

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution authorizing execution of an Amended and Restated Comprehensive School Mitigation Agreement with Enumclaw School District and the Master Developer.	Agenda Date: October 21, 2021 AB21-063	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	X
	City Clerk – Brenda L. Martinez	
	Com Dev – Mona Davis	
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	X
	Police – Chief Kiblinger	
	Public Works – Seth Boettcher	
Cost Impact (see also Fiscal Note): none	Court – Stephanie Metcalf	
Fund Source:		
Timeline:		
Agenda Placement: ☒ Mayor ☐ Two Councilmembers ☐ Committee Chair ☐ City Administrator		
Attachments: Resolution; Agreement; Exhibits thereto		
SUMMARY STATEMENT: As part of the SEPA environmental review and approval of the master planned developments (MPDs), the Master Developer was required to enter into a separate, comprehensive school mitigation agreement with the City and the Enumclaw School District (which is the district that serves the vast majority of the MPD area). That original comprehensive school mitigation agreement (Original CSMA) was negotiated and executed in 2011, before the Development Agreements for the Lawson Hills and The Villages were finalized and approved by the Council. In the years since the Original CSMA was executed, the build out of the MPDs has commenced and substantial new development has begun to occur. Additionally, King County has changed its policies concerning the siting of schools in relation to urban growth boundaries. In light of new information, changed policies, and the progress of the MPDs to date, the Enumclaw School District has identified a number of adjustments to the proposed school sites in the Original CSMA that would be desirable for ensuring adequate mitigation and for optimizing the efficiency and suitability of new school facilities to serve the MPDs and the District as a whole. The District has also proposed, and the Master Developer has agreed to, additional changes that would ensure earlier conveyance of school sites from the Master Developer to the District and guarantee the conveyance of other sites before the end of the agreement term. The District and the Master Developer have jointly requested that the City approve these adjustments to the school sites and related provisions of the Original CSMA. Because of the complexity of administering both the Original CSMA, the proposed adjustments to the CSMA, and the related but separate Enhancement Agreement between the District and the Master Developer, the parties have proposed a single Amended and Restated CSMA that will supersede the prior agreements. The Amended and Restated CSMA is attached as Exhibit A to the resolution. The Enumclaw School District Board is scheduled to consider approval of the Amended and Restated CSMA at its next meeting on Monday, October 18, 2021.		

FISCAL NOTE (Finance Department): N/A		
COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 21-1445 authorizing the Mayor to execute an Amended and Restated Comprehensive School Mitigation Agreement with Enumclaw School District and the Master Developer.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
October 21, 2021		

RESOLUTION NO. 21-1445

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED COMPREHENSIVE SCHOOL MITIGATION AGREEMENT WITH ENUMCLAW SCHOOL DISTRICT AND THE MASTER DEVELOPER.

WHEREAS, Chapter 43.21C RCW and its implementing regulations require a developer to mitigate probable adverse environmental impacts of a proposed project on the built environment, including schools; and

WHEREAS, RCW 58.17.110 requires that appropriate provisions be made for schools and school facilities necessary to serve residential subdivisions; and

WHEREAS, in 2010, the City of Black Diamond conducted and completed environmental review (the “SEPA Decision”) related to two proposed master planned developments (the “MPDs”) located within the City and nearly entirely within the Enumclaw School District’s (“District”) boundaries and consisting of up to a total of 6,050 new residential dwelling units, with a mix of single-family and multi-family units, along with commercial and open space uses; and

WHEREAS, the SEPA Decision identified impacts to schools and school facilities from development of the MPDs and required the master developer (“Master Developer”) to enter into a separate school mitigation agreement as a condition of further development approvals; and

WHEREAS, the District engaged early with the City and the Master Developer to assess potential impacts on schools and school facilities, and to identify future school sites located within or in close proximity to the MPDs; and

WHEREAS, the District, the City, and the Master Developer entered into the Original Comprehensive School Mitigation Agreement in January 2011 (the “Original Agreement”) following the City’s adoption of the SEPA Decision and the ordinances approving the MPDs, but prior to the City’s adoption of the Development Agreements for the MPDs; and

WHEREAS, the Development Agreements provided further definition around the development of the MPDs and formalized implementation of the developments; and

WHEREAS, the District and the Master Developer subsequently entered into a separate School Mitigation Enhancement Agreement in December 2014 (the “Enhancement Agreement”) to provide the District with enhanced site options and increased flexibility with regard to school site planning; and

WHEREAS, in the time subsequent to the Original Agreement and the Enhancement Agreement, and as the MPDs have started buildout, the District and the Master Developer have identified certain adjustments to the agreed mitigation plans that would further benefit school mitigation and site planning, as well as facilitate implementation of the Original Agreement and the Enhancement Agreement; and

WHEREAS, the contemplated adjustments include securing earlier conveyance of additional school sites from the Master Developer to the District; assured conveyance of certain school sites to the District by the end of the Agreement term; a coordinated three-school campus location; a more centrally located elementary school in the Lawson Hills MPD; and an added auxiliary school facility site for administrative and/or transportation facilities; and

WHEREAS, the District and its architects have recently completed feasibility review of the proposed adjusted school sites and found those sites to be acceptable for purposes of future school facilities; and

WHEREAS, in view of the proposed adjustments and clarifications related to implementation of the planned mitigations, the District finds a benefit in revisiting, restating, and updating the commitments and obligations in the Original Agreement and the Enhancement Agreement, and replacing both agreements with one new Amended and Restated Comprehensive School Mitigation Agreement; and

WHEREAS, the City Council finds that the District's proposed adjustments to the school sites within the MPDs and the other clarifications and adjustments to the mitigation proposed in the Original Agreement would provide benefits to the City and its current and future residents, including students who will attend the proposed new schools; and

WHEREAS, the City Council acknowledges that since the Original Agreement was executed, King County has changed its policies governing siting of schools outside of approved urban growth boundaries; and

WHEREAS, the City Council has confidence that the Enumclaw School Board has adequately investigated the suitability of the adjusted school sites to provide necessary and appropriate school mitigation for the ongoing build-out of the MPDs;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Mayor, or her designee, is hereby authorized to execute the Amended and Restated Comprehensive School Mitigation Agreement, attached hereto as Exhibit A or in substantially similar form.

Section 2. The Mayor, or her designee, is further authorized to execute such additional documents and take such other actions as may be reasonably necessary to effectuate the intent of the Amended and Restated Comprehensive School Mitigation

Agreement, including execution of the related agreements and documentation referenced therein, and to fulfill the City's obligations thereunder.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 21ST DAY OF
OCTOBER, 2021.**

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk

**AMENDED AND RESTATED
COMPREHENSIVE SCHOOL MITIGATION AGREEMENT**

This AMENDED AND RESTATED COMPREHENSIVE SCHOOL MITIGATION AGREEMENT (the "Agreement") is made this ____ day of _____, 2021, between the CITY OF BLACK DIAMOND, a Washington municipal corporation (the "City"), the ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington (the "District"), and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (the "Developer").

RECITALS

A. 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.

B. 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. The Developer is successor-in-interest to BD Village Partners LP and BD Lawson Partners LP, the parties that owned the Village Project and Lawson Hills Project at the time the Original Comprehensive School Mitigation Agreement and Enhancement Agreement were executed.

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

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

E. 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.

F. 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.

G. 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.

H. 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.

I. 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 Parties desire certainty regarding mitigating the impacts of the Projects on School Facilities and this Agreement reflects the Parties' agreement with respect to that mitigation.

J. 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 Agreed 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.

K. 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.

L. A material and substantial consideration for the Parties entering into this Agreement 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.

M. 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.

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

O. The District, City and Developer's predecessors entered into the Original Comprehensive School Mitigation Agreement following the City's adoption of the MPD SEPA Decision and Ordinances, but prior to the City's adoption of the Development Agreements.

P. The Parties have identified mutual benefits related to revisiting and restating the commitments and obligations in the Original Comprehensive School Mitigation Agreement following initial development of the MPDs.

Q. The District and Developer's predecessors entered into the Enhancement Agreement to enhance and supplement the Original Comprehensive School Mitigation Agreement following the District's initial feasibility and the two parties' collaboration with regard to school siting.

R. The Parties recognize the benefits individually and collectively, and in particular to the community, to amend and restate in whole the agreed comprehensive school mitigation related to the MPDs, incorporating and replacing in full both the Original Comprehensive School Mitigation Agreement and the Enhancement Agreement, all as stated herein.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and other good and valuable consideration, the Parties agree as follows:

1. Purpose and Effect; Release of Documents.

1.1 The Parties hereto collectively intend for this Agreement to amend and replace in its entirety the Original Comprehensive School Mitigation Agreement and the District and the Developer, together, intend for this Agreement to amend and replace in its entirety the Enhancement Agreement. For purposes of clarity, the Parties hereto intend that, as of the Agreement Effective Date, neither the Original Comprehensive School Mitigation Agreement nor the Enhancement Agreement shall have any continuing effect and that no party shall have any right or obligation thereunder.

1.2 Within two (2) business days following the recording of this Agreement, each party shall execute a recordable release of the Original Comprehensive School Mitigation Agreement and the Enhancement Agreement, as applicable, in the form attached hereto as Exhibit A.

1.3 Within two (2) business days following the recording of this Agreement, each party, as applicable, shall execute a recordable release of the High School Deed of Trust, the Alternative Elementary School C Option Agreement, the Alternative Elementary School C Expansion Acreage Option Agreement, the Alternative Elementary School D Option Agreement, the Elementary D Expansion Acreage Option Agreement, the Middle School Expansion Acreage Option Agreement, the Alternative Middle School Option Agreement, and the Lawson Hills Easement in the form attached hereto as Exhibit B.

1.4 The Parties hereto collectively agree to cooperate with each other in any actions reasonably necessary or convenient to further effectuate or document the release of the Original Comprehensive School Mitigation Agreement and the Enhancement Agreement, and associated encumbrances, if requested by any third party. Such actions may include the signing and recording of various documents; provided that, the Parties agree that any actions pursuant to this Section 1.4 shall be consistent with the provisions of Sections 1.1, 1.2 and 1.3. Notwithstanding the specific releases described in Sections 1.2 and 1.3 above, the Parties further agree to execute, subject to review and approval by all Parties' legal counsel, with such approval not to be unreasonably withheld, conditioned or delayed, any and all documents reasonably necessary and relevant to releasing the Original Comprehensive School Mitigation Agreement and the Enhancement Agreement, within ten (10) business days after being provided those documents; provided that, if such documents require approval of the District's Board of Directors or the City's City Council, approval will be sought at the next regularly scheduled meeting of the Board and/or Council, as applicable.

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

2.1 "Actual Joint Use Land Values" shall mean the market value of Joint Use Land as determined using the formula for determining the Actual School Site 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 Agreed School Site determined pursuant to Section 10.3.

2.3 "Agreed School Sites" shall mean the Elementary School Sites, the Ten Trails Middle School Site, the Ten Trails High School Site, and the Auxiliary School Facility Site.

2.4 "Agreed Student Capacity" shall mean 600 students per elementary school, 800 students for the Ten Trails Middle School Site, and 1,200 students for the Ten Trails High School Site.

2.5 "Agreement" shall mean this document, which is entitled Amended and Restated Comprehensive School Mitigation Agreement, and all exhibits and/or attachments to this document which are referenced within the body of the document, and which are by this referenced incorporated herein.

2.6 "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.

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

2.8 "Alternative Elementary School Site C Option Agreement" shall mean that option agreement recorded under King County Recording No. 20150130000470.

2.9 "Alternative Elementary School Site C Expansion Area Option Agreement" shall mean that option agreement recorded under King County Recording No. 20150130000471.

2.10 "Alternative Elementary School Site D Option Agreement" shall mean that option agreement recorded under King County Recording No. 20150130000467.

2.11 "Alternative First Middle School Option Agreement" shall mean that option agreement recorded under King County Recording No. 20150130000468.

2.12 "Approval Work" shall mean work that is necessary to be performed on an Agreed 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 "Auxiliary School Facility Site" shall mean the site depicted on Exhibit C.1, which is equal to 1.50 acres (1.43 Usable Acres), which is a portion of the property legally described in Exhibit C.2.

2.15 "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.

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

2.17 "City" shall mean the City of Black Diamond.

2.18 "City Municipal Code" or "Code" shall mean Exhibit "E" to the Development Agreements.

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

2.20 "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 in the Development Agreements.

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

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

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

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

2.25 "Deed Restriction" shall mean that certain use restriction recorded at Closing for the Elementary School Sites and the Ten Trails Middle School Site, a form of which is attached hereto as Exhibit D.

2.26 "Developer" shall mean CCD Black Diamond Partners LLC, and any successor and assigns thereof.

2.27 "Developer's Actual Knowledge" shall mean the current actual knowledge of Brian Ross, without additional inquiry or investigation.

2.28 "Development Agreements" shall mean the development agreement for The Villages MPD as adopted by City of Black Diamond Ordinance No. 11-970 and the development agreement for Lawson Hills as adopted by City of Black Diamond Ordinance No. 11-971, including as applicable any adopted amendments thereto.

2.29 "Development Encumbrances" shall mean the title encumbrances described in Section 13.1, and the CCRs if approved by the District pursuant to Section 13.2.

2.30 "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.

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

2.32 "District's Capital Facilities Plan" shall mean the Enumclaw School District's Capital Facilities Plan as adopted by the District's Board of Directors, as may be amended from time to time.

2.33 "Elementary B Storm Water Easement" shall mean an easement in the form of Exhibit CC.

2.34 "Elementary School Sites" shall mean the Ten Trails Elementary School Site A, the Lawson Hills Elementary School Site, and the Ten Trails Elementary School Site B, collectively, or individually as the context requires.

2.35 "Elementary D Expansion Acreage Option Agreement" shall mean that option agreement recorded under King County Recording No. 20150130000472.

2.36 "Enhancement Agreement" shall mean that School Mitigation Enhancement Agreement by and between the District and the Developer dated December 29, 2014 and recorded under King County Recording No. 20150130000466.

2.37 "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.

2.38 "Escrow Agent" shall mean Fidelity National Title Insurance Company, located at 600 University Street, Suite 2424 in Seattle, Washington 98101, or the then-current address, or, in the event the aforementioned Fidelity National Title Insurance Company is no longer in existence, an escrow agent mutually agreeable to the District and the Developer.

2.39 "Estimated School Site Value" shall mean the estimated market value of an Agreed School Site as determined pursuant to Section 10.6.

2.40 "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 Agreed School Site and located outside the Agreed 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 Agreed 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.

2.41 "General Off-Site Utilities" shall mean storm water, 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.

2.42 "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.

2.43 "High School Site Deed of Trust" shall mean that deed of trust recorded under King County Recording No. 20140708000490, as amended under King County Recording Nos. 20150623001694 and 20160330000213.

2.44 "Included Costs" shall mean the Developer's share of the closing costs described in Section 19 and the cost of any Surveys (as described in Section 12).

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

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

2.47 "Joint Use Land" shall mean that certain real property located in the City on an Agreed 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 Land Use Approvals, all as further described in Section 8.

2.48 "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 lot 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 Agreed School Site from the rest of the Projects or other property or other approvals necessary to complete the Projects.

2.49 “Lawson Hills Easement” shall mean that easement recorded under King County Recording No. 20151021001953, providing the District with an easement for access and utilities over and through the Lawson Hills Project.

2.50 “Lawson Hills Project” shall mean that certain MPD project on certain real property as described in Exhibit E attached hereto and consisting of no more than 1,250 Units as approved in the Ordinances and further described in the Development Agreements.

2.51 “Lawson Hills Elementary School Site” shall mean the site described and depicted on Exhibits F.1 and F.2, which is equal to 10.63 acres (9.75 Usable Acres).

2.52 “MDRT” means the City’s Master Development Review Team as defined in Exhibit “N” to the Development Agreements.

2.53 “Middle School Expansion Acreage Option Agreement” shall mean that option agreement recorded under King County Recording No. 20150130000469.

2.54 “Middle School Storm Water Easement” shall mean an easement in the form of Exhibit G.

2.55 “Mineral Rights Endorsement” shall mean the endorsement required at conveyance of the Ten Trails High School Site and conveyance of the Auxiliary School Facility Site, all as documented in Exhibit H.

2.56 “Mitigation Fee” or “Mitigation Fees” shall mean the mitigation fees per Unit described in Section 9.

2.57 “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.

2.58 “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.

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

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

2.61 "MPD SEPA Decision" shall mean the Black Diamond Hearing Examiner Decision in re: Master Planned Development Application for The Villages, PLN09-0017 dated April 15, 2010 and the Black Diamond Hearing Examiner Decision in re: Master Planned Development Application for Lawson Hills, PLN09-0016 dated May 4, 2010, collectively.

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

2.63 "Multi-Family Unit" shall mean the same as the definition of multi-family as defined in the Development Agreements, which is a Unit in "any residential structure that contains 5 or more [attached Units]".

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

2.65 "Option to Purchase" shall mean the right of the Developer to purchase certain Agreed 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 J (also referred to as the "Developer's Option Agreement").

2.66 "Ordinances" shall mean the ordinance approving The Villages MPD as adopted by City of Black Diamond Ordinance No. 10-946 and the ordinance approving the Lawson Hills MPD as adopted by City of Black Diamond Ordinance No. 10-947.

2.67 "Original Comprehensive School Mitigation Agreement" shall mean that Comprehensive School Mitigation Agreement executed by and between the parties dated January 24, 2011 and recorded under King County Recording No. 20110624001156.

2.68 "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 Projected Units.

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

2.70 "Parties" or "Party" shall mean the City, the District, the Developer, collectively, or individually, as the context requires.

2.71 "Permitted Exceptions" shall mean the certain title encumbrances for each property as set forth in Exhibit K.

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

2.73 "Projected Lawson Hills Units" shall mean a projected 1,250 Units resulting from the full build out of the Lawson Hills Project.

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

2.75 "Projected Ten Trails Units" shall mean a projected 4,800 Units resulting from the full build out of the Village Project.

2.76 "Regional Storm Water Facility" shall mean the regional storm water facility planned pursuant to Section 7.4.2 of The Villages Master Planned Development Agreement recorded under King County recording no. 20120130000655.

2.77 "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.

2.78 "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.

2.79 "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 Agreed School Sites or which exceed the base cost of the General Off-Site Improvements.

2.80 "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 Agreed School Sites or which exceed the base cost of the General Off-Site Utilities.

2.81 “Single Family Unit” shall mean the same as the definition of single family as defined in the Development Agreements, which is a Unit in “any residential structure that contains four (4) or fewer [Units]”.

2.82 “Site B Access and Utilities Easement” shall mean an access and utilities easement in the form of Exhibit L, which provides the District as owner of the Ten Trails Elementary School Site B with the right to develop and use eighty (80) feet along the eastern boundary of the Ten Trails Middle School Site for ingress and egress to and from and utilities serving the Ten Trails Elementary School Site B.

2.83 “Southern School Sites” shall mean, collectively, the Ten Trails Elementary School Site B, the Ten Trails Middle School Site, the Ten Trails High School Site, and the Auxiliary School Facility Site.

2.84 “Southern School Sites Easement” shall mean that easement recorded under King County Recording No. 20150528000482, as amended by King County Recording Nos. 20150811000652 and 20151021001954, which provides the District with an easement for access and utilities through the Ten Trails Project to the area serving the Southern School Sites.

2.85 “Ten Trails Elementary School Site A” shall mean the site described and depicted on Exhibits M.1 and M.2, which is equal to 12.54 Usable Acres.

2.86 “Ten Trails Elementary School Site B” shall mean the site described and depicted on Exhibit N.1, which is equal to 16.48 acres (15.98 Usable Acres), with 6.60 acres (6.56 Usable Acres) located within the City and 9.88 acres (9.42 Usable Acres) located in unincorporated King County, which is a portion of the property legally described in Exhibit N.2.

2.87 “Ten Trails High School Site” shall mean the site described and depicted on Exhibit O.1, which is equal to 42.98 acres (40.24 Usable Acres) and is a portion of property legally described in Exhibit O.2.

2.88 “Ten Trails High School Site Grading Easement” shall mean the easement in the form of Exhibit P, which provides the District with the right to utilize certain property described in the easement for grading of the Ten Trails High School Site.

2.89 “Ten Trails Middle School Site” shall mean the site described and depicted on Exhibit Q.1, which is equal to 26.7 Usable Acres, with 12.37 acres located within the City and 14.33 acres located in unincorporated King County, which is a portion of the property legally described in Exhibit Q.2.

2.90 “Ten Trails Project” shall mean a MPD project on certain real property as described in Exhibit R attached hereto and consisting of no more than 4,800 Units as approved in the Ordinances and further described in the Development Agreements as the MPD formerly known as The Villages.

2.91 “Third Party Conveyer” shall mean a third party to whom the Developer has conveyed property that includes an Agreed School Site.

2.92 “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.

2.93 “Title Company” shall mean Fidelity National Title Insurance Company, located at 600 University Street, Suite 2424 in Seattle, Washington, or the then-current address, or, in the event the aforementioned Fidelity National Title Insurance Company is no longer in existence, a title company mutually agreeable to the District and the Developer.

2.94 “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.

2.95 RESERVED.

2.96 “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.

2.97 “Usable Acreage” or “Usable Acres” shall mean acreage that can be fully utilized for the School Facilities to be constructed on the Agreed School Sites and devoid of wetlands, wetland buffers, steep slopes, and any other environmentally critical areas and includes acreage that is devoid of wetlands, wetland buffers, steep slopes, and any other environmentally critical areas and identified in the 2016 King County Comprehensive Plan, updated February 14, 2020, specifically policies R-326 and R-327 and Technical Appendix Q entitled School Siting Task Force Report (as applicable).

2.98 “Village Project” shall mean the former name of the Ten Trails Project.

2.99 RESERVED.

2.100 "Water Supply and Facilities Funding Agreement" shall mean that certain agreement originally between the City and the 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 the Developer's performance of its obligations in this Agreement shall constitute full, total, complete and sufficient mitigation of the impact of full build out of the Projects 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, storm water, 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 Agreed 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 recognized as the valid and continuing agreement with regard to all Land Use Approvals issued subsequent to and inclusive of the Ordinances.

4. Agreement Separate from Capital Facilities Plan. The Parties acknowledge that the information in the District's Capital Facilities Plan, including without limitation student generation rates, service standards for school size and for minimum school site acreage, and school impact fee rates, may change from time to time. Nonetheless, for purposes of the obligations of the Developer with respect to the Projects, the requirements set forth in this Agreement shall control as to the school mitigation for the Projects.

5. Agreed School Sites, Agreed Capacity and 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 the following Agreed School Sites:

5.1 Ten Trails Elementary School Site A. The Developer shall convey and the District shall acquire the Ten Trails Elementary School Site A within (20) days of the Agreement Effective Date.

5.2 Lawson Hills Elementary School Site. The Developer shall convey and the District shall acquire the Lawson Hills Elementary School Site within twenty (20) days of the Agreement Effective Date.

5.3 Ten Trails Elementary School Site B. The Developer shall convey and the District shall acquire the Ten Trails Elementary School Site B when: (1) the District receives School Financing Approval for the construction of the school to be built on the Ten Trails Elementary School Site B, provided that such School Financing Approval occurs after or concurrently with schools constructed on the Ten Trails Elementary School Site A and Lawson Hills 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. Notwithstanding the foregoing, the Developer shall convey and the District shall acquire the Ten Trails Elementary School Site B, at no cost and regardless of School Financing Approval and Unit thresholds, at the end of the Agreement Term.

5.3.1 The Ten Trails Elementary School Site B includes a legal parcel within the City of Black Diamond and a portion of an adjacent parcel in unincorporated King County. The portion located in unincorporated King County requires a lot line adjustment to create a separate legal lot. The Developer shall, within six (6) months following the Agreement Effective Date, file with King County a lot line adjustment application so that the King County portion of the Ten Trails Elementary School Site B is comprised of a separate legal lot. In the event that the required lot line adjustment contemplated herein is not approved, the Developer shall be required within two (2) months following such denial to identify and secure District approval, in the District's reasonable discretion in consideration of school site design and intended use of the Southern School Sites as a contiguous campus, an alternative proposed lot line adjustment that provides for the same approximate Usable Acreage within the same approximate location as the Ten Trails Elementary School Site B (including the site's acreage split between the City and King County, with the Parties acknowledgement that any alternative proposed lot line adjustment shall not include property located in unincorporated King County that departs from that property as identified in the 2016 King County Comprehensive Plan, updated February 14, 2020, specifically policies R-326 and R-327 and Technical Appendix Q entitled School Siting Task Force Report (as applicable). Upon the District's approval, the Developer shall have four (4) months to file with the City of Black Diamond and King County, as each may be necessary, lot line adjustments that create the agreed separate legal lots. The Developer's failure to secure an approved lot line adjustment within twenty-four (24) months of the Agreement Effective Date to create the Ten Trails Elementary School Site B as separate legal lots shall result in the Developer being required to pay to the District a cash amount equal to the Actual School Site Value of the Ten Trails Elementary School Site B with the District providing to the Developer Mitigation Fee Credits reflecting that amount but with

such cash amount becoming immediately the sole property of the District and not being subject to (a) any reimbursement of Mitigation Fees pursuant to Section 10.4 or (b) required expenditure toward acquiring the Ten Trails High School Site pursuant to Section 9.9.2.

5.3.2 If the Developer conveys the Ten Trails Elementary School Site B to the District prior to conveyance of the Ten Trails Middle School Site, the Developer shall simultaneously convey to the District the Site B Access and Utilities Easement.

5.4 Ten Trails Middle School Site. The Developer shall convey and the District shall acquire the Ten Trails Middle School Site at any time upon request by the District after 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. To trigger conveyance, the District shall provide the Developer with notice and the Developer shall convey the site within sixty (60) days of receipt of such notice; provided that, the Developer shall convey the Ten Trails Middle School Site to the District at the end of the Agreement Term regardless of any District notice if the unit threshold in this Section 5.4 is satisfied.

5.4.1 The Ten Trails Middle School Site includes a legal parcel within the City of Black Diamond and a portion of an adjacent parcel in unincorporated King County. The portion located in unincorporated King County requires a lot line adjustment to create a separate legal lot. The Developer shall, within six (6) months following the Agreement Effective Date, file with King County a lot line adjustment applications so that the King County portion of the Ten Trails Middle School Site is comprised of a separate legal lot. In the event that the required lot line adjustment contemplated herein is not approved, the Developer shall be required within two (2) months following such denial to identify and secure District approval, in the District's reasonable discretion in consideration of school site design and intended use of the Southern School Sites as a contiguous campus, an alternative proposed lot line adjustment that provides for the same approximate Usable Acreage within the same approximate location as the Ten Trails Middle School Site (including the site's acreage split between the City and King County, with the Parties acknowledgement that any alternative proposed lot line adjustment shall not include property located in unincorporated King County that departs from that property as identified in the 2016 King County Comprehensive Plan, updated February 14, 2020, specifically policies R-326 and R-327 and Technical Appendix Q entitled School Siting Task Force Report (as applicable). Upon the District's approval, the Developer shall have four (4) months to file with the City of Black Diamond and King County, as each may be necessary, lot line adjustments that create the agreed separate legal lots. The Developer's failure to secure an approved lot line adjustment within twenty-four (24) months of the Agreement Effective Date to create the Ten Trails Middle School Site as separate legal lots shall result in the Developer being required to pay to the District a cash amount equal to the Actual School Site Value of the Ten Trails Middle School Site with the District providing to the

Developer Mitigation Fee Credits reflecting that amount but with such cash amount becoming immediately the sole property of the District and not being subject to (a) any reimbursement of Mitigation Fees pursuant to Section 10.4 or (b) required expenditure toward acquiring the Ten Trails High School Site pursuant to Section 9.9.2.

5.5 Ten Trails High School Site. The Developer's required conveyance of the Ten Trails High School Site to the District shall be subject to the following:

5.5.1 The Ten Trails High School Site shall be conveyed by the Developer to the District when the District receives School Financing Approval for the construction of a high school on the High School Site before the end of the Agreement Term. In such case, the closing of the conveyance of the Ten Trails High School Site to the District shall be within sixty (60) days of School Financing Approval.

5.5.2 In the event the District does not receive School Financing Approval for the construction of a high school on the Ten Trails 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 Ten Trails High School Site from the Developer for a period of three (3) years, as otherwise set forth in the option agreement attached as Exhibit S ("High School Option Agreement"), which High School Option Agreement shall be recorded against the Ten Trails High School Site at the end of the Agreement Term. The High School Option Agreement sets forth that the purchase price of the Ten Trails High School Site shall be the lesser of the following:

(a) the value of the Ten Trails High School Site as determined pursuant to Section 10.3.2 herein; or

(b) the amount of Mitigation Fees collected and in the Mitigation Fee Account as of the date of the District's exercise of the option to purchase pursuant to Section 9.9.2. 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 9.9.1 or as may be otherwise required or permitted by this Agreement.

In the event of any conflict between this Section 5.5 and the High School Option Agreement, the language of the High School Option Agreement shall control.

5.5.3 Consistent with Section 9.9 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 9.9, to fund the purchase, from the Developer, of the Ten Trails 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 of Mitigation Fees Credits to compensate Developer shall only be an option if Mitigation Fee Credits do 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 Ten Trails High School Site over and above the total amount of funds collected and in the Mitigation Fee Account pursuant to Section 9.9.2.

5.5.4 As of the Effective Date, the Ten Trails High School Site requires grading to achieve the 40.24 Usable Acres. The Developer anticipates completing the required grading prior to conveyance of the Ten Trails High School Site to the District by using area offsite to accomplish the slope transitions. To secure the grading work in the event that the Developer has not completed this work as of Closing for the Ten Trails High School Site or prior to the end of the Agreement Term, the Developer shall, within thirty (30) days of the Agreement Effective Date, execute and record the Ten Trails High School Site Grading Easement to allow the District to complete the necessary grading work.

5.5.5 The Ten Trails High School Site requires a lot line adjustment to remove a 1.05-acre wetland portion of its existing legal parcel and include it in adjacent road right-of-way as shown on Exhibit DD so that the remaining parcel equals 41.93 acres (40.24 Usable Acres). The Developer shall, within six (6) months following the Agreement Effective Date, file with the City a lot line adjustment application so that such 1.05-acre area is removed from the Ten Trails High School Site. In the event that the required lot line adjustment contemplated herein is not approved, the Developer shall be required within two (2) months following such denial to identify and secure District approval, in the District's reasonable discretion in consideration of school site design and intended use of the Ten Trails High School Site, an alternative proposed lot line adjustment that provides for the same approximate Usable Acreage. Upon the District's approval, the Developer shall have four (4) months to file with the City the alternative lot line adjustment.

5.6 Auxiliary School Facility Site. The Developer shall convey and the District shall acquire the Auxiliary School Facility Site at the same time as the Developer conveys the first of the Ten Trails Elementary School Site B, the Ten Trails Middle School Site, or the Ten Trails High School Site. For avoidance of doubt, if none of the listed school sites are conveyed prior to the end of the Agreement Term, then the Auxiliary School Facility Site shall be conveyed to the District along with conveyance of the Ten Trails Elementary School Site B pursuant to Section 5.3.

5.7 Agreed Student Capacity. The District agrees that, with the exception of the Ten Trails 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 Student 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. Notwithstanding the above, the Parties acknowledge that the District may phase construction on an Agreed School Site such that the initial phase of capacity may be less than 90% of the Agreed Student Capacity.

5.8 Conveyance for Mitigation Fee Credits. As set forth in this Agreement, and for avoidance of doubt, the Parties hereto agree, as set forth in Recital K above, that in no case shall the District be required to pay to the Developer or a Third Party Conveyer any form of cash or any additional consideration beyond Mitigation Fee Credits for the conveyance of any Agreed School Site, with the exception of (i) Reimbursement of Mitigation Fees to the Developer as may be required by Section 10.4 herein, and (ii) reimbursement for School-Specific Off-Site Utilities and School-Specific Off-Site Improvements as may be required by Section 23.2 herein.

6. Temporary Auxiliary Facility Acreage. In the event that the District, in its reasonable discretion, identifies a need for a temporary location within the City for satellite transportation and/or administrative facilities prior to the conveyance of the Auxiliary School Facility Site as set forth in Section 5.6, the Developer shall use commercially reasonable efforts to make available to the District, at no cost, a temporary location within the City of similar size and suitable for the intended use. The District's use of such temporary location will cease upon conveyance of the Auxiliary School Facility Site.

7. Site Conveyance. If the District accepts conveyance of any Agreed School Site which, at the time of conveyance, is anticipated to be or is included in a pending preliminary plat application or approved preliminary plat that has not yet had a final plat recorded, the Developer shall convey the affected site subject to the indemnification and hold harmless provisions set forth in Exhibit T.

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 Ten Trails Elementary School Site B, the Ten Trails Middle School Site, and the Auxiliary School Facility Site, located within the City for the purpose of satisfying a share of the City's park and recreational facilities requirements as set forth in the City Municipal Code and Land Use Approvals. 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 as set forth in the City Municipal Code and Land Use Approvals; 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 set forth in the City Municipal Code and Land Use Approvals, 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. If the Developer seeks Joint Use Lands in connection with an application for preliminary plat approval, then a final, signed Joint Use Agreement between the City and the District, as described in Section 8.3, below, shall be made a condition of final plat approval for the plat (or any division thereof), with the understanding that such condition shall not operate to limit the discretion of the City and the District to approve or deny the Developer's request for Joint Use Lands.

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 as set forth in the City Municipal Code and Land Use Approvals. 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 as set forth in the City Municipal Code and Land Use Approvals. 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. Nothing in this Section 8 precludes the City from denying the Developer's request for approval of Joint Use Lands if the City determines, in its sole

reasonable discretion, that the burdens to the City of owning, operating, and/or maintaining such Joint Use Lands are financially infeasible; provided, however, that the Developer shall first be given an opportunity to propose alternative means of funding such expenses before the City may deny an application for Joint Use Lands on such basis.

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 as set forth in the City Municipal Code and Land Use Approvals, 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 Agreed 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 attorney's 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 from 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 if permitted under their respective risk pool insurance.

8.3.2 If the Developer proposes to use Joint Use Land to satisfy the City parks and recreational requirements as set forth in the Development Agreements, 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 as set forth in the Development Agreements; 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 Actual Joint Use Land Value. The determination of the Actual School Site Value shall be determined based upon the sum of the Actual Joint Use Land Value at the time of transfer to the City and the Value of the remaining portion of the Agreed School Site as determined pursuant to Section 10.3. 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. The Parties acknowledge and agree that all applicable

laws and requirements, including without limitation those relating to public works and prevailing wage, shall apply to any projects funded in part or in whole by District funds.

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 as set forth in Exhibit "E" to the Development Agreements 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 as set forth in the Development Agreements 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 as set forth in Exhibit "E" to the Development Agreements, 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 City Adoption of School Impact Fees. The City adopted a Growth Management Act school impact fee ordinance as authorized under RCW 82.02.050 through RCW 82.02.090 and Chapter 36.70A RCW prior to the Agreement Effective Date. The City's maintenance of such ordinance shall be in the sole discretion of the City but the District and the Developer both encourage and support the City's continuation and maintenance of such ordinance.

9.2 Maximum and Minimum Mitigation Fee Amounts. The Mitigation Fees due for the Projects shall be the rate adopted by the City pursuant to any school impact 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 per Single-

Family Unit and \$4,003 per Multi-Family Unit regardless of the existence or absence of any City school impact fee or school mitigation fee ordinance.

9.3 Plat Language. 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 Unit. The mitigation fee shall be the rate adopted by the City of Black Diamond school impact fee ordinance, if any, provided that the maximum school mitigation fee due for each Unit shall be \$12,453 per Single Family Unit and \$4,003 per Multi-Family Unit, as applicable, but in no event, even in the absence of a school impact fee ordinance, shall the mitigation fees be less than \$7,783.00 per Single Family Unit and \$2,502.00 per Multi-Family Unit.

9.4. Continued Effectiveness of Mitigation Fees. The District and the Developer agree that the minimum Mitigation Fees as stated in Section 9.2 above 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 ordinance or otherwise does not impose impact or mitigation fees.

9.5 Due Date; Direct Payment.

9.5.1 All Mitigation Fees, or application of Mitigation Credits, as applicable, in connection with the Projects shall be due to and collected on behalf of the District by the City prior to the City's issuance of a building permit for a particular Unit using the Mitigation Fee rate then in effect as determined pursuant to the terms of this Agreement. The then-current owner of the lot shall pay the applicable Mitigation Fee prior to the issuance of the building permit or, in the alternative, provide the City with a credit certificate issued by the Developer applicable to the identified Unit(s).

9.5.2 The Developer shall have the option to require the then-current owner of the lot on which a Unit is to be developed to pay any Mitigation Fee owing to the District directly to the City pursuant to Section 9.5.1 instead of offsetting 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.

9.6. Multi-Family Units. The Parties agree that, for purposes of this Agreement and reflective of the comprehensive school mitigation framework as set forth herein, the definition of a "Multi-Family Unit" is defined consistent with the definition of "Multi-Family" set forth in Section 14.0 of the Villages MPD Development Agreement and Section 14.0 of the Lawson Hills Development Agreement and that definition controls, among other things, the calculation of school mitigation fees under this Agreement. The

Parties acknowledge that the definition of Multi-Family Units hereunder may differ from how the City Municipal Code defines multi-family units and agree that such difference reflects the comprehensive nature of school mitigation as contained in this Agreement and the specific circumstances of the MPDs and the City's approval of the Ordinances and the Development Agreements.

9.7 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.

9.8 City Disbursement of Mitigation Fees.

9.8.1 Within ten (10)) business days following the Agreement Effective Date, the City shall disburse to the District any Mitigation Fees it has previously collected and not yet disbursed to the District. The City's disbursement shall be accompanied by an updated and complete reconciliation of all fees collected by the City to the date of the Agreement Effective Date and identification of the specific lots (including plat identification and type of dwelling unit) for which the fees were paid, all in the form attached hereto as Exhibit U.

9.8.2 Following disbursement pursuant to Section 9.8.1, the City shall thereafter disburse collected Mitigation Fees to the District on a monthly basis with the identification of the specific lots (including plat identification and type of dwelling unit) for which the fees were paid. The City shall provide such information to the District with an update to the form provided pursuant to Section 9.8.1.

9.9. Mitigation Fee Account and Use of Mitigation Fees. The District shall place all Mitigation Fees collected from the Projects, including those disbursed by the City, in the Mitigation Fee Account. The Mitigation Fees shall be held and used as follows:

9.9.1 The District shall disburse Mitigation Fees to the Developer as provided in Section 10.4.

9.9.2 After satisfying its obligations under Section 9.9.1, as applicable, the District shall use Mitigation Fees for the purposes of acquiring the Ten Trails High School Site as described in Section 5.5.3.

9.9.3 Following conveyance of all of the Agreed School Sites during the Agreement Term and acquisition of the Ten Trails High School Site, if such 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.

9.9.4 Notwithstanding the provisions of this Section 9.9, 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.

9.9.5 The District shall use the form attached hereto as Exhibit V to record the Mitigation Fee Credit and Reimbursement activity pursuant to Section 10 herein.

9.10 School Mitigation Fee Tracking. The Developer agrees to provide, as a part of the reports to the District sent quarterly pursuant to Preliminary Plat 1A (PLN11-0001) Condition of Approval No. 82, an updated accounting of the School Mitigation payments and credits within the two MPDs in a form attached hereto as Exhibit W. The Developer shall provide the City a copy of Exhibit W at the same time.

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 any Agreed School Site conveyed to the District, (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. Notwithstanding the foregoing, if a Third Party Conveyer (as opposed to the Developer) conveys an Agreed School Site to the District, such Third Party Conveyer shall be entitled to the Mitigation Fee Credits for such site based on the Actual School Site Value unless the Developer has already received Mitigation Fee Credits for such site based on Estimated School Site Value per the process outlined in subsection 10.6 below. In such case, the Third Party Conveyer shall only receive Mitigation Fee Credits equal to the difference between the Actual School Site Value and the Estimated School Site Value, if any.

10.2 Vesting of Mitigation Fee Credits. All Mitigation Fee Credits shall be fully and irrevocably vested with the Developer or the Third Party Conveyor, as applicable, at the time the District issues the Mitigation Fee Credit Certificates. The District shall provide the Developer or the Third Party Conveyor 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 Agreed School Sites. At the Closing of an Agreed School Site, the District shall provide the Developer or the Third Party Conveyor a Mitigation Fee Credit equal to the Actual School Site Value for the particular Agreed School Site. If the Developer obtained a Mitigation Fee Credit equal to the Estimated School Site Value for the Agreed 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 or Third Party Conveyor, as applicable, shall pay Mitigation Fees equal to the unmitigated amount. The Actual School Site Value shall be determined as follows:

10.3.1 For the Ten Trails Elementary School Site A and the Lawson Hills Elementary School Site, the Actual School Site Value shall be equal to the sum of \$6.40/sf for each site, which represents a negotiated amount based upon independent appraisals performed by each party prior to the Agreement Effective Date.

10.3.2 For the Ten Trails Elementary School Site B, the Ten Trails Middle School, the Ten Trails High School Site, and the Auxiliary School Facility Site, the Parties agree to use the baseline of \$6.40/sf escalated by percentage change in value at the time of dedication based on the average monthly change in the Case Shiller WA-Seattle Home Price Index over the trailing five year period before dedication, expressed as follows:

- $(\text{Most current index value} - \text{index value 5 years prior}) / \text{index value 5 years prior} = 5 \text{ year \% change}$
- $5 \text{ year \% change} / 60 \text{ months} = \text{Average monthly \% change}$
- $\text{Average monthly \% change} \times \text{months since previous dedication} = \% \text{ change between dedications}$
- $(\% \text{ change between dedications} + 1) \times \text{previous dedication value} = \text{new dedication value.}$

For example:

Scenario 1:

- Valuation for June 2020 if initial school site dedications were 1 year (12mo) ago in June 2019 at \$6.40
- Case Shiller Home Price WA – Seattle

- Most recent index (March 2020) = 266
- 5 years prior (March 2015) = 174
- 5yr % change: $(266-174)/174 = .5287 = 52.87\%$
- Monthly change: $52.87\% / 60\text{mo} = 0.88\%$ per mo
- Change since last dedication (12mo) = $0.88\% * 12 = 10.57\%$
- New value: $1 + 10\% = 1.1057 * \$6.4 = \7.08

Scenario 2:

- Valuation for June 2025 if initial dedication was June 2019 at \$6.40 and second dedication was in June 2020 at \$7.08
- Case Shiller Home Price WA – Seattle
 - Most recent index (March 2025) = 300 (note: a fictional future index value for this scenario)
 - 5 years prior (March 2020) = 266
- 5yr % change: $(300-266)/266 = .1278 = 12.78\%$
- Monthly change: $12.78\% / 60\text{mo} = 0.21\%$ per mo
- Change since last dedication (60mo) = $0.21\% * 60 = 12.69\%$
- New value: $1 + 12.78\% = 1.1278 * \$7.08 = \7.98

Any calculation hereunder shall deduct from the Agreed School Site square footage, as applicable, any Joint Use Land located thereon previously conveyed to the City.

10.4 Reimbursement of Mitigation Fees. As applicable, at each Closing of an Agreed School Site conveyed by the Developer and for which the Developer did not receive an Estimated School Site Value and with the exception of the Ten Trails High School Site, which is subject to Section 9.9.2, 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 or requested in lieu of a reimbursement under this Section 10.4 in connection with any Agreed School Site. 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 (less any Mitigation Fee Credits already received). The Parties agree that, in no case shall the District be required to disburse any funds outside of the Mitigation Fee Account. The Parties further agree that the terms of this Section 10.4 shall not apply in any manner to any Third Party Conveyer.

10.5 Assignment of Mitigation Credits. Subject to the restriction on the use of Mitigation Fee Credits contained in this Agreement, the Developer or a Third Party Conveyer, as applicable, 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 Ten Trails 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 via a cover letter from the Developer or Third Party Conveyor, as applicable, to the District and the City with a copy of the assigned Mitigation Fee Credit Certificate(s).

10.6 Estimated School Site Value for Agreed School Sites. At any time following the Agreement Effective Date and conveyance of the Ten Trails Elementary School Site A and Lawson Hills Elementary School Site, the Developer shall have the right to obtain a Mitigation Fee Credit equal to the Estimated School Site Value of any other Agreed 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 Agreed School Site(s) to be valued; (iii) the Parties shall follow the process outlined in Section 10.3.2, to determine the Estimated School Site Value, provided that the Mitigation Fee Credit for the Agreed School Site shall be subsequently adjusted at the time of the conveyance pursuant to Section 10.3.2.

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

10.6.2 The Developer's receipt of the Mitigation Fee Credits pursuant to this Section 10.6 shall be conditioned on the Developer recording a deed of trust, in the form of Exhibit X, 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 Agreed School Site for which the Mitigation Fee Credit was received is not conveyed to the District.

10.7 Mitigation Fee Credit Certificates. Once an Agreed School Site is valued pursuant to the provisions of this Section 10 and conveyed to the District, the District shall issue to the Developer or a Third Party Conveyor, as applicable, 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 10.6.

10.8 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.

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

10.9.1 When the Developer or a Third Party Conveyor authorizes use of a Mitigation Fee Credit, it shall send a written request to the District for Mitigation Fee Credits to be issued for specifically identified lots within a named plat. Such request shall include identification of the number and type of dwelling unit(s) for such lot. The District shall, upon issuance of the Mitigation Fee Credit, update its accounting as required by Section 9.9.5 to reflect the debit.

10.9.2 At any time upon ten (10) days prior written notice from any Party, the District shall provide such Party with notice of the total Mitigation Fee Credits available.

11. Contingency Period. The District conducted due diligence on the Ten Trails Elementary School Site A and portions of the Ten Trails Elementary School Site B and Ten Trails Middle School as a part of the contingency period under the Original Comprehensive School Mitigation Agreement. The District conducted due diligence on the Lawson Hills Elementary School Site, Ten Trails High School Site, and the remaining portions of the Ten Trails Elementary School B, Ten Trails Middle School, and the Auxiliary School Facility Site prior to the Agreement Effective Date. The District hereby acknowledges its satisfaction with the conditions of the Agreed School Sites reserving, however, its rights as otherwise set forth herein.

12. Title and Survey. The District conducted title review on the Agreed School Sites prior to the Agreement Effective Date and identified the relevant Permitted Exceptions for each site, which are included on Exhibit K attached hereto. The District hereby acknowledges its satisfaction with the conditions of title for the Agreed School Sites reserving, however, its rights under Section 12.1 below and as otherwise set forth herein.

12.1 Supplemental Title Commitment. Within twenty (20) days following the Developer's receipt of notice from the District regarding conveyance of one of the Agreed School Sites or within 120 days prior to the termination of this Agreement in the event any of the Agreed School Sites has yet to be conveyed, the Developer shall obtain, at its cost, and deliver to the District a supplement to the Commitment for such Agreed School Site that includes the Title Documents for any exceptions that were not listed in the title binder for any particular site as reviewed by the District prior the Agreement Effective Date. For purposes of the Ten Trails Elementary School Site A and the Lawson Hills Elementary School Site, the Developer shall provide such supplemental Commitment no later than the Agreement Effective Date. 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 Developer shall not propose or create any title exceptions (excluding Development Encumbrances) after the Agreement Effective Date except for those required by the City for access and utilities related to improvements to the underlying plat and the District shall not withhold approval of such exceptions 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 Agreed School Site for its intended purpose. If the District reasonably objects to an exception that was added to the Title Commitment with the consent of the Developer after the date of the District's original title review as noted herein, and the exception is not an authorized Development Encumbrance or Approved Exception, 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.

12.2 Title Policy. The District shall receive at Closing 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 Agreed 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; provided that, the Developer shall be required to pay the full costs of the Mineral Rights Endorsement required for conveyance of the Ten Trails High School Site and the Auxiliary School Facility Site. The District may also elect to request extended coverage title insurance. Except as may be otherwise provided for herein, 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 with the exception that the Mineral Rights Endorsement as referenced herein is a guaranteed obligation of the Title Company and the Developer.

12.3 Survey. The Developer shall provide to the District an ALTA/ACSM Survey of each Agreed School Site prepared by a licensed or registered surveyor prior to the Closing of each Agreed School Site and in a manner timely to allow for the District to seek extended coverage title insurance. For purposes of the Ten Trails Elementary School Site A and the Lawson Hills Elementary School Site, the Developer shall provide such Survey no later than the Agreement Effective Date.

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. With the exception of King County Parcel No. 8576000820 comprising a portion of the Ten Trails Elementary School Site A and the Lawson Hills Elementary School Site, the Developer has recorded CCRs against the Agreed School Sites. Prior to conveying the Ten Trails Elementary School Site A and any of the Southern School Sites to the District, the Developer shall remove such CCRs from the each such site. The Developer shall not record CCRs against King County Parcel No. 8576000820 comprising a portion of the Ten Trails Elementary School Site A or the Lawson Hills Elementary School Site.

13.2.1 Notwithstanding the foregoing, it is intended by the Parties that the design of the School Facilities to be constructed on the Agreed School Sites, to the extent possible, is compatible with the design standards for the rest of the Projects. 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. The Developer shall have forty-five (45) days to provide the District with written notice stating with specificity of any exterior design elements it desires to be added or modified to be compatible with the design standards included in any CCRs and/or the Development Agreements for the rest of the Project in which the Agreed School Site is located within; provided that, the cost of any additions or modifications requested by the Developer that, in the District's documented estimate, 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 request or application of the design guideline. Notwithstanding the foregoing, in no case shall the Developer's requested additions or

modifications compromise the District's ability to construct a School Facility that is materially consistent with a typical School Facility within the District's boundaries.

13.2.2 If, following notice pursuant to Section 13.2.1 above, the Developer fails to respond within forty-five (45) days following delivery of such plans, specifications, or elevations, such documents shall be deemed approved.

13.2.3 The Developer and the District shall meet within ten (10) days of any disagreement regarding design standards included in any CCRs for the rest of the Project in which the Agreed School Site is located within to attempt in good faith to resolve the dispute. This Section 13.2.3 shall only be triggered where the Developer requests an addition or modification and the District disagrees that the request is related to compatibility with referenced design standards or the District believes the request compromises the District's ability to construct a School Facility that is materially consistent with the a typical School Facility within the District's boundaries. If the Parties are unable to resolve the dispute, then the City's MDRT shall select, consistent with all applicable laws and regulations including without limitation those that apply to school districts, a qualified architect with school design experience to serve at arbitrator of any dispute, and the architect's decision shall be binding on the Parties. The City's MDRT shall conduct its selection and review within thirty (30) days to avoid delays in the District's project. The District and the Developer shall jointly be responsible for the architect's fees.

13.2.4 To the extent the applicable school project's identified funding is insufficient to cover the costs related with any Developer requested modification or addition that does not reach the 10% threshold in Section 13.2.1 without reducing planned student capacity or educational program space in the planned school facility, the Developer shall have the option of either funding the requested modification or addition or waiving the District's obligations hereunder. The District shall provide the Developer with documentation related to the identified funding, the estimated cost of the requested additions and/or modifications (including, as applicable, public bid documents), and the impact of the same on the project budget as determined by the District in the District's reasonable discretion.

13.2.5 In no event shall the Developer be eligible for Mitigation Fee Credits for any amounts provided by the Developer pursuant to this Section 13.

14. Condition of Title.

14.1 Deed Restriction. Title to the Agreed School Sites, with the exception of the Ten Trails High School and the Auxiliary School Facility Site, shall be conveyed by Deed to the District in fee simple absolute subject to the Deed Restriction. The Deed Restriction shall require the subject 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 any Agreed School Site, with the exception of the Ten Trails High School Site and the Auxiliary School Facility Site, 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 J. If the subject site ceases to be used for school purposes during the term of the Deed Restriction, 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 Agreed School Site, less any Joint Use Lands, back from the District for the lesser of (a) the then-current market value of the Agreed 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 subject 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 subject site was conveyed to the District until the Option to Purchase is triggered. Notwithstanding the foregoing, in no event shall the Developer's right to repurchase a site conveyed to the District hereunder be for a price that is less than the Actual School Site Value at the time of the conveyance of the 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 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 Agreed 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 Agreed School Sites, except as disclosed to the District in writing prior to the Agreement Effective Date: (i) such Agreed 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 Agreed School Sites or transported from the Agreed School Sites, any Hazardous Substance in violation of applicable Environmental Laws; and (iii) the Developer has not removed underground storage tanks from any Agreed School Sites, and no underground storage tanks are located on any Agreed School Sites.

15.1.3 Without limiting the Developer's representations and warranties herein, the Developer further represents and warrants that Brian Ross is the principal of the Developer who have the most knowledge regarding the ownership and operation of the Agreed 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 Agreed 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 Agreed School Site, any eminent domain or condemnation proceeding commenced or consummated for all or any material and significant portion of the Agreed School Site, except any eminent domain or condemnation proceeding by the City or the District, with the Developer's, and in the case of a City condemnation, the District's, prior consent, shall not excuse the District's obligation to accept the Agreed Site.

16.3.1 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 shall be required within four (4) months following such event to identify and secure District approval, in the District's reasonable discretion in consideration of prior school site design and intended use, an alternative proposed school site that provides for approximately the same Usable Acreage within the same approximate location as the prior site. Upon the District's approval, the Developer shall have four (4) months to file with the City of Black Diamond and King County, if necessary, lot line adjustments that create the agreed separate legal lots. The Developer's failure to secure an approved lot line adjustment within twenty-four (24) months of the District's approval to create the alternative site as separate legal lots shall result in the Developer being required to pay to the District a cash amount equal to the Actual School Site Value of the prior site with the District providing to the Developer Mitigation Fee Credits reflecting that amount but with such cash amount becoming immediately the sole property of the District and not subject to (a) any reimbursement of Mitigation Fees pursuant to Section 10.4 or (b) required expenditure toward acquiring the Ten Trails High School Site pursuant to Section 9.9.2.

16.3.2 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 Ten Trails Elementary School Site A and Lawson Hills Elementary School Site. The Closing of the Ten Trails Elementary School Site A and Lawson Hills Elementary School Site will occur on a day mutually agreed upon by the District and the Developer consistent with the parameters set forth in Sections 5.1 and 5.2.

17.2 Conveyance of Remaining School Sites. The Closing of the remaining Agreed 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 5 as to conveyance of the particular Agreed 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.

17.4 Closing at Agreement Termination. The Developer shall convey any of the remaining Agreed School Sites, with the exception of the Ten Trails High School Site, not conveyed during the Agreement Term, no later than thirty (30) days prior to the end of the Agreement Term.

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 Agreed 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 utilities to the Agreed School Sites substantially in the form of the attached Exhibit Y.

18.1.4 License Agreements, if applicable, for the purpose of providing the District with access over the Developer's property to the Agreed School Sites substantially in the form of the attached Exhibit Z.

18.1.5 Closing instructions as necessary to implement the Agreement terms.

18.1.6 Deed Restriction and Option to Purchase for the Elementary School Sites and the Ten Trails 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 Agreed 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 Agreed School Site.

18.2.2 REETA.

18.2.3 FIRPTA.

18.2.6 Deed Restriction and Option to Purchase for the Elementary School Sites and the Ten Trails 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.

18.2.10 License Agreements, if applicable, for the purpose of providing the District with access over the Developer's property to the Agreed School Sites substantially in the form of the attached Exhibit Z.

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 Agreed School Site. Developer shall pay any excise taxes due in connection with conveyance of any Agreed School Site. All real estate taxes for the Agreed School Site shall be prorated as of the Closing Date.

20. Taxes and Impositions.

20.1 Closing Real Estate Taxes. The Developer shall pay to the Escrow Agent the estimated real estate taxes affecting each Agreed 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.

20.2 Developer Obligations. Except as may be otherwise provided in this Section 20, 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 Agreed 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.

20.3 District Obligations.

20.3.1 At Closing of a particular Agreed School Site, the District shall reimburse the Developer for such Agreed School Site's: (i) proportionate share of Developer's offsite traffic and sewer infrastructure improvement costs; (ii) proportionate share of the cost of constructing a regional storm water collection facility (if applicable for a given Agreed School Site); (iii) costs of School-Specific Utilities and Improvements as set forth in Section 23.4; and (iv) proportionate share of Developer's costs under the Water Supply and Facilities Funding Agreement. Such reimbursements shall be calculated using the assumption of 90% of the Agreed Student Capacity for a particular Agreed School Site subject to a catch-up payment from District to Developer at the time of building permit issuance based on actual capacity of the Agreed School Site's School Facility. In the alternative, and at the District's discretion, such reimbursement may be paid by District to Developer through (a) Mitigation Fee Credits if the costs and/or fees to be paid by District to Developer are less than the product of the remaining un-built units multiplied by the applicable Mitigation Fee; or (2) delayed until the time of building permit issuance for the school facility to be constructed on the Agreed School Site in which case the actual capacity of the Agreed School Site's School Facility shall be used to calculate the payment due. If District elects to phase construction of a School Facility on an Agreed School Site per Section 5.7 of this Agreement, then the reimbursement described in this subsection from District to Developer shall also be phased based on the actual capacity of the School Facility to be constructed in the given phase.

20.3.2 The offsite traffic improvement costs reimbursement described in subsection 20.3.1 shall be calculated by applying the City of Enumclaw's traffic impact fee rate for the specific type of school as adopted and in effect at the time of building permit issuance for the school facility to be constructed on the Agreed School Site; provided that, if the City of Black Diamond has an adopted traffic impact fee rate applicable to development outside of the MPDs and a rate specific to schools at the time of building permit issuance for the school facility to be constructed on the Agreed School Site, the reimbursement shall be calculated by applying the average of the then-applicable City of Black Diamond and City of Enumclaw traffic impact rates for the type of school. Notwithstanding the foregoing, in no case shall each Agreed School Site's reimbursement be less than the following: \$278/student for the Elementary School Sites and Middle School Site, and \$241/student for the High School Site.

20.3.3 The offsite sewer improvement costs reimbursement described in subsection 20.3.1 shall be calculated by multiplying the Agreed School Site's sewer ERUs times the Developer's then adopted sewer mitigation fee. Sewer ERUs are determined by multiplying the student capacity (i.e., number of students) of an Agreed School Site's School Facility by the gallons per day (gpd) per student established by DOE, which is currently set forth in DOE's "Criteria for Sewage Design" Table G2-2, then divide this number by the 187 gpd that the City of Black Diamond uses to calculate an ERU. As of the date of this Agreement, DOE's "Criteria for Sewage Design" Table G2-2, estimates flows at 10 gpd per elementary student and 16 gpd per middle and high school student with an 8 hour flow duration and the Developer's sewer mitigation fee is \$1,538 per ERU.

20.3.4 The regional storm water collection facility reimbursement described in subsection 20.3.1 shall be determined by calculating the pro rata cost based on the percentage of total volume a given Agreed School Site's School Facility is using based on a sixty percent (60%) impervious assumption. By way of example, for Ten Trails Elementary School Site A, the School Facility is using 7.7% of the applicable regional storm water collection facility's total volume. The total cost of said regional storm water collection facility was \$2,583,253. As such, 7.7% equals \$198,910.48 as a Developer reimbursement payment. In the case of the Lawson Hills Elementary School Site, on the other hand, Developer is not providing any storm water collection facility for the Agreed School Site so reimbursement cost is zero.

20.3.5 The Water Supply and Facilities Funding Agreement cost reimbursement described in subsection 20.3.1 shall be calculated by multiplying the Agreed School Site's School Facility's water ERUs times the Developer's pro rata costs under the WSFFA. Water ERUs are determined by multiplying the student capacity (i.e., number of students) of an Agreed School Site's School Facility by the gallons per day (gpd) per student established by DOE, which is currently set forth in DOE's "Criteria for Sewage Design" Table G2-2, then divide this number by the 187 gpd that the City of Black Diamond uses to

calculate an ERU. As of the date of this Agreement, DOE's "Criteria for Sewage Design" Table G2-2, estimates flows at 10 gpd per elementary student and 16 gpd per middle and high school student with an 8 hour flow duration. Also, as of the date of this Agreement and subject to City of Black Diamond verification, Developer has incurred \$1,727.95 per water ERU in costs under the WSFFA. By way of example, for Ten Trails Elementary School Site A: $[(600 \text{ elementary students} \times 10 \text{ gpd}) / 187 \text{ gpd}] \times \$1,727.95 \text{ per ERU} = \$55,442.25$ as a Developer reimbursement payment.

20.3.6 The District shall pay to the City or any other utility purveyor any Agreed School Site-specific permit fees, utility connection charges, general facilities charges, 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.

21. District's Covenants.

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

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

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

21.1.3 To comply with all life safety rules and regulations which may apply to roads and common areas within the Project; provided, that, the Parties agree that such life safety rules and regulations shall not preclude the normal and reasonable use of such roads and common areas by the District's construction contractors and subcontractors for purposes of transporting construction-related equipment and supplies to the Agreed School Sites and gaining necessary access to the Agreed 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 Agreed School Site, the District shall not use funds from the School Financing Approval for that Agreed 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. Notwithstanding the foregoing, to the extent that the District constructs and closes out a project permit for a school facility on the subject Agreed School Site with capacity at least equal to the Agreed School Capacity, the Board of Directors may thereafter reallocate any excess funds from the School Financing Approval as may be otherwise legally permissible.

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 and the Developer further agree to cooperate with either Party's efforts to include all portions of the MPDs within the District's boundaries; provided that, such cooperation shall not require the expenditure of any the non-initiating Party's funds for such purposes; and provided further that, in no event shall this Section 21.3 be construed to require either Party 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 not yet conveyed to the District 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 not yet conveyed to the District 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 any such 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 proposed revised boundaries vary significantly from those approved by the District as of the Agreement Effective Date and as illustrated in the attached exhibits for each Agreed School Site, the Developer shall first consult with the District as to the proposed revised boundaries and shall be required to receive, following a reasonable period for the District to review such proposed revised boundaries, the District's acceptance of the new portion of the Agreed School Site resulting from the revised boundaries. In the event the District, in its reasonable discretion, does not accept the proposed revised boundaries, and the District and Developer are unable to resolve the dispute, the matter shall be referred to the mediation provisions referenced in Section 28. In addition to other requirements set forth in this Section related to Usable Acreage and site dimensions, the District's reasonable discretion and review in mediation shall take into consideration the District's then-adopted minimum educational program requirements for the intended school facility. If necessary, the Developer shall prepare a final legal description for the applicable Agreed School Site and the Developer and District 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 Agreed School Sites. The District shall allow the Developer to enter the Agreed 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 Agreed School Site; provided further that, if the District has commenced a contract with a third-party for pre-construction or construction activities on an Agreed School Site or has commenced school operations on any such Agreed 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 Agreed 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 Agreed 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 Agreed School Sites that will survive Closing and that will have a material adverse effect upon the Agreed 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 Agreed School Sites or that would in any manner limit the District's ability to construct School Facilities on the Agreed School Sites. At Closing, the physical condition of the Agreed School Site shall not be materially different than the condition of the Agreed School Site as of the Agreement Effective Date except to the extent the Developer has offered, and the District has approved in advance, to perform improvements or modifications to any of the Agreed School Sites (e.g., grading a site to make it uniformly level). Changes to the Agreed 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 Agreed 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 obtaining School Financing Approval for the construction of School Facilities on the Agreed 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 Agreed 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 Agreed School Sites free and clear of any liens arising from the Approval Work, Development Use, or Other Work, and to return the Agreed 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 Agreed School Sites in a manner that materially adversely affects the District's ability to use the Agreed 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 Agreed School Site.

22.3.4 Any other provisions of this Section notwithstanding, the Developer shall not, under any circumstances, conduct any activities on the Agreed School Sites in a manner that degrades the condition of the Agreed School Site. For example, and without limitation, the Developer shall not excavate soil from the Agreed School Site and replace it with substandard soil, nor shall the developer use an Agreed 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 Agreed School Site that would compromise, weaken or disturb lateral or subjacent support of the Agreed 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 Agreed 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 Agreed 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 Agreed 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.

23.2 Construction of Off-Site Improvements and Off-Site Utilities at the District's Request. As of the Agreement Effective Date, Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities exist at the Ten Trails Elementary School Site A. In the event the District anticipates constructing a School Facility on the Lawson Hills Elementary School Site or any of the Southern School Sites prior to the Developer's construction of Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities, the District shall deliver notice to the Developer at least three (3) months prior to submitting a building permit for such site. The Developer shall complete the General Off-Site Improvements and General Off-Site Utilities to serve the Lawson Hills Elementary School Site or a Southern School Site no later than six (6) months after the District has applied for a building permit for construction of a School Facility on the particular school site. In the event the District identifies the need for School-Specific Off-Site Improvements and/or School-Specific 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 and a request that the Developer construct Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities to the applicable school site. 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 Agreed 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 includes any time in the months of November through April and the Developer is unable to perform work due to the wet conditions. Nothing in this Section 23.2 operates to limit the City's time for conducting its review of the permit applications and related environmental reviews for the Comprehensive Off-Site Improvements and Comprehensive Off-Site Utilities referenced herein. Moreover, it is understood by the parties that any administrative or judicial appeals of permitting and/or environmental review decisions associated with the Off-Site Improvements and/or Off-Site Utilities will not count against the Developer's time for completion of same.

23.3 Cost of Utilities and Improvements. The cost of design and constructing the General Off-Site Utilities and General Off-Site Improvements shall be assumed 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 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 Agreed 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.

23.4 Southern School Sites Storm Water; Temporary Facilities.

23.4.1 Ten Trails High School Site/Auxiliary School Site Facility. The Developer shall use its best efforts to design the Regional Storm Water Facility to accommodate storm water from the Ten Trails High School Site and Auxiliary School Site Facility. If, despite best efforts, the Developer is unable to provide the Regional Storm Water Facility for such sites, the Developer shall provide another permanent storm water

facility on land other than any portion of the Southern School Sites to accommodate storm water from the Ten Trails High School Site and Auxiliary School Site Facility. The Developer shall submit design plans for such storm water facility to the District for review at least thirty (30) days prior to permit submittal. The Developer shall complete either the Regional Storm Water Facility as designed to accommodate storm water from the Ten Trails High School Site and Auxiliary School Site Facility or an alternative permanent storm water facility as described in this Section 23.4 prior to the end of the Agreement Term. In the event that the District is funded and planning for construction of a new school on the Ten Trails High School Site or development of the Auxiliary School Site Facility in advance of the completion of a permanent storm water facility, the Developer shall, at no cost to the District, provide temporary storm water and treatment facilities as needed, based on the design and permitting needs of such school facility. The Developer shall coordinate such temporary facilities with the District's design team to ensure adequate service and timely delivery and coordinate location based upon the school facility design and project schedule. In the event that any portion of such temporary facilities are located on any portion of the Southern School Sites, (a) the District reserves the right to condition or reject any proposed location that it believes, in its sole discretion, could impede development of any of the Southern School Sites for school purposes; and (b) the Developer shall, at its own cost and expense, be obligated to remove such facilities and restore the underlying property to the condition existing prior to installation once the permanent storm water facility is constructed and available.

23.4.2 Ten Trails Middle School Site/ Ten Trails Elementary School Site B. The Developer shall, within thirty (30) days of the Agreement Effective Date, execute and record the Middle School Storm Water Easement Agreement and the Elementary B Storm Water Easement Agreement. Following such recording, Developer shall use its best efforts to design the Regional Storm Water Facility to accommodate storm water from the Ten Trails Middle School Site and Ten Trails Elementary School Site B. The Developer shall submit design plans for the Regional Storm Water Facility to the District for review at least thirty (30) days prior to permit submittal. The Developer shall complete the Regional Storm Water Facility as designed to accommodate storm water from the Ten Trails Middle School Site and Ten Trails Elementary School Site B prior to the end of the Agreement Term, or, in the alternative, the Middle School Storm Water Easement Agreement and the Elementary B Storm Water Easement Agreement shall remain in effect, all consistent with Sections 23.6 and 23.7 below. In the event that the District is funded and planning for construction of a new school on the Ten Trails Middle School Site or the Ten Trails Elementary School Site B in advance of the completion of the Regional Storm Water Facility, the Developer may, at no cost to the District, provide temporary storm water and treatment facilities as needed, based on the design and permitting needs of such school facility. The Developer shall coordinate such temporary facilities with the District's design team to ensure adequate service and timely delivery and coordinate location based upon the school facility design and project schedule. In the event that any portion of such temporary

facilities are located on any portion of the Southern School Sites, (a) the District reserves the right to condition or reject any proposed location that it believes, in its sole discretion, could impede development of any of the Southern School Sites for school purposes; and (b) the Developer shall, at its own cost and expense, be obligated to remove such facilities and restore the underlying property to the condition existing prior to installation once the permanent storm water facility is constructed and available. If the Developer elects not to provide such temporary storm water and treatment facilities for the Ten Trails Middle School Site and/or the Ten Trails Elementary School Site B, then the Middle School Storm Water Easement Agreement and/or the Elementary B Storm Water Easement Agreement, respectively, shall remain in effect in perpetuity except as may be otherwise required herein (e.g., on site facilities are permitted to serve the relevant school project).

23.5 Southern School Sites Easement. The Southern School Sites Easement shall remain in effect as set forth in that recorded easement document; provided that, the Developer shall be required to amend the Southern School Sites Easement within sixty (60) days of the Agreement Effective Date as necessary to ensure the District has access to each of the Southern School Sites.

23.6 Middle School Storm Water Easement Agreement. Notwithstanding the Developer's obligations in Section 23.4 herein, the Developer shall execute and record the Middle School Storm Water Easement Agreement as required by Section 23.4.2. The Parties understand and agree that such easement may require, based upon school permitting needs, the designation of the property identified on Exhibit G to remain in a perpetual undisturbed, vegetated and natural state with the exception of certain infrastructure related to the storm water facilities.

The Developer shall use its best efforts to design the Regional Storm Water Facility to accommodate storm water anticipated school site development on the Ten Trails Middle School Site. If, despite Developer's best efforts, storm water from the Ten Trails Middle School Site cannot be accommodated by the Regional Storm Water Facility, then the District shall use its best efforts at the time of permitting of a school on the Ten Trails Middle School Site to obtain the necessary permits and approvals to construct such storm water facilities necessary for that school on the Ten Trails Middle School Site. If, however, despite the Developer's and District's best efforts, King County and/or another applicable permitting or approval agency will not issue the necessary permits for construction of the storm water facilities on the Ten Trails Middle School Site for the Ten Trails Middle School for any reason including, without limitation, that there is insufficient land available on the Ten Trails Middle School Site for such purpose, the District shall have the right as its sole, exclusive remedy to convey and discharge storm water from the Ten Trails Middle School Site to Green Valley Road using the Middle School Storm Water Easement.

The District agrees to execute any documents necessary to terminate and release the Middle School Storm Water Easement within five (5) business days of the earlier of the following: (1) the District obtaining the necessary permits and approval to construct on the Ten Trails Middle School Site the storm water facilities necessary to serve the school located on the Ten Trails Middle School Site; or (2) the Regional Storm Water Facility or an alternative permanent facility is permitted and constructed by Developer to accommodate the storm water from the entirety of the anticipated school site development on the Ten Trails Middle School Site. Absent either of the above, the District shall have the right to utilize the Middle School Storm Water Easement as provided for herein.

23.7 Elementary B Storm Water Easement Agreement. Notwithstanding the Developer's obligations in Section 23.4 herein, the Developer shall execute and record the Elementary B Storm Water Easement Agreement as required in Section 23.4.2 above. The Parties understand and agree that such easement may require, based upon school permitting needs, the designation of the property identified on Exhibit CC to remain in a perpetual undisturbed, vegetated and natural state with the exception of certain infrastructure related to the storm water facilities.

The Developer shall use its best efforts to design the Regional Storm Water Facility to accommodate storm water from the anticipated school site development on the Ten Trails Elementary School Site B. If, despite Developer's best efforts, storm water from the entirety of the Ten Trails Elementary School Site B cannot be accommodated by the Regional Storm Water Facility, then the District shall use its best efforts at the time of permitting of a school on the Ten Trails Elementary School Site B to obtain the necessary permits and approvals to construct such storm water facilities necessary to serve that school on the Ten Trails Elementary School Site B. If, however, despite the Developer's and District's best efforts, King County and/or another applicable permitting or approval agency will not issue the necessary permits for construction of the storm water facilities for the Ten Trails Elementary School Site B on the Ten Trails Elementary School Site B for any reason including, without limitation, that there is insufficient land available on the Ten Trails Elementary School Site B for such purpose, the District shall have the right as its sole, exclusive remedy to convey and discharge storm water from the Ten Trails Elementary School Site B to Green Valley Road using the Elementary B Storm Water Easement.

The District agrees to execute any documents necessary to terminate and release the Elementary B Storm Water Easement within five (5) business days of the District obtaining the necessary permits and approval to construct a school on the Ten Trails Elementary School Site B with the relevant jurisdiction(s)'s approval that (1) facilities necessary to accommodate storm water from the entire developed school site can be located on the Ten Trails Elementary School Site B; or (2) storm water from the entire developed school site can be accommodated by the Regional Storm Water Facility or an alternative permanent facility constructed by Developer. Absent either of the above, the District shall have the

right to utilize the Elementary B Storm Water Easement as provided for herein. Notwithstanding the foregoing, the Developer and District acknowledge and agree the Elementary B Storm Water Easement shall automatically terminate without further action from either party if and when the Ten Trails Elementary School Site B receives a certificate of occupancy from the relevant jurisdiction for the school facility located thereon and provided upon such date the District has constructed no storm water facilities located within the Elementary B Storm Water Easement pursuant to the term of this Agreement. In such case, the Parties agree to work cooperatively and execute any documents necessary to clear title of the property identified on Exhibit CC.

23.8 South Connector Roadway. As described in Section 6.4.1 of the Development Agreement, the Parties acknowledge that the Developer is required to complete the South Connector roadway to its intersection with SR-169 prior to the approval of any implementing projects located east of MPD Site Plan Development Parcel V48 unless single point of access standards are met or alternative secondary access is provided. The Parties further acknowledge that the construction of School Facilities on the Southern School Sites are indeed implementing projects located east of MPD Site Plan Development Parcel V48. Without limiting the foregoing, the provisions of Section 23.2, as relevant, shall also be applicable to the portion of the South Connector roadway described herein; provided that, the Developer shall submit to the City a permit application for the South Connector roadway to its intersection with SR 169 within twenty (20) days of School Financing Approval for construction of the first of the Southern School Sites; and provided further that the Developer's timely submittal shall be contingent on the District providing the Developer with at least sixty (60) days written notice of the pending School Financing Approval event.

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 Agreed School Site and to make such inspections of the Agreed 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 Agreed 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 Agreed School Sites, except as set forth in the Deed and in this Agreement. The District further agrees that it is acquiring the Agreed 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 Agreed 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 Agreed School Sites or the presence or absence of hazardous or toxic materials or Hazardous Substances on or under the Agreed School Sites; (ii) the compliance of the Agreed 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 Agreed School Sites with covenants, conditions and restrictions (whether or not of record); (iv) the compliance of the Agreed School Sites with other local, municipal, regional, state or federal requirements; or (v) the density that the District may achieve in developing the Agreed 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 Agreed 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 Agreed School Sites, its use, title and the financial aspects of the development and operation of the Agreed 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 Agreed School Sites and agrees that the District explicitly took such into account in determining and agreeing to the Mitigation Fee Credit for the Agreed 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.

District's Initials

25. RESERVED.

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 BB. 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:

City of Black Diamond
PO Box 599
24301 Roberts Drive
Black Diamond, Washington 98010
Attn: Mayor

With a copy to:

David A. Linehan
Madrona Law Group, PLLC
14205 SE 36th St.
Suite 100, PMB 440
Bellevue, WA 98006

To the District:

Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

With a copy to:

Denise L. Stiffarm
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, Washington 98101

To Developer:

Brian Ross
Oakpointe
3025 112th Ave NE
Suite 100
Bellevue, WA 98004

Crown Community Development
Attn: Theresa O. Frankiewicz
1751 West Diehl Road, Suite A
Naperville, IL 60563

With copies to:

Megan Nelson
Oakpointe
3025 112th Ave NE

Suite 100
Bellevue, WA 98004

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101

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 Parties hereto.

30. **Term of Agreement.** Unless terminated earlier pursuant to the provisions set forth in this Agreement, this Agreement shall remain in effect through, at a minimum, the term of the Development Agreement; 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 has initiated receipt of any other School Financing Approval for the construction of a School Facility on an Agreed School Site; 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 Developer and the District. The Agreement recording shall, at a minimum, be reflected on the title of the Agreed School Sites and any all required easement areas related to the Agreed School Sites, whether granted simultaneously with this Agreement or subject to future execution. 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. **Amendments.** No amendment, change or modification of this Agreement shall be valid unless in writing and signed by all of the Parties hereto; provided, that, the Parties hereto agree that the District and the Developer, in the implementation of this Agreement, may mutually agree to a written amendment to this Agreement without concurrence of the City unless such amendment in any manner addresses Section 3.1 (Complete Mitigation), Section 8 (Joint Use Land), Section 9.1-9.3 (City's Commitment

Consider School Impact Fees; Maximum and Minimum Mitigation Amounts; Plat Language), any amendment that would reduce the number of Agreed School Sites, and any amendment that would locate a school site outside of the City.

33. **Miscellaneous Terms.**

33.1 **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.

33.2 **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.

33.3 **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.

33.4 **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.

33.5 **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.

33.6 **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.

33.7 **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 waiver of any subsequent breach thereof.

33.8 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.

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

33.10 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 Agreed School Site.

33.11 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.

33.12 Time. Time is of the essence of this Agreement. If the final date of any period of time set forth in any provision of this Agreement falls upon a Saturday or Sunday or a legal holiday under the laws of the State of Washington, then and in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday, or a legal holiday.

[Signatures on following page]

CITY OF BLACK DIAMOND

DATED: _____

By _____
Carol Benson, Mayor

ENUMCLAW SCHOOL DISTRICT NO. 216

DATED: _____

By _____
Dr. Shaun Carey, Superintendent

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

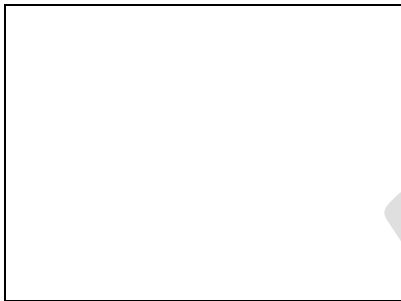
DATED: _____

By _____
Name _____
Title _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that DR. SHAUN CAREY 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 NO. 216 to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____



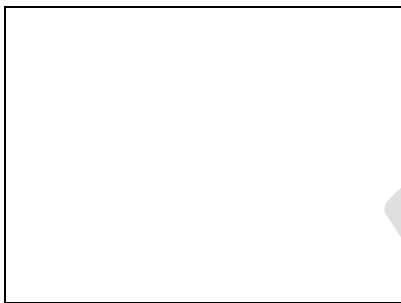
(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that CAROL BENSON 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: _____



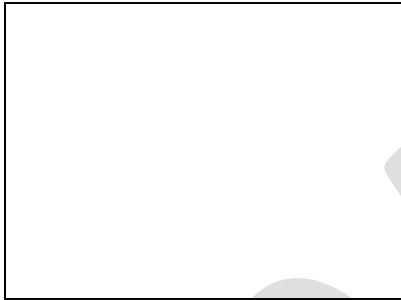
(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

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 CCD BLACK DIAMOND PARTNERS LLC, to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>
A	Form of Release of the Original Comprehensive School Mitigation Agreement and the Enhancement Agreement (1.2)
B	Form of Release for the High School Deed of Trust, the Alternative Elementary School C Option Agreement, the Alternative Elementary School C Expansion Acreage Option Agreement, the Alternative Elementary School D Option Agreement, the Elementary D Expansion Acreage Option Agreement, the Middle School Expansion Acreage Option Agreement, the Alternative Middle School Option Agreement, and the Lawson Hills Easement (1.3)
C.1	Depiction of the Auxiliary School Facility Site (2.15)
C.2	Description of property containing the Auxiliary School Facility Site (2.15)
D	Form of Deed Restriction for the Elementary School Sites and the Ten Trails Middle School Site (2.26)
E	Legal description of Lawson Hills Project (2.50)
F.1	Legal description of Lawson Hills Elementary School Site (2.51)
F.2	Depiction of Lawson Hills Elementary School Site (2.51)
G	Form of Middle School Storm Water Easement (2.54)
H	Fidelity National Title Insurance Company commitment to issue Mineral Rights Endorsement (2.55)
I	Form of Mitigation Fee Credit Certificates (2.59)
J	Form of Option to Purchase (2.65)
K	Permitted Exceptions (2.71)
L	Form of Site B Access and Utilities Easement (2.82)
M.1	Legal description of the Ten Trails Elementary School Site A (2.85)
M.2	Depiction of the Ten Trails Elementary School Site A (2.85)

N.1	Depiction of the Ten Trails Elementary School Site B (2.86)
N.2	Legal description of property containing Ten Trails Elementary School Site B (2.86)
O.1	Depiction of the Ten Trails High School Site (2.86)
O.2	Legal description of the property containing the Ten Trails High School Site (2.87)
P	Form of the Ten Trails High School Site Grading Easement (2.88)
Q.1	Depiction of the Ten Trails Middle School Site (2.89)
Q.2	Legal description of the property containing the Ten Trails Middle School Site (2.89)
R	Legal description of the Ten Trails Project (2.90)
S	Form of High School Option Agreement (5.5.2)
T	Form of Developer's Indemnification and Hold Harmless Agreement (7)
U	Form of School Mitigation Fee Accounting Sheet (9.8.1 and 9.8.2)
V	Form of School Mitigation Fee Accounting Sheet (9.9.5 - District)
W	Form of School Mitigation Fee Accounting Sheet (9.10 - Developer)
X	Form of Deed of Trust (Credits for Estimated School Site Value) (10.6.2)
Y	Form of Temporary Easements (District to Developer) (18.1.3)
Z	Form of License Agreements (Developer to District) (18.1.4)
AA	RESERVED
BB	Form of Request for Mediation (28)
CC	Form of Elementary B Storm Water Easement (2.33)
DD	High School Lot Line Adjustment (5.5.5)

END OF EXHIBITS

EXHIBIT A

WHEN RECORDED RETURN TO:

Oakpointe LLC
Attn: Megan Nelson
3025 112th Ave NE, Suite 100
Bellevue, WA 98004

Document Title: RELEASE OF SCHOOL MITIGATION AGREEMENTS

Grantor: ENUMCLAW SCHOOL DISTRICT NO. 216
CITY OF BLACK DIAMOND

Grantee: CCD BLACK DIAMOND PARTNERS LLC

Legal Description:

Abbreviated Legal Description:

Full Legal Description: See Exhibit A attached.

Assessor's Tax Parcel Nos.:

Reference Nos. of Documents Released or Assigned:

RELEASE OF SCHOOL MITIGATION AGREEMENTS

This Release of School Mitigation Agreements (the "Release") is dated as of _____, 202__, and is by and between Enumclaw School District No. 216 ("District") and City of Black Diamond ("City") (collectively, the "Grantors") and CCD Black Diamond Partners LLC ("Grantee").

1. Property. Grantee is owner of the real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

2. Release. Grantors and Grantee's predecessors-in-interest, BD Lawson Partners, LP and BD Village Partners, LP, executed and recorded a Comprehensive School Mitigation Agreement under King County Recording number 20110624001156 related to the Property (the "Original School Agreement"). The District and Grantee's predecessors also executed and recorded a School Mitigation Enhancement Agreement under King County Recording number 20150130000466 related to the Property (the "Enhancement Agreement").

3. Amended School Agreement. Grantors and Grantee elected to amend and restate in whole the agreed comprehensive school mitigation related to the Property incorporating and replacing in full both the Original School Agreement and the Enhancement Agreement in a new agreement entitled the Amended and Restated Comprehensive School Mitigation Agreement dated _____ and recorded under King County Recording number _____ (the "Amended School Agreement").

4. Purpose of Release. The Original School Agreement and Enhancement Agreement are released and replaced in their entirety by the Amended School Agreement. Grantors and Grantee intend that neither the Original School Agreement nor the Enhancement Agreement shall have any continuing effect and that no party shall have any right or obligation thereunder. This Release is prepared for the purpose of recordation only, and does not modify the terms of the Amended School Agreement in any way.

[signatures on the following page]

GRANTORS

ENUMCLAW SCHOOL DISTRICT No. 216, a
political subdivision of the State of Washington

DATED: _____

By _____

Name _____

Title _____

CITY OF BLACK DIAMOND, a
Washington municipal corporation

DATED: _____

By _____

Name _____

Title _____

GRANTEE

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

DATED: _____

By _____

Name _____

Title _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 _____.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 _____.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 A TO RELEASE OF SCHOOL MITIGATION AGREEMENTS
LEGAL DESCRIPTION

EXHIBIT B

WHEN RECORDED RETURN TO:

Oakpointe LLC
Attn: Megan Nelson
3025 112th Ave NE, Suite 100
Bellevue, WA 98004

Document Title: **RELEASE OF** _____

Grantor: ENUMCLAW SCHOOL DISTRICT NO. 216
CITY OF BLACK DIAMOND

Grantee: CCD BLACK DIAMOND PARTNERS LLC

Legal Description:

Abbreviated Legal Description:

Full Legal Description: See Exhibit A attached.

Assessor's Tax Parcel Nos.:

Reference Nos. of Documents Released or Assigned:

RELEASE OF _____

This Release of _____ (the "Release") is dated as of _____, 202__, and is by and between Enumclaw School District No. 216 ("District") and City of Black Diamond ("City") (collectively, the "Grantors") and CCD Black Diamond Partners LLC ("Grantee").

1. Property. Grantee is owner of the real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

2. Original School Agreement and Enhancement Agreement. Grantors and Grantee's predecessors-in-interest, BD Lawson Partners, LP and BD Village Partners, LP, executed and recorded a Comprehensive School Mitigation Agreement under King County Recording number 20110624001156 related to the Property (the "Original School Agreement"). The District and Grantee's predecessors also executed and recorded a School Mitigation Enhancement Agreement under King County Recording number 20150130000466 related to the Property (the "Enhancement Agreement").

3. Amended School Agreement. Grantors and Grantee elected to amend and restate in whole the agreed comprehensive school mitigation related to the Property incorporating and replacing in full both the Original School Agreement and the Enhancement Agreement in a new agreement entitled the Amended and Restated Comprehensive School Mitigation Agreement dated _____ and recorded under King County Recording number _____ (the "Amended School Agreement"). The Amended School Agreement releases and replaces in their entirety the Original School Agreement and the Enhancement Agreement.

4. Purpose of Release. The Original School Agreement and/or Enhancement Agreement required execution and recordation of the _____ (the "_____"). Because the Original School Agreement and Enhancement Agreement are of no further force and effect, Grantors and Grantee acknowledge and agree that the _____ is hereby released and shall have no continuing effect, and that no party shall have any right or obligation thereunder. This Release is prepared for the purpose of recordation only, and does not modify the terms of the Amended School Agreement in any way.

[signatures on the following page]

GRANTORS

ENUMCLAW SCHOOL DISTRICT No. 216, a
political subdivision of the State of Washington

DATED: _____

By _____

Name _____

Title _____

CITY OF BLACK DIAMOND, a
Washington municipal corporation

DATED: _____

By _____

Name _____

Title _____

GRANTEE

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

DATED: _____

By _____

Name _____

Title _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 _____.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 _____.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 202__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of _____, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, 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 A TO RELEASE OF
LEGAL DESCRIPTION

[*FOR HIGH SCHOOL DEED OF TRUST ONLY*]

Request for Full Reconveyance

The undersigned is the beneficiary under that certain Deed of Trust dated _____, 202____, in which BD Village Partners, LP, a predecessor-in-interest to CCD Black Diamond Partners LLC, is grantor and Stewart Title Guaranty Company is trustee, filed for record on July 8, 2014, as King County Recording No. 20140708000490, as amended by King County Recording Nos. 20150623001694 and 20160330000213.

The obligations secured by said Deed of Trust have been released and/or terminated and the Deed of Trust is hereby surrendered to you for cancellation and reconveyance.

You are therefore requested, upon payment of all sums owing to you, to reconvey without warranty, to the person(s) entitled thereto, the right, title and interest now held by you thereunder.

Dated _____, 202__.

BENEFICIARY:

ENUMCLAW SCHOOL DISTRICT No. 216, a
political subdivision of the State of Washington

By_____

Name _____

Title _____

EXHIBIT C1

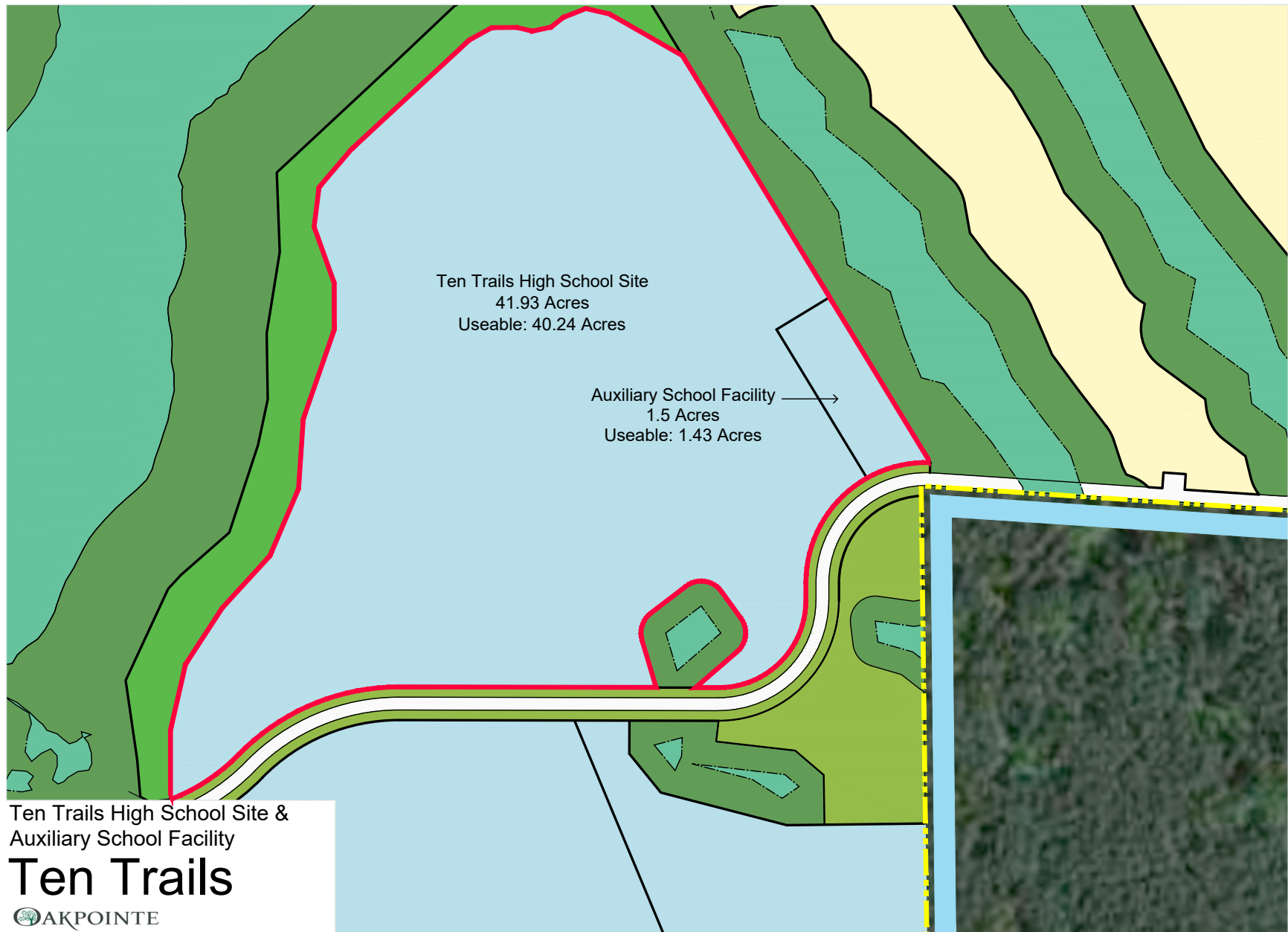


EXHIBIT C2

LEGAL DESCRIPTION
AUXILIARY SCHOOL FACILITY SITE

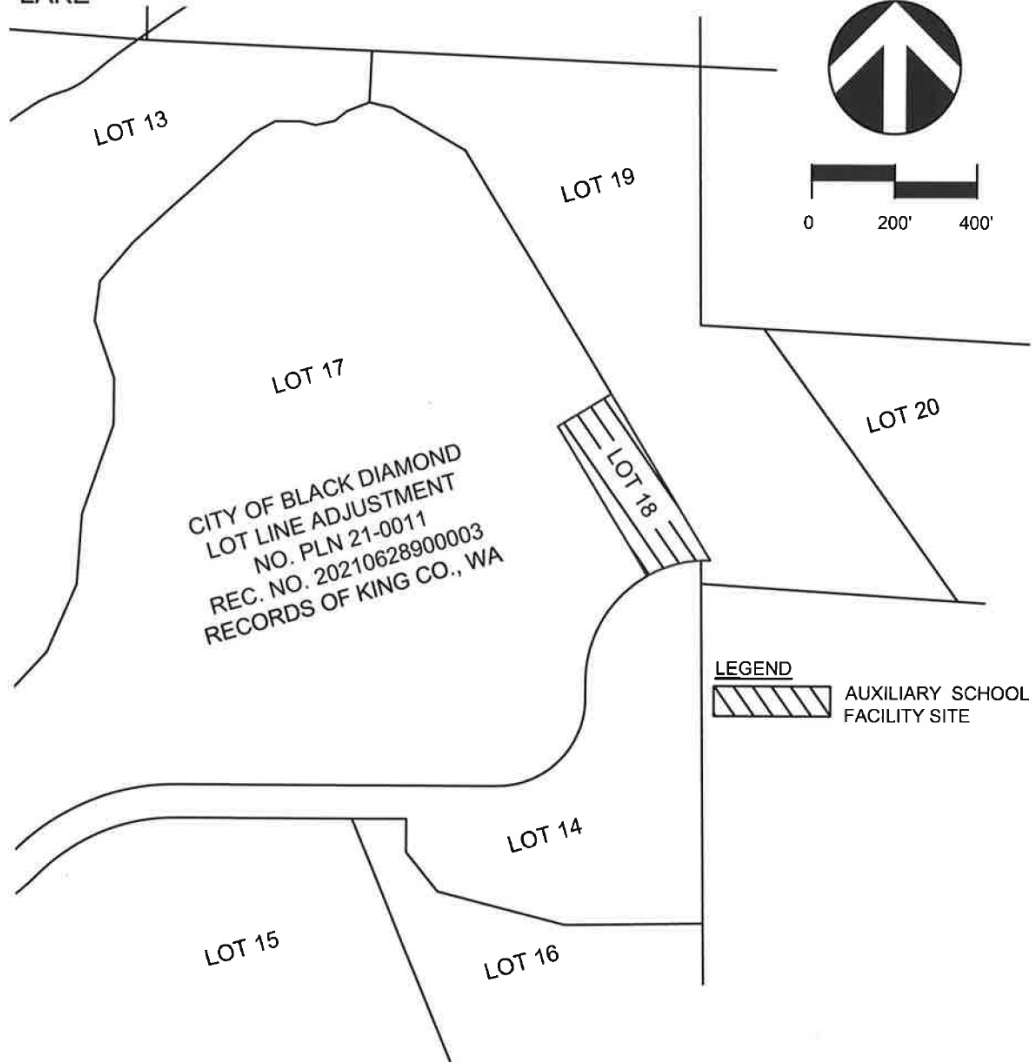
Lot 18 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

Containing an area of 1.50 Acres



EXHIBIT B
TEN TRAILS PHASE 3
AUXILIARY SCHOOL FACILITY SITE

OAKPCBDP6001
JULY 16, 2021



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.



**DAVID EVANS
AND ASSOCIATES INC.**

20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT D

FORM OF DEED RESTRICTION

The entire property conveyed to Grantee under this deed shall be continually used as a School Facility by 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 Amended and Restated Comprehensive School Mitigation Agreement dated _____, 2021, between grantor, grantee, the City of Black Diamond 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 terminate automatically. 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, all as used for the public education of K-12 students.

EXHIBIT E

LEGAL DESCRIPTION OF LAWSON HILLS MPD PROJECT – Note: This includes property located in the MPD as approved by City of Black Diamond Ordinance 10-947 and specifically does not include any potential MPD expansion areas.

NORTH TRIANGLE (PORTIONS OF PARCEL NOS. 022106-9024, 032106-9076, 032106-9014, 032106-9015 AND 032106-9001)

LOTS U, W, X, Y, AND Z OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L05L0097, 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 52°19'00" WEST A DISTANCE OF 412.52 FEET; THENCE SOUTH 18°50'00" 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 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 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 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 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. L09L0056, 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 6523609;

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

THENCE SOUTH 06°54'16" 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 15.00 FEET;

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 100.00 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 15.00 FEET;
THENCE NORTH 89°49'00" EAST A DISTANCE OF 350 FEET, MORE OR LESS, TO THE EAST LINE OF 262ND
AVENUE SOUTHEAST AS ESTABLISHED;
THENCE NORTH ALONG SAID EAST LINE A DISTANCE OF 15 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' 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 MAKES AND MARY MAKES 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 MAKJ JR. BY DEED RECORDED UNDER RECORDING NUMBER 3833110; AND

EXCEPT THAT PORTION THEREOF CONVEYED TO JOHN MAKJ, JR. AND AMELIA MAKJ, 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. MAKJ AND GLORIA MAKJ, 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 543409, 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°54'00" 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 F1

LEGAL DESCRIPTION
LAWSON HILLS ELEMENTARY SCHOOL SITE

PARCELS 6 AND 7 CITY OF BLACK DIAMOND LOT LINE ADJUSTMENT NO PLN 19-0129 RECORDING NO 20200629900002 (BEING A PORTION OF SE QTR SE QTR STR 11-21-06 AND SW QTR SW QTR STR 12-21-06 AND NW QTR NW QTR STR 13-21-06 AND NE QTR NE QTR STR 14-21-06).

EXHIBIT F2



Lawson Hills Elementary School Site

Lawson Hills



EXHIBIT G

After Recording Return to:
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022
Attention: Superintendent

**STORMWATER MANAGEMENT
AND TEMPORARY CONSTRUCTION EASEMENT
(Future Middle School Site)**

GRANTOR: CCD Black Diamond Partners LLC, a Delaware limited liability company

GRANTEE: CCD Black Diamond Partners LLC, a Delaware limited liability company

Legal Description:
Abbreviated Form:

Additional Legal is on Exhibits A, B, and C attached to document

Assessor's Tax Parcel ID Nos. 2221069043 and 2321069064

STORMWATER MANAGEMENT AND TEMPORARY CONSTRUCTION EASEMENT

This Stormwater Management and Temporary Construction Easement (this “**Easement Agreement**”) is made and entered into this ____ day of _____, ____ (“**Effective Date**”), by and between CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (“**Grantor**”) and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (“**Grantee**”) for itself and the future benefit of the ENUMCLAW SCHOOL DISTRICT No. 216, a Washington municipal corporation (“**District**”), as its future successor and assign in the Benefited Property as described herein.

RECITALS

WHEREAS, Grantor/Grantee and the Enumclaw School District No. 216 are parties to that certain Amended and Restated Comprehensive School Mitigation Agreement dated _____, _____, and recorded under King County Recording Number _____ (the “**Mitigation Agreement**”); and

WHEREAS, Grantor is the owner of certain real property located in King County, Washington which is legally described in Exhibit A attached hereto (the “**Grantor’s Property**”); and

WHEREAS, Grantor currently owns, and is obligated under the Mitigation Agreement, subject to certain conditions precedent, to convey to the District, certain adjacent real property which is legally described in Exhibit B attached hereto (the “**Benefited Property**”) for a future middle school facility; and

WHEREAS, in the Mitigation Agreement, the Parties agreed that the District may use a portion of Grantor’s Property for stormwater management related to the development of its future school facilities on the Benefited Property; and

WHEREAS, the District’s stormwater management may include the construction and maintenance of facilities necessary to disperse, detain and/or treat stormwater from the Benefited Property to Green Valley Road (collectively “**Stormwater Facilities**” as defined herein); and

WHEREAS, Grantee desires to obtain for the benefit of the District as its future successor and assign and Grantor is willing to grant, a twenty-five (25) feet wide perpetual, non-exclusive easement of a portion of Grantor’s Property (the “**Easement Area**”) as described and depicted on Exhibit C attached hereto for the purposes described herein.

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants, conveys and quitclaims to Grantee, for the benefit of the Benefited Property, a perpetual non-exclusive easement and right of way (the “**Stormwater Easement**”) over the Easement Area for the purpose of constructing, maintaining, and using certain Stormwater Facilities, as defined herein, for stormwater and surface water discharge, deposit, treatment, and flow across, through and over the Easement Area. As used herein “**Stormwater Facilities**” is inclusive of man-made surface water drainage facilities that may consist of underground conveyance pipes, trenches, maintenance access paths, and any or all appurtenances related thereto, to be used for the discharge and deposit of stormwater from Grantee’s Future Property into the public Right of Way on Green Valley Road, all as may be required by King County or any other permitting authority. Without limiting the foregoing, the permitted stormwater and drainage discharge may include all flows generated from the Benefited Property, as fully developed, according to requirements specified in the applicable drainage ordinance or stormwater management requirements.

2. Terms and Conditions of the Easements. The Easement granted herein is subject to the following terms, reservations, and conditions:

2.1 Use. Grantor reserves the right to use the Easement Areas for any purpose not inconsistent with the rights granted to Grantee hereunder.

2.2 Area of Use. The use of the, including, without limitation, any ingress and egress reasonably necessary hereunder, shall be confined to the Easement Area.

2.3 Cost. All costs of permitting, installation and construction of the Stormwater Facilities to be installed by Grantee shall be at the sole expense of Grantee.

2.4 Compliance. Grantee shall construct, maintain, and use the Stormwater Facilities in compliance with all applicable laws, orders, regulations, permits and approvals.

2.5 Maintenance of Easement Area and Stormwater Facilities. Following full completion of the initial construction of the Stormwater Facilities in accordance with applicable King County requirements or the requirements of another permitting jurisdiction, Grantee shall maintain the Easement Area as developed with the Stormwater Facilities and Grantor agrees not to disturb such Easement Area.

2.6 Restoration. In the event the Grantor’s Property, including the Easement Area, is in any manner disturbed by the activities of Grantee or its contractors or agents relating to, or arising from, the exercise of any of Grantee’s rights under the Stormwater Easement, Grantee shall promptly remove all debris and restore the Grantor’s Property to substantially the same condition in which it existed at the commencement of such activities except for those improvements required for the Stormwater Facilities.

3. Indemnity. Grantee shall protect, defend, indemnify and hold Grantor harmless from and against any and all claims, demands, losses, damages, expenses and liabilities of every

kind and description and for any loss to or damage or destruction of property suffered by Grantor arising out of the exercise of Grantee's rights hereunder or use of the Easement Area by Grantee or Grantee's agents or contractors, except to the extent the same are caused by, or arise from, the gross negligence or willful misconduct of Grantor, Grantor's agents, employees, contractors and invitees. Grantor shall give Grantee prompt written notice of any suit or proceeding entitling Grantor to indemnification pursuant to this Section 3 and Grantee shall thereafter defend Grantor in said suit or proceeding with counsel reasonably satisfactory to Grantor at Grantee's sole cost and expense to the extent required under this Section 3.

4. Potential Termination. The Easement may be subject to future termination under either of the following conditions:

4.1 Best Efforts for Alternative Means/Termination for Lack of Need. Consistent with the Parties' agreement in the Mitigation Agreement, during the development approval process for construction of the District's future school facilities on the Benefited Property, the District shall use its best efforts to accommodate on the Benefited Property the stormwater needs associated with the District's school facilities on that Benefited Property or by conveyance to an offsite regional stormwater facility if that is available. In the event following the earlier of (1) the District obtaining permits for development of its school facilities on the Benefited Property with the District able to accommodate all of its related stormwater needs without using the Easement Area; or (2) the offsite regional stormwater facility or an alternative permanent facility is permitted and constructed to accommodate the stormwater needs from the entirety of the District's anticipated school facilities to be developed on the Benefited Property, Grantee agrees to execute any documents necessary to terminate and release this Easement Agreement.

4.2 No Conveyance. The Easement shall terminate automatically if the Benefited Property is not conveyed to the District by the end of the term of the Mitigation Agreement.

5. Attorneys' Fees and Costs. If either party shall bring an action to enforce the terms of this Easement Agreement, in any such action the prevailing party shall be entitled to an award of its reasonable attorneys' fees and reasonable costs. Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal or in any proceedings under any present or future federal bankruptcy, forfeiture or state receivership or similar law.

6. Governing Law. This Easement Agreement shall be governed by the laws of the State of Washington. In the event of any litigation or other proceeding to enforce any provision of this Easement Agreement, the Parties expressly agree that venue shall be located in King County, Washington.

7. Agency Approvals. In the event that any necessary approval of the Stormwater Management Facility is not received from the relevant permitting authorities, the parties shall refrain from using the Easement Area in any manner that would be inconsistent with legally approved actions.

8. Binding Effect; Runs With the Land. The rights, benefits, burdens, obligations and restrictions created hereunder and contained herein shall create covenants, benefits and servitudes upon the effected parcels as set forth herein, and shall run with the land.

9. Compliance with Laws and Regulations. The parties shall at all times exercise their respective rights under this Easement Agreement in accordance with all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

10. Title; No Conflict. Grantor covenants that it is the lawful owner of the Grantor's Property, has the right to execute this instrument and that this Easement Agreement does not conflict with any other easements or rights affecting the Grantor's Property.

11. Notice. 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 personally delivered, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Grantor/Grantee: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to:

CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 33650
Seattle, WA 98101-4011

And to: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

with a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, Washington 98101
Attn: Denise L. Stiffarm

or to such other addresses as the parties hereto may from time to time designate in writing and deliver in a like manner. All notices that are mailed shall be deemed received two business days after mailing. All other notices shall be deemed complete upon actual receipt or refusal to accept delivery.

12. Binding on Successors. The terms and conditions of this Easement Agreement are made for the benefit of Grantor and Grantee and their successors, transferees and assignees. The terms and conditions of this Easement Agreement shall bind each successive owner of the Grantor's Property and the Benefited Property and shall be an easement and covenant running with the land.

13. Third-Party Beneficiary. The District is a third-party beneficiary of this Easement and any modification of sections 1, 2, 3, or 4 herein shall require the prior written consent of the District.

14. Entire Agreement. This is the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements with respect thereto.

15. Severability. If any one or more of the provisions of this Easement Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Easement Agreement and all other applications of any such provision shall not be affected thereby.

16. Counterpart Signatures. This Easement Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date first above written.

GRANTOR:

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

GRANTEE:

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

By: _____

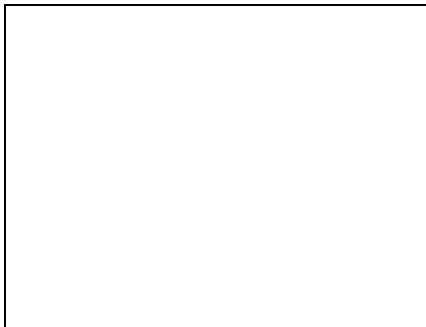
Name: _____

Title: _____

STATE OF WASHINGTON)
) 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 CCD Black Diamond Partners LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



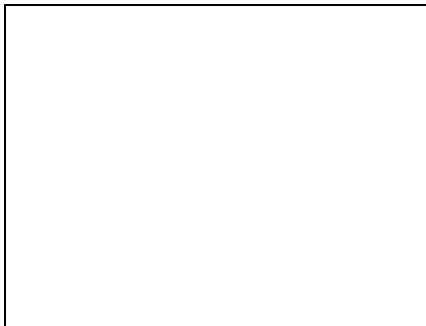
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) 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 CCD Black Diamond Partners LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A
Grantor's Property

Lot 1 of the King County Boundary Line Adjustment No. L11L0051 filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, records of King County, Washington, lying within the Southwest Quarter of the Southwest Quarter, Section 23, Township 21 North, Range 6 East, Willamette Meridian.

EXHIBIT B
Benefited Property

**Legal Description for Ten Trails Phase 3
Middle School Site**

OAKPCBDP6001
July 16, 2021

Lot 15 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

TOGETHER WITH that portion of Lot 1 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, records of King County, Washington, said portion lying within the Southwest Quarter of the Southwest Quarter, Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Beginning at the northwest corner of said Lot 1;
Thence easterly along the north line of said lot, South 87°46'53" East, 737.75 feet;
Thence southeasterly and leaving said north line, South 22°39'28" East, 804.21 feet;
Thence westerly, North 89°22'32" West, 159.56 feet to a point on a curve, the center of which bears South 87°36'27" West;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 78°53'23", an arc distance of 110.15 feet;
Thence North 81°16'56" West, 23.44 feet;
Thence North 85°57'03" West, 40.86 feet to a point of curve;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 08°33'55", an arc distance of 11.96 feet to a point on a curve, the center of which bears South 78°40'17" West;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 62°16'17", an arc distance of 86.95 feet;
Thence North 73°36'01" West, 34.70 feet to a point of curve;
Thence southwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 60°12'05", an arc distance of 84.06 feet;
Thence South 46°11'54" West, 32.72 feet to a point of curve;
Thence southerly along said curve to the left, having a radius of 80.00 feet, through a central angle of 23°49'36", an arc distance of 33.27 feet;
Thence South 22°22'19" West, 47.80 feet to a point on a curve, the center of which bears South 67°37'41" East;
Thence southerly along said curve to the left, having a radius of 80.00 feet, through a central angle of 26°08'11", an arc distance of 36.49 feet;

Thence North 89°22'33" West, 499.87 feet to the west line of said Lot 1;
Thence northerly along said west line, North 00°47'48" West, 759.48 feet to the Point of Beginning.

Containing an area of 26.70 Acres

EXHIBIT C
Easement Area

Legal Description for 25-foot Stormwater Easement

OAKPCBDP6001
July 16, 2021

That portion of Lot 1 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, said portion lying within the Southwest Quarter of the Southwest Quarter of Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Beginning at the Southwest Corner of said Lot 1;
Thence northerly along the west line of said Lot 1, North 00°47'48" West, 445.50 feet;
Thence leaving said west line, South 89°22'33" East, 25.01 feet;
Thence southerly along a line running parallel with and 25.0 feet easterly of said west line, South 00°47'48" East, 445.50 feet to the south line of said Lot 1, said line being the northerly margin of SE Green Valley Road;
Thence westerly along said south line, North 89°22'35" West, 25.01 feet to the Point of Beginning.

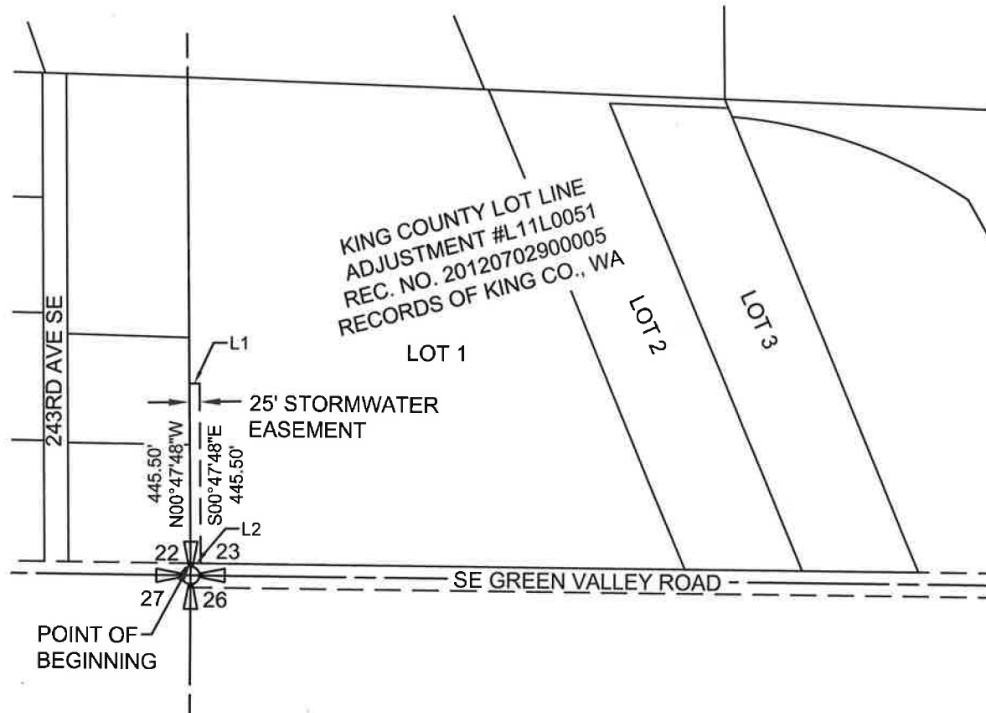
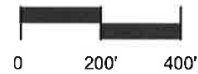
Containing an area of 0.26 Acres



25' STORMWATER EASEMENT

JULY 16, 2021

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°22'33"E	25.01'
L2	N89°22'35"W	25.01'



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.



**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT H



FIDELITY NATIONAL INSURANCE TITLE COMPANY

National Commercial Services
600 University Street, Suite 2424
Seattle, WA 98101
Phone: 206-495-8170

March 18, 2021

Denise L. Stiffarm
Pacifica Law Group
1191 Second Avenue
Suite 2000
Seattle, WA 98101

Re: Fidelity file Nos. 20400946 and 20001321-SC
Proposed Lawson Hills Elementary site and proposed High School/Auxiliary Facility site

Dear Ms. Stiffarm:

The two title products mentioned above are subject to title objection letters sent by you on behalf of the Enumclaw School District and addressed to Megan Nelson bearing the date of December 15, 2020. Among other items detailed in the two letters are several exceptions to Schedule B which concern reserved coal, mineral, gas and other mineral rights which affect title to the proposed Lawson Hills Elementary site and the High School/Auxiliary Facility site as those sites are described in said title objection letters.

Fidelity National Title Insurance Company will include in any owner policy insuring the Enumclaw School District which covers the proposed Lawson Hills Elementary site and/or the proposed High School/Auxiliary Facility School sites, whether the High School site and Auxiliary School Facility site are conveyed separately or together, an endorsement in the form of the endorsement attached hereto suitably amended to reflect said owner policy but otherwise substantively unchanged. Issuance of the endorsement in each case will not require the submittal of any building plans or other documents.

Please feel free to contact the undersigned if there are any questions regarding the matter discussed herein.

Sincerely,

John W. Jones
Senior Commercial Underwriter

(Attachment ("CLTA for 100.29 (Rev. 9-10-93) Minerals, Surface Damage"))



Fidelity National Title
Insurance Company

ENDORSEMENT

Attached to Policy No. WA-FBCM-IMP-27306-1-15-20372364

Issued By

Fidelity National Title Insurance Company

The Company insures the insured against loss which the insured shall sustain by reason of damage to, removal of, dissembling, reassembling and restoring existing improvements or improvements to be installed or erected in the future, including without limitation, structures, roadways, driveways, sidewalks, curbs, utilities, plat improvements, lawns, shrubbery, trees and other landscaping, resulting from the exercise of any right to use the surface of the land for the extraction or development of the minerals excepted from the description of the land or shown as a reservation in Schedule B.

This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Date: **December 24, 2015 at 9:59 A.M.**

Fidelity National Title Insurance Company
Countersigned by:

A handwritten signature in black ink, appearing to read "Randy Quirk", written over a horizontal line.

Authorized Signature



By:

A handwritten signature in black ink, appearing to read "Randy Quirk", written over a horizontal line.

Randy Quirk, President

Attest:

A handwritten signature in black ink, appearing to read "Michael Gravelle", written over a horizontal line.

Michael Gravelle, Secretary

EXHIBIT I

Mitigation Fee Credit Certificate

On _____, 2_____, CCD Black Diamond Partners, LLC 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 that Amended and Restated Comprehensive School Mitigation Agreement dated _____, 2021, which was executed by the City of Black Diamond, the Enumclaw School District, and CCD Black Diamond Partners, LLC, CCD Black Diamond Partners, LLC hereby receives mitigation fee credit in the amount of \$_____.

CCD Black Diamond Partners, LLC 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 Ten Trails MPD.

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

ENUMCLAW SCHOOL DISTRICT NO. 216,
a political subdivision of the State of Washington

By: _____
Name:
Its:

Date: _____

EXHIBIT J

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 CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company 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 Amended and Restated Comprehensive School Mitigation Agreement dated _____, 2021 by and between Seller, the City of Black Diamond, and Buyer 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 [less any Joint Use Lands as defined in the School Agreement], 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 **[Actual School Site Value less any Joint Use Lands (both as defined in the School Agreement) for the Option Property]** 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 subject site was conveyed to the District until the Option to Purchase is triggered. If the CPI-U 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-U 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 except those that are necessary to construct, maintain, and operate the School Facilities 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: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

With a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attn: Denise L. Stiffarm

To Buyer: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

And to: Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011

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

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

8. Default and Remedies.

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

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

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

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

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

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

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

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

Seller's Signature Page for Option Agreement

ENUMCLAW SCHOOL DISTRICT No.
216, a political subdivision of the State of
Washington

DATED: _____

By _____
Name _____
Title _____

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____.



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

Buyer's Signature Page for Option Agreement

CCD BLACK DIAMOND PARTNER LLC,
a Delaware limited liability company

DATED: _____

By _____
Name _____
Title _____

STATE OF _____)
COUNTY OF _____) ss.

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

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, a political subdivision of the State of Washington ("**Seller**"), and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company ("**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. Fidelity National 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 5 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 prorated 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: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

With a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attn: Denise L. Stiffarm

To Buyer: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

And to: Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011

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 waiver 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]

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

Title Exceptions

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
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011
Attn: Aleana W. Harris

MEMORANDUM OF OPTION

Grantor: ENUMCLAW SCHOOL DISTRICT NO. 216
Grantee: CCD BLACK DIAMOND PARTNERS LLC
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 No. 216, a
political subdivision of the State of Washington

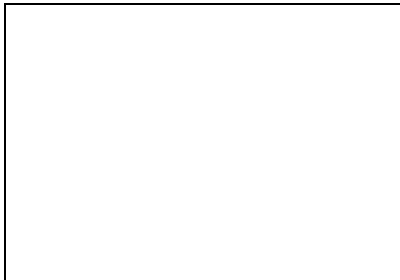
DATED: _____

By _____
Name _____
Title _____

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____.



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

Grantee's Signature Page for Memorandum of Option

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

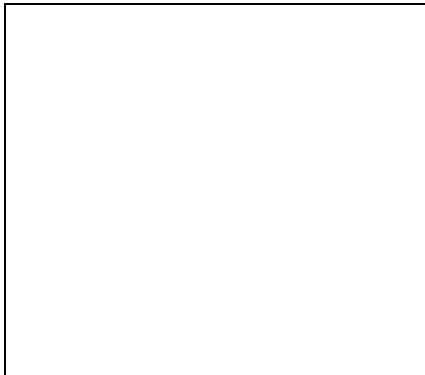
DATED: _____

By _____
Name _____
Title _____

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT K

PERMITTED EXCEPTIONS AS AGREED BY DEVELOPER AND DISTRICT
FOR EACH SCHOOL SITE

- **TEN TRAILS ELEMENTARY SCHOOL SITE A (Parcel Nos. 8576000820 and 8576000830):**

Based on that certain Commitment for Title Insurance issued by Fidelity National Title Insurance Company (the "Title Company") under File No. 20000131-SC (Revision 3), effective date March 4, 2021 (the "Title Commitment").

Exception 3 (Liability for Stormwater Treatment Capacity Charges, If Any) [per Title Commitment, exception will not appear on policy]

Exception 4 (Traffic Mitigation Agreement recorded under King County Recording No. 20110422000249) [non-residential use does not trigger payment]

Exception 5 (Comprehensive School Mitigation Agreement recorded under King County Recording No. 20110624001156, as amended by that document recorded under King County Recording No. 20150130000466)

Exception 6 (The Villages MPD Development Agreement recorded under King County Recording No. 20120130000655, as amended by those document recorded under King County Recording Nos. 20120906000762, 20120906000763, 20140103000655, 20141112001375, 20171206000581, 20181011000280, 20181011000281, 201902280000492, and 201902280000493)

Exception 7 (Terms and Conditions of Notice of Payment Obligation recorded under King County Recording No. 20151202000632) [exception for lots used for school purposes]

Exception 8 (Puget Sound Energy Easement recorded under King County Recording No. 20170518000241)

Exception 9 (Puget Sound Energy Easement recorded under King County Recording No. 20170824000131)

Exception 10 (conditionally accepted – assuming that this is Conditions of Recorded Plat of Ten Trails PP1A Division 1 recorded under King County Recording No. 20171107001311)

Exception 14 (Storm Drainage Easement recorded under King County Recording No. 20200612001028)

END – TEN TRAILS ELEMENTARY A

- **TEN TRAILS MIDDLE SCHOOL SITE AND TEN TRAILS ELEMENTARY SCHOOL SITE B (fka Elementary D):**

Based on that certain Second Commitment for Title Insurance issued by Fidelity National Title Insurance Company (the "Title Company") under File No. 21001489-SC (Revision 2), effective date September 29, 2021 (the "Title Commitment").

Exception 1 (Easement recorded under KCR No. 1726627)

Exception 2 (Easement recorded under KCR No. 1738332)

Exception 6 (Traffic Mitigation Agreement recorded under King County Recording No. 20110422000249) [non-residential use does not trigger payment]

Exception 7 (Comprehensive School Mitigation Agreement recorded under King County Recording No. 20110624001156, as amended by that document recorded under King County Recording No. 20150130000466)

Exception 8 (The Villages MPD Development Agreement recorded under King County Recording No. 20120130000655, as amended by those document recorded under King County Recording Nos. 20120906000762, 20120906000763, 20140103000655, 20141112001375, 20171206000581, 20181011000280, 20181011000281, 201902280000492, and 201902280000493)

Exception 9 (Boundary Line Adjustment recorded under King County Recording No. 20120702900005)

Exception 14 (Temporary Easement Agreement recorded under KRC No. 20150528000482 as amended by KRC Nos. 20150811000652 and 20151021001954)

Exception 15 (Terms and Conditions of Notice of Payment Obligation recorded under King County Recording No. 20151202000632) [exception for lots used for school purposes]

Exception 17 (Lot Line Adjustment PLN21-0011 recorded under KCR 20210628900003)

Exception 26 (Liability for Sewer Treatment Capacity Charges, if any – no specific parcel) [Commitment states that exception will not appear on policy.]

END – TEN TRAILS MIDDLE SCHOOL AND TEN TRAILS ELEMENTARY B

- **LAWSON HILLS ELEMENTARY SCHOOL SITE:**

Based on that certain Litigation Guarantee issued by Fidelity National Title Insurance Company under Guarantee No. 21000460-SC, Revision 1, dated March 16, 2021 (the “Title Commitment”).

Exception 1 (Mineral Rights disclosed by Deed recorded under KCR No. 1494026, as amended by document recorded under KCR No. 20060315000834)

Exception 2 (Easement recorded under KCR No. 1629726)

Exception 3 (Easement recorded under KCR No. 2667434)

Exception 4 (Easement recorded under KCR No. 8105050691)

Exception 5 (Easement recorded under KCR No. 820104033)

Exception 7 (Reserved Mineral Rights recorded under KCR No. 20060726001540)

Exception 8 (Reserved Mineral Rights recorded under KCR No. 20060726001541)

Exception 9 (Memorandum of Assignment and Assumption of Water Rights recorded under KCR No. 200608280022388, with reference to document recorded under KCR No. 200607226001549)

Exception 11 (Slope and Construction Easement Agreement recorded under KCR No. 20090722000919)

Exception 12 (Traffic Mitigation Agreement recorded under KCR No. 20110422000249)
[non-residential use does not trigger payment]

Exception 13 (Comprehensive School Mitigation Agreement recorded under KCR No. 20110624001156, as amended by that document recorded under KCR No. 20150130000466)

Exception 14 (Lawson Hills MPD Development Agreement recorded under KCR No. 20120130000640 as amended by KCR Nos. 20120906000761, 20140103000649, 20141112001374, and 20181011000279)

Exception 15 (Easement recorded under KCR No. 20160311001120)

Exception 16 (Covenants, conditions, restrictions . . .as set forth in City of Black Diamond Lot Line Adjustment No. PLN 19-0129 recorded under KCR No. 20200629900002)

Exception 19 (Liability for Sewer Treatment Capacity Charges, if any) [per Title Commitment, exception will not appear on policy]

END – LAWSON HILLS ELEMENTARY SITE

Exhibit K – Amended & Restated Comprehensive School Mitigation Agreement

- **TEN TRAILS HIGH SCHOOL/AUXILIARY SCHOOL FACILITY SITES:**

Based on that certain Commitment for Title Insurance issued by Fidelity National Title Insurance under File No. 20001321-SC, Revision 2, with an effective date of September 28, 2021 (the “Title Commitment”).

Exception 1 (Easement recorded under KCR No. 1726627)

Exception 2 (Easement recorded under KCR No. 1738332)

Exception 3 (Reservation of mineral rights recorded under KCR No. 8501040307) [exception approved subject to obligation of Title Company to issue and Developer to pay for endorsement as agreed pursuant to Section 12.2 of the Amended and Restated Comprehensive School Mitigation Agreement]

Exception 6 (Pre-Annexation and Development Agreement recorded under KCR No. 2009112001526)

Exception 9 (Traffic Mitigation Agreement recorded under King County Recording No. 20110422000249) [non-residential use does not trigger payment]

Exception 10 (Comprehensive School Mitigation Agreement recorded under KCR No. 20110624001156 as amended by KCR No. 20150130000466)

Exception 11 (Villages MPD Development Agreement recorded under KCR No. 20120130000655 as amended by KCR Nos. 20120906000762, 20120906000763, 20140103000655, 20141112001375, 20171206000581, 20181011000280, 20181011000281, 201902280000492, and 201902280000493)

Exception 14 (Notice of Payment Obligation recorded under KRC No. 20151202000632) [school uses do not trigger payment]

Exception 17 (Right of the State of Washington in land lying below the OHW of Black Diamond Lake)

Exception 18 (Any prohibition or limitation of use of Land resulting from rights of the public or riparian owners to lands covered by waters)

Exception 19 (Paramount rights and easements in favor of the US for commerce, navigation, fisheries and production of power)

Exception 25 (Liability for Sewer Treatment Capacity Charges, if any) [per Title Commitment, exception will not appear on policy]

Exception 28 (Boundary Line Adjustment No. PLN-21-011 recorded under KCR 21062890003)

END – HIGH SCHOOL/AUXILIARY SCHOOL FACILITY SITES

Exhibit K – Amended & Restated Comprehensive School Mitigation Agreement

EXHIBIT L

ACCESS AND UTILITY EASEMENT

GRANTOR: CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company

GRANTEE: ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington

Legal Description:

Abbreviated form:

Additional legal descriptions on Exhibits A, B, and C of document

Assessor's Property Tax Parcel Account Number(s):

ACCESS AND UTILITY EASEMENT

This ACCESS AND UTILITY EASEMENT ("Agreement") is made and entered into this _____ day of _____, 20__, by CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company ("Grantor") and ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington ("Grantee").

RECITALS

A. Grantor is the owner of the real property described in Exhibit A attached hereto (the "Burdened Property").

B. Grantee is the owner of the real property described on Exhibit B attached hereto (the "Benefited Property").

C. Grantor desires to grant an easement for the benefit of Grantee's Property for the purposes and on the terms and conditions described herein.

AGREEMENT

1. Grant of Easement. For and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants and conveys to Grantee, a perpetual exclusive easement for access and utilities (the "Easement") under, across, in, upon, and over the Burdened Property in the location described and depicted on Exhibit C attached hereto (the "Easement Area"), which is an area along the eastern boundary of the Burdened Property of approximately eighty (80) feet in width.

2. Purpose of Easement. Grantee shall have the right to construct, install, repair, replace, maintain, operate, and use a driveway access road, designed as reasonably necessary to serve Grantee's property or as may be required by any permit condition, in the Easement Area, together with all necessary or convenient appurtenances thereof, including, without limitation, utilities to serve the Benefited Property and necessary storm water improvements (the "Easement Improvements").

3. Access. The Grantee's employees, students, agents, and contractors shall have the rights at all times, without prior notice of the Grantor, to enter upon the Easement Area, by foot, bicycle, or vehicle, for the purposes set forth above.

4. Obstructions. Subject to the City of Black Diamond's permitting requirements, as may be applicable, and with at least, ten (10) days advance written notice to Grantor, Grantee may remove structures, trees, bushes, or other obstructions within the Easement Area and may level and grade the Easement Area to the extent reasonably necessary to carry out the purposes set forth herein. Prior to commencing any work in the Easement Area, Grantee shall provide Grantor with proof of Grantee's insurance coverage and add Grantor as an additional insured to its own insurance policy(ies) covering such work, if permitted under Grantee's risk pool insurance, as applicable, as well as the insurance policies of any agents or contractors performing such work for or on behalf of Grantee.

5. Indemnity. Grantor, its officials, officers, directors, employees and agents shall not be liable for any loss, claim or damage to persons or property resulting from the use of the Easement Area by Grantee, its members, officers, directors, employees, agents, contractors, subcontractors, lessees, sublessees, guests and invitees, except for loss, claim or damage resulting from the sole negligence of Grantor or Grantor's officials, officers, directors, employees or agents, or the concurrent negligence of Grantor or Grantor's officials, officers, directors, employees or agents, to the extent of such concurrent negligence. Grantee shall protect, defend, indemnify and hold Grantor harmless from and against any and all claims, demands, losses, damages, expenses and liabilities of every kind and description and for any loss to or damage or destruction of property suffered by Grantor arising out of Grantee's use of the Easement Area, except to the extent caused by the negligence or concurrent negligence of Grantor or Grantor's officials, officers, directors, employees or agents to the extent of such concurrent negligence. Grantee agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Grantee's immunity under Washington's Industrial Insurance act, RCW Title 51, as respects the Grantor only, and only to the extent necessary to provide the Grantor with a full and complete indemnity of claims made by the Grantee's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them. Grantor shall give Grantee prompt written notice of any suit or proceeding entitling Grantor to indemnification pursuant to this Section 6 and Grantee shall thereafter defend Grantor in said suit or proceeding at its sole cost and expense to the extent required under this Section 5.

6. No Interference with Easement Rights. Grantor shall not undertake any digging, tunneling or other form of construction activity in the Easement Area or on the Grantor Property which would damage the driveway access road or utilities or which would interfere with use of the Easement Area for ingress and egress to the Grantee Property unless agreed to in advance in writing by the Grantee.

7. Miscellaneous.

(a) Captions. The captions and paragraph headings contained in this Easement are for convenience of reference only and in no way define, describe, extend or define the scope or intent of this Easement, nor the intent of any of the provisions hereof.

(b) Governing Law. This Easement shall be governed by and construed and enforced in accordance with the laws of the State of Washington. The parties agree that venue of any legal action brought to enforce this Easement shall be in King County, Washington. In the event of any litigation to enforce or interpret the rights, duties and obligations of the parties set forth herein, the prevailing party shall be entitled to an award of reasonable costs, expenses and attorneys' fees in connection therewith, at trial and on appeal.

(c) Recitals Incorporated; Definitions. Each recital and definition set forth above is incorporated into this Easement as though fully set forth herein.

(d) Attorney's Fees and Costs. If either party shall bring an action to enforce the terms of this Agreement, in any such action the prevailing party shall be entitled to an award of its reasonable attorneys' fees and reasonable costs. Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal or in any proceedings under any present or future federal bankruptcy, forfeiture or state receivership or similar law.

(e) Severability. All provisions of this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions.

(f) Binding Effect; Successors and Assigns. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns and shall be deemed to run with the land. This Agreement may be amended or modified only by written instrument, executed and acknowledged by the parties hereto or their successors or assigns, recorded with the King County Auditor.

(g) Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any prior written or oral agreements with respect to the matters described herein.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

SIGNATURES FOLLOW

IN WITNESS WHEREOF, the parties have executed this Easement as of the date and year first above written.

“GRANTOR”

“GRANTEE”

CCD BLACK DIAMOND PARTNERS
LLC, a Delaware limited liability company

ENUMCLAW SCHOOL DISTRICT NO.
216, a political subdivision of the State of
Washington

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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 (s)he signed this instrument, on oath
stated that (s)he was authorized to execute the instrument and acknowledged it as the
_____ of CCD BLACK DIAMOND PARTNERS LLC, to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

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 (s)he signed this instrument, on oath
stated that (s)he was authorized to execute the instrument and acknowledged it as the
_____ of ENUMCLAW SCHOOL DISTRICT NO. 216 to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

Exhibit A to Access and Utility Easement

Exhibit B to Access and Utility Easement

EXHIBIT M1

LEGAL DESCRIPTION
TEN TRAILS ELEMENTARY SCHOOL SITE A

LOTS 82 AND 83, TEN TRAILS, PP1A DIVISION 1, ACCORDING TO THE PLAT
THEREOF RECORDED IN VOLUME 280 OF PLATS, PAGE 1, RECORDS OF KING
COUNTY, WASHINGTON.

EXHIBIT M2

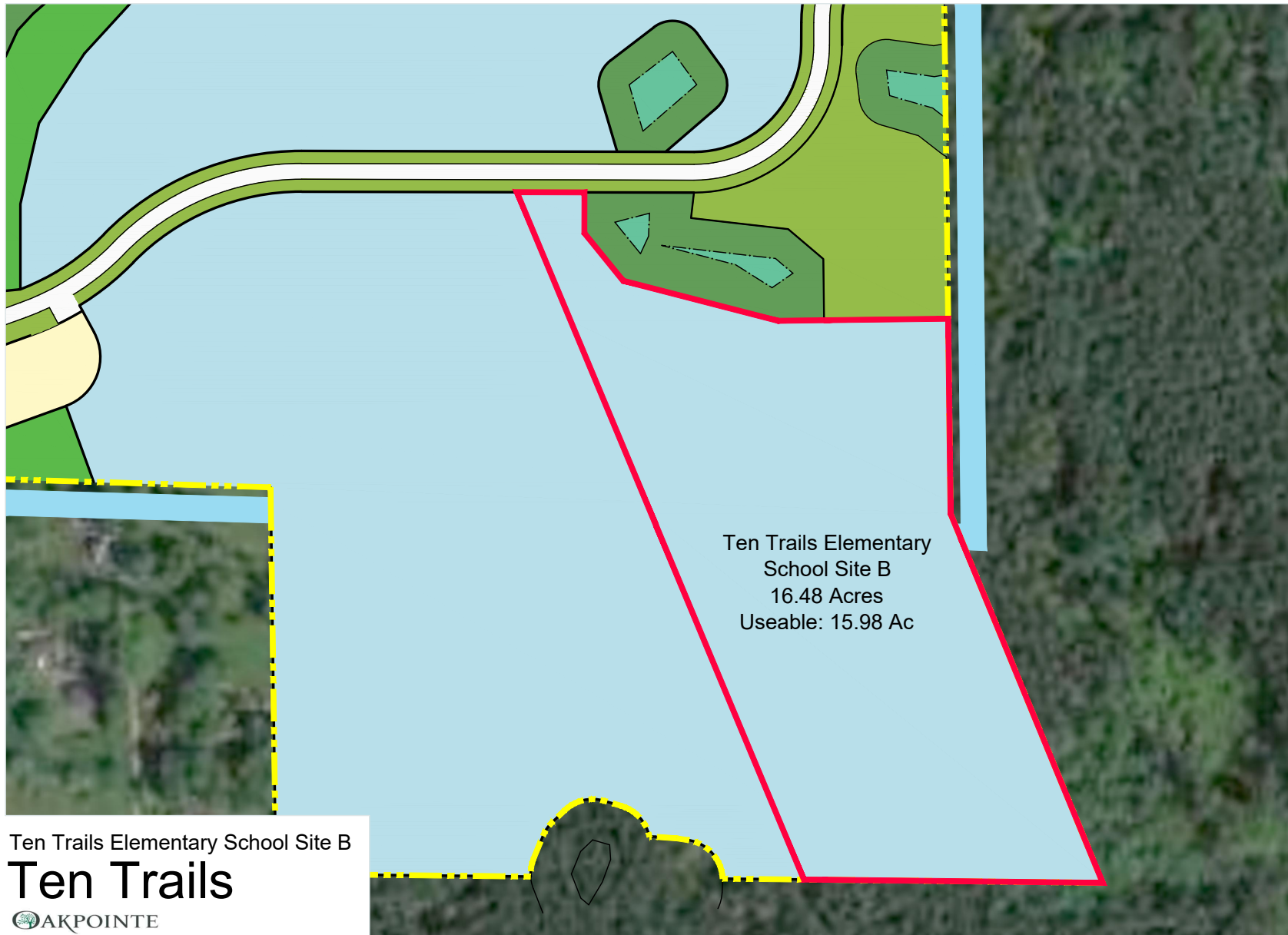


Ten Trails Elementary School Site A

Ten Trails



EXHIBIT N1



Ten Trails Elementary School Site B

Ten Trails



EXHIBIT N2

LEGAL DESCRIPTION
TEN TRAILS ELEMENTARY SCHOOL SITE B

Lot 16 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

TOGETHER WITH that portion of Lots 1, 2 and 3 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, said portion lying within the Southwest Quarter of the Southwest Quarter of Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Commencing at the northwest corner of said Lot 1;
Thence easterly along the north line of said Lot 1, South $87^{\circ}46'53''$ East, 737.75 feet to the True Point of Beginning;
Thence continuing easterly along the north line of said Lots 1 and 2, South $87^{\circ}46'53''$ East, 598.49 feet to the northeast corner of said Lot 2;
Thence southeasterly along the east line of said Lots 2 and 3, South $22^{\circ}39'28''$ East, 781.47 feet;
Thence westerly and leaving said east line, North $89^{\circ}47'17''$ West, 589.28 feet;
Thence northwesterly, North $22^{\circ}39'28''$ West, 804.21 feet to the north line of said Lot 1 and the True Point of Beginning.

Containing an area of 16.48 Acres

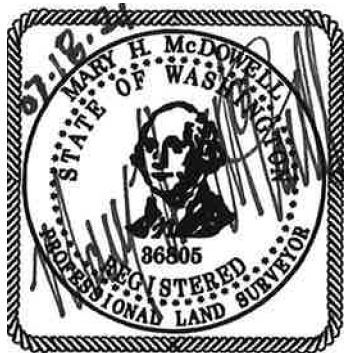
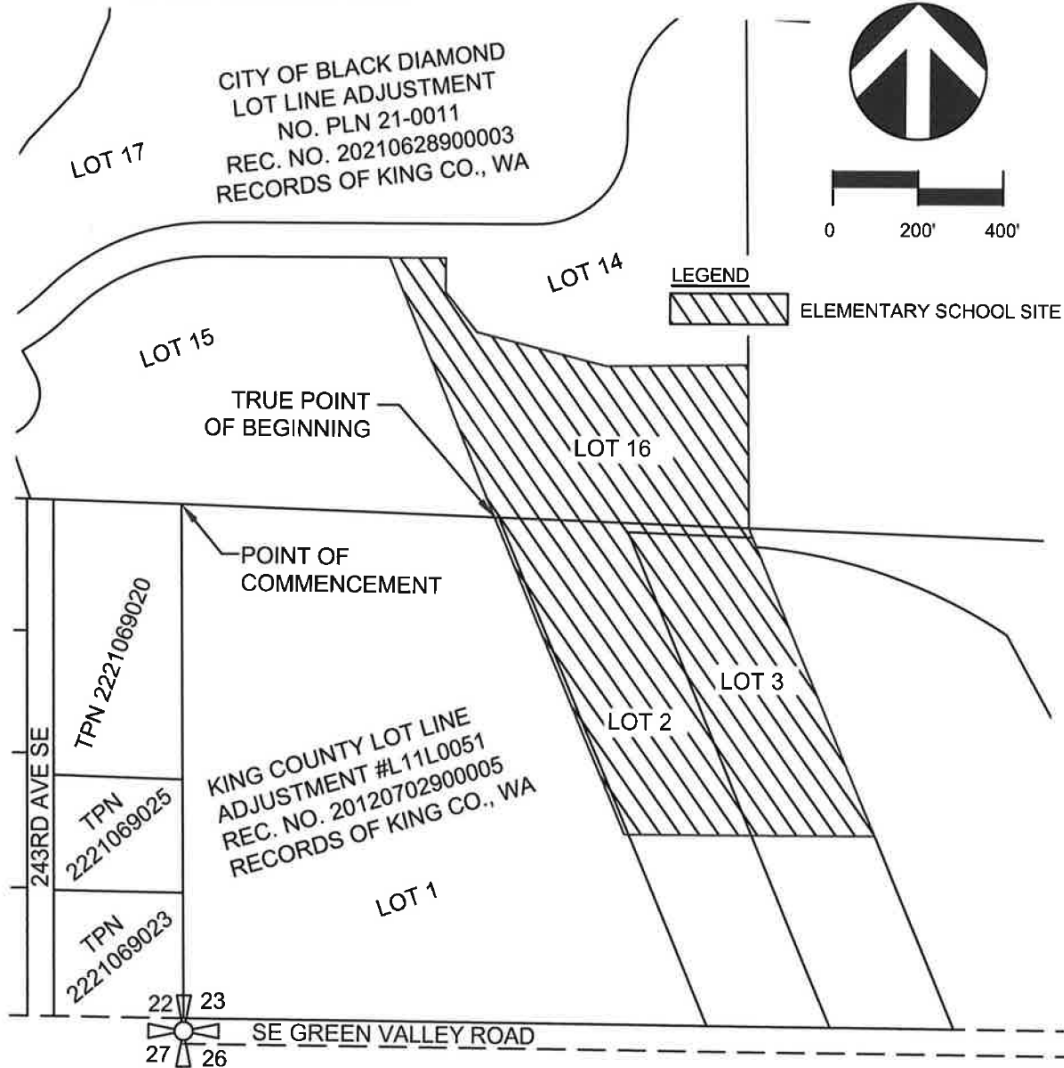


EXHIBIT B
TEN TRAILS PHASE 3
ELEMENTARY SCHOOL SITE

OAKPCBDP6001
JULY 16, 2021



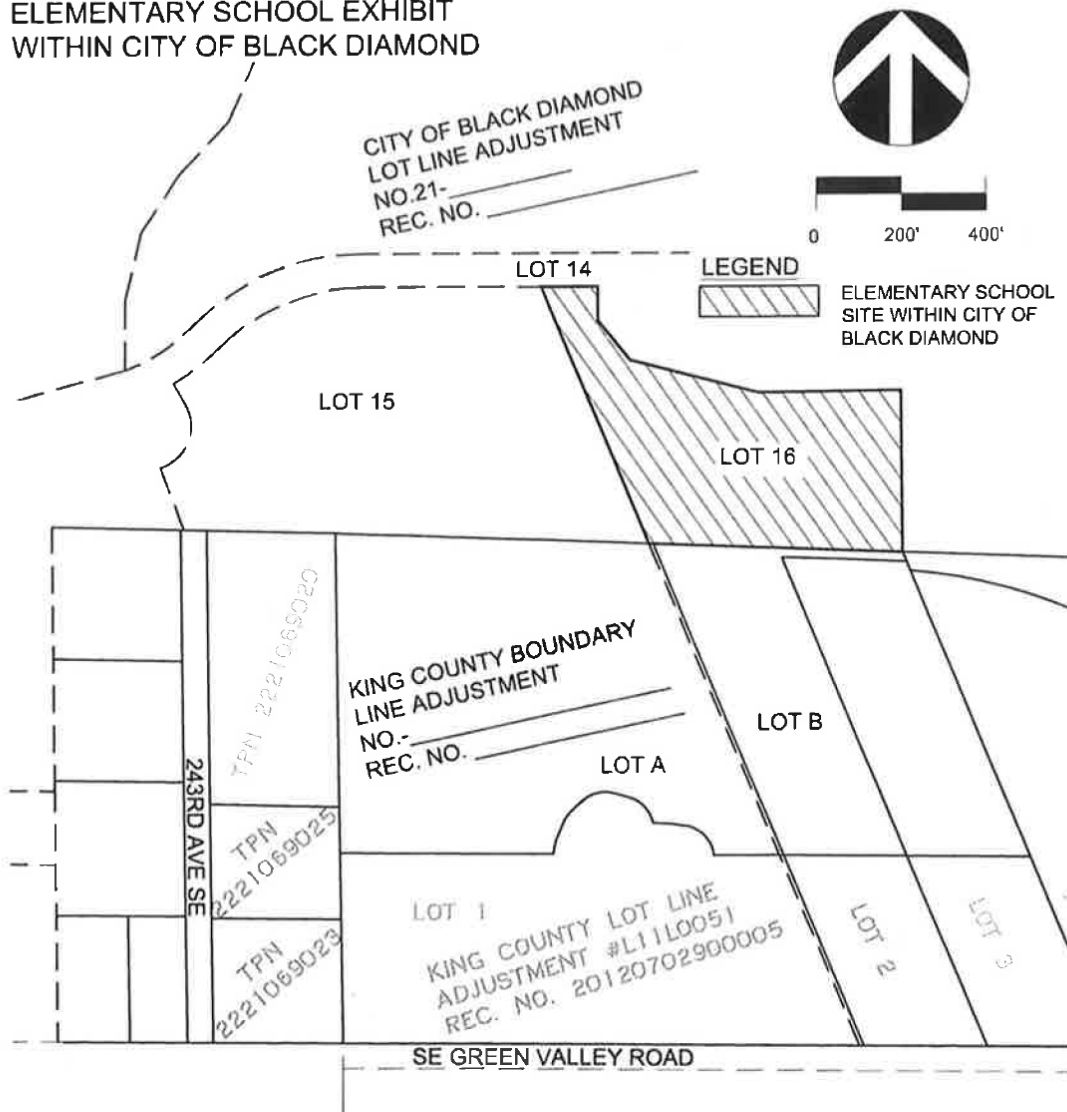
THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.



**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT B
TEN TRAILS
ELEMENTARY SCHOOL EXHIBIT
WITHIN CITY OF BLACK DIAMOND

JOB # OAKPCBDP6001
MARCH 4, 2021



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.



**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT 01

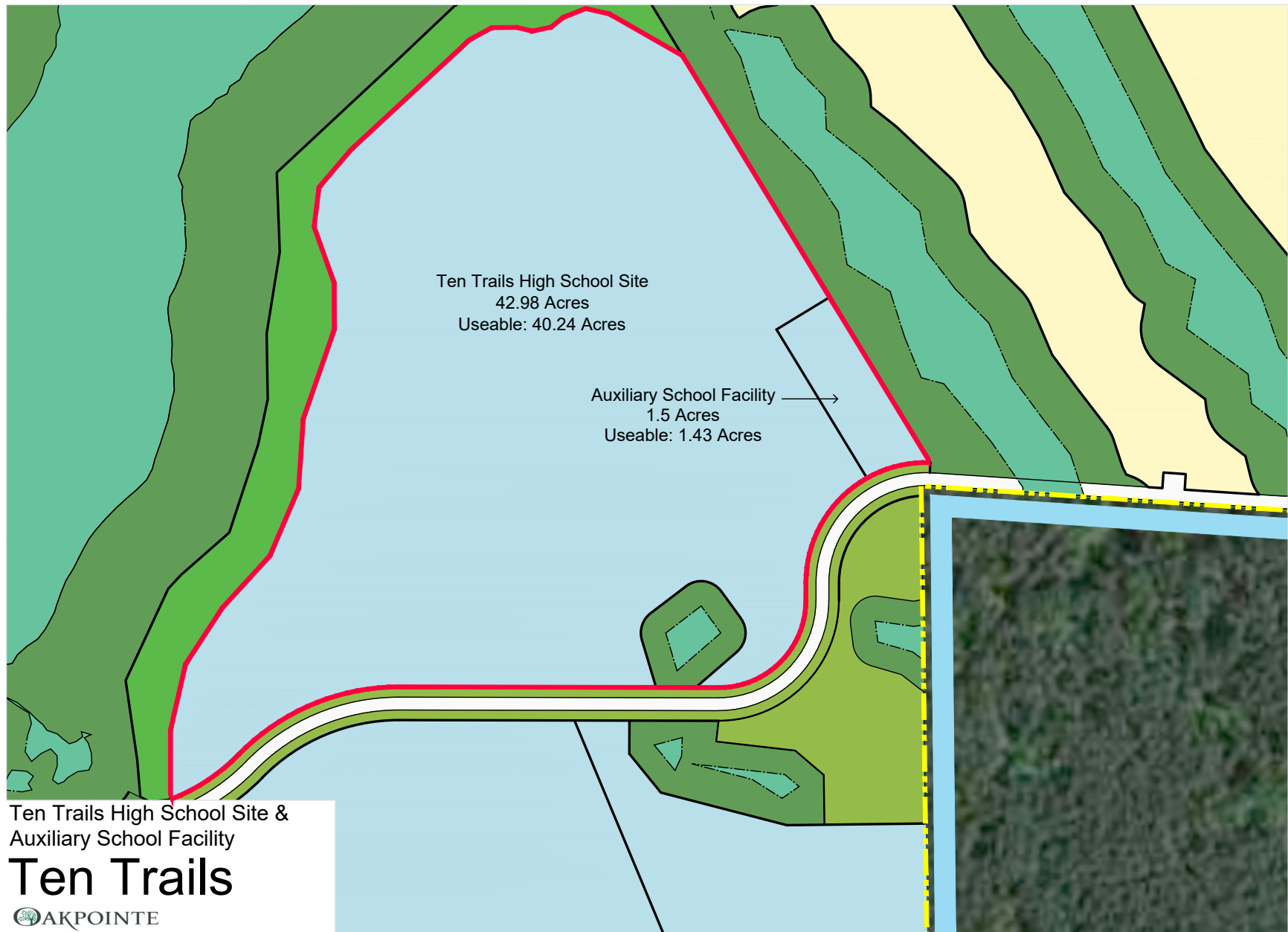


EXHIBIT 02

LEGAL DESCRIPTION
TEN TRAILS HIGH SCHOOL SITE

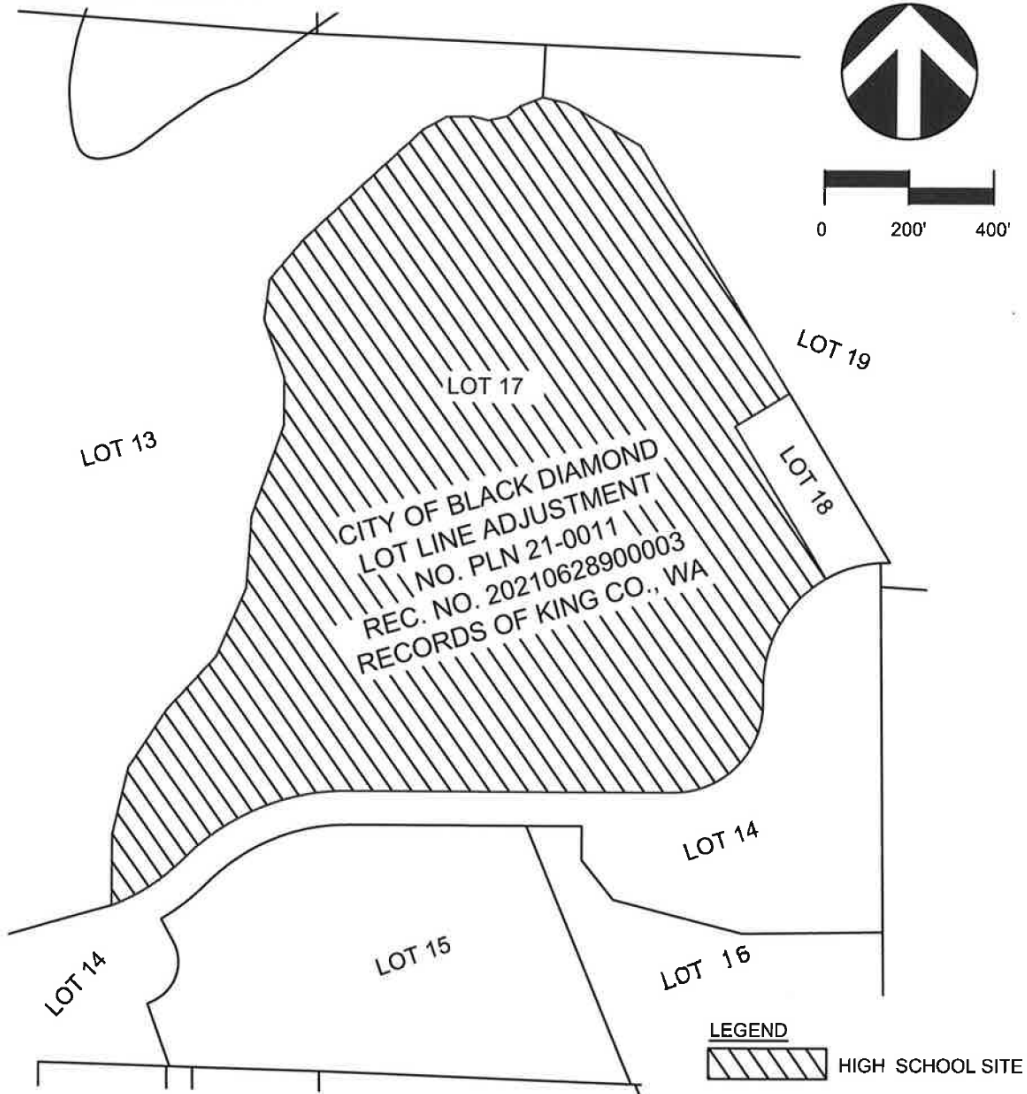
Lot 17 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

Containing an area of 42.98 Acres



EXHIBIT B
TEN TRAILS PHASE 3
HIGH SCHOOL SITE

OAKPCBDP6001
JULY 16, 2021



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.



**DAVID EVANS
AND ASSOCIATES INC.**

20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT P

After Recording Return To:
Enumclaw School District No. 216
2929 McDougall Avenue
Enumclaw, Washington 98022
Attn: Superintendent

GRADING AND SLOPE EASEMENT

GRANTOR: CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company

GRANTEE: ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington

Legal Description:

Abbreviated form:

Additional legal descriptions on Exhibits A, B, and C of document

Assessor's Property Tax Parcel Account Number(s):

GRADING AND SLOPE EASEMENT

This GRADING AND SLOPE EASEMENT (“Agreement”) is made and entered into this ____ day of _____, 20__, by CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (“Grantor”) and ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington (“Grantee”).

RECITALS

A. Grantor is the owner of the real property described in Exhibit A attached hereto (the “Grantor’s Property”).

B. Grantee is the owner of the real property described on Exhibit B attached hereto (the “Grantee’s Property”).

C. Grantor desires to grant an easement for the benefit of Grantee’s Property for the purposes and on the terms and conditions described herein.

AGREEMENT

1. Grant and Purpose of Easement. For and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants and conveys to Grantee, a perpetual, exclusive appurtenant easement for the benefit of the Grantee’s Property over, on, through and across the area of the Grantor’s Property as described and depicted on Exhibit C attached hereto (the “Easement Area”), to (i) clear and grade Grantee’s Property as needed to create a level site for a high school and, as needed, (ii) to create construct, install, reconstruct, replace, and maintain slopes for stability and lateral support related to the school facility improvements on Grantee’s Property (collectively the “Easement Work and Improvements”), and as necessary for ingress thereto and egress therefrom for the purpose of enjoying the Easement. Grantee shall repair immediately any damage to the Easement Area that is inconsistent with the purposes as stated herein. Grantee shall provide slope and erosion control for the Easement Work and Improvements; shall revegetate and/or hydroseed the Easement following completion of the Easement Work and Improvements per a landscape plan approved in writing by Grantor, which approval shall not be unreasonably withheld; and shall remove any temporary erosion control measures once the Easement Area is stabilized.

2. Access. The Grantee’s employees, agents, and contractors shall have the right at all times, without prior notice of the Grantor, to enter upon the Easement Area for the purposes set forth above.

3. Obstructions. Subject to City of Black Diamond permitting requirements, as may be applicable, and with at least ten (10) days advance written notice to and coordination with Grantor, Grantee may from time to time remove structures, trees, bushes, or other obstructions within the Easement Area and may grade the Easement Area to the extent reasonably necessary to carry out the purposes set forth herein. Prior to commencing any work in the Easement Area, Grantee shall provide Grantor with proof of Grantee's insurance coverage and add Grantor as an additional insured to its own insurance policy(ies) covering such work, if permitted under Grantee's risk pool insurance, as applicable, as well as the insurance policies of any agents or contractors performing such work for or on behalf of Grantee.

4. Indemnity. Grantor, its officials, officers, directors, employees and agents shall not be liable for any loss, claim or damage to persons or property resulting from the use of the Easement Area by Grantee, its members, officers, directors, employees, agents, contractors, subcontractors, lessees, sublessees, guests and invitees, except for loss, claim or damage resulting from the sole negligence of Grantor or Grantor's officials, officers, directors, employees or agents, or the concurrent negligence of Grantor or Grantor's officials, officers, directors, employees or agents, to the extent of such concurrent negligence. Grantee shall protect, defend, indemnify and hold Grantor harmless from and against any and all claims, demands, losses, damages, expenses and liabilities of every kind and description and for any loss to or damage or destruction of property suffered by Grantor arising out of Grantee's use of the Easement Area, except to the extent caused by the negligence or concurrent negligence of Grantor or Grantor's officials, officers, directors, employees or agents to the extent of such concurrent negligence. Grantee agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Grantee's immunity under Washington's Industrial Insurance act, RCW Title 51, as respects the Grantor only, and only to the extent necessary to provide the Grantor with a full and complete indemnity of claims made by the Grantee's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them. Grantor shall give Grantee prompt written notice of any suit or proceeding entitling Grantor to indemnification pursuant to this Section 4 and Grantee shall thereafter defend Grantor in said suit or proceeding at its sole cost and expense to the extent required under this Section 4.

5. No Interference with Easement Rights. Grantor shall not construct any buildings or structures or other permanent improvements in the Easement Area and shall not undertake any digging, tunneling or other form of activity in the Easement Area or on the Grantor's Property which would damage or otherwise affect the Easement Improvements unless agreed to by Grantee in advance and in writing, which agreement shall not be unreasonably withheld.

6. Miscellaneous.

(a) Captions. The captions and paragraph headings contained in this Easement are for convenience of reference only and in no way define, describe, extend or define the scope or intent of this Easement, nor the intent of any of the provisions hereof.

(b) Governing Law. This Easement shall be governed by and construed and enforced in accordance with the laws of the State of Washington. The parties agree that venue of any legal action brought to enforce this Easement shall be in King County, Washington. In the event of any litigation to enforce or interpret the rights, duties and obligations of the parties set forth herein, the prevailing party shall be entitled to an award of reasonable costs, expenses and attorneys' fees in connection therewith, at trial and on appeal.

(c) Recitals Incorporated; Definitions. Each recital and definition set forth above is incorporated into this Easement as though fully set forth herein.

(d) Attorney's Fees and Costs. If either party shall bring an action to enforce the terms of this Agreement, in any such action the prevailing party shall be entitled to an award of its reasonable attorneys' fees and reasonable costs. Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal or in any proceedings under any present or future federal bankruptcy, forfeiture or state receivership or similar law.

(e) Severability. All provisions of this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions.

(f) Binding Effect; Successors and Assigns. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns and shall be deemed to run with the land. This Agreement may be amended or modified only by written instrument, executed and acknowledged by the parties hereto or their successors or assigns, recorded with the King County Auditor.

(g) Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes any prior written or oral agreements with respect to the matters described herein.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

SIGNATURES FOLLOW

IN WITNESS WHEREOF, the parties have executed this Easement as of the date and year first above written.

“GRANTOR”

“GRANTEE”

CCD BLACK DIAMOND PARTNERS
LLC, a Washington municipal corporation
and political subdivision of the State of
Washington

ENUMCLAW SCHOOL DISTRICT NO.
216, a political subdivision of the State of
Washington

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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 (s)he signed this instrument, on oath
stated that (s)he was authorized to execute the instrument and acknowledged it as the
_____ of CCD BLACK DIAMOND PARTNERS LLC, to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

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 (s)he signed this instrument, on oath
stated that (s)he was authorized to execute the instrument and acknowledged it as the
_____ of ENUMCLAW SCHOOL DISTRICT NO. 216 to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

Exhibit A

Legal Description – Grantor Property

Exhibit B

Legal Description – Grantee Property

Exhibit C

Legal Description and Depiction – Easement Area

That portion of Lot 5 of City of Black Diamond Lot Line Adjustment No. PLN 15-0014 filed in Volume 329 of Surveys, Pages 8 through 13, inclusive, and recorded under Recording No. 20150811900002, records of King County, Washington and that portion of the east half of the Southeast Quarter of the Northeast Quarter of Section 22 and that portion of the north half of the Southwest Quarter of the Northwest Quarter of Section 23, both in Township 21 North, Range 6 East, Willamette Meridian, in King County, Washington, all portions thereof described as follows:

Commencing at the Southeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 23;
Thence northerly along the easterly line of said Southwest Quarter, North 00°29'47" West, 93.29 feet;
Thence southeasterly leaving said east line, South 31°19'45" East, 43.47 feet;
Thence along a non-tangent curve to the left, the center of which bears South 01°59'48" West, having a radius of 290.00 feet, through a central angle of 91°52'01", an arc distance of 464.98 feet;
Thence South 00°07'46" West, 44.37 feet;
Thence westerly along a curve to the right, having a radius of 210.00 feet, through a central angle of 90°00'02", an arc distance of 329.87 feet;
Thence North 89°52'12" West, 770.63 feet;
Thence southwesterly along a curve to the left, having a radius of 540.00 feet, through a central angle of 45°53'37", an arc distance of 432.54 feet;
Thence southwesterly along a reverse curve, having a radius of 459.98 feet, through a central angle of 24°43'54", an arc distance of 198.55 feet to the True Point of Beginning of this description;
Thence South 70°00'47" West, 78.91 feet;
Thence North 01°32'08" West, 196.44 feet;
Thence North 11°14'29" West, 134.88 feet;
Thence North 28°42'42" East, 59.89 feet;
Thence North 22°54'00" East, 102.02 feet;
Thence North 26°38'33" East, 55.58 feet;
Thence North 37°26'51" East, 31.84 feet;
Thence North 45°44'47" East, 50.51 feet;

Page 1 of 3



DAVID EVANS
AND ASSOCIATES INC.

20300 Woodinville Snohomish Rd NE
Suite A | Woodinville, WA 98072
p: 425.415.2000
f: 425.486.5059
www.deainc.com
p:\o\oakpcbdp6001\0600info\sv\0695\legaldescriptions\draft\20-1204 oakpcbdp6001 grading
esmt.docx

Thence North 49°40'28" East, 38.38 feet;
 Thence North 44°46'34" East, 75.58 feet;
 Thence North 27°55'17" East, 82.78 feet;
 Thence North 17°45'42" East, 153.97 feet;
 Thence North 12°29'51" East, 119.16 feet;
 Thence North 03°22'50" West, 134.36 feet;
 Thence North 09°08'56" East, 221.69 feet;
 Thence North 04°38'59" West, 53.17 feet;
 Thence North 00°33'21" West, 41.26 feet;
 Thence North 04°04'43" West, 82.97 feet;
 Thence North 34°10'27" East, 47.25 feet;
 Thence North 60°51'34" East, 162.26 feet;
 Thence North 24°10'44" East, 108.00 feet;
 Thence North 53°18'13" East, 79.44 feet;
 Thence North 44°03'01" East, 67.26 feet;
 Thence North 47°04'16" East, 164.99 feet;
 Thence North 48°17'40" East, 40.05 feet;
 Thence South 86°32'36" East, 149.31 feet;
 Thence North 69°45'53" East, 169.20 feet;
 Thence South 40°48'02" East, 102.48 feet;
 Thence South 84°56'11" East, 57.13 feet;
 Thence South 31°19'45" East, 148.25 feet;
 Thence North 60°11'45" West, 203.50 feet;
 Thence North 77°13'58" West, 58.60 feet;
 Thence South 68°41'37" West, 58.45 feet;
 Thence South 51°39'25" West, 37.71 feet;
 Thence South 77°41'34" West, 46.55 feet;
 Thence North 76°16'17" West, 37.66 feet;
 Thence South 89°36'05" West, 60.98 feet;
 Thence South 61°20'51" West, 60.90 feet;
 Thence South 47°13'14" West, 388.81 feet;
 Thence South 40°21'51" West, 120.42 feet;
 Thence South 07°15'24" West, 96.01 feet;
 Thence South 19°35'39" East, 144.54 feet;
 Thence South 00°11'23" East, 112.41 feet;
 Thence South 19°12'53" West, 227.62 feet;
 Thence South 03°51'33" West, 169.63 feet;
 Thence South 23°11'03" West, 175.96 feet;
 Thence South 42°30'34" West, 169.21 feet;

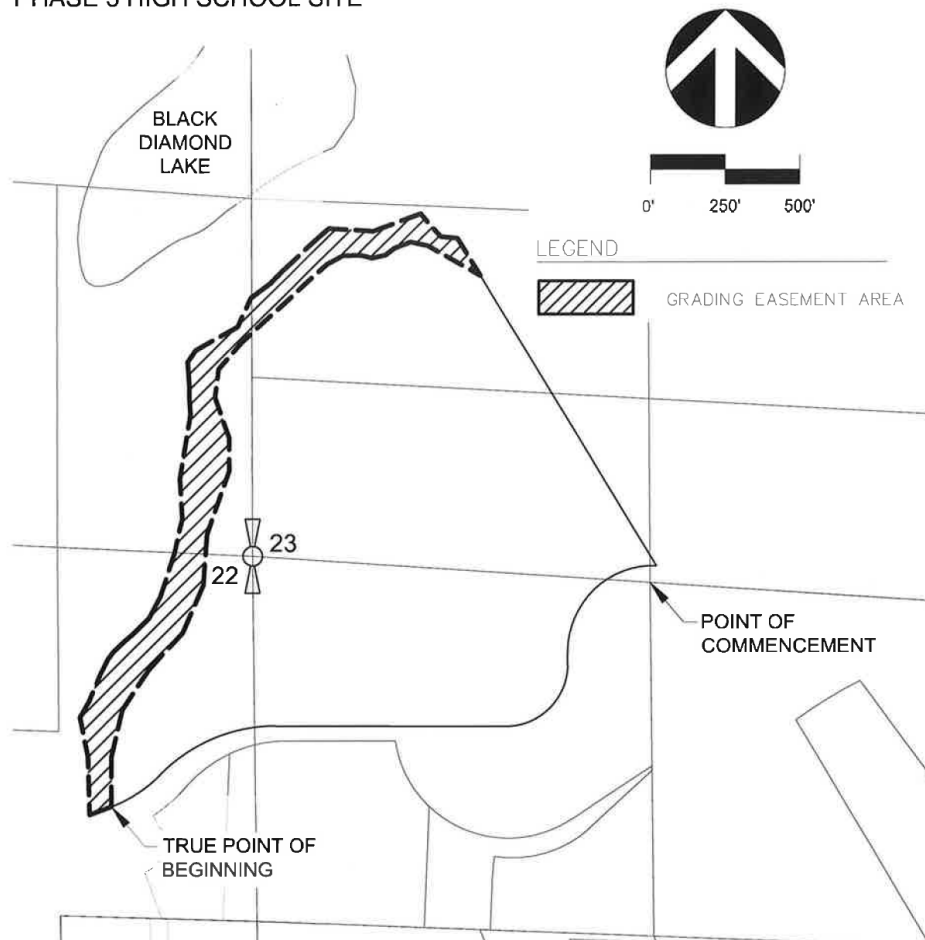
Thence South 33°06'50" West, 163.19 feet;
Thence South 12°52'40" West, 163.19 feet;
Thence South 00°00'00 West, 167.50 feet to the True Point of Beginning of this
description.

Containing an area of 269,141 SF or 6.18 AC (See Exhibit B)



EXHIBIT B
TEN TRAILS
GRADING EASEMENT FOR
PHASE 3 HIGH SCHOOL SITE

JOB # OAKPCBDP6001
DECEMBER 11, 2020

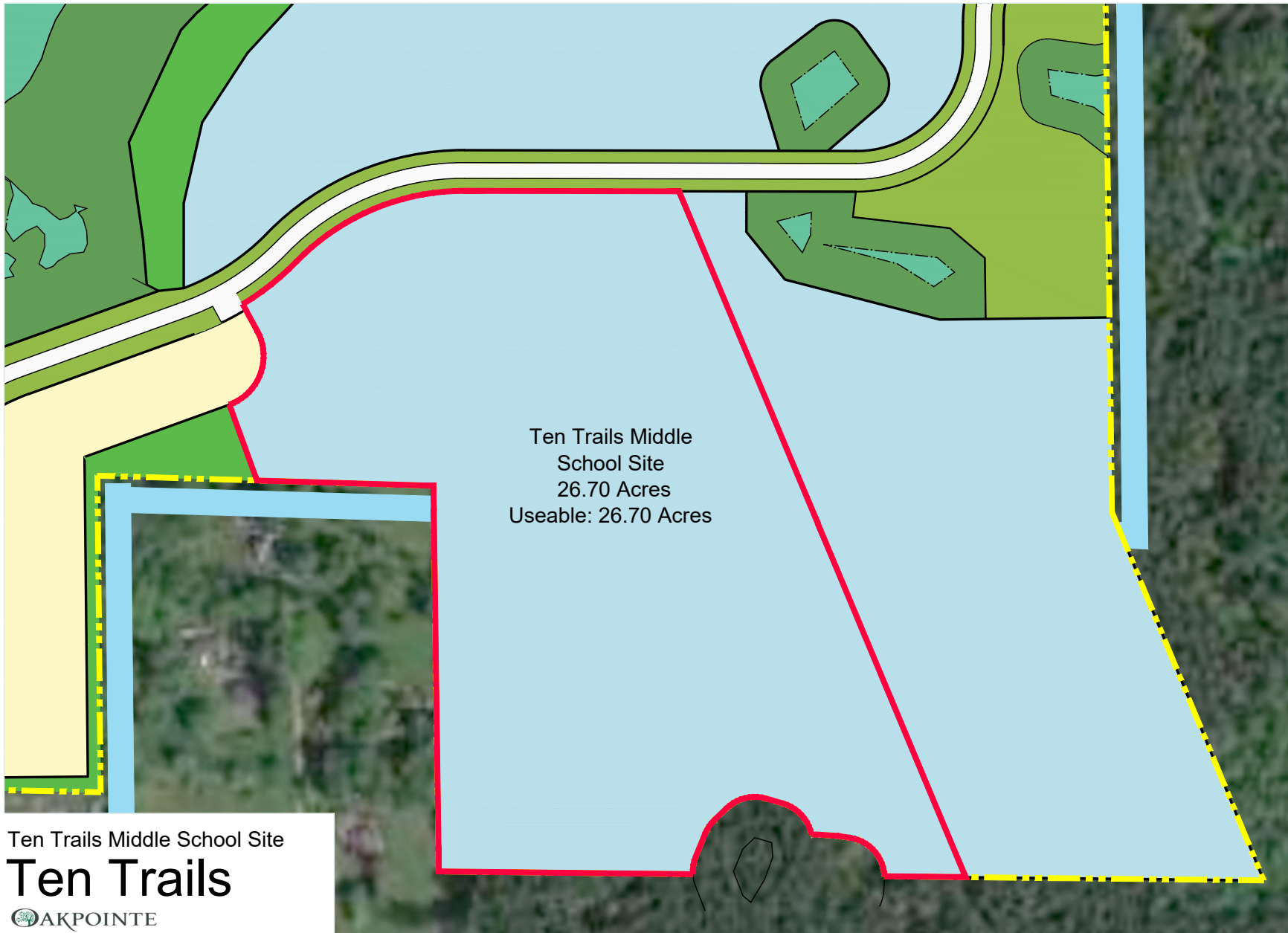


THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.



**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT Q1



Ten Trails Middle School Site

Ten Trails



EXHIBIT Q2

LEGAL DESCRIPTION
TEN TRAILS MIDDLE SCHOOL SITE

Lot 15 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

TOGETHER WITH that portion of Lot 1 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, records of King County, Washington, said portion lying within the Southwest Quarter of the Southwest Quarter, Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Beginning at the northwest corner of said Lot 1;
Thence easterly along the north line of said lot, South 87°46'53" East, 737.75 feet;
Thence southeasterly and leaving said north line, South 22°39'28" East, 804.21 feet;
Thence westerly, North 89°22'32" West, 159.56 feet to a point on a curve, the center of which bears South 87°36'27" West;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 78°53'23", an arc distance of 110.15 feet;
Thence North 81°16'56" West, 23.44 feet;
Thence North 85°57'03" West, 40.86 feet to a point of curve;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 08°33'55", an arc distance of 11.96 feet to a point on a curve, the center of which bears South 78°40'17" West;
Thence northwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 62°16'17", an arc distance of 86.95 feet;
Thence North 73°36'01" West, 34.70 feet to a point of curve;
Thence southwesterly along said curve to the left, having a radius of 80.00 feet, through a central angle of 60°12'05", an arc distance of 84.06 feet;
Thence South 46°11'54" West, 32.72 feet to a point of curve;
Thence southerly along said curve to the left, having a radius of 80.00 feet, through a central angle of 23°49'36", an arc distance of 33.27 feet;
Thence South 22°22'19" West, 47.80 feet to a point on a curve, the center of which bears South 67°37'41" East;
Thence southerly along said curve to the left, having a radius of 80.00 feet, through a central angle of 26°08'11", an arc distance of 36.49 feet;

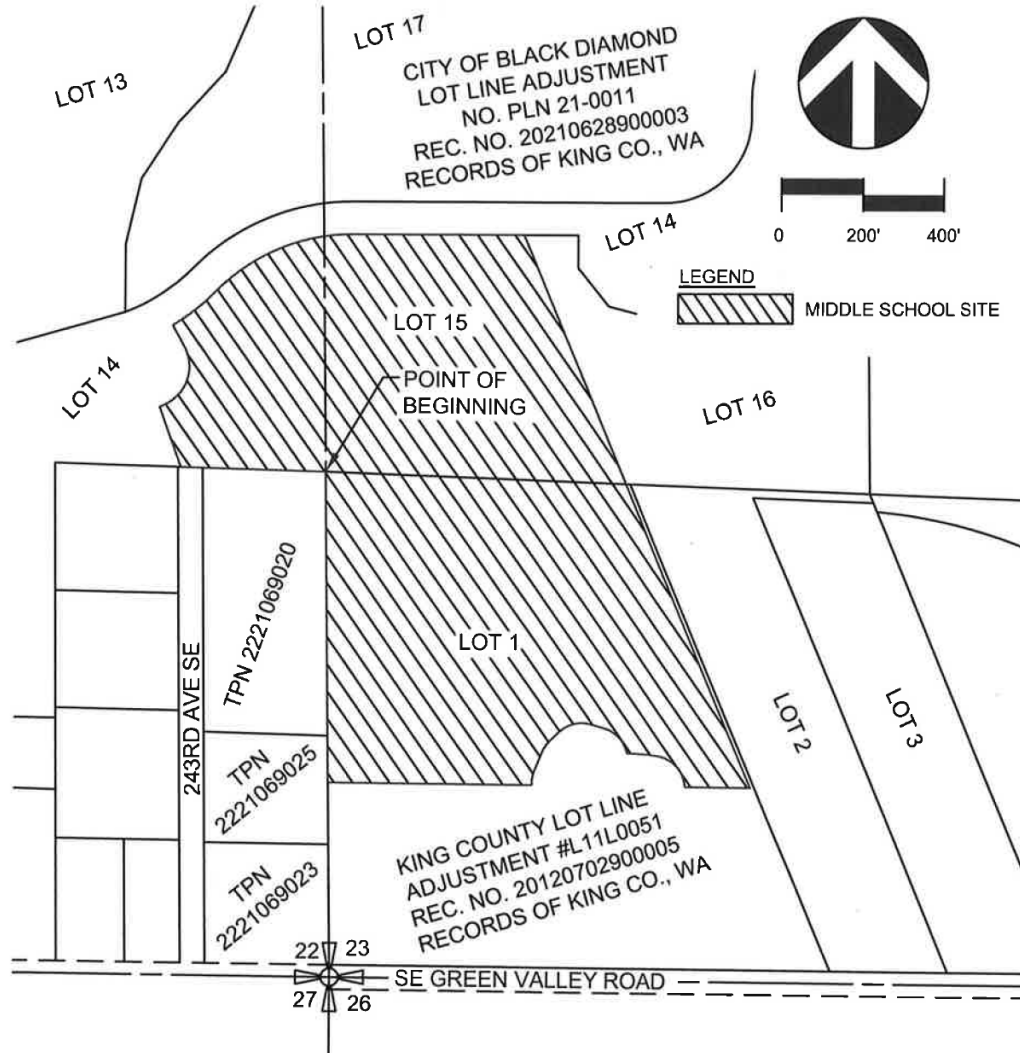
Thence North $89^{\circ}22'33''$ West, 499.87 feet to the west line of said Lot 1;
Thence northerly along said west line, North $00^{\circ}47'48''$ West, 759.48 feet to the Point of
Beginning.

Containing an area of 26.70 Acres



EXHIBIT B
TEN TRAILS PHASE 3
MIDDLE SCHOOL SITE

OAKPCBDP6001
JULY 16, 2021



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.



**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT R

LEGAL DESCRIPTION OF TEN TRAILS (f/k/a 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 & 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 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 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;

TOGETHER WITH:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE
NORTHEAST QUARTER, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT OF THE EAST LINE OF SAID NORTHEAST QUARTER OF THE
NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND 600 FEET SOUTH OF THE
NORTHEAST SECTION CORNER OF SAID SECTION;
THENCE EXTENDING IN A NORTHWESTERLY DIRECTION TO A POINT ON THE WEST LINE OF
SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER
AND 330 FEET SOUTH OF THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE
NORTHEAST QUARTER OF THE NORTHEAST QUARTER.

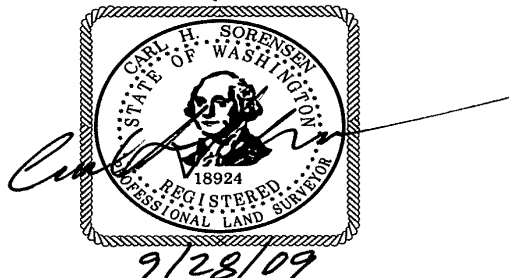


EXHIBIT S

OPTION AGREEMENT
(TEN TRAILS HIGH SCHOOL SITE)

This OPTION AGREEMENT (this “**Agreement**”) is made as of _____, 20____ (the “**Effective Date**”) by and between CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company and its successors and assigns (“**Seller**”), and ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington (“**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 Date of Termination of the Amended and Restated 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”).

3. 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.

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 value of the Ten Trails High School Site as determined pursuant to Section 10.3.2 of that Amended and Restated Comprehensive School Mitigation Agreement dated _____, 2____, between Buyer, Seller, and the City of Black Diamond and recorded under King County Recording No. _____ (the “School Mitigation Agreement”); and

(2) the amount of mitigation fees collected as of the date of Buyer’s exercise of the Option pursuant to Section 9.9.2 of that Amended and Restated Comprehensive School Mitigation Agreement dated _____, 2____, between Buyer, Seller, 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 9.9.1 of the School Mitigation Agreement, as applicable, or as may be otherwise provided for in 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.

(c) Seller shall be required at Closing to provide, at Seller's sole cost and expense, the Mineral Rights Endorsement described in Exhibit C attached hereto and incorporated herein by this reference.

(d) At Closing, the Option Property shall be subject only to the Permitted Exceptions identified in Exhibit 1 to the Purchase Agreement; provided that, such Permitted Exceptions shall be deemed to include any encumbrances granted pursuant to Section 13.1 of the School Mitigation Agreement.

5. 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 so long as Seller provides advance written notice to Buyer of such placement and, prior to Closing, removes such structures and restores the Option Property to condition existing prior to the placement.

(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.

(d) 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.

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:

Buyer at: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

With a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attn: Denise L. Stiffarm

To Seller CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

And to: Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011

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; (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 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]

Buyer's Signature Page for Option Agreement

ENUMCLAW SCHOOL DISTRICT NO.
216, a political subdivision of the State of
Washington

DATED: _____

By _____
Name _____
Title _____

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____.



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

Seller's Signature Page for Option Agreement

CCD BLACK DIAMOND PARTNERS
LLC, a Delaware limited liability company

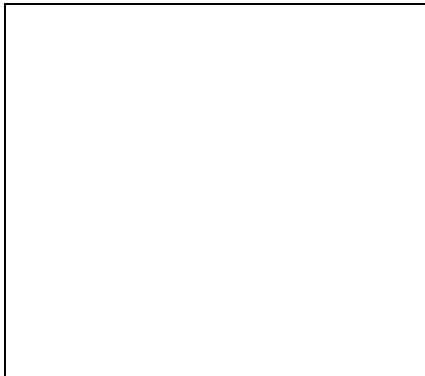
DATED: _____

By _____
Name _____
Title _____

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A
To Option Agreement

LEGAL DESCRIPTION OF THE OPTION PROPERTY

Lot 17 of the City of Black Diamond Lot Line Adjustment No. PLN 21-0011, filed in Volume 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

EXHIBIT B
To Option Agreement

DEPICTION OF THE OPTION PROPERTY

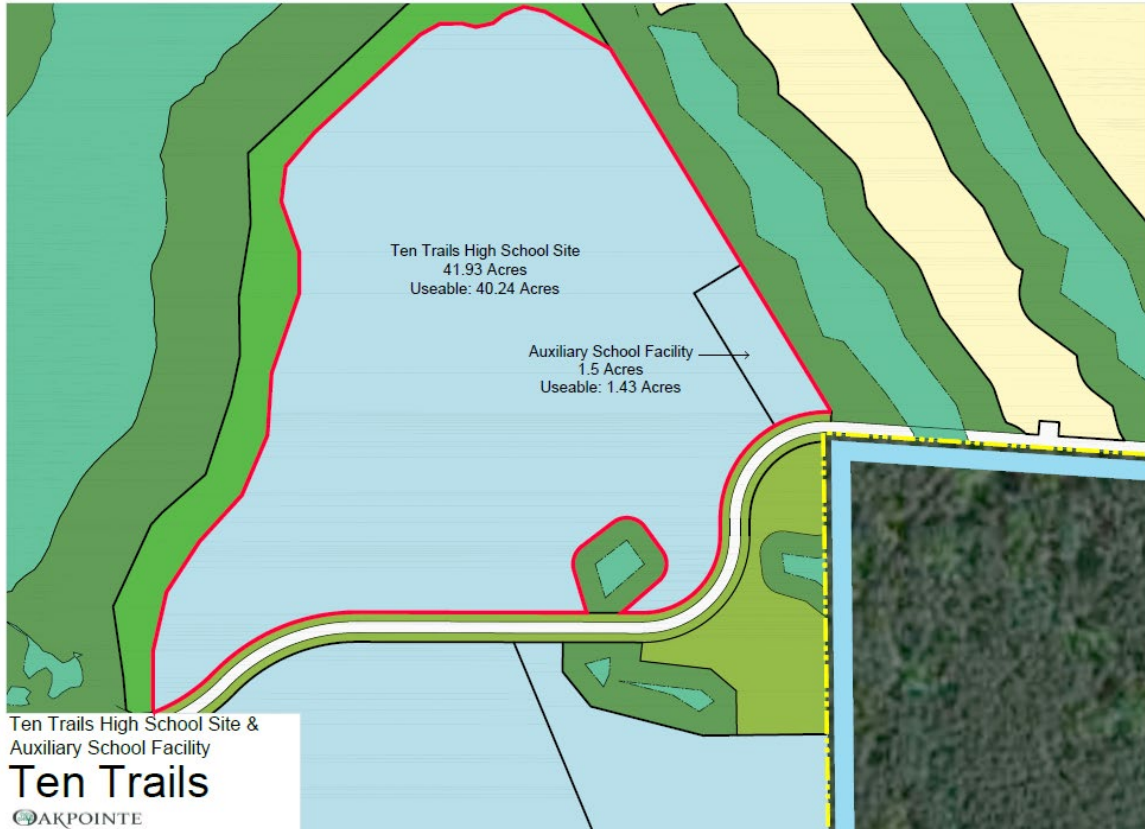


EXHIBIT C
To Option Agreement

FIDELITY MINERAL RIGHTS ENDORSEMENT
(Required at Closing)



FIDELITY NATIONAL INSURANCE TITLE COMPANY

National Commercial Services
600 University Street, Suite 2424
Seattle, WA 98101
Phone: 206-495-8170

March 18, 2021

Denise L. Stiffarm
Pacifica Law Group
1191 Second Avenue
Suite 2000
Seattle, WA 98101

Re: Fidelity file Nos. 20400946 and 20001321-SC
Proposed Lawson Hills Elementary site and proposed High School/Auxiliary Facility site

Dear Ms. Stiffarm:

The two title products mentioned above are subject to title objection letters sent by you on behalf of the Enumclaw School District and addressed to Megan Nelson bearing the date of December 15, 2020. Among other items detailed in the two letters are several exceptions to Schedule B which concern reserved coal, mineral, gas and other mineral rights which affect title to the proposed Lawson Hills Elementary site and the High School/Auxiliary Facility site as those sites are described in said title objection letters.

Fidelity National Title Insurance Company will include in any owner policy insuring the Enumclaw School District which covers the proposed Lawson Hills Elementary site and/or the proposed High School/Auxiliary Facility School sites, whether the High School site and Auxiliary School Facility site are conveyed separately or together, an endorsement in the form of the endorsement attached hereto suitably amended to reflect said owner policy but otherwise substantively unchanged. Issuance of the endorsement in each case will not require the submittal of any building plans or other documents.

Please feel free to contact the undersigned if there are any questions regarding the matter discussed herein.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Jones".

John W. Jones
Senior Commercial Underwriter

(Attachment ("CLTA for 100.29 (Rev. 9-10-93) Minerals, Surface Damage"))



Fidelity National Title
Insurance Company

ENDORSEMENT

Attached to Policy No. WA-FBCM-IMP-27306-1-15-20372364

Issued By

Fidelity National Title Insurance Company

The Company insures the insured against loss which the insured shall sustain by reason of damage to, removal of, dissembling, reassembling and restoring existing improvements or improvements to be installed or erected in the future, including without limitation, structures, roadways, driveways, sidewalks, curbs, utilities, plat improvements, lawns, shrubbery, trees and other landscaping, resulting from the exercise of any right to use the surface of the land for the extraction or development of the minerals excepted from the description of the land or shown as a reservation in Schedule B.

This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Date: **December 24, 2015 at 9:59 A.M.**

Fidelity National Title Insurance Company
Countersigned by:

A handwritten signature in black ink, appearing to be "Randy Quirk", written over a horizontal line.

Authorized Signature



By:

A handwritten signature in black ink, appearing to be "Randy Quirk", written over a horizontal line.

Randy Quirk, President

Attest:

A handwritten signature in black ink, appearing to be "Michael Gravelle", written over a horizontal line.

Michael Gravelle, Secretary

CLTA Form 100.29 (Rev. 9-10-93) Minerals, Surface Damage
Colorado Form 100.29 Amended
CT-150
20372364-a18522eb-8d4d-11e5-9562-005056ab6c31

EXHIBIT D
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, a political subdivision of the State of Washington ("**Seller**"), and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company ("**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. Fidelity National 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 identified in Exhibit K to the School Mitigation Agreement] and subsequent title exceptions approved by Buyer as described in Section 4(d) 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 4(d) 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 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.

4.2 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, 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.

The conditions set forth in Sections 4.4 through 4.5 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 4(d) 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;

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

(d) The Fidelity Mineral Rights Endorsement attached as Exhibit C to the Option Agreement, the cost of which shall be paid by Seller at Closing.

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 prorated 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:

Buyer at: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

With a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attn: Denise L. Stiffarm

To Seller CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

And to: Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011

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 waiver 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]

Seller's Signature Page for Purchase and Sale Agreement

CCD BLACK DIAMOND PARTNERS
LLC, a Delaware limited liability company

DATED: _____

By _____
Name _____
Title _____

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____.



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

Buyer's Signature Page for Purchase and Sale Agreement

ENUMCLAW SCHOOL DISTRICT NO.
216, a political subdivision of the State of
Washington

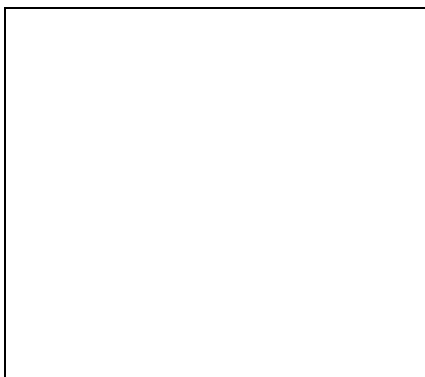
DATED: _____

By _____
Name _____
Title _____

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT 1
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT

Title Exceptions

END

EXHIBIT 2
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT

FORM OF MEMORANDUM OF OPTION

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Alston Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite #3650
Seattle, WA 98101-4011
Attn: Aleana W. Harris

MEMORANDUM OF OPTION

Grantor: CCD BLACK DIAMOND PARTNERS LLC
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

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

DATED: _____

By _____

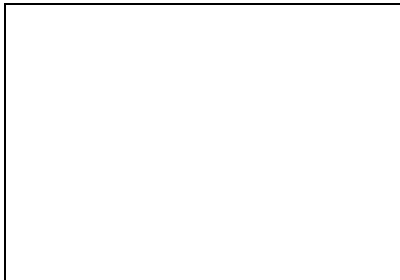
Name _____

Title _____

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____.



(Use this space for notarial stamp/seal)

Notary Public
Print/Type Name _____
My commission expires _____

Grantee's Signature Page for Memorandum of Option

ENUMCLAW SCHOOL DISTRICT NO. 216, a
political subdivision of the State of Washington

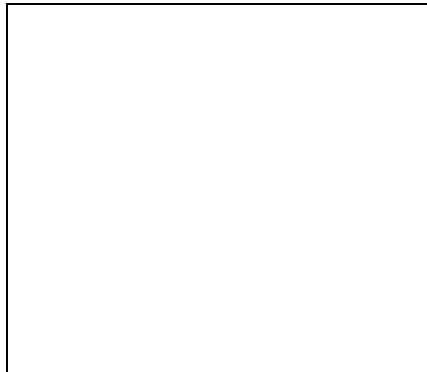
DATED: _____

By _____
Name _____
Title _____

STATE OF _____)
COUNTY OF _____) ss.

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT T

INDEMNIFICATION AGREEMENT

This Agreement is entered into this ____ day of _____, _____, between ENUMCLAW SCHOOL DISTRICT NO. 216, a Washington municipal corporation (“the District”), and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (the “Developer”).

RECITALS

- A. Developer is the developer of a subdivision known as ____ [*the subject plat*]_____, located in the City of Black Diamond. Developer has obtained, or will apply for, preliminary plat approval for ____ [*the subject plat*]_____ but has not obtained final plat approval and recording as of the date of this Agreement.
- B. The District and Developer have agreed by separate agreement known as the Amended and Restated Comprehensive School Mitigation Agreement, dated _____, 20____, and recorded under King County Recording No. _____ (the “Mitigation Agreement”) that Developer’s school mitigation fee obligations are met by, among other things, the transfer of specific property identified in that Mitigation Agreement, including the property identified in Exhibit A attached hereto and incorporated herein by this reference (the “Parcel”).
- C. The District wishes to complete sale of the Parcel prior to Developer’s recording of ____ [*the subject plat*]_____ final plat.
- D. As a result of closing on transfer of the Parcel to the District, the District will become owner of property within the preliminary plat of ____ [*the subject plat*]_____.
- E. Developer and the District have agreed in the Mitigation Agreement that the District should have no obligations whatsoever with respect to the preliminary plat or final plat of ____ [*the subject plat*]_____.

THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follows:

1. Final Plat. Developer agrees to undertake reasonable best efforts to phase or otherwise separate the Parcel from the remainder of ____ [*the subject plat*]_____ before or at the time of final plat approval with the result of a separate final plat being recorded for the Parcel. The District acknowledges that such phasing or other separation of the Parcel upon final plat would involve approval by the City of Black Diamond, which is not a party to this agreement. In the event a final plat for the Parcel is recorded separately from ____ [*the subject plat*]_____, the District agrees to sign the final plat for the Parcel if required by the City of Black Diamond. In the event a final plat for the Parcel is recorded separately from ____ [*the subject*

plat]_____, the Developer also agrees to undertake reasonable efforts so that the District will not be required to sign the final plat for the remainder _____ [the subject plat]_____ final plat. The District acknowledges that the identification of parties that sign a final plat involves approval by the City of Black Diamond, which is not a party to this agreement. In the event Developer is unsuccessful in phasing or otherwise separating the Parcel as a separate final plat, the District agrees to sign the final plat for _____ [the subject plat]_____ in consideration for the terms set forth in this Agreement. In no event shall the District be responsible for any bonding or financial obligation related to _____ [the subject plat]_____, the undertaking or completion of any preliminary plat condition, or the construction of any infrastructure or other plat related improvements of any kind.

2. Indemnification, Defense and Hold Harmless Related to Enforcement Action Taken Under Chapter 58.17 RCW. Developer agrees to indemnify, defend and hold the District, its directors, employees and agents harmless against any and all loss, cost, injuries, claims, demands and expense or damage, including but not limited to reasonable attorneys' fees through all trial and appellate levels, which the District may suffer as the result of any enforcement action taken by King County, the City of Black Diamond or the State of Washington pursuant to RCW 58.17.200, RCW 58.17.205, and/or RCW 58.17.300 related to the sale of the Parcel as provided for under the Mitigation Agreement, provided that, Developer is not obligated to indemnify the District for any portion of any claim or liability caused by the negligence of the District.
3. Indemnification, Defense and Hold Harmless Related to Public Improvement Obligations of _____ [the subject plat]_____. Developer agrees to indemnify, defend and hold the District, its directors, employees and agents harmless against any and all loss, cost, injuries, claims, demands and expense or damage whatsoever, including but not limited to reasonable attorneys' fees through all administrative, trial and appellate levels, which the District may suffer as the result of any attempt by the City of Black Diamond, King County, the State of Washington, the U.S. Government, or any third party to enforce any of the public onsite or offsite facility or improvement construction or bonding obligations set forth in the approval decision for _____ [the subject plat]_____, on the District, its directors, employees and agents.
4. Security. As security for Developer's indemnity and hold harmless obligations set forth in Sections 2 and 3 above, the escrow agent for the conveyance of the Parcel to the District shall hold back the Mitigation Fee Credit (as defined in the Mitigation Agreement) until a final plat approval including, or for, the Parcel is recorded. Following recordation of the final plat approval, the Mitigation Fee Credit shall be promptly remitted to Developer by escrow agent.
5. Binding Effect. This Agreement shall be binding on the heirs, successors and assigns of the parties.

6. Memorandum Recorded on Title for _____ [the subject plat] _____. Simultaneous with the transfer of the Parcel to the District, the escrow agent shall record a memorandum on title for all property within _____ [the subject plat] _____ indicating the existence of this Agreement and its binding nature on future owners.
7. Obligation of Good Faith. The parties shall, in good faith and in a spirit of mutual cooperation, take all reasonable steps to implement this Agreement.
8. 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 the other party for any consequential or incidental damages.
9. 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 ____ to the Mitigation Agreement. 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.
10. Jurisdiction and Attorneys Fees. Subject to the Dispute Resolution provision herein, this Agreement shall be enforceable in King County Superior Court, subject to the laws of the State of Washington. 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
11. Industrial Insurance Act Waiver. The District and Developer have specifically negotiated the waiver of and hereby specifically waive any provision of the industrial insurance act, including Title 51 of the Revised Code of Washington, or any other employee benefit act which might otherwise operate to release or immunize it from its obligations under this Section.
12. Entire Agreement. Notwithstanding the Mitigation Agreement, this Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them respecting the subject matter

hereof. Except as set forth in this paragraph, there are no other representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto or any of them, relating to the subject matter of this Agreement.

13. Severability. Each and every provision of this Agreement shall be deemed to be severable. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions herein, and the Agreement shall be construed in all respects as if such invalid or unenforceable provision were not part of the Agreement.
14. Amendments; Waivers. No change or modification of this Agreement shall be valid unless the same is in writing and is signed by the parties. No purported or alleged waiver of any of the provisions of this Agreement shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.
15. District Agreement. In consideration of the Developer's commitments herein, the District agrees to execute the final plat as an owner of property within _____ *[the subject plat]* _____. Subject to the District's rights set forth in Section 13.2 of the Mitigation Agreement regarding covenants, conditions and restrictions ("CCRs"), the District also agrees to execute CCRs binding the Parcel as an owner of property within _____ *[the subject plat]* _____; provided that the District shall not be a declarant.
16. Termination. This agreement shall automatically terminate and have no further effect upon the later of the expiration of the vesting period approved for the _____ *[as applicable: The Villages Master Planned Development/Lawson Hills Master Planned Development]* or five (5) years after the final plat approval and recording of the _____ *[the subject plat]* _____.
17. No Third Party Rights/Obligations. The District and Developer expressly do not intend to create any obligation or liability, or promise any performance to, any third party. The District and Developer have not created for any third party any right to enforce this Agreement.

ENUMCLAW SCHOOL DISTRICT NO.
216, a political subdivision of the State of
Washington

DATED: _____

By _____
_____, Superintendent

CCD BLACK DIAMOND PARTNERS
LLC, a Delaware limited liability company

DATED: _____

By _____

Name _____

Title _____

[illegible]

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 Superintendent of the ENUMCLAW SCHOOL DISTRICT NO. 216 to be a free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

--

(Use this space for notarial stamp/seal)

Notary Public

Print/Type Name_

My commission expires

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 CCD BLACK DIAMOND PARTNERS LLC, to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated: _____

--

(Use this space for notarial stamp/seal)

Notary Public

Print Name

My commission expires _____

EXHIBIT A
LEGAL DESCRIPTION OF SCHOOL SITE

EXHIBIT U

CITY OF BLACK DIAMOND
FORM OF MPD MITIGATION FEE RECONCILIATION
(updated regularly – add rows as needed)
Date of Current Update: _____

Reference No.	Date of Payment/Credit Applied	Applicable MPD	Plat/Division and Lot No(s).	Parcel No(s). <i>(if known)</i>	Amount Paid (if applic.)	Credit Amount Applied (if applic.)	SF/MF Unit(s) <i>(xSF/xMF)</i>
1							
2							
3							
4							
5							

EXHIBIT V

FORM OF ESD MITIGATION FEE ACCOUNTING

(updated regularly – add rows as needed)

Date of Current Update: _____

Mitigation Fees Received/Reimbursed*

Fees Received (with City Reconciliation Ref. No.)	Reimbursement of Fees (<i>Section 10.4</i>): Amount, Event, and Date	Sum of Fees – Current (cumulative)

Mitigation Credits Earned/Used*

Mitigation Fee Credits Issued by ESD (with Developer's Accounting Ref. No.)	Date Credit Earned/Issued	Mitigation Fee Credits Used (include amount and designated lots with City Reconciliation Ref. No.)	Date Credits Used	Remaining Credits (cumulative)

*Complete columns in table as applicable to the event; for example, complete the “fees received” column when the City transfers fees and complete the “fees reimbursed” column when the District reimburses fees to the Developer consistent with Section 10.4 of the Agreement. The “sum of fees – current” column should be updated with each entry. Complete the “credits earned” columns when credits are earned and complete the “credits used” columns when credits used. The “remaining credits” column should be updated with each entry.

EXHIBIT W

FORM OF DEVELOPER'S SCHOOL MITIGATION FEE ACCOUNTING SHEET

(updated regularly – add rows as needed)

Date of Current Update: _____

CREDITS EARNED/APPLIED*

Reference No.	Credit Earning Event (ex.: <i>Transfer of Site, ESSV of Site, infrastructure payments per Section 20.3</i>)	Date of Credit Earned Event	Credit Amount Earned	Credit Vested with Developer or Third Party (<i>identify by name</i>)	Applied Credit (<i>amount with City Reconciliation Ref. No.</i>)	Credit Amount Remaining (<i>cumulative</i>)
1						
2						
3						
4						
5						

**Complete columns in table as applicable; for example, complete the “credit earned” columns when credits are earned and complete the “credit applied” column when credits applied. The “credit amount remaining” column should be updated with each entry.*

EXHIBIT X

WHEN RECORDED RETURN TO:

Enumclaw School District
2929 McDougall Avenue
Enumclaw, WA 98022
Attn: Superintendent

Document Title: DEED OF TRUST

Grantor: CCD Black Diamond Partners LLC

Grantee: 1. Enumclaw School District No. 216
2. Fidelity National Title Insurance 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 CCD BLACK DIAOMOND PARTNERS LLC, whose address is
_____; FIDELITY NATIONAL TITLE INSURANCE
COMPANY, TRUSTEE, whose address is _____ 98101; and
ENUMCLAW SCHOOL DISTRICT NO. 216, 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 10.6.2 of the Amended and Restated Comprehensive School Mitigation Agreement dated _____, _____, between Beneficiary, Grantor, 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; 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.

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 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.

4. 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.

5. 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.

6. 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:

1. 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.

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, 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.

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 agreeing to advance Mitigation Fee Credits to Grantor as provided in Section 10.6.2 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:

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

By _____

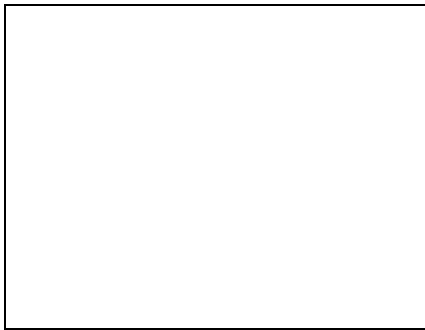
Name _____

Title _____

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT Y

WHEN RECORDED RETURN TO:

Name of Document: Easement Agreement

Grantor: Enumclaw School District No. 216

Grantee: CCD Black Diamond Partners LLC

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

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made as of _____, 202__, by between the Enumclaw School District No. 216, a political subdivision of the State of Washington ("Grantor") and CCD Black Diamond Partners LLC, a Delaware limited liability company ("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 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 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

ENUMCLAW SCHOOL DISTRICT NO. 216, a
political subdivision of the State of Washington

DATED: _____

By _____
Name _____
Title _____

GRANTEE

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

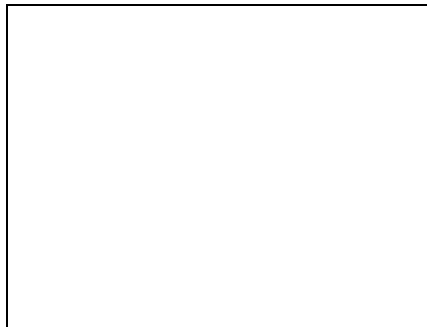
DATED: _____

By _____
Name _____
Title _____

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: _____



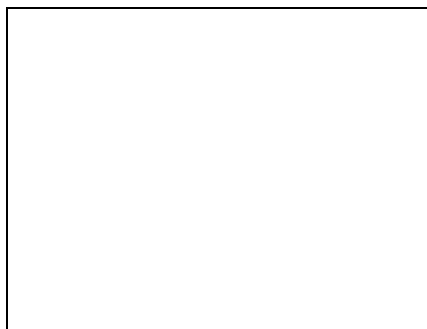
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

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: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT Z

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into as of this ____ day of _____, 200_ between CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company ("Owner"), and ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington ("Licensee").

RECITALS

A. Owner is the owner of real property located in King County, as described more particularly in Exhibit 1 (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]

OWNER

CCD BLACK DIAMOND PARTNERS LLC, a
Delaware limited liability company

DATED: _____

By _____
Name _____
Title _____

LICENSEE

ENUMCLAW SCHOOL DISTRICT NO. 216, a
political subdivision of the State of Washington

DATED: _____

By _____
Name _____
Title _____

EXHIBIT AA

EXHIBIT AA - RESERVED

EXHIBIT BB

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:

Telephone:

Name of Representative:

Representative's Address:

City and State:

Telephone:

ZIP Code:

Fax:

Zip Code:

Fax:

To institute proceedings, please send three copies of this request with the administrative fee, as provided for in the rules, to the AAA. Send the original request to the responding Party.

EXHIBIT CC

After Recording Return to:
Enumclaw School District
2929 McDougall Ave.
Enumclaw, Washington 98022
Attention: Superintendent

**STORMWATER MANAGEMENT
AND TEMPORARY CONSTRUCTION EASEMENT
(Future Elementary B School Site)**

GRANTOR: CCD Black Diamond Partners LLC, a Delaware limited liability company

GRANTEE: CCD Black Diamond Partners LLC, a Delaware limited liability company

Legal Description:
Abbreviated Form:

Additional Legal is on Exhibits A, B, and C attached to document

Assessor's Tax Parcel ID Nos. 2321069057, 2321069062 and 2321069063

STORMWATER MANAGEMENT AND TEMPORARY CONSTRUCTION EASEMENT

This Stormwater Management and Temporary Construction Easement (this “**Easement Agreement**”) is made and entered into this ____ day of _____, ____ (“**Effective Date**”), by and between CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (“**Grantor**”) and CCD BLACK DIAMOND PARTNERS LLC, a Delaware limited liability company (“**Grantee**”) for itself and the future benefit of the ENUMCLAW SCHOOL DISTRICT NO. 216, a political subdivision of the State of Washington (“**District**”), as its future successor and assign in the Benefited Property as described herein.

RECITALS

WHEREAS, Grantor/Grantee and the Enumclaw School District are parties to that certain Amended and Restated Comprehensive School Mitigation Agreement dated _____, _____, and recorded under King County Recording Number _____ (the “**Mitigation Agreement**”); and

WHEREAS, Grantor is the owner of certain real property located in King County, Washington which is legally described in Exhibit A attached hereto (the “**Grantor’s Property**”); and

WHEREAS, Grantor currently owns, and is obligated under the Mitigation Agreement, subject to certain conditions precedent, to convey to the District, certain adjacent real property which is legally described in Exhibit B attached hereto (the “**Benefited Property**”) for a future elementary school facility; and

WHEREAS, in the Mitigation Agreement, the Parties agreed that the District may use a portion of Grantor’s Property for stormwater management related to the development of its future school facilities on the Benefited Property; and

WHEREAS, the District’s stormwater management may include the construction and maintenance of facilities necessary to disperse, detain and/or treat stormwater from the Benefited Property to Green Valley Road (collectively “**Stormwater Facilities**” as defined herein); and

WHEREAS, Grantee desires to obtain for the benefit of the District as its future successor and assign and Grantor is willing to grant, a perpetual, non-exclusive easement of a portion of Grantor’s Property (the “**Easement Area**”) as described and depicted on Exhibit C attached hereto for the purposes described herein.

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants, conveys and quitclaims to Grantee, for the benefit of the Benefited Property, a perpetual non-exclusive easement and right of way (the “**Stormwater Easement**”) over the Easement Area for the purpose of constructing, maintaining, and using certain Stormwater Facilities, as defined herein, for stormwater and surface water discharge, deposit, treatment, and flow across, through and over the Easement Area. As used herein “**Stormwater Facilities**” is inclusive of man-made surface water drainage facilities that may consist of underground conveyance pipes, trenches, maintenance access paths, and any or all appurtenances related thereto, to be used for the discharge and deposit of stormwater from Grantee’s Future Property into the public Right of Way on Green Valley Road, all as may be required by King County or any other permitting authority. Without limiting the foregoing, the permitted stormwater and drainage discharge may include all flows generated from the Benefited Property, as fully developed, according to requirements specified in the applicable drainage ordinance or stormwater management requirements.

2. Terms and Conditions of the Easements. The Easement granted herein is subject to the following terms, reservations, and conditions:

2.1 Use. Grantor reserves the right to use the Easement Areas for any purpose not inconsistent with the rights granted to Grantee hereunder.

2.2 Area of Use. The use of the, including, without limitation, any ingress and egress reasonably necessary hereunder, shall be confined to the Easement Area.

2.3 Cost. All costs of permitting, installation and construction of the Stormwater Facilities to be installed by Grantee shall be at the sole expense of Grantee.

2.4 Compliance. Grantee shall construct, maintain, and use the Stormwater Facilities in compliance with all applicable laws, orders, regulations, permits and approvals.

2.5 Maintenance of Easement Area and Stormwater Facilities. Following full completion of the initial construction of the Stormwater Facilities in accordance with applicable King County requirements or the requirements of another permitting jurisdiction, Grantee shall maintain the Easement Area as developed with the Stormwater Facilities and Grantor agrees not to disturb such Easement Area.

2.6 Restoration. In the event the Grantor’s Property, including the Easement Area, is in any manner disturbed by the activities of Grantee or its contractors or agents relating to, or arising from, the exercise of any of Grantee’s rights under the Stormwater Easement, Grantee shall promptly remove all debris and restore the Grantor’s Property to substantially the same condition in which it existed at the commencement of such activities except for those improvements required for the Stormwater Facilities.

3. Indemnity. Grantee shall protect, defend, indemnify and hold Grantor harmless from and against any and all claims, demands, losses, damages, expenses and liabilities of every

kind and description and for any loss to or damage or destruction of property suffered by Grantor arising out of the exercise of Grantee's rights hereunder or use of the Easement Area by Grantee or Grantee's agents or contractors, except to the extent the same are caused by, or arise from, the gross negligence or willful misconduct of Grantor, Grantor's agents, employees, contractors and invitees. Grantor shall give Grantee prompt written notice of any suit or proceeding entitling Grantor to indemnification pursuant to this Section 3 and Grantee shall thereafter defend Grantor in said suit or proceeding with counsel reasonably satisfactory to Grantor at Grantee's sole cost and expense to the extent required under this Section 3.

4. Best Efforts for Alternative Means/Termination for Lack of Need. Consistent with the Parties' agreement in the Mitigation Agreement, during the development approval process for construction of the District's future school facilities on the Benefited Property, the District shall use its best efforts to accommodate on the Benefited Property the stormwater needs associated with the District's school facilities on that Benefited Property or by conveyance to an offsite regional stormwater facility if that is available. If the District is able to obtain permits for development of its school facilities on the Benefited Property with the District able to accommodate all of its related stormwater needs without using the Easement Area, whether via conveyance to an offsite regional stormwater facility or facilities on the Benefited Property, the District agrees to execute any documents necessary to terminate and release this Easement Agreement.

4.1 Automatic Termination. The Easement shall automatically terminate, without further action from either party, if and when future school facilities on the Benefited Property receive a certificate of occupancy from the relevant jurisdiction for the school facility located thereon and provided upon such date the District has constructed no storm water facilities within the Easement Area. In such case, the Parties agree to work cooperatively and execute any documents necessary to clear title of the Grantor's Property.

5. Attorneys' Fees and Costs. If either party shall bring an action to enforce the terms of this Easement Agreement, in any such action the prevailing party shall be entitled to an award of its reasonable attorneys' fees and reasonable costs. Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal or in any proceedings under any present or future federal bankruptcy, forfeiture or state receivership or similar law.

6. Governing Law. This Easement Agreement shall be governed by the laws of the State of Washington. In the event of any litigation or other proceeding to enforce any provision of this Easement Agreement, the Parties expressly agree that venue shall be located in King County, Washington.

7. Agency Approvals. In the event that any necessary approval of the Stormwater Management Facility is not received from the relevant permitting authorities, the parties shall refrain from using the Easement Area in any manner that would be inconsistent with legally approved actions.

8. Binding Effect; Runs With the Land. The rights, benefits, burdens, obligations and restrictions created hereunder and contained herein shall create covenants, benefits and servitudes upon the effected parcels as set forth herein, and shall run with the land.

9. Compliance with Laws and Regulations. The parties shall at all times exercise their respective rights under this Easement Agreement in accordance with all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

10. Title; No Conflict. Grantor covenants that it is the lawful owner of the Grantor's Property, has the right to execute this instrument and that this Easement Agreement does not conflict with any other easements or rights affecting the Grantor's Property.

11. Notice. 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 personally delivered, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Grantor/Grantee: CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Brian Ross

With copies to:

CCD Black Diamond Partners LLC
3025 112th Avenue NE, Suite 100
Bellevue, WA 98004
Attn: Megan Nelson

Aleana W. Harris
Alston, Courtnage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101-4011

And to: Enumclaw School District No. 216
2929 McDougall Ave.
Enumclaw, Washington 98022
Attn: Superintendent

with a copy to:
Pacifica Law Group
1191 Second Avenue, Suite 2000
Seattle, Washington 98101
Attn: Denise L. Stiffarm

or to such other addresses as the parties hereto may from time to time designate in writing and deliver in a like manner. All notices that are mailed shall be deemed received two business days after mailing. All other notices shall be deemed complete upon actual receipt or refusal to accept delivery.

12. Binding on Successors. The terms and conditions of this Easement Agreement are made for the benefit of Grantor and Grantee and their successors, transferees and assignees. The terms and conditions of this Easement Agreement shall bind each successive owner of the Grantor's Property and the Benefited Property and shall be an easement and covenant running with the land.

13. Third-Party Beneficiary. The District is a third-party beneficiary of this Easement and any modification of sections 1, 2, 3, or 4 herein shall require the prior written consent of the District.

14. Entire Agreement. This is the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements with respect thereto.

15. Severability. If any one or more of the provisions of this Easement Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Easement Agreement and all other applications of any such provision shall not be affected thereby.

16. Counterpart Signatures. This Easement Agreement may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date first above written.

GRANTOR:

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

GRANTEE:

CCD BLACK DIAMOND PARTNERS LLC,
a Delaware limited liability company

By: _____

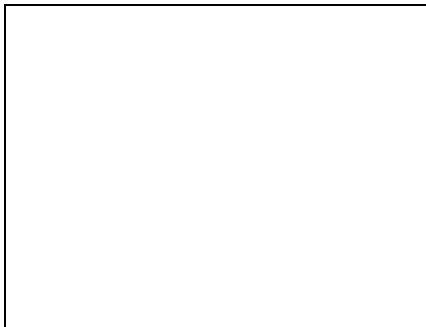
Name: _____

Title: _____

STATE OF WASHINGTON)
) 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 CCD Black Diamond Partners LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) 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 CCD Black Diamond Partners LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A
Grantor's Property

Lots 2 and 3 of the King County Boundary Line Adjustment No. L11L0051 filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, records of King County, Washington, lying within the Southwest Quarter of the Southwest Quarter, Section 23, Township 21 North, Range 6 East, Willamette Meridian.

EXHIBIT B
Benefited Property

**Legal Description for Ten Trails Phase 3
Elementary School site**

OAKPCBDP6001
July 16, 2021

Lot 16 of the City of Black Diamond Lot Line Adjustment No. PLN 21- 0011, filed in Book 448 of Surveys, at Page 111, and recorded under Recording No. 20210628900003, records of King County, Washington.

TOGETHER WITH that portion of Lots 1, 2 and 3 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, said portion lying within the Southwest Quarter of the Southwest Quarter of Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Commencing at the northwest corner of said Lot 1;
Thence easterly along the north line of said Lot 1, South 87°46'53" East, 737.75 feet to the True Point of Beginning;
Thence continuing easterly along the north line of said Lots 1 and 2, South 87°46'53" East, 598.49 feet to the northeast corner of said Lot 2;
Thence southeasterly along the east line of said Lots 2 and 3, South 22°39'28" East, 781.47 feet;
Thence westerly and leaving said east line, North 89°47'17" West, 589.28 feet;
Thence northwesterly, North 22°39'28" West, 804.21 feet to the north line of said Lot 1 and the True Point of Beginning.

Containing an area of 16.48 Acres



EXHIBIT C
Easement Area

Legal Description for 15-foot Stormwater Easement

OAKPCBDP6001

July 16, 2021

That portion of Lot 3 of the King County Boundary Line Adjustment No. L11L0051, filed in Book 289 of Surveys, at Page 70, and recorded under Recording No. 20120702900005, said portion lying within the Southwest Quarter of the Southwest Quarter of Section 23, Township 21 North, Range 6 East, Willamette Meridian, and said portion described as follows:

Beginning at the Southeast Corner of said Lot 3;
Thence westerly along the south line of said Lot 3, said line being the northerly margin of SE Green Valley Road, North 89°22'35" West, 16.33 feet;
Thence leaving said south line, northwesterly along a line running parallel with and 15.0 feet westerly of the easterly line of said Lot 3, North 22°39'28" West, 489.31 feet;
Thence South 89°47'17" East, 16.28 feet to said easterly line;
Thence southeasterly along said easterly line, South 22°39'28" East, 489.43 feet to the Point of Beginning.

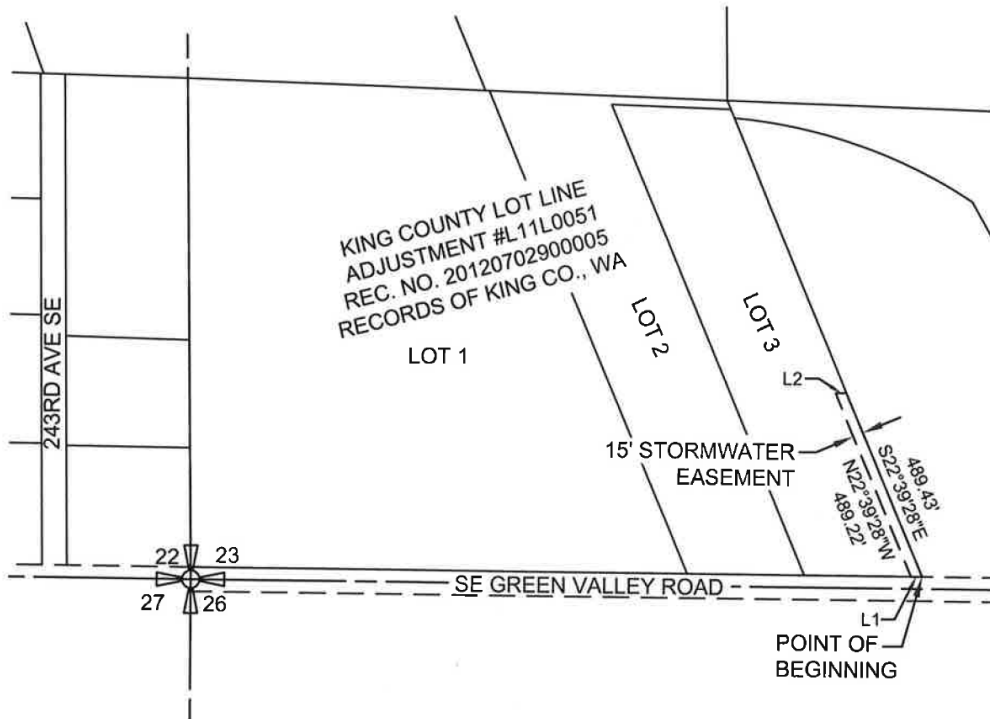
Containing an area of 0.17 Acres



15' STORMWATER EASEMENT

JULY 16, 2021

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°22'35"W	27.22'
L2	S89°47'17"E	27.13'

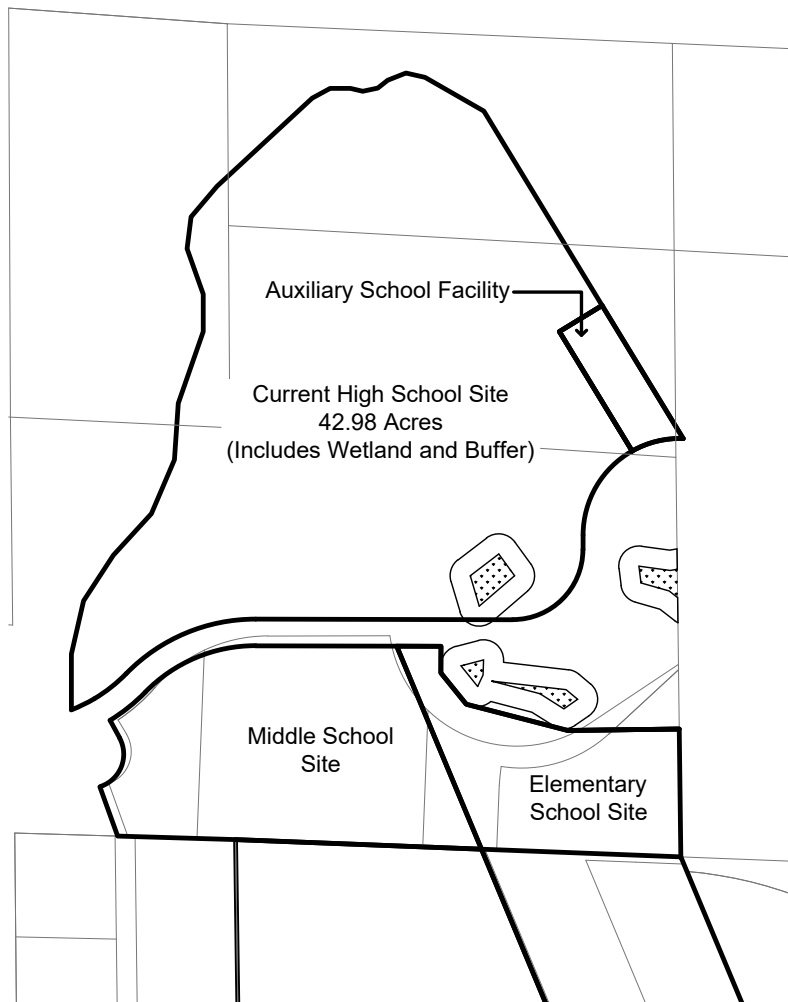


THIS EXHIBIT HAS BEEN PREPARED TO ASSIST IN THE INTERPRETATION OF THE ACCOMPANYING LEGAL DESCRIPTION. IF THERE IS A CONFLICT BETWEEN THE WRITTEN LEGAL DESCRIPTION AND THIS SKETCH, THE LEGAL DESCRIPTION SHALL PREVAIL.

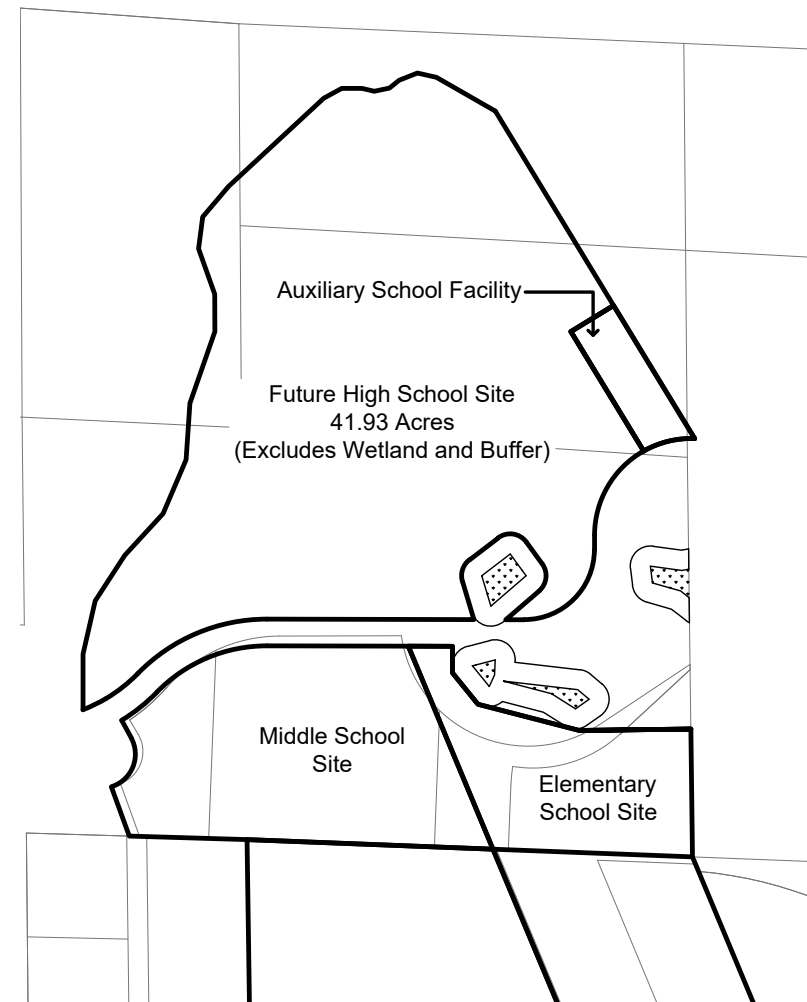


**DAVID EVANS
AND ASSOCIATES INC.**
20300 Woodinville Snohomish Rd NE
Suite A - Woodinville, WA 98072
Phone: 425.415.2000

EXHIBIT DD



Current Configuration



Future Configuration