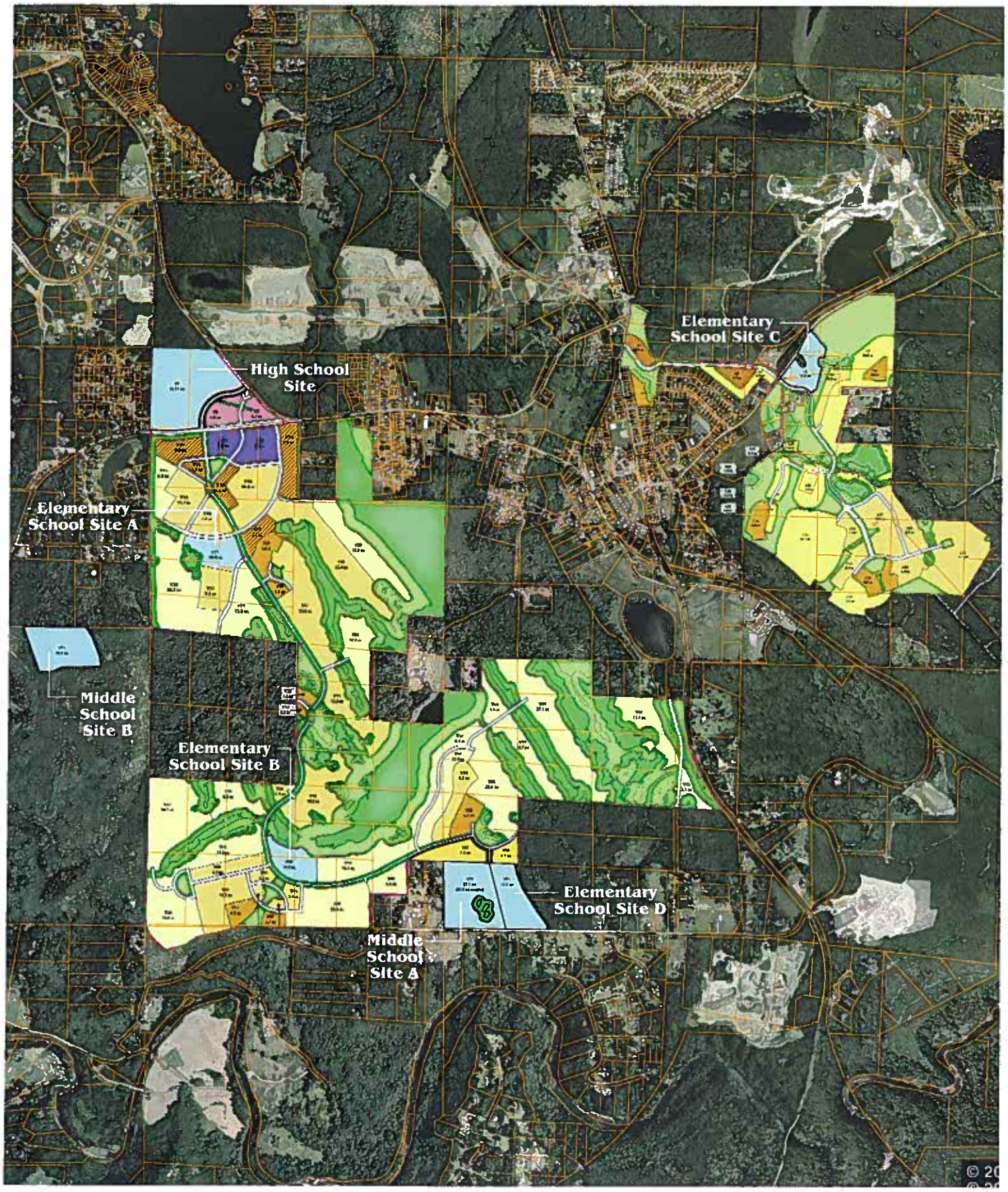
## MULTI FAMILY

| Development Name | Units/ Parcels | Current Occupancy | To Be Occupied | Elem | Middle | HS | Total | Student Generation Factors Elem | Middle | HS | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Lakeland: Four Lakes Apts | 234 | 234 | 0 | 14 | 8 | 6 | 28 | 0.060 | 0.034 | 0.026 | 0.120 |
| Legend Townhomes | 11 | 11 | 0 | 0 | 2 | 1 | 3 | 0.000 | 0.182 | 0.091 | 0.273 |
| Pacific Ave Duplexes | 12 | 12 | 0 | 4 | 1 | 2 | 7 | 0.333 | 0.083 | 0.167 | 0.583 |
| Seasons at Lea Hill Village | 332 | 332 | 0 | 125 | 48 | 54 | 227 | 0.377 | 0.145 | 0.163 | 0.684 |
| Trail Run Townhomes | 115 | 115 | 0 | 14 | 5 | 2 | 21 | 0.122 | 0.043 | 0.017 | 0.183 |
| | 704 | 704 | 0 | 157 | 64 | 65 | 286 | 0.223 | 0.091 | 0.092 | 0.406 |

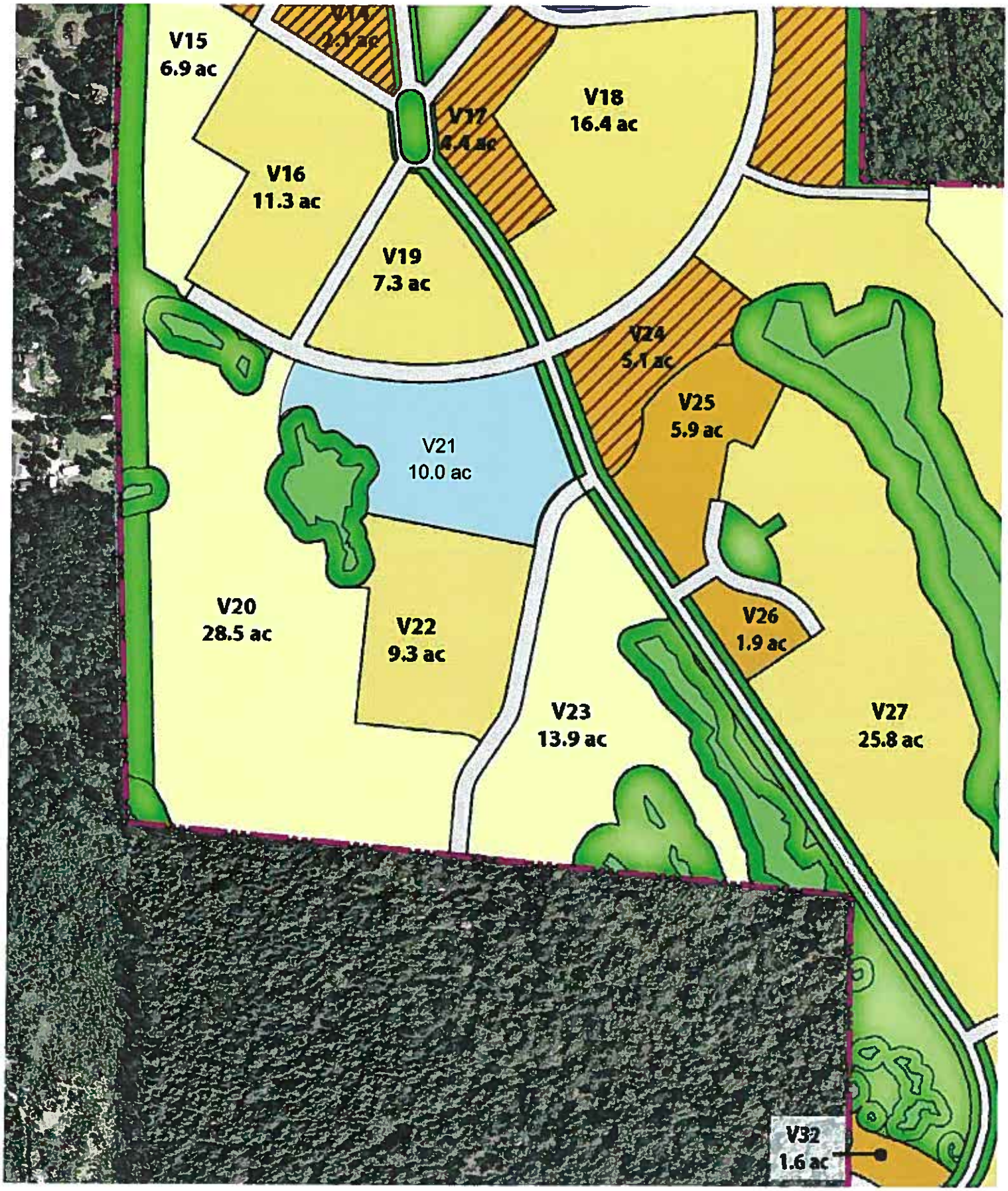
**2014 and beyond**

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Auburn Hills Apt/TH | 205 | 0 | 205 | | 46 | 19 | 19 | 83 |
| "D" Street Plat | 32 | 0 | 32 | | 7 | 3 | 3 | 13 |
| Sundallen Condos | 48 | 0 | 48 | | 11 | 4 | 4 | 20 |
| | 285 | | **285** | **Total** | **64** | **26** | **26** | **116** |

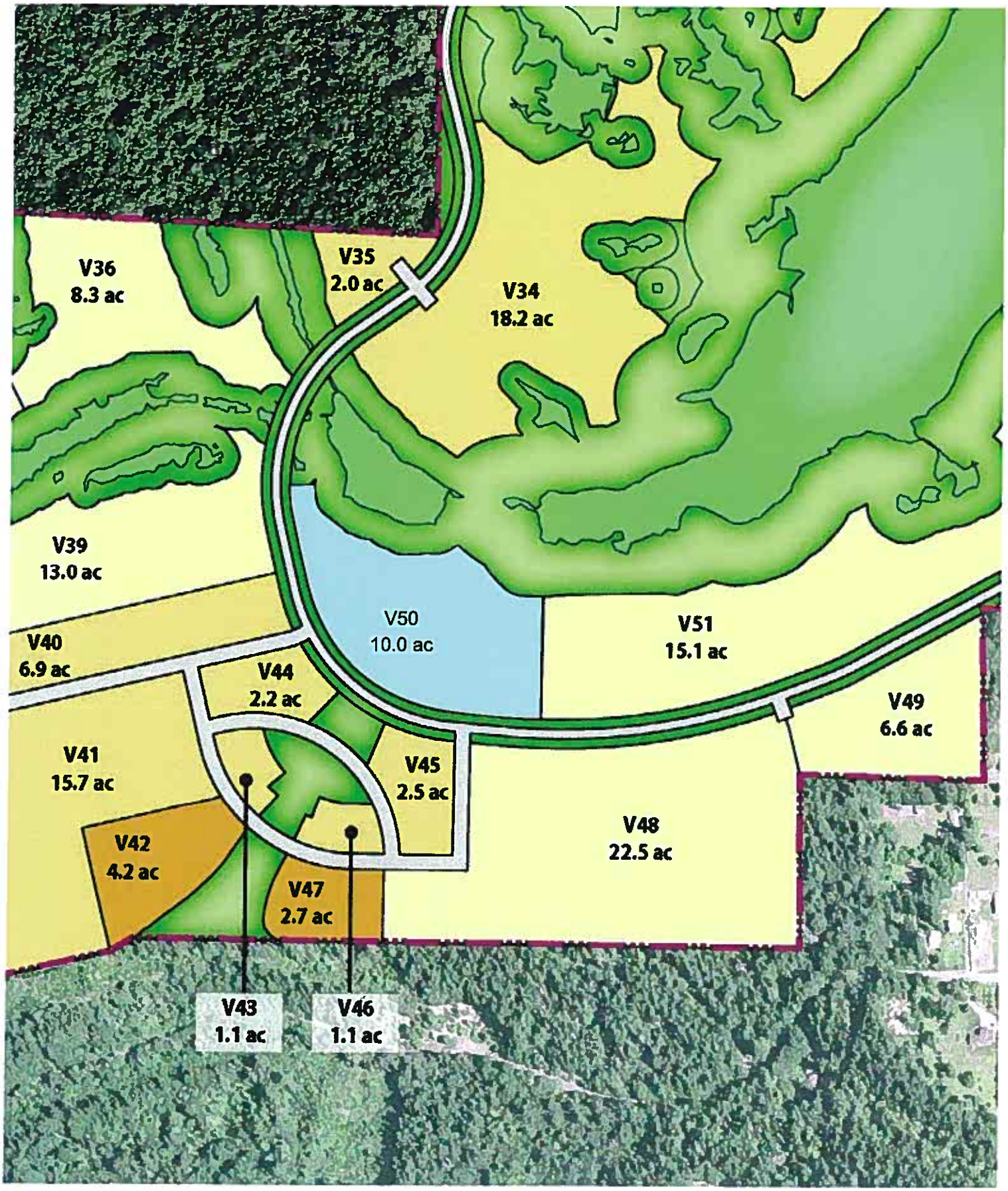
# Black Diamond School Sites



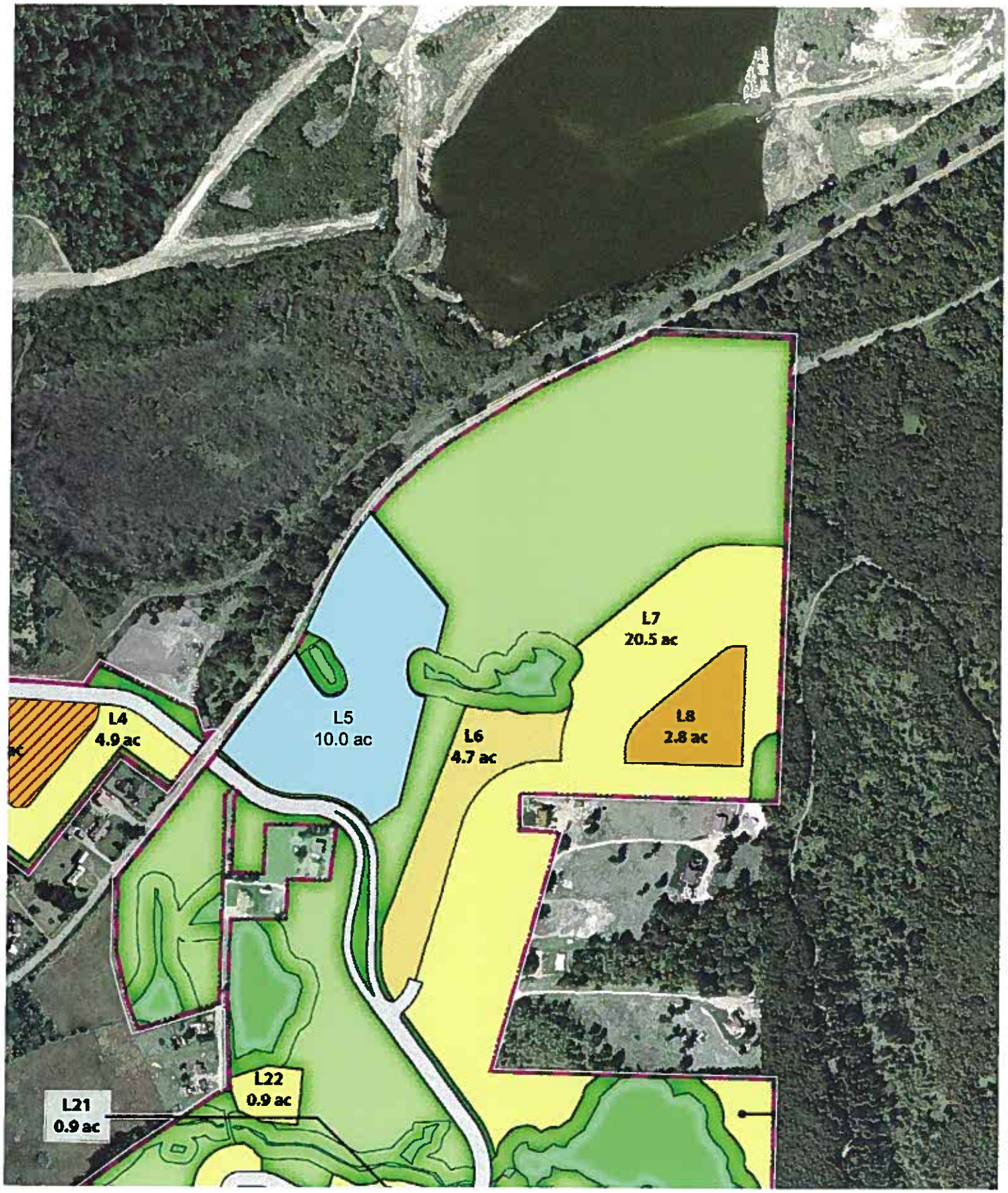
# Elementary School Site A



# Elementary School Site B



# Elementary School Site C



# CITY OF BLACK DIAMOND
## WASHINGTON

**RESOLUTION NO. 12-788**

---

**A RESOLUTION OF THE CITY OF BLACK DIAMOND, WASHINGTON, EXPRESSING THE INTENT OF THE BLACK DIAMOND CITY COUNCIL TO SUPPORT COUNTY WIDE PLANNING POLICIES IMPOSING LIMITATIONS ON CONSTRUCTION OF URBAN PUBLIC SCHOOLS ON RURAL LANDS**

WHEREAS, walkable schools in the urban growth area (UGA) will allow more students to walk to school, improving student health and quality of life;

WHEREAS, walkable schools in the UGA will decrease greenhouse emissions and long term operating costs related to busing;

WHEREAS, the intent of the defined UGA's was to prevent sprawl into rural lands;

WHEREAS, the city of Black Diamond is in a defined UGA adjacent to substantial rural lands and valuable sensitive environments;

WHEREAS, it is the intent of the Black Diamond Comprehensive Plan to support managed, smart growth and to protect forested buffers and natural areas which contribute to the City's unique rural character;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Black Diamond City Council affirmatively supports amending county wide planning policies under GMPC to prevent largely urban schools (any school serving more than 50% of UGA residents) from being built in the rural lands, except existing school owned sites already served by sewers.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 1st DAY OF March, 2012.

CITY OF BLACK DIAMOND

Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

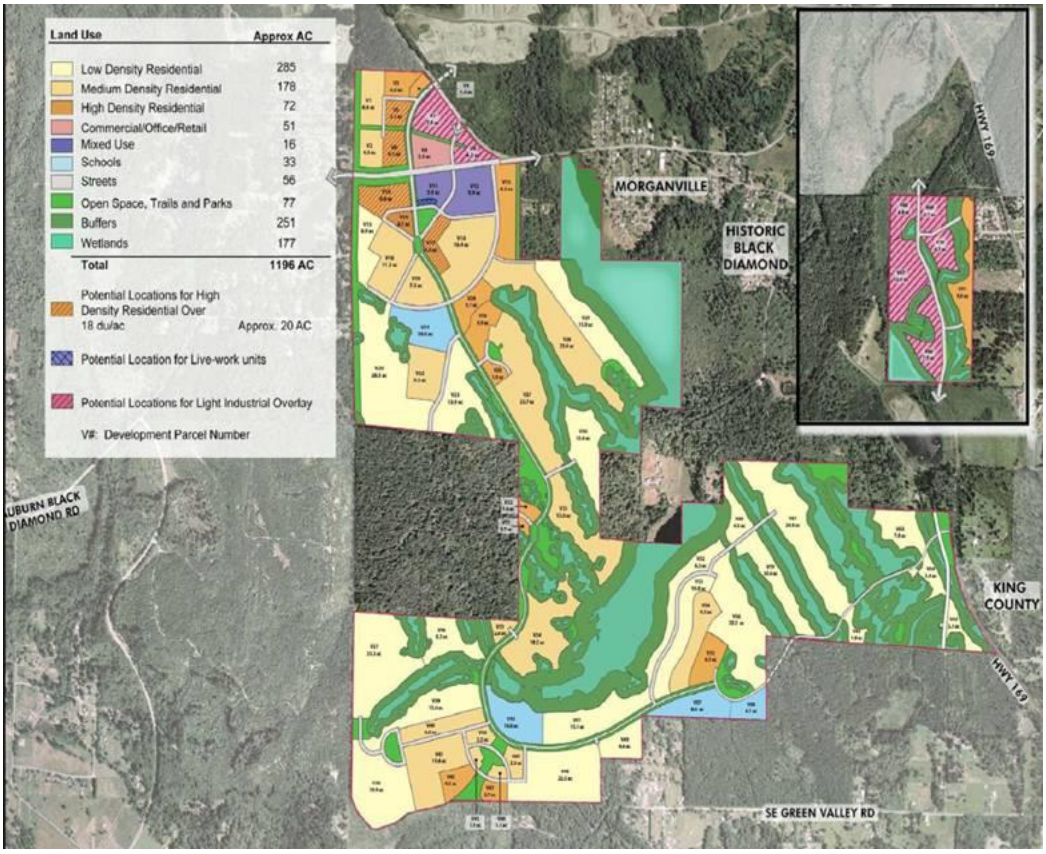
Brenda L. Martinez, City Clerk

Approved as to form:

Chris Bacha, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Resolution No.:
Date Posted:

MPD Maps.


Land Use
Approx AC
Low Density Residential 285
Medium Density Residential 178
High Density Residential 72
Commercial/Office/Retail 51
Mixed Use 16
Schools 33
Streets 56
Open Space, Trails and Parks 77
Buffers 251
Wetlands 177
Total 1196 AC
Potential Locations for High Density Residential Over 18 du/ac Approx. 20 AC
Potential Location for Live-work units
Potential Locations for Light Industrial Overlay
V#: Development Parcel Number
MORGANVILLE
HISTORIC BLACK DIAMOND
HWY 169
KING COUNTY
SE GREEN VALLEY RD
AUBURN BLACK DIAMOND RD

**gional Storm Facility**
**ne Villages**

11/16/2011

ARROWBAY
OLDINGS