RETURN ADDRESS:
Everett School District #2
Attn: Mike Gunn, Fac. & Plan.
3715 Oakes Ave., 3rd Floor
Everett, WA 98201

MITIGATION AGREEMENT
EVERETT RIVERFRONT – LANDFILL PAD

THIS AGREEMENT is made and entered into this 13 day of January, 2008, 9 by and between EVERETT SCHOOL DISTRICT NO. 2 ("District") and OM Everett, Inc., a Washington corporation ("Owner"), and their respective successors or assigns (collectively referred to herein as the "Parties").

RECITALS

A. The Owner anticipates applying for building permits for construction of approximately 400 housing units, which will be part of a development known as the Everett Riverfront Redevelopment Project (the "Development"), City of Everett EIS No. 06-002, located on a site of approximately 70 acres in size on the west side of the Snohomish River, east of I-5, south of Pacific Avenue, and north of Rotary Park and Lowell Snohomish River Road, Everett, WA, and more particularly described in **Exhibit A**.

B. The State Environmental Policy Act ("SEPA") provides processes and procedures whereby major actions by state and local agencies, including, but not limited to, the issuance of building permits, may be reviewed to determine the nature and extent of their impact on the environment. Impacts on public services, including schools, are environmental impacts for purposes of SEPA. SEPA authorizes public agencies to require the mitigation of probable significant adverse environmental impacts.

C. The Development will be located in an area where the District will serve school children residing therein.

D. The District has identified the impacts on the District that will be a direct result of the construction of the Development.

50948839.2

E. The identified impacts include the projected addition of elementary, middle and high school students to the District.

F. The Development may be constructed and occupied in phases over a five to twelve year time period, and the District projects that during that time the schools serving the Development may be over capacity when the students from the Development enter school. As a result, the District may have to provide space in portable classrooms and other school facilities in order to house and otherwise accommodate these students.

G. Owner would like to resolve potential mitigation obligations for development of facilities to house and educate students reasonably anticipated from the Development. Owner and the District have reviewed the mitigation measures reasonably necessary to mitigate those impacts directly resulting from the Development and have concluded that the provisions set forth below in this Agreement constitute complete and appropriate provisions for full mitigation by Owner of the identified impacts from the Development on the District.

H. Neither the impacts identified nor the mitigation measures offered herein affect, reduce or enlarge any other obligation the Owner or the Development has to comply with required land use approvals, including without limitation sidewalks providing safe walkways to and from school, school bus turnarounds, and other potential impacts that might be identified in connection with review and approval or aspects of the Development over its extended development period.

AGREEMENT

NOW, THEREFORE, for the mutual benefits and obligations contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and the District agree as follows:

1. Mitigation Payment

Owner agrees to fully mitigate the impacts caused by the proposed Development on the housing of students within the District by the payment of mitigation fees to the District in the amounts calculated by the District using the "Methodology for Calculating Mitigation Fees in the City of Everett" described in **Exhibit B** and "Methodology for Calculating School Capacities in the City of Everett" described in **Exhibit C**, as modified from time to time to reflect changing costs, school capacities, and student generation rates. Any increase in the mitigation fee charged for housing units in the Development from that specified in **Exhibit B** shall not exceed the percentage increase in the cost of portable classrooms from the cost existing on the date of this Agreement as set forth in **Exhibit B**. The cost of portable classrooms shall include the following:

- Purchase, transport, and installation of portable classrooms,
- Construction of foundations and seismic tie-downs

- Stairs, ramps, railings, skirting, and paved walkways,
- Extension of and connection to electrical, telephone, data, intercom and fire alarm systems,
- Extension of and connection to utilities such as sanitary sewer, water and storm drains, if needed,
- Permitting and inspections by governmental agencies,
- Fees for architectural and engineering services,
- Washington State Sales Tax, and
- Furniture and equipment

Payment of mitigation fees as calculated per **Exhibit B** and **Exhibit C** will be required if, at the time of residential building permit issuance, one or more schools serving the Development are over capacity. Mitigation fees shall be assessed only for the schools that are over capacity (i.e., if only the middle schools are over capacity, fees shall not be assessed for elementary or high schools). Such payment shall be required prior to residential building permit issuance by the City of Everett, and shall constitute a full and complete mitigation for the direct impacts of the Development to the District's school facilities as a result of new student demand generated. Such payment shall not provide mitigation for other areas of impact, such as impacts to transportation routes and pedestrian walkways.

2. Time Payment Due

Owner shall pay the sum identified herein prior to and as a condition of, issuance of residential building permits for the Development by the City of Everett. This agreement shall be binding on the successors, heirs, and assigns of the parties hereto, and the payment obligations hereunder shall constitute a lien upon the property legally described in Recital A. Owner may assign its rights and delegate its duties under this Agreement to any entity formed for the purposes of developing the Development; provided Owner shall remain jointly liable for performance of its duties hereunder unless and until such entity obtains title to the property.

3. District Use and Deposit of Payments

The District shall have the right, in the District's sole discretion, to use such funds collected pursuant to this Agreement for capital improvements reasonably benefiting the Development, including but not limited to the acquisition of land, the construction or modernization of schools, and the construction or acquisition of additional classroom or other curriculum space, including without limitation space in other attendance areas that preserve space within the Development's attendance area for students from the Development. The District shall deposit and hold the payments received under this Agreement in a reserve account and such payments shall be expended to fund the above-referenced capital improvements.

4. Potential Refund of Payments

The District shall expend all payments received under this Agreement within five (5) years of collection. Any payments not so expended shall be refunded with interest at the rates applicable to judgments to the owners of record of the property legally described in Recital A at the time of refund; provided, however, that if the payments received under this Agreement are not expended within said five (5) years as described above as a result of delay attributable to Owner or its successors, heirs, or assigns, payments required under this Agreement shall be refunded without interest.

5. Conditioning of Development Approval

The District may request that payment by the Owner of the amounts set forth in Section 1 in conformance with this Agreement be adopted by the City of Everett as a condition of issuance of residential building permits for construction of dwelling units within the Development.

6. Real Covenant

The terms of this Agreement shall constitute a real covenant running with the property legally described in Recital A. Such covenant shall be binding and inure to the benefit of the Parties, their successors, heirs and assigns.

7. Termination & Release

Upon the request of the Owner (or, Owner's successors, heirs, or assigns) and upon full satisfaction of all the Parties' obligations and expiration of the refund period applicable to payments made with respect to any parcel, the District will provide a release of the covenant described in this Agreement which the Owner may record in the records of Snohomish County.

8. Notice

Any notice under this Agreement shall be in writing and shall be hand delivered or mailed via the U.S. Postal Service, postage prepaid. Notices shall be deemed effective upon the second day following deposit thereof in the United States mails, postage prepaid, registered or certified, return receipt requested. All notices to the District shall be sent to the attention of the Mike Gunn, Everett School District, 3715 Oakes Ave., Everett 98201. All notices to the Owner shall be sent to the attention of Charles Hickcox, OliverMcMillan, 733 8th Avenue, San Diego, CA 92101. Either party may change the address to which notices may be given by giving notice as above provided.

9. Covenant Not to Sue

Owner hereby covenants and undertakes that it forever refrains and desists from instituting, asserting, filing or bringing any lawsuit, litigation, claim, challenge or proceeding to challenge this Agreement or any of its terms and conditions, or claim any repayment or reimbursement of funds, or improvements provided for herein, on any ground or basis whatsoever; provided, however, that Owner may exercise any rights it may have to (1) seek a refund for non-expenditure within 5 years as provided for in Section 4 hereof, (2) obtain the termination or releases provided for in Section 7 hereof; and (3) prevent the District from imposing mitigations fees in a manner inconsistent with this agreement.

DATED: 1-13-09

Owner:
OM EVERETT, INC., a Washington corporation

By: _____
Name: William P. Ponsky
Its: CFO as Secretary

District:

EVERETT SCHOOL DISTRICT NO. 2

4730 Colby Avenue (P.O. Box 2098)

Everett, WA 98203

By: _____

Name: Karst Brandsma

Its: Interim Superintendent

State of California)
) ss
County of San Diego)

On December 4, 2008, before me, Peggy J. French, Notary public, personally appeared William P. Persky, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s),~~ or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OR PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Peggy J. French
Signature of Notary Public

PEGGY J. FRENCH
Commission # 1710058
Notary Public — California
San Diego County
My Comm. Expires Jan 8, 2011

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____ *[month/year]*, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the individual who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes and in the capacity therein mentioned and on an oath stated that he was authorized to execute said instrument.

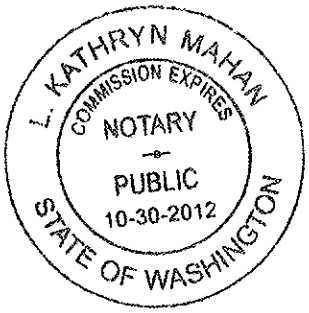
GIVEN UNDER my hand and official seal the day and year in this certificate above written.

_____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Appointment Expires:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

On this 13th day of January 2009 *[month/year]*, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Karst Brandsma, to me known to be the person~~s~~ who signed as Interim Superintendent, respectively of EVERETT SCHOOL DISTRICT NO. 2, the school district that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said school district for the uses and purposes therein mentioned, and on an oath stated that he/~~she~~ was duly elected, qualified and acting as said officer of the school district and that he/~~she~~ was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



L Kathryn Mahan
NOTARY PUBLIC in and for the State of Washington, residing at Mt. Vernon, WA
My Appointment Expires: 10-30-12

Exhibit A

Legal Description of Owner's Property

LOTS 15, 16, 19, and 21 THROUGH 29, INCLUSIVE, AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 31:

ALL THAT PORTION OF BLOCK 41 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES NORTHWESTERLY OF A LINE PARALLEL TO AND DISTANT 72 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.), AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 32B:

THAT PORTION OF LOT 17 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND BOUNDARY LINE ADJUSTMENT NO. 05-008

RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF 36TH STREET EXTENDED EASTERLY FROM THE NORTHEAST CORNER OF BLOCK 14 TO THE NORTHWEST CORNER OF BLOCK 15, ALL AS SHOWN ON J.S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;
EXCEPT ANY PORTION LYING WITHIN THAT PORTION CONVEYED TO THE CITY OF EVERETT BY DEED RECORDED UNDER RECORDING
NO. 200805140866.

PARCEL 33:

ALL THAT PORTION OF BLOCK 30 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES NORTHWESTERLY OF A LINE PARALLEL TO AND DISTANT 50 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.), AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 35:

ALL OF BLOCK 29 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY, RECORDS.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

ALL THAT PORTION OF BLOCK 16 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES WESTERLY OF A LINE PARALLEL TO AND DISTANT 30 FEET EASTERLY, MEASURED AT RIGHT ANGLES, FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.) AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 37:

TRACT 16, OF J.S. SINES ACRES TRACTS, ACCORDING TO PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THE WESTERLY 30 THEREOF.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 38:

ALL THAT PORTION OF BLOCK 15 OF J S SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, THAT LIES EASTERLY OF A LINE DRAWN PARALLEL TO AND DISTANT 50 FEET EASTERLY MEASURED AT RIGHT ANGLES FROM THE WESTERLY SIDE LINES OF SAID BLOCK.

EXHIBIT B

Methodology for Calculating Mitigation Fees in the City of Everett

The impacts of developments on the Everett School District No. 2 will be determined under the State Environmental Policy Act, Ch. 43.21C RCW, The State Subdivision Act, Ch. 58.17 RCW, and other applicable law. These calculations include the following factors:

1. The number of housing units of each type,
2. The number of elementary, middle and high school students generated by each type of housing unit (Student Generation Rate),
3. Whether the schools serving the proposed development are over capacity as determined in accordance with the process described in **Exhibit C**,
4. The cost of providing accommodations in new portable classrooms for each student, currently estimated as $3,272 ($78,517 per portable classroom divided by 24 students).

These factors will be modified from time to time to reflect changing costs, school capacities, and Student Generation Rates. Applying current costs and Student Generation Rates, school mitigation fees for each type of housing unit, assuming the corresponding elementary, middle and high schools are all over capacity, are calculated as follows:

Single Family =	.572	x	$3,272	=	$1,872
Multifamily 0-1 Bedroom =	.057	x	$3,272	=	$ 187
Multifamily 2+ Bedroom =	.277	x	$3,272	=	$ 906

School mitigation fees will be reduced in those situations where any of the schools serving a proposed development are under capacity, or where the developer dedicates land or easements or provides other in-kind contributions to help the District accommodate the student population growth that the development is anticipated to cause. In addition, the school district will consider any other information that the applicant brings to our attention demonstrating that special characteristics of the development warrant a different conclusion concerning the development's probable significant adverse impacts. Such characteristics may include demonstrating a statistically relevant reduction of student presence generated by the development.

Exhibit C

Methodology for Calculating School Capacities in the City of Everett

School capacities in the Everett School District No. 2 are determined by the District's Educational Program Standards, which is reviewed and updated periodically. The current version of the Educational Program Standards, included in the District's Capital Facilities Plan 2008-2013, is as follows:

Educational Program Standards

School facility and student capacity needs are dictated by the types and amount of space required to accommodate the School Board adopted educational programs. The educational program standards, which typically drive facility space needs, include grade configuration, optimum facility size, class size, educational program offerings, classroom utilization and scheduling requirements, and use of relocatable classroom facilities (portables).

In addition, government mandates and community expectations may affect how classroom space is used. Traditional educational programs offered by the Everett School District are supplemented by nontraditional or special programs, such as: Special Education, English Language Learner, remediation programs, alcohol and drug education, AIDS education, preschool and daycare programs, computer labs, music programs, Career and Technical Education, Accelerated Learning Support Classes (ALS), etc. These special or nontraditional educational programs can have a significant impact on the available student capacity of school facilities.

Examples of special teaching stations and programs offered by the Everett School District:

- Athletics, Health and Fitness
- Contract Learning
- Career Counseling
- Lighthouse Cooperative
- Denny Youth Center Services
- Drug and Alcohol Counseling
- ECEAP (Early Childhood Educational Assistance Program)
- Elementary Music (designated classroom)
- ELL (English Language Learner)
- Health Services
- Highly Capable Program
- Homeschool Alternative Program
- Intervention Services i.e. Counseling, Social Work
- LAP (Learning Assistance Program)

- Library Instruction
- Online High School
- Readiness to Learn Parent Center
- Wireless Computer Carts
- Science Resource Center
- Accelerated Learning Support
- Advanced Placement
- Special Education
    - Deaf and Hard of Hearing Specialists
    - Positive Behavior Support
    - Occupational Therapy
    - Physical Therapy
    - Pre-School
    - Resource Room
    - School Psychologists
    - Extended Resource
    - Speech and Hearing Therapy
    - Vision Impaired Service
    - Preschool Assessment Teams(PAT)

- Technology Instruction
- Title I Programs: Reading and Math
- Time Out Room (In-House Suspension)
- Vocational
    - Auto Shop
    - Business and Marketing
    - Health and Human Services
    - Horticulture, Agriculture, Floriculture
    - Technology and Industry

Variations in student capacity between schools are often a result of special programs offered at specific schools. These special programs require classroom space, which can reduce the permanent capacity of the buildings housing these programs. Some students, for example, leave their regular classroom for a period of time to receive instruction in these special programs. Newer schools within the district have been designed to accommodate many of these programs. However, older schools often require space modifications to accommodate special programs, and in some circumstances, these modifications may reduce the overall classroom capacities of the building.

District educational program standards will undoubtedly change in the future as a result of changes in the program year, special programs, class size, grade span configurations, use of new technology, and other physical aspects of the school

facilities. The school capacity calculations will be reviewed periodically and adjusted for any changes to the educational program standards.

Educational Program Standards for Elementary Schools

- Class size targets are:
  22 Kindergarten
  24 Regular Education Grades 1-5
  10 Developmental Kindergarten/Self Contained
  10 Special Education – Positive Behavior Support
  15 Special Education – Extended Resource
  10 Special Education – Life Skills
- Students are provided music instruction in a separate classroom
- Students are scheduled into the computer lab as a pull-out program
- All elementary schools should strive to offer at least one All Day Kindergarten class and one Special Education Resource Room as part of their curriculum.
- Optimum design capacity for new elementary schools is 550 students (FTE). However, actual capacity of individual schools may vary depending on the educational programs offered or housed at a particular school.

Educational Program Standards for Middle and High Schools

As a result of scheduling conflicts for student programs, the need for specialized rooms for specific programs, and the need for teachers to have a workspace during planning periods, it is not possible to achieve 100% utilization of teaching stations. Based on an analysis of actual utilization of secondary schools, the standard utilization rate is 85%, resulting in the following target class sizes.

- Class size targets:
  24.3 Middle School Regular Education
  24.3 Middle School Special Education Resource
  15 Middle School Special Education Self Contained
  15 Middle School Special Education Positive Behavior Support and Life Skills
  18 Middle School ELL (English Language Learner)
  24 High School Regular Education
  24 High School Special Education Resource
  15 High School Special Education Self Contained
  15 High School Special Education Positive Behavior Support and Life Skills
  18 High School ELL (English Language Learner)
  24 Alternative High School

- Students will also be provided educational opportunities in classrooms such as:
  - Computer Lab (one at middle schools and three at high schools)
  - Auto Shop
  - Music rooms

- Drama rooms
- Art Labs
- Home and Family Life Labs
- Health and Fitness
- Challenge or Advanced Placement Programs
- Student Stores
- Science Labs

- Optimum design capacity is 825 students for middle school and 1500 students for high schools.

Minimum Levels of Service
(Average class size throughout District)

25	Kindergarten
27	Regular Education Grades 1-5
31	Regular Education Grades 6-8
35	Regular Education Grades 9-12

School Boundary Changes
The Everett School District recognizes that school boundaries need to be modified occasionally to respond to changes in student enrollment or educational programs. Boundary changes can be an effective method of reducing the need for new school construction, and are also necessary when new schools or classroom additions are built. A good example of changing school boundaries to reduce the need for new schools occurred in fall, 2008 when the District implemented new middle school boundaries District-wide in response to significant enrollment growth at Gateway Middle School in the southern end of the District. Boundary changes, however, can also be disruptive to the educational program and the lives of students and their parents. Therefore, careful consideration of the following should be given before implementing any boundary change:

- The potential negative and positive impacts of any proposed boundary changes should be carefully evaluated.
- Boundary changes should be implemented only after appropriate discussions with affected parties and careful consideration of alternative solutions.
- Boundary changes should be made in the context of long term solutions, and short term solutions that do not address long term issues should be avoided.
- Natural or manmade barriers to safe and efficient transportation routes should be taken into consideration. This applies to pedestrian as well as vehicular transportation.
- It is important, especially at the elementary school level, that students are able to attend schools located close to their own neighborhood, and all students living in a neighborhood should attend the same schools if possible.

RETURN ADDRESS:
Everett School District #2
Attn: Mike Gunn, Fac. & Plan.
3715 Oakes Ave., 3rd Floor
Everett, WA 98201

MITIGATION AGREEMENT
EVERETT RIVERFRONT – SIMPSON SITE

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RECITALS

A. The Owner anticipates applying for building permits for construction of approximately 650 housing units which will be part of a development known as the Everett Riverfront Redevelopment Project (the "Development"), City of Everett EIS No. 06-002, located on a site of approximately 44 acres in size on the west side of the Snohomish River, east of I-5, south of Pacific Avenue, and north of Rotary Park and Lowell Snohomish River Road, Everett, WA, and more particularly described in **Exhibit A**.

B. The State Environmental Policy Act ("SEPA") provides processes and procedures whereby major actions by state and local agencies, including, but not limited to, the issuance of building permits, may be reviewed to determine the nature and extent of their impact on the environment. Impacts on public services, including schools, are environmental impacts for purposes of SEPA. SEPA authorizes public agencies to require the mitigation of probable significant adverse environmental impacts.

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D. The District has identified the impacts on the District that will be a direct result of the construction of the Development.

E. The identified impacts include the projected addition of elementary, middle and high school students to the District.

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H. Neither the impacts identified nor the mitigation measures offered herein affect, reduce or enlarge any other obligation the Owner or the Development has to comply with required land use approvals, including without limitation sidewalks providing safe walkways to and from school, school bus turnarounds, and other potential impacts that might be identified in connection with review and approval or aspects of the Development over its extended development period.

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existing on the date of this Agreement as set forth in **Exhibit B**. The cost of portable classrooms shall include the following:

- Purchase, transport, and installation of portable classrooms,
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- Stairs, ramps, railings, skirting, and paved walkways,
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Any notice under this Agreement shall be in writing and shall be hand delivered or mailed via the U.S. Postal Service, postage prepaid. Notices shall be deemed effective upon the second day following deposit thereof in the United States mails, postage prepaid, registered or certified, return receipt requested. All notices to the District shall be sent to the attention of the Mike Gunn, Everett School District, 3715 Oakes Ave., Everett 98201. All notices to the Owner shall be sent to the attention of Charles Hickcox, OliverMcMillan, 733 8th Avenue, San Diego, CA 92101. Either party may change the address to which notices may be given by giving notice as above provided.

9. Covenant Not to Sue

Owner hereby covenants and undertakes that it forever refrains and desists from instituting, asserting, filing or bringing any lawsuit, litigation, claim, challenge or proceeding to challenge this Agreement or any of its terms and conditions, or claim any repayment or reimbursement of funds, or improvements provided for herein, on any ground or basis whatsoever; provided, however, that Owner may exercise any rights it may have to (1) seek a refund for non-expenditure within 5 years as provided for in Section 4 hereof, (2) obtain the termination or releases provided for in Section 7 hereof; and (3) prevent the District from imposing mitigations fees in a manner inconsistent with this agreement.

DATED: 1-13-09

District:

OMH TRANSFER AGENT, LLC, a Delaware limited liability company

By: _____

Name: William P. Pensley

Title: CFO AND SECRETARY

EVERETT SCHOOL DISTRICT NO. 2
4730 Colby Avenue (P.O. Box 2098)
Everett, WA 98203

By: _____

Name: Karst Brandsma

Its: Interim Superintendent

State of California)
) ss
County of San Diego)

On December 4, 2008, before me, Peggy J. French, Notary public, personally appeared William P. Persky, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/the~~y executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OR PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Peggy J. French
Signature of Notary Public

PEGGY J. FRENCH
Commission # 1710058
Notary Public — California
San Diego County
My Comm. Expires Jan 8, 2011

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____ *[month/year]*, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the individual who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes and in the capacity therein mentioned and on an oath stated that he was authorized to execute said instrument.

GIVEN UNDER my hand and official seal the day and year in this certificate above written.

_____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Appointment Expires:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

On this 13th day of January 2009 *[month/year]*, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Karst Brandsma, to me known to be the person~~s~~ who signed as ~~Interim Superintendent~~, respectively of EVERETT SCHOOL DISTRICT NO. 2, the school district that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said school district for the uses and purposes therein mentioned, and on an oath stated that he/~~she~~ was duly elected, qualified and acting as said officer of the school district and that he/~~she~~ was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

L. Kathryn Mahan
NOTARY PUBLIC in and for the State of Washington, residing at Mt. Vernon, WA
My Appointment Expires: 10-30-12

Exhibit A

Legal Description of Owner's Property

LOT 13 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

EXHIBIT B

Methodology for Calculating Mitigation Fees in the City of Everett

The impacts of developments on the Everett School District No. 2 will be determined under the State Environmental Policy Act, Ch. 43.21C RCW, The State Subdivision Act, Ch. 58.17 RCW, and other applicable law. These calculations include the following factors:

1. The number of housing units of each type,
2. The number of elementary, middle and high school students generated by each type of housing unit (Student Generation Rate),
3. Whether the schools serving the proposed development are over capacity as determined in accordance with the process described in **Exhibit C**,
4. The cost of providing accommodations in new portable classrooms for each student, currently estimated as $3,272 ($78,517 per portable classroom divided by 24 students).

These factors will be modified from time to time to reflect changing costs, school capacities, and Student Generation Rates. Applying current costs and Student Generation Rates, school mitigation fees for each type of housing unit, assuming the corresponding elementary, middle and high schools are all over capacity, are calculated as follows:

Single Family =	.572	x	$3,272 =	$1,872
Multifamily 0-1 Bedroom =	.057	x	$3,272 =	$ 187
Multifamily 2+ Bedroom =	.277	x	$3,272 =	$ 906

School mitigation fees will be reduced in those situations where any of the schools serving a proposed development are under capacity, or where the developer dedicates land or easements or provides other in-kind contributions to help the District accommodate the student population growth that the development is anticipated to cause. In addition, the school district will consider any other information that the applicant brings to our attention demonstrating that special characteristics of the development warrant a different conclusion concerning the development's probable significant adverse impacts. Such characteristics may include demonstrating a statistically relevant reduction of student presence generated by the development.

Exhibit C

Methodology for Calculating School Capacities in the City of Everett

School capacities in the Everett School District No. 2 are determined by the District's Educational Program Standards, which is reviewed and updated periodically. The current version of the Educational Program Standards, included in the District's Capital Facilities Plan 2008-2013, is as follows:

Educational Program Standards
School facility and student capacity needs are dictated by the types and amount of space required to accommodate the School Board adopted educational programs. The educational program standards, which typically drive facility space needs, include grade configuration, optimum facility size, class size, educational program offerings, classroom utilization and scheduling requirements, and use of relocatable classroom facilities (portables).

In addition, government mandates and community expectations may affect how classroom space is used. Traditional educational programs offered by the Everett School District are supplemented by nontraditional or special programs, such as: Special Education, English Language Learner, remediation programs, alcohol and drug education, AIDS education, preschool and daycare programs, computer labs, music programs, Career and Technical Education, Accelerated Learning Support Classes (ALS), etc. These special or nontraditional educational programs can have a significant impact on the available student capacity of school facilities.

Examples of special teaching stations and programs offered by the Everett School District:

- Athletics, Health and Fitness
- Contract Learning
- Career Counseling
- Lighthouse Cooperative
- Denny Youth Center Services
- Drug and Alcohol Counseling
- ECEAP (Early Childhood Educational Assistance Program)
- Elementary Music (designated classroom)
- ELL (English Language Learner)
- Health Services
- Highly Capable Program
- Homeschool Alternative Program
- Intervention Services i.e. Counseling, Social Work

- LAP (Learning Assistance Program)
- Library Instruction
- Online High School
- Readiness to Learn Parent Center
- Wireless Computer Carts
- Science Resource Center
- Accelerated Learning Support
- Advanced Placement
- Special Education
    - Deaf and Hard of Hearing Specialists
    - Positive Behavior Support
    - Occupational Therapy
    - Physical Therapy
    - Pre-School
    - Resource Room
    - School Psychologists
    - Extended Resource
    - Speech and Hearing Therapy
    - Vision Impaired Service
    - Preschool Assessment Teams(PAT)

- Technology Instruction
- Title I Programs: Reading and Math
- Time Out Room (In-House Suspension)
- Vocational
    - Auto Shop
    - Business and Marketing
    - Health and Human Services
    - Horticulture, Agriculture, Floriculture
    - Technology and Industry

Variations in student capacity between schools are often a result of special programs offered at specific schools. These special programs require classroom space, which can reduce the permanent capacity of the buildings housing these programs. Some students, for example, leave their regular classroom for a period of time to receive instruction in these special programs. Newer schools within the district have been designed to accommodate many of these programs. However, older schools often require space modifications to accommodate special programs, and in some circumstances, these modifications may reduce the overall classroom capacities of the building.

District educational program standards will undoubtedly change in the future as a result of changes in the program year, special programs, class size, grade span

configurations, use of new technology, and other physical aspects of the school facilities. The school capacity calculations will be reviewed periodically and adjusted for any changes to the educational program standards.

Educational Program Standards for Elementary Schools

- Class size targets are:
  22 Kindergarten
  24 Regular Education Grades 1-5
  10 Developmental Kindergarten/Self Contained
  10 Special Education – Positive Behavior Support
  15 Special Education – Extended Resource
  10 Special Education – Life Skills
- Students are provided music instruction in a separate classroom
- Students are scheduled into the computer lab as a pull-out program
- All elementary schools should strive to offer at least one All Day Kindergarten class and one Special Education Resource Room as part of their curriculum.
- Optimum design capacity for new elementary schools is 550 students (FTE). However, actual capacity of individual schools may vary depending on the educational programs offered or housed at a particular school.

Educational Program Standards for Middle and High Schools

As a result of scheduling conflicts for student programs, the need for specialized rooms for specific programs, and the need for teachers to have a workspace during planning periods, it is not possible to achieve 100% utilization of teaching stations. Based on an analysis of actual utilization of secondary schools, the standard utilization rate is 85%, resulting in the following target class sizes.

- Class size targets:
  24.3 Middle School Regular Education
  24.3 Middle School Special Education Resource
  15 Middle School Special Education Self Contained
  15 Middle School Special Education Positive Behavior Support and Life Skills
  18 Middle School ELL (English Language Learner)
  24 High School Regular Education
  24 High School Special Education Resource
  15 High School Special Education Self Contained
  15 High School Special Education Positive Behavior Support and Life Skills
  18 High School ELL (English Language Learner)
  24 Alternative High School

- Students will also be provided educational opportunities in classrooms such as:
  - Computer Lab (one at middle schools and three at high schools)

- Auto Shop
- Music rooms
- Drama rooms
- Art Labs
- Home and Family Life Labs
- Health and Fitness
- Challenge or Advanced Placement Programs
- Student Stores
- Science Labs

- Optimum design capacity is 825 students for middle school and 1500 students for high schools.

Minimum Levels of Service
(Average class size throughout District)

25	Kindergarten
27	Regular Education Grades 1-5
31	Regular Education Grades 6-8
35	Regular Education Grades 9-12

School Boundary Changes
The Everett School District recognizes that school boundaries need to be modified occasionally to respond to changes in student enrollment or educational programs. Boundary changes can be an effective method of reducing the need for new school construction, and are also necessary when new schools or classroom additions are built. A good example of changing school boundaries to reduce the need for new schools occurred in fall, 2008 when the District implemented new middle school boundaries District-wide in response to significant enrollment growth at Gateway Middle School in the southern end of the District. Boundary changes, however, can also be disruptive to the educational program and the lives of students and their parents. Therefore, careful consideration of the following should be given before implementing any boundary change:

- The potential negative and positive impacts of any proposed boundary changes should be carefully evaluated.
- Boundary changes should be implemented only after appropriate discussions with affected parties and careful consideration of alternative solutions.
- Boundary changes should be made in the context of long term solutions, and short term solutions that do not address long term issues should be avoided.
- Natural or manmade barriers to safe and efficient transportation routes should be taken into consideration. This applies to pedestrian as well as vehicular transportation.
- It is important, especially at the elementary school level, that students are able to attend schools located close to their own neighborhood, and all students living in a neighborhood should attend the same schools if possible.

RETURN ADDRESS:
Everett School District #2
Attn: Mike Gunn, Fac. & Plan.
3715 Oakes Ave., 3rd Floor
Everett, WA 98201

MITIGATION AGREEMENT
EVERETT RIVERFRONT – MILL SITE

THIS AGREEMENT is made and entered into this 13th day of January, 2008~~9~~ by and between EVERETT SCHOOL DISTRICT NO. 2 ("District") and OMH Transfer Agent, LLC, a Delaware limited liability company ("Owner"), and their respective successors or assigns (collectively referred to herein as the "Parties").

RECITALS

A. The Owner anticipates applying for building permits for construction of approximately 350 housing units, which will be part of a development known as the Everett Riverfront Redevelopment Project (the "Development"), City of Everett EIS No. 06-002, located on a site of approximately 19 acres in size on the west side of the Snohomish River, east of I-5, south of Pacific Avenue, and north of Rotary Park and Lowell Snohomish River Road, Everett, WA, and more particularly described in **Exhibit A**.

B. The State Environmental Policy Act ("SEPA") provides processes and procedures whereby major actions by state and local agencies, including, but not limited to, the issuance of building permits, may be reviewed to determine the nature and extent of their impact on the environment. Impacts on public services, including schools, are environmental impacts for purposes of SEPA. SEPA authorizes public agencies to require the mitigation of probable significant adverse environmental impacts.

C. The Development will be located in an area where the District will serve school children residing therein.

D. The District has identified the impacts on the District that will be a direct result of the construction of the Development.

E. The identified impacts include the projected addition of elementary, middle and high school students to the District.

F. The Development may be constructed and occupied in phases over a five to twelve year time period, and the District projects that during that time the schools serving the Development may be over capacity when the students from the Development enter school. As a result, the District may have to provide space in portable classrooms and other school facilities in order to house and otherwise accommodate these students.

G. Owner would like to resolve potential mitigation obligations for development of facilities to house and educate students reasonably anticipated from the Development. Owner and the District have reviewed the mitigation measures reasonably necessary to mitigate those impacts directly resulting from the Development and have concluded that the provisions set forth below in this Agreement constitute complete and appropriate provisions for full mitigation by Owner of the identified impacts from the Development on the District.

H. Neither the impacts identified nor the mitigation measures offered herein affect, reduce or enlarge any other obligation the Owner or the Development has to comply with required land use approvals, including without limitation sidewalks providing safe walkways to and from school, school bus turnarounds, and other potential impacts that might be identified in connection with review and approval or aspects of the Development over its extended development period.

AGREEMENT

NOW, THEREFORE, for the mutual benefits and obligations contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Owner and the District agree as follows:

1. Mitigation Payment

Owner agrees to fully mitigate the impacts caused by the proposed Development on the housing of students within the District by the payment of mitigation fees to the District in the amounts calculated by the District using the "Methodology for Calculating Mitigation Fees in the City of Everett" described in **Exhibit B** and "Methodology for Calculating School Capacities in the City of Everett" described in **Exhibit C**, as modified from time to time to reflect changing costs, school capacities, and student generation rates. Any increase in the mitigation fee charged for housing units in the Development from that specified in **Exhibit B** shall not exceed the percentage increase in the cost of portable classrooms from the cost existing on the date of this Agreement as set forth in **Exhibit B**. The cost of portable classrooms shall include the following:

- Purchase, transport, and installation of portable classrooms,
- Construction of foundations and seismic tie-downs

- Stairs, ramps, railings, skirting, and paved walkways,
- Extension of and connection to electrical, telephone, data, intercom and fire alarm systems,
- Extension of and connection to utilities such as sanitary sewer, water and storm drains, if needed,
- Permitting and inspections by governmental agencies,
- Fees for architectural and engineering services,
- Washington State Sales Tax, and
- Furniture and equipment

Payment of mitigation fees as calculated per **Exhibit B** and **Exhibit C** will be required if, at the time of residential building permit issuance, one or more schools serving the Development are over capacity. Mitigation fees shall be assessed only for the schools that are over capacity (i.e., if only the middle schools are over capacity, fees shall not be assessed for elementary or high schools). Such payment shall be required prior to residential building permit issuance by the City of Everett, and shall constitute a full and complete mitigation for the direct impacts of the Development to the District's school facilities as a result of new student demand generated. Such payment shall not provide mitigation for other areas of impact, such as impacts to transportation routes and pedestrian walkways.

2. Time Payment Due

Owner shall pay the sum identified herein prior to and as a condition of, issuance of residential building permits for the Development by the City of Everett. This agreement shall be binding on the successors, heirs, and assigns of the parties hereto, and the payment obligations hereunder shall constitute a lien upon the property legally described in Recital A. Owner may assign its rights and delegate its duties under this Agreement to any entity formed for the purposes of developing the Development; provided Owner shall remain jointly liable for performance of its duties hereunder unless and until such entity obtains title to the property.

3. District Use and Deposit of Payments

The District shall have the right, in the District's sole discretion, to use such funds collected pursuant to this Agreement for capital improvements reasonably benefiting the Development, including but not limited to the acquisition of land, the construction or modernization of schools, and the construction or acquisition of additional classroom or other curriculum space, including without limitation space in other attendance areas that preserve space within the Development's attendance area for students from the Development. The District shall deposit and hold the payments received under this Agreement in a reserve account and such payments shall be expended to fund the above-referenced capital improvements.

4. Potential Refund of Payments

The District shall expend all payments received under this Agreement within five (5) years of collection. Any payments not so expended shall be refunded with interest at the rates applicable to judgments to the owners of record of the property legally described in Recital A at the time of refund; provided, however, that if the payments received under this Agreement are not expended within said five (5) years as described above as a result of delay attributable to Owner or its successors, heirs, or assigns, payments required under this Agreement shall be refunded without interest.

5. Conditioning of Development Approval

The District may request that payment by the Owner of the amounts set forth in Section 1 in conformance with this Agreement be adopted by the City of Everett as a condition of issuance of residential building permits for construction of dwelling units within the Development.

6. Real Covenant

The terms of this Agreement shall constitute a real covenant running with the property legally described in Recital A. Such covenant shall be binding and inure to the benefit of the Parties, their successors, heirs and assigns.

7. Termination & Release

Upon the request of the Owner (or, Owner's successors, heirs, or assigns) and upon full satisfaction of all the Parties' obligations and expiration of the refund period applicable to payments made with respect to any parcel, the District will provide a release of the covenant described in this Agreement which the Owner may record in the records of Snohomish County.

8. Notice

Any notice under this Agreement shall be in writing and shall be hand delivered or mailed via the U.S. Postal Service, postage prepaid. Notices shall be deemed effective upon the second day following deposit thereof in the United States mails, postage prepaid, registered or certified, return receipt requested. All notices to the District shall be sent to the attention of the Mike Gunn, Everett School District, 3715 Oakes Ave., Everett 98201. All notices to the Owner shall be sent to the attention of Charles Hickcox, OliverMcMillan, 733 8th Avenue, San Diego, CA 92101. Either party may change the address to which notices may be given by giving notice as above provided.

9. Covenant Not to Sue

Owner hereby covenants and undertakes that it forever refrains and desists from instituting, asserting, filing or bringing any lawsuit, litigation, claim, challenge or proceeding to challenge this Agreement or any of its terms and conditions, or claim any repayment or reimbursement of funds, or improvements provided for herein, on any ground or basis whatsoever; provided, however, that Owner may exercise any rights it may have to (1) seek a refund for non-expenditure within 5 years as provided for in Section 4 hereof, (2) obtain the termination or releases provided for in Section 7 hereof; and (3) prevent the District from imposing mitigations fees in a manner inconsistent with this agreement.

DATED: 1-13-09

Owner:
OMH TRANSFER AGENT, LLC, a Delaware limited liability company

By: _____
Name: William P. Pensay
Title: CFO as Secretary

District:

EVERETT SCHOOL DISTRICT NO. 2

4730 Colby Avenue (P.O. Box 2098)

Everett, WA 98203

By: _____

Name: Karst Brandsma

Its: Interim Superintendent

State of California)
) ss
County of San Diego)

On December 4, 2008, before me, Peggy J. French, Notary public, personally appeared William P. Persky, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his~~/her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OR PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Peggy J. French
Signature of Notary Public

PEGGY J. FRENCH
Commission # 1710058
Notary Public — California
San Diego County
My Comm. Expires Jan 8, 2011

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____ *[month/year]*, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the individual who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes and in the capacity therein mentioned and on an oath stated that he was authorized to execute said instrument.

GIVEN UNDER my hand and official seal the day and year in this certificate above written.

_____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Appointment Expires:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

On this 13th day of January 2009 *[month/year]*, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Karst Brandsma, to me known to be the persons who signed as Interim Superintendent, respectively of EVERETT SCHOOL DISTRICT NO. 2, the school district that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said school district for the uses and purposes therein mentioned, and on an oath stated that he/she/they was duly elected, qualified and acting as said officer of the school district and that he/she/they was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

L Kathryn Mahan
NOTARY PUBLIC in and for the State of Washington, residing at Mt. Vernon, WA
My Appointment Expires: 10-30-12

Exhibit A

Legal Description of Owner's Property

PARCEL 32A:

THAT PORTION OF LOT 17 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF 36TH STREET EXTENDED EASTERLY FROM THE SOUTHEAST CORNER OF BLOCK 2 TO THE SOUTHWEST CORNER OF BLOCK 1, ALL AS SHOWN ON J.S. SINES ACRE TRACTS, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;
EXCEPT THOSE PORTIONS CONVEYED TO THE CITY OF EVERETT BY DEEDS RECORDED UNDER RECORDING NO.'S 200805140865 and 200805140866

PARCEL 39:

TRACT 2 OF CITY OF EVERETT BLA NO 1474-04-002 RECORDED UNDER RECORDING NO 200402190061, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO THE CITY OF EVERETT BY DEED RECORDED UNDER RECORDING NO. 200805140865.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 40:

THE EAST HALF OF BLOCK 2 OF J.S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

TOGETHER WITH THAT PORTION OF VACATED ALLEY ATTACHED THERETO BY ORDINANCE NO. 484-77 RECORDED DECEMBER 16, 1977 UNDER RECORDING NO. 7712160175, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF ALL OF THE ABOVE CONVEYED TO THE CITY OF EVERETT BY DEED RECORDED UNDER RECORDING
NO. 200805140865.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 41:

LOT 13 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 42:

THAT PORTION OF GOVERNMENT LOT 3 IN SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID LOT 3, 1,019.4 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT, SAME BEING ON THE EAST LINE OF THE LAND CONVEYED TO SEATTLE AND MONTANA RAILROAD CO. BY WARRANTY DEED RECORDED APRIL 25, 1902 IN VOLUME 71 OF DEEDS, PAGE 77;
THENCE EAST ALONG SAID SOUTH LINE OF GOVERNMENT LOT 3, A DISTANCE OF 256.8 FEET TO THE WEST RIGHT OF WAY LINE OF EVERETT & MONTE CRISTO RAILWAY CO. AS CONVEYED BY DEED RECORDED MARCH 9, 1898 IN VOLUME 46 OF DEEDS, PAGE 40;
THENCE NORTHERLY ALONG THE WEST LINE OF SAID RIGHT OF WAY 641.6 FEET TO THE SOUTH LINE OF PLAT OF EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, EXTENDED EASTERLY;
THENCE WESTERLY ALONG SAID PRODUCTION OF THE SOUTH LINE OF SAID PLAT AND THE SOUTH LINE OF SAID PLAT, 165.39 FEET TO THE EASTERLY LINE OF THE RIGHT OF SAID SEATTLE & MONTANA RAILROAD CO.;
THENCE ANGLE LEFT 75°45' AND PROCEED SOUTHERLY ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY, 314 FEET TO POINT OF CURVE TO THE LEFT;
THENCE ALONG SAID CURVE, RADIUS OF 1,392.69 FEET, A DISTANCE OF 341 FEET TO THE POINT OF BEGINNING.
SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 43:

LOT 16 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDIN(NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO THE CITY OF EVERETT BY DEED RECORDED UNDER RECORDING NO. 200805140865.

PARCEL 44:

THAT PORTION OF WALNUT STREET, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 805, EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 20, IN SNOHOMISH COUNTY, WASHINGTON;
THENCE NORTH TO THE SOUTH LINE OF 33RD STREET;
THENCE EAST TO THE WEST LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT OF WAY;
THENCE SOUTHERLY ALONG THE WESTERLY OF SAID RIGHT OF WAY TO A POINT EAST OF THE TRUE POINT OF BEGINNING;
THENCE WEST TO THE TRUE POINT OF BEGINNING.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 45:

ALL THAT PART OF LOTS 17 TO 32, INCLUSIVE, BLOCK 805, PLAT OF THE EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, LYING EASTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF ST PAUL, MINNEAPOLIS AND MANITOBA RAILWAY CO, WHICH EASTERLY RIGHT OF WAY LINE IS DESCRIBED IN VOLUME 79 OF DEEDS, PAGE 501, AS BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 32 THAT IS 25.8 FEET WEST OF THE NORTHEAST CORNER BLOCK 805;
THENCE SOUTHWESTERLY PARALLEL TO AND 100 FEET DISTANT SOUTHEASTERLY FROM CENTERLINE OF SAID RAILWAY CO RIGHT OF WAY TO INTERSECT THE WEST LINE OF LOT 19 AT A POINT 65.3 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 17, ALL IN SAID BLOCK 805.

EXHIBIT B

Methodology for Calculating Mitigation Fees in the City of Everett

The impacts of developments on the Everett School District No. 2 will be determined under the State Environmental Policy Act, Ch. 43.21C RCW, The State Subdivision Act, Ch. 58.17 RCW, and other applicable law. These calculations include the following factors:

1. The number of housing units of each type,
2. The number of elementary, middle and high school students generated by each type of housing unit (Student Generation Rate),
3. Whether the schools serving the proposed development are over capacity as determined in accordance with the process described in **Exhibit C**,
4. The cost of providing accommodations in new portable classrooms for each student, currently estimated as $3,272 ($78,517 per portable classroom divided by 24 students).

These factors will be modified from time to time to reflect changing costs, school capacities, and Student Generation Rates. Applying current costs and Student Generation Rates, school mitigation fees for each type of housing unit, assuming the corresponding elementary, middle and high schools are all over capacity, are calculated as follows:

Single Family =	.572	x	$3,272 =	$1,872
Multifamily 0-1 Bedroom =	.057	x	$3,272 =	$ 187
Multifamily 2+ Bedroom =	.277	x	$3,272 =	$ 906

School mitigation fees will be reduced in those situations where any of the schools serving a proposed development are under capacity, or where the developer dedicates land or easements or provides other in-kind contributions to help the District accommodate the student population growth that the development is anticipated to cause. In addition, the school district will consider any other information that the applicant brings to our attention demonstrating that special characteristics of the development warrant a different conclusion concerning the development's probable significant adverse impacts. Such characteristics may include demonstrating a statistically relevant reduction of student presence generated by the development.

Exhibit C

Methodology for Calculating School Capacities in the City of Everett

School capacities in the Everett School District No. 2 are determined by the District's Educational Program Standards, which is reviewed and updated periodically. The current version of the Educational Program Standards, included in the District's Capital Facilities Plan 2008-2013, is as follows:

Educational Program Standards

School facility and student capacity needs are dictated by the types and amount of space required to accommodate the School Board adopted educational programs. The educational program standards, which typically drive facility space needs, include grade configuration, optimum facility size, class size, educational program offerings, classroom utilization and scheduling requirements, and use of relocatable classroom facilities (portables).

In addition, government mandates and community expectations may affect how classroom space is used. Traditional educational programs offered by the Everett School District are supplemented by nontraditional or special programs, such as: Special Education, English Language Learner, remediation programs, alcohol and drug education, AIDS education, preschool and daycare programs, computer labs, music programs, Career and Technical Education, Accelerated Learning Support Classes (ALS), etc. These special or nontraditional educational programs can have a significant impact on the available student capacity of school facilities.

Examples of special teaching stations and programs offered by the Everett School District:

- Athletics, Health and Fitness
- Contract Learning
- Career Counseling
- Lighthouse Cooperative
- Denny Youth Center Services
- Drug and Alcohol Counseling
- ECEAP (Early Childhood Educational Assistance Program)
- Elementary Music (designated classroom)
- ELL (English Language Learner)
- Health Services
- Highly Capable Program
- Homeschool Alternative Program
- Intervention Services i.e. Counseling, Social Work

- LAP (Learning Assistance Program)
- Library Instruction
- Online High School
- Readiness to Learn Parent Center
- Wireless Computer Carts
- Science Resource Center
- Accelerated Learning Support
- Advanced Placement
- Special Education
    - Deaf and Hard of Hearing Specialists
    - Positive Behavior Support
    - Occupational Therapy
    - Physical Therapy
    - Pre-School
    - Resource Room
    - School Psychologists
    - Extended Resource
    - Speech and Hearing Therapy
    - Vision Impaired Service
    - Preschool Assessment Teams(PAT)

- Technology Instruction
- Title I Programs: Reading and Math
- Time Out Room (In-House Suspension)
- Vocational
    - Auto Shop
    - Business and Marketing
    - Health and Human Services
    - Horticulture, Agriculture, Floriculture
    - Technology and Industry

Variations in student capacity between schools are often a result of special programs offered at specific schools. These special programs require classroom space, which can reduce the permanent capacity of the buildings housing these programs. Some students, for example, leave their regular classroom for a period of time to receive instruction in these special programs. Newer schools within the district have been designed to accommodate many of these programs. However, older schools often require space modifications to accommodate special programs, and in some circumstances, these modifications may reduce the overall classroom capacities of the building.

District educational program standards will undoubtedly change in the future as a result of changes in the program year, special programs, class size, grade span

configurations, use of new technology, and other physical aspects of the school facilities. The school capacity calculations will be reviewed periodically and adjusted for any changes to the educational program standards.

Educational Program Standards for Elementary Schools

- Class size targets are:
  22 Kindergarten
  24 Regular Education Grades 1-5
  10 Developmental Kindergarten/Self Contained
  10 Special Education – Positive Behavior Support
  15 Special Education – Extended Resource
  10 Special Education – Life Skills
- Students are provided music instruction in a separate classroom
- Students are scheduled into the computer lab as a pull-out program
- All elementary schools should strive to offer at least one All Day Kindergarten class and one Special Education Resource Room as part of their curriculum.
- Optimum design capacity for new elementary schools is 550 students (FTE). However, actual capacity of individual schools may vary depending on the educational programs offered or housed at a particular school.

Educational Program Standards for Middle and High Schools

As a result of scheduling conflicts for student programs, the need for specialized rooms for specific programs, and the need for teachers to have a workspace during planning periods, it is not possible to achieve 100% utilization of teaching stations. Based on an analysis of actual utilization of secondary schools, the standard utilization rate is 85%, resulting in the following target class sizes.

- Class size targets:
  24.3 Middle School Regular Education
  24.3 Middle School Special Education Resource
  15 Middle School Special Education Self Contained
  15 Middle School Special Education Positive Behavior Support and Life Skills
  18 Middle School ELL (English Language Learner)
  24 High School Regular Education
  24 High School Special Education Resource
  15 High School Special Education Self Contained
  15 High School Special Education Positive Behavior Support and Life Skills
  18 High School ELL (English Language Learner)
  24 Alternative High School

- Students will also be provided educational opportunities in classrooms such as:
  - Computer Lab (one at middle schools and three at high schools)
  - Auto Shop

- Music rooms
- Drama rooms
- Art Labs
- Home and Family Life Labs
- Health and Fitness
- Challenge or Advanced Placement Programs
- Student Stores
- Science Labs

- Optimum design capacity is 825 students for middle school and 1500 students for high schools.

Minimum Levels of Service
(Average class size throughout District)

25	Kindergarten
27	Regular Education Grades 1-5
31	Regular Education Grades 6-8
35	Regular Education Grades 9-12

School Boundary Changes
The Everett School District recognizes that school boundaries need to be modified occasionally to respond to changes in student enrollment or educational programs. Boundary changes can be an effective method of reducing the need for new school construction, and are also necessary when new schools or classroom additions are built. A good example of changing school boundaries to reduce the need for new schools occurred in fall, 2008 when the District implemented new middle school boundaries District-wide in response to significant enrollment growth at Gateway Middle School in the southern end of the District. Boundary changes, however, can also be disruptive to the educational program and the lives of students and their parents. Therefore, careful consideration of the following should be given before implementing any boundary change:

- The potential negative and positive impacts of any proposed boundary changes should be carefully evaluated.
- Boundary changes should be implemented only after appropriate discussions with affected parties and careful consideration of alternative solutions.
- Boundary changes should be made in the context of long term solutions, and short term solutions that do not address long term issues should be avoided.
- Natural or manmade barriers to safe and efficient transportation routes should be taken into consideration. This applies to pedestrian as well as vehicular transportation.
- It is important, especially at the elementary school level, that students are able to attend schools located close to their own neighborhood, and all students living in a neighborhood should attend the same schools if possible.