

PURCHASE AND SALE AGREEMENT

**by and
between**

**CITY OF BOTHELL,
a Washington municipal corporation,**

as "Seller"

and

**ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company**

as "Buyer"

Dated: June 24, 2010

TABLE OF CONTENTS

	Page
Section 1. Purchase and Sale.....	2
1.1 The Property	2
1.2 Boundary Line Adjustment	3
1.3 Easements	3
Section 2. Purchase Price.....	4
2.1 Purchase Price.....	4
2.1.1 Cash	4
2.1.2 Public Benefits.....	4
2.2 Earnest Money	4
2.2.1 Deposit.....	4
Section 3. Development Approvals and Charges.	5
Section 4. Escrow; Closing.....	5
4.1 Escrow	5
4.2 Closing.....	5
4.3 Buyer's Deliveries	6
4.4 Seller's Deliveries.....	6
4.5 Proof of Authority	7
4.6 Other Documents	7
4.7 Possession.....	7
4.8 Disbursement and Other Actions.....	7
4.8.1 Funds	7
4.8.2 Recording.....	7
4.8.3 Title Policy	8
4.8.4 Disbursement of Documents to the Parties.....	8
Section 5. Conditions Precedent to Closing.	8
5.1 Buyer's Conditions	8
5.1.1 Inspections	8
5.1.2 Title Policy	9
5.1.3 Representations and Warranties	9
5.1.4 Ecology Work Complete	9
5.1.5 BLA	9
5.1.6 Seller's Performance.....	10
5.1.7 Casualty and Condemnation.....	10
5.2 Seller's Conditions	10
5.2.1 Buyer's Performance	10
5.2.2 Buyer's Representations and Warranties.....	10
5.2.3 Acquisition of Property	10
5.2.4 BLA	10
Section 6. Evidence of Title.	10
6.1 Commitment.....	10
6.2 Issuance of Policy	11

Section 7.	Representations and Warranties	11
7.1	Seller	11
7.2	Buyer	12
7.3	Changes in Representations and Warranties	12
Section 8.	As Is	12
Section 9.	Environmental Issues	14
9.1	Contamination	14
9.2	Assignment and Buyer's Release, and Waiver of Claims	15
9.3	Seller's Release and Waiver of Claims	16
9.4	Rights Reservation	16
Section 10.	Intentionally Deleted	16
Section 11.	Costs and Expenses	16
Section 12.	Condemnation and Casualty	16
12.1	Condemnation	16
12.2	Casualty	17
Section 13.	Legal and Equitable Enforcement of this Agreement.	17
13.1	Default by Seller	17
13.2	Default by Buyer	18
Section 14.	Termination for Failure of Condition	18
Section 15.	Boulevard Frontage Improvements	18
Section 16.	Repurchase Options	19
16.1	Parking Parcel Repurchase Option	19
16.2	Property Repurchase Option	19
Section 17.	Notice	19
Section 18.	Time of Essence	20
Section 19.	Governing Law	20
Section 20.	Counterparts	20
Section 21.	Captions	20
Section 22.	Assignability	21
Section 23.	Binding Effect	21
Section 24.	Modifications; Waiver	21
Section 25.	Entire Agreement	21
Section 26.	Partial Invalidity	21
Section 27.	Survival	21
Section 28.	No Personal Liability of Officers or Directors.	21
28.1	Seller	21
28.2	Buyer	21

Section 29.	No Third Party Rights.....	21
Section 30.	Broker	21
Section 31.	Business Days.....	22
Section 32.	Attorneys' Fees.....	22

List of Exhibits

Exhibit A-1	Legal Description of Anderson Parcel
Exhibit A-2	Legal Description of Pool Parcel
Exhibit A-3	Legal Description of Parking Parcel
Exhibit B	Historic Easement
Exhibit C	Public Benefits Agreement
Exhibit D	Earnest Money Note
Exhibit E	Deed
Exhibit F	Bill of Sale
Exhibit G	Development Agreement
Exhibit H	Monitoring License
Exhibit I	List of Reports Delivered to Buyer
Exhibit J	Frontage Agreement
Exhibit K	Form of Access Easement
Exhibit L	Form of Yard License

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is dated as of June 24, 2010 (the "Effective Date") by and between the CITY OF BOTHELL, a Washington municipal corporation ("Seller"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Buyer"). This Agreement is made with reference to the following recitals:

Recitals

A. Seller is under contract to purchase approximately 18 acres in downtown Bothell (the "NSD Property") from Northshore School District No. 417 ("NSD") pursuant to a Purchase and Sale Agreement dated May 20, 2009 (the "NSD Purchase Agreement"). Seller desires to purchase this property to facilitate the cleanup and redevelopment of a core downtown area of Bothell (the "City") for private and public uses, including street improvements, that will contribute to the economic and cultural revitalization of the City. Closing is anticipated for that purchase on August 2, 2010.

B. The historic W.A. Anderson School Building (the "Anderson Building") and its related campus (the "Anderson Parcel") and the property on which the Northshore Costie/Ruiz Pool (the "Pool") (now closed) and related building (the "Pool Building") is located (the "Pool Parcel") are both part of the NSD Property. The Anderson Parcel and the Pool Parcel are not comprised of separate legal lots and a boundary line adjustment is required to legally separate them from the remainder of the NSD Property. The proposed legal description to be proposed for the boundary line adjustment for the Anderson Parcel is on Exhibit A-1 hereto and for the Pool Parcel is on Exhibit A-2 hereto.

C. Buyer desires to purchase the Property (as defined below) to redevelop it into a full service "McMenamins Complex" that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the "Project").

D. The façade of the Anderson Building has important historic, aesthetic, architectural and cultural character, which Buyer intends to preserve and maintain as part of the Project.

E. In August 2009, Seller solicited Requests for Concepts for redevelopment of the Property. Buyer was the only respondent to provide a detailed concept for redevelopment of the Property in McMenamins Response to the City of Bothell's Request for Concepts, September 16, 2009 (the "RFC Response"), which concept was consistent with Seller's goals for the Property and the City. Seller desires that this concept be ready for implementation soon after Seller acquires the Property so as to maximize the economic revitalization anticipated to be generated by the Project and to harmonize with the other redevelopment projects planned by Seller for the remainder of the NSD Property and other property in the area.

F. Upon its acquisition of the Property, Buyer intends to lease the Property to McMenamins Brew Pubs, Inc., a Washington corporation ("Brew Pubs"), who will develop the

Project on the Property in accordance with and subject to the terms and conditions of the Development Agreement (as defined in Section 3). Upon Project completion, Buyer intends to offer certain benefits to the public by causing Brew Pubs to operate the Project for a certain period of time after opening to the public.

G. A portion of the Property is currently used for surface parking (which portion is legally described on Exhibit A-3 attached hereto) (the "Parking Parcel"). The parties intend that Buyer's development of the Project will leave the Parking Parcel with surface parking to serve the Project. The Property, including the Parking Parcel, is generally depicted on Exhibit A-4 hereto.

H. The parcel adjacent to the north of the Pool Property (the "Gas Station Property") is the subject of a Consent Decree between the Washington State Department of Ecology ("Ecology") and the owner of the Gas Station Property as more particularly described on Exhibit I attached hereto (as the same may be amended, the "Consent Decree"). In the Consent Decree, Ecology indicated that it intends to perform the remediation of the Gas Station Property and the strip of land north of the Pool Building on the Pool Parcel, and in phone conversations with Buyer Ecology indicated it intends to commence that work in 2010 (the "Ecology Work"). The parties anticipate that the Ecology Work will be complete in the first quarter of 2011. The Ecology Work will be "Complete" for purposes of this Agreement when Ecology issues or approves as built drawings and a report documenting all aspects of facility construction, or comparable documents, for the Ecology Work pursuant to WAC 173-340-400(6)(b)(ii).

I. Pursuant to Resolution No. 1257 (2010), Seller has declared the Property surplus to its needs and has approved of the sale of the Property, all on the terms and conditions of this Agreement.

J. Seller wishes to sell, and Buyer wishes to buy, the Property subject to the terms and conditions of this Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing promises, and for other good and valuable consideration, receipt of which is hereby acknowledged, Seller and Buyer hereby agree as follows:

Section 1. Purchase and Sale.

1.1 The Property. In consideration of their mutual covenants set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase and accept from Seller, for the Purchase Price (as defined in Section 2.1) and on the terms and conditions set forth in this Agreement, the following:

1.1.1 That certain real property consisting of approximately 5.41 acres, more or less, more particularly described in Exhibits A-1 and A-2 attached hereto (the "Land").

1.1.2 All rights, privileges and easements appurtenant to the Land, including without limitation all minerals, oil, gas and other hydrocarbon substances on the Land, all

development rights, air rights, water, water rights and water stock relating to the Land, and any and all easements, rights-of-way and other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "Appurtenances").

1.1.3 All improvements and fixtures located on the Land, including, without limitation, such improvements as the Anderson Building, the Pool and Pool Building, together with all apparatus, equipment and appliances used in connection with the operation or occupancy of the Property, and facilities used to provide any utility services, heating, ventilation and air conditioning, garbage disposal or other services on the Land (collectively, the "Improvements").

Notwithstanding the foregoing, one building (an unaddressed maintenance vehicle shed) straddles the Anderson Parcel westerly property line and will be demolished by NSD before Closing and is not included in the sale. In addition, ownership of the skate park improvements located on the Parking Parcel shall remain with Seller, will be removed by Seller before Closing (with Seller to repair any damage from the asphalt resulting from such removal) and are not included in the sale.

1.1.4 All of the interest of Seller in any tangible or intangible personal property now or hereafter owned by Seller and used in the ownership, use and operation of the Real Property, and other rights relating to the ownership, use or operation of the Land, the Appurtenances or the Improvements (the "Personal Property").

The Land, the Appurtenance, the Improvements and the Personal Property are sometimes collectively referred to as the "Property."

1.2 Boundary Line Adjustment. Seller is preparing the documents to achieve the boundary line adjustment described in Recital B above (the "BLA") and will submit the same to the City's Department of Community Development in a timely manner to permit Closing by the Closing Date. Seller shall provide Buyer with copies of all documents comprising the application for the BLA and copies of any decisions by the City in its regulatory capacity concerning the BLA. If in the process of obtaining the boundary line adjustment approval, changes to the boundary lines described on Exhibits A-1 and A-2 are required, no such changes shall be made without the parties mutual agreement. If the proposed boundary lines change as a result of the boundary line adjustment process, and if such changes are mutually agreed to by the parties, then the parties will amend Exhibits A-1 and A-2 to reflect the revised lines and legal descriptions.

1.3 Easements. At Closing, the parties will subject the Property to the historic easement hereafter described, to be recorded following recording of the deed described in Section 4.4.1 below. The "Historic Easement" means a historic preservation easement to preserve, protect and maintain the Historic Features, which easement shall run for the benefit of Seller. The Easement shall be in substantially the form of Exhibit B attached hereto.

Further, at Closing, Seller and Buyer will grant each other a reciprocal ingress and egress easement for an approximately twenty foot strip along the southerly boundary of the Anderson Parcel and northerly boundary of the southerly adjoining property owned by Seller (ten feet on

either side of the boundary) in the form of Exhibit K attached hereto (the "Access Easement"). The Historic Easement and the Access Easement are collectively called the "Easements."

In addition, to the extent that there are existing utilities that cross the Property for which Seller requires an easement to serve other property or that crosses other property owned by Seller adjacent to the Property (excluding adjacent streets) for which Buyer requires an easement to serve the Property, Buyer and Seller will enter into utility easements therefor at Closing. Each party will notify the other of the need, if any, for such utility easements within 45 days after the Effective Date and also provide proposed forms thereof within such time. If the parties cannot agree on the forms of such utility easements before the end of the Contingency Period (as defined in Section 5.1.1), then Buyer shall be entitled to exercise its rights to terminate this Agreement under such section. Such utility easements shall be included in the definition of "Easements."

Section 2. Purchase Price.

2.1 Purchase Price. The purchase price for the Property is Seven Million and No/100 Dollars \$7,000,000.00 (the "Purchase Price"), payable in both monetary and nonmonetary consideration, as described below.

2.1.1 Cash. Not later than 10:00 a.m., Pacific time, on the Closing Date (as defined in Section 4.2), Purchaser shall deposit with the Escrow Holder (as defined in Section 2.2.1), via wire transfer, the cash portion of the Purchase Price consisting of Two Million Three Hundred Thousand and no/100 Dollars (\$2,300,000.00), together with Buyer's share of closing costs and prorations.

2.1.2 Public Benefits. At Closing, the parties and Brew Pubs shall enter into the Public Benefits Agreement in the form attached hereto as Exhibit C hereto (the "Public Benefits Agreement"). This agreement will require Buyer to operate the Pool and make it available without charge to Bothell residents, provide community conference room and meeting space, and maintain a community garden (as more particularly described in the Public Benefits Agreement, the "Public Benefits"), all for a period of 15 years from the date that all portions of the Project are opened to the public (the "Public Benefit Period") (or until terminated as provided in such agreement). Seller has evaluated the value of Public Benefits and determined that they have a value of Four Million Seven Hundred Thousand and no/100 Dollars (\$4,700,000.00).

2.2 Earnest Money.

2.2.1 Deposit. Upon execution of this Agreement, Buyer shall execute a promissory note in the amount of \$350,000.00 in the form attached hereto as Exhibit D (the "Earnest Money Note"). The Earnest Money Note shall be held by Chicago Title Insurance Company, 701 Fifth Avenue, Suite 3400, Seattle, Washington, by and through Scott Smouse, as the Escrow Holder hereunder ("Escrow Holder" or the "Title Company"). Within two (2) Business Days after satisfaction of Buyer's Inspection Condition set forth in Section 5.1.1 below, Buyer shall replace the Earnest Money Note with cash in the amount of \$350,000.00 to be held as the earnest money deposit (the "Deposit"). The Deposit shall be applicable to the Purchase Price. The Deposit shall be nonrefundable except in the event that one of Buyer's conditions set

forth herein is not satisfied within the time period applicable to such condition, Seller defaults hereunder or the transaction fails to close through no fault of the Buyer. The Deposit shall be held in an interest bearing account, with interest being included with the Deposit and going to the benefit of the party entitled to the Deposit at Closing or other termination of this Agreement.

Section 3. Development Approvals and Charges.

Following Closing, Buyer shall develop or cause the development of the Project on the Property as provided in and subject to the terms and conditions of the Development Agreement to be entered into by Seller, Buyer and Brew Pubs at Closing substantially in the form of Exhibit G attached hereto (the "Development Agreement"). Such development will be done substantially in accordance with the approved Concept Design Plan, the Schematic Design Plan, the Design Development Plan and the Construction Plans (collectively, the "Plans"), together with the Plans and Permits Schedule and Construction Schedule, all as defined, provided, and subject to the terms and conditions of, in the Development Agreement. The Development Agreement will provide for the construction of certain "Improvements", pursuant to the "Plans", as such terms are defined therein, to complete the Project. All Plans and contracts with architect, engineers and others preparing the Plans shall be assignable to Seller upon termination of this Agreement, to the extent in existence at the time of such termination, as provided in Section 14.

Section 4. Escrow; Closing.

4.1 Escrow. Buyer and Seller hereby appoint the Escrow Holder to hold the escrow and conduct the Closing under this Agreement. Buyer and Seller shall execute and deliver to Escrow Holder such instructions as may be necessary or convenient to implement the terms of this Agreement and close the transaction contemplated by this Agreement, provided that they are not inconsistent with the terms of this Agreement.

4.2 Closing. The consummation of the purchase and sale of the Property ("Closing") shall take place thirty (30) days after the Ecology Work is Complete, but not later than April 1, 2011 or such earlier date as the parties may mutually agree (as the same may be extended as provided below, the "Closing Date"), unless extended as hereinafter provided.

If NSD provides notice to Seller by July 1, 2010 that it will not be able to close under the NSD Purchase Agreement, and Seller by July 15, 2010 elects to extend the closing date under the NSD Purchase Agreement as permitted thereunder, then Seller shall give contemporaneous notice to Buyer that the Closing Date hereunder is extended for a like period of time, but to no later than September 30, 2011 (the "Extended Closing Date"). If so extended, the Extended Closing Date shall be included in the definition of "Closing Date" hereunder.

Further, if the Ecology Work is not Complete by March 1, 2011, but Ecology has entered into a contract for the Ecology Work, then the Closing Date shall be automatically extended to be thirty (30) days after the Ecology Work is Complete, but not later than July 1, 2011. Further again, if the Ecology Work is not Complete by June 1, 2011, but Ecology has entered into a contract for the Ecology Work, then the Closing Date shall be automatically extended to be thirty

(30) days after the Ecology Work is Complete, but not later than October 1, 2011. Each of such extended Closing Dates shall be included in the definition of "Extended Closing Date."

Seller shall monitor when the Ecology Work is Complete in relation to the Closing Date and provide written notice to Buyer when Seller learns that the Ecology Work is Complete so the parties can determine the Closing Date hereunder.

4.3 Buyer's Deliveries. At or before Closing, Buyer shall deposit into Escrow the following items:

4.3.1 funds transmitted by wire transfer in the amount of the cash portion of the Purchase Price (less the amount of the Deposit), together with Buyer's share of closing costs and prorations, as provided in this Agreement;

4.3.2 two executed counterparts of the Development Agreement (executed by Buyer and Brew Pubs) and the accompanying Guaranty executed by McMenamins, Inc.;

4.3.3 two executed counterparts of the Public Benefits Agreement (executed by Buyer and Brew Pubs) and the accompanying Guaranty executed by McMenamins, Inc.;

4.3.4 two executed counterparts of the Frontage Agreement (as provided in Section 15) (executed by Buyer and Brew Pubs) and the accompanying Guaranty executed by McMenamins, Inc.;

4.3.5 two executed counterparts of the Memorandum of Repurchase Option (as provided in Section 16) (executed by Buyer and Brew Pubs);

4.3.6 two executed counterparts of the Easements (executed by Buyer and Brew Pubs);

4.3.7 two executed counterparts of the Yard License (as provided in Section 15) executed by Buyer and Brew Pubs; and

4.4 Seller's Deliveries. At or before Closing, Seller shall cause to be delivered into Escrow the following documents:

4.4.1 a bargain and sale deed (the "Deed") to the Property in the form attached hereto as Exhibit E, properly executed and acknowledged on behalf of Seller, and an accompanying excise tax affidavit(s) (which Buyer shall also sign);

4.4.2 a bill of sale conveying the Personal Property in the form attached hereto as Exhibit F;

4.4.3 duplicate originals of an executed affidavit by Seller to the effect that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended;

4.4.4 two executed counterparts of the Development Agreement;

4.4.5 two executed counterparts of the Public Benefits Agreement;

4.4.6 two executed counterparts of the Frontage Agreement;

4.4.7 two executed counterparts of the Memorandum of Repurchase Option;

4.4.8 two executed counterparts of the Easements; and

4.4.9 two executed counterparts of the Yard License.

4.5 Proof of Authority. Buyer and Seller each shall deliver such proof of authority and authorization to enter into this Agreement and consummate the transaction contemplated by this Agreement, and such proof of power and authority of the individual(s) executing and delivering any instruments, documents or certificates to act for and bind such party, as reasonably may be required by the Title Company.

4.6 Other Documents. Buyer and Seller shall deliver such other documents or instruments as are reasonably required to consummate this transaction in accordance with this Agreement, including without limitation a real estate excise tax affidavit.

4.7 Possession. Seller shall deliver possession of the Property to Buyer at Closing.

4.8 Disbursement and Other Actions. At the Closing, Escrow Holder promptly shall undertake all of the following in the manner indicated:

4.8.1 Funds. Disburse all funds deposited with Escrow Holder by Buyer as follows:

(A) Disburse the cash portion of the Purchase Price to Seller, net the total amount chargeable to Seller, if any, as the result of prorations and credits pursuant to Section 11.

(B) Disburse the remaining balance of the funds, if any, to Buyer promptly following the Closing.

4.8.2 Recording. Cause the Deed, the Easements, the Development Agreement, the Public Benefits Agreement, the Frontage Agreement, the Memorandum of Repurchase Option and any other documents that the parties may mutually direct to be recorded in the Official Records of King County, Washington, and obtain conformed copies thereof for distribution to Buyer and Seller. If Buyer elects to record a memorandum of the lease between

Buyer and Brew Pubs, it shall be recorded after the documents listed above and shall provide that it is subordinate and subject to such documents.

4.8.3 Title Policy. Direct the Title Company to issue the Title Policy to Buyer in accordance with Section 6 hereof.

4.8.4 Disbursement of Documents to the Parties. Disburse to each party the counterpart documents per the instructions of the Parties.

Section 5. Conditions Precedent to Closing.

5.1 Buyer's Conditions. For Buyer's benefit (and waivable by Buyer, and only Buyer, at any time), the following are conditions precedent to Buyer's obligation to consummate this transaction described in this Agreement ("Buyer's Conditions Precedent") and must be satisfied or waived by the date or within the time period indicated:

5.1.1 Inspections. From the date hereof and for a period of ninety (90) days thereafter (the "Contingency Period"), Buyer, in its sole discretion and at its sole expense, has the opportunity to inspect and approve the physical condition and use of the Property, the economic feasibility of the Project and any other matters relating to the Property as Buyer elects to undertake (collectively, the "Inspections"), including without limitation, the availability of financing, access, utility services, zoning, engineering, soils and environmental conditions, status of neighboring projects and a survey (the "Inspection Condition"). The plan for any invasive testing of the Property (including Phase II environmental sampling) shall be subject to Seller's prior review and approval, not to be unreasonably withheld. The Inspection Condition must be satisfied or waived by the end of the Contingency Period. If Buyer does not provide written notice to Seller of its approval of this condition by the end of the Contingency Period, this Agreement shall terminate. If this Agreement does not terminate at the end of the Contingency Period, the Inspection Condition shall be considered to have been satisfied and the Deposit shall not be refundable to Buyer by reason of the Inspection Condition.

Further, following Seller's acquisition of the Property from NSD, until the Closing Date or earlier termination of this Agreement, Buyer and its authorized contractors, consultants, employees, lenders and agents shall have the right to enter onto the Property for purposes of inspecting the Property, conducting surveys or preparing plans and specifications for the Project. Such entry shall be pursuant to a Site Access Agreement between City, Buyer and Brew Pubs (the "City Site Access Agreement").

The Property is currently owned by NSD. Therefore, contemporaneously herewith, NSD, Seller and Buyer and Brew Pubs have entered into a Site Access Agreement (the "NSD Site Access Agreement") pursuant to which Buyer and its authorized contractors, consultants, employees and agents are permitted access to the Property at reasonable times during the period before Seller completes its acquisition of the NSD Property or earlier termination of this Agreement.. Buyer agrees to indemnify Seller and to hold Seller, Seller's agents and employees harmless from and against any and all losses, costs, damages, claims or liabilities including, but not limited to, construction, mechanic's and materialmen's liens and attorneys' fees, to the extent caused by Buyer's entry upon the Property, including the conduct of Buyer's Inspections, by

Buyer or its contractors, consultants, employees or agents under this Section 5.1.1. This indemnity shall survive Closing or termination of this Agreement.

Seller has delivered to Buyer copies of all reports about the physical condition of the Property that have been prepared at the request of Seller and any other reports about the physical condition of the Property that are in Seller's possession, which reports are listed on Exhibit I hereto (the "Reports"). Seller disclaims any responsibility for the accuracy of any information contained in the Reports, and Buyer acknowledges that it uses the Reports at its own risk. If this Agreement terminates or the purchase and sale fails to close, Buyer promptly shall return the Reports (and all copies thereof) to Seller.

As part of the Reports, Seller has delivered to Buyer W.A.R. Form No. D-3 (also known as NWMLS Form 17-C) disclosure statement required by RCW 64.06. To the maximum extent permitted by RCW 64.06, Buyer expressly waives its right to receive from Seller a seller disclosure statement as provided for in RCW 64.06, as amended by SSB-5895, Chapter 107, Laws of 2007 (the "Seller Disclosure Statement"). Seller and Buyer acknowledge that Buyer cannot waive its right to receive the environmental section of the Seller Disclosure Statement. Seller will provide the same, with only such environmental section completed by Seller, to Buyer within 5 days after the Execution Date. Nothing in the Seller Disclosure Statement creates a representation or warranty by Seller, nor does it create any rights or obligations in the parties except as set forth in RCW 64.06, as amended. Buyer is advised to use due diligence to inspect the Property to Buyer's satisfaction, subject to the terms of this Agreement, and Seller may not have Knowledge (defined below) of defects that careful inspection might reveal. Buyer specifically acknowledges and agrees that Buyer has no independent cause of action under the Seller Disclosure Statement and specifically and without limitation, Buyer will not have a remedy for economic loss resulting from negligent errors, inaccuracies or omissions on the Seller Disclosure Statement.

5.1.2 Title Policy. On the Closing Date, the Title Company shall be prepared to issue the Title Policy to Buyer as of the Closing Date in accordance with Section 6 of this Agreement.

5.1.3 Representations and Warranties. On the Closing Date, Seller's representations and warranties contained in Section 7.1 are true and correct, as if made as of the Closing Date, except as provided in Section 7.3.

5.1.4 Ecology Work Complete. Before the Closing Date, the Ecology Work shall be Complete.

5.1.5 BLA. Before the Closing Date, the BLA legally separating the Property from the remainder of the NSD Property is approved by City in its regulatory capacity, with all appeal periods expired and containing no conditions (new since the draft BLA provided to Buyer before the date hereof) that have not been approved by Buyer, such that the legal description of the Property is substantially as set forth on Exhibits A-1 and A-2 hereto, with such changes as the parties may mutually agree.

5.1.6 Seller's Performance. Seller has duly and timely performed each and every other material obligation to be performed by Seller under this Agreement before Closing.

5.1.7 Casualty and Condemnation. Buyer does not have the right to terminate this Agreement under Section 12 hereof.

5.2 Seller's Conditions. For Seller's benefit (and waivable by Seller, and only Seller, at any time), the following are conditions precedent to Seller's obligation to consummate this transaction ("Seller's Conditions Precedent") and must be satisfied or waived by the date or within the time period indicated:

5.2.1 Buyer's Performance. Buyer has duly and timely performed each and every material obligation to be performed by Buyer under this Agreement prior to Closing.

5.2.2 Buyer's Representations and Warranties. Buyer's representations and warranties set forth in Section 7.2 are true and correct as if made as of the Closing Date, except as provided in Section 7.3.

5.2.3 Acquisition of Property. Seller has acquired the Property from NSD not later than August 2, 2010 (as such date may be extended pursuant to the NSD Purchase Agreement).

5.2.4 BLA. Before the Closing Date, the BLA legally separating the Property from the remainder of the NSD Property is approved by City in its regulatory capacity such that the legal description of the Property is substantially as set forth on Exhibits A-1 and A-2 hereto, with such changes as the parties may mutually agree.

Section 6. Evidence of Title.

6.1 Commitment. Before the date hereof, Buyer has obtained a preliminary title commitment for a standard ALTA owner's policy of title insurance ("Commitment"), together with the underlying documents forming the basis of the exceptions, issued by the Title Company. Buyer may also obtain an ALTA/ACSM survey of the Property after the BLA is completed (the "Survey"). Buyer shall have until forty-five (45) days after the Effective Date to object to any matter disclosed in the Commitment or the Survey by giving written notice (the "Title Defect Notice") of the objection to Seller. If, after the initial issuance of the Commitment and giving of the initial Title Defect Notice, the Title Company amends the Commitment by adding a new exception thereto, or the Survey reveals any new matters affecting title, Buyer shall be entitled to give a Title Defect Notice to such exception within five (5) Business Days after receipt of the amendment. Any matters not referenced in a timely Title Defect Notice shall be deemed approved by Purchaser and are referred to herein as "Permitted Exceptions." Within ten (10) days after receiving a Title Defect Notice, Seller shall notify Buyer in writing of any disapproved exception(s) that Seller declines to cure. Thereafter Buyer shall have five (5) days to either waive the exception Seller has declined to cure (which thereafter shall constitute a Permitted Exception), or to terminate this Agreement.

Anything to the contrary in this Agreement notwithstanding, Seller shall have no affirmative obligation to expend any funds or incur any liabilities to cause any title exceptions to

be removed from the Commitment (or any update thereto) or insured over, except that Seller shall pay or discharge any lien or encumbrance voluntarily created, permitted or assumed by Seller (except current taxes and assessments) and not created by or resulting from the acts of Buyer or other parties not related to Seller.

6.2 Issuance of Policy. At Closing, the Title Company shall be prepared to issue an extended ALTA owner's policy ("Title Policy") in the amount of the Purchase Price insuring Buyer and subject only to (a) a lien for real property taxes, not then delinquent; (b) Permitted Exceptions approved or deemed approved by Buyer and as defined in accordance with Section 6.1; (c) matters affecting the condition of title to the Property created by or with the written consent of Buyer; (d) the Easements, the Public Benefits Agreement, the Memorandum of Repurchase Option and the Development Agreement; (e) the BLA; (f) the restrictive covenant provided for in Section 9.1 if approved pursuant to Section 9.1 (g) the utilities Easement to be recorded under NSD Purchase Agreement to the extent affecting the Property; and (h) any new utility easements, if any, as provided in and agreed to pursuant to Section 1.3.

Section 7. Representations and Warranties.

7.1 Seller. Seller represents and warrants that as of the date it executes this Agreement:

7.1.1 Seller has the legal power, right and authority to enter into this Agreement and all documents required to be executed by Seller under this Agreement and to consummate the transaction contemplated by this Agreement.

7.1.2 Except for the Consent Decree, to Seller's actual knowledge there are no pending or threatened (in writing) actions, suits, arbitrations, claims or proceedings, at law or in equity, adversely affecting the Property or to which Seller is a party by reason of Seller's contract to acquire ownership of the Property, including any eminent domain proceeding.

7.1.3 Except for the Permitted Exceptions, Seller has not entered into (or consented to under the NSD Purchase Agreement) any oral or written leases, subleases, rental agreements licenses, service or maintenance agreements or other contracts or agreements (written or oral) with respect to the ownership, operation, maintenance, use or occupancy with respect to the Property or any portion thereof that would encumber the Property or bind Buyer after Closing. Notwithstanding the foregoing, Seller intends to grant Ecology the right to access the Property for purposes of conducting the Ecology Work before Closing and, at the request of Ecology, to execute a restrictive covenant in connection with the Ecology Work as provided in Section 9.1 that may be recorded against the affected portion of Property (including the Pool Building) before Closing.

7.1.4 Except for notice with respect to the matters listed on Exhibit I attached hereto, Seller has not received any notices from any governmental authority with respect to any violation of any statute, ordinance or regulation with which the Property must comply.

Seller shall promptly notify Buyer of any new event or circumstance of which Seller has actual knowledge that occurs or arises after the date hereof and that makes any representation or

warranty of Seller under this Agreement untrue in any respect that would materially affect Buyer's development of the Property.

The term "actual knowledge" as used herein means the knowledge of Bob Stowe, City Manager of Seller. The foregoing representations and warranties shall be deemed made as of Closing except to the extent modified by a certificate delivered by Seller at Closing notifying Buyer of any changes arising prior to Closing.

7.2 Buyer. Buyer represents and warrants that as of the date it executes this Agreement and as of Closing:

7.2.1 Buyer has the legal power, right and authority to enter into this Agreement and the documents required to be executed by Buyer under this Agreement, and to consummate the transactions contemplated by this Agreement.

7.2.2 All requisite action (corporate, partnership, limited liability company or otherwise) has been taken by Buyer in connection with the entering into this Agreement and the documents required hereby to be executed by Buyer, and the consummation of the transactions contemplated hereby.

The foregoing representations and warranties shall be deemed made as of Closing except to the extent modified by a certificate delivered by Buyer at Closing notifying Seller of any changes arising prior to Closing.

7.3 Changes in Representations and Warranties. The foregoing representations and warranties are to be made by the parties as of the date hereof and as of the Closing Date. If a party making a representation and warranty (the "Representing Party") becomes aware of facts that would cause such representation and warranty to be untrue or incomplete, the Representing Party shall notify the other party (the "Nonrepresenting Party") in writing within five (5) Business Days after discovery of the new facts, and include copies of documents or materials, if any, related to such new facts. If a representation and warranty can no longer be accurately made by the Representing Party and this is (i) due to a state of facts first arising after the Effective Date, (ii) not intentionally caused by the Representing Party, (iii) such new state of facts materially and adversely affects a right, remedy or obligation of the Nonrepresenting Party under this Agreement, prevents a party from performing as required herein, or, in the case of Buyer, the materially increases the costs associated with Buyer's intended use of the Property or materially decreases value of the Property, then the Nonrepresenting Party may by written notice to the Representing Party elect to terminate this Agreement. In such event, Escrow Holder shall promptly return the Deposit to Buyer and neither party shall have any further obligations hereunder (except as provided in Section 5.1.1). Such election must be exercised within twenty (20) days after the Nonrepresenting Party receives the written notice of the new facts from the Representing Party as provided above. During such 20-day period, however, the parties shall negotiate in good faith about possible solutions to address the change in facts (e.g., proposals for courses of actions to cure the issue or price adjustments).

Section 8. As Is. BUYER ACKNOWLEDGES THAT THE PURCHASE PRICE HAS BEEN NEGOTIATED TO REFLECT THE CURRENT CONDITION OF THE

PROPERTY, "AS IS" AND "WHERE IS." BUYER REPRESENTS AND WARRANTS TO SELLER THAT:

(A) BUYER WILL HAVE DILIGENTLY EXAMINED AND INVESTIGATED TO BUYER'S FULL SATISFACTION THE PHYSICAL CONDITION OF THE PROPERTY, SELLER'S DISCLOSURE DOCUMENTATION (IF ANY) AND ALL OTHER MATTERS THAT IN BUYER'S JUDGMENT AFFECT BUYER'S USE OF THE PROPERTY AND BUYER'S WILLINGNESS TO ENTER INTO THIS AGREEMENT PRIOR TO CLOSING.

(B) EXCEPT AS SET FORTH IN THIS AGREEMENT AND ANY EXHIBITS ATTACHED, NEITHER SELLER NOR ANY REAL ESTATE BROKER, AGENT OR OTHER REPRESENTATIVE OF SELLER HAS MADE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING THIS TRANSACTION OR ANY FACT RELATING THERETO, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES CONCERNING THE PHYSICAL CONDITION OF THE PROPERTY, ACCESS, ZONING LAWS, ENVIRONMENTAL MATTERS, UTILITIES, OR ANY OTHER MATTER AFFECTING THE PROPERTY OR THE USE THEREOF. BUYER IS RELYING AND WILL RELY SOLELY ON SELLER'S REPRESENTATIONS AND WARRANTIES IN SECTION 7.1, SECTION 30, IN THE DEED AND BILL OF SALE AND BUYER'S OWN INSPECTIONS, TESTS, AUDITS, STUDIES AND INVESTIGATIONS.

(C) BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, ITS USE, COMPLIANCE WITH LAW OR OTHERWISE RELATING THERETO MADE OR FURNISHED BY SELLER, NSD OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, VERBALLY OR IN WRITING, EXCEPT THE REPRESENTATIONS AND WARRANTIES OF SELLER AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE DEED OR THE BILL OF SALE.

(D) IF BUYER HAS NOT EXERCISED ITS RIGHT TO TERMINATE THIS AGREEMENT AS PROVIDED HEREIN, BUYER SHALL ACCEPT THE PROPERTY "AS IS" AND "WHERE IS" WITH ALL FAULTS AT CLOSING AND, EXCEPT AS SET FORTH IN SECTION 7.1, SECTION 30, THE DEED OR THE BILL OF SALE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED OR STATUTORY OF ANY KIND WHATSOEVER BY SELLER, ANY REAL ESTATE BROKER, AGENT OR OTHER REPRESENTATIVES OF SELLER. IF BUYER PURCHASES THE PROPERTY UNDER THIS AGREEMENT, THEN BUYER SHALL BE DEEMED TO HAVE AGREED TO ACCEPT TITLE TO THE PROPERTY SUBJECT TO ANY ENVIRONMENTAL CONTAMINATION DISCOVERED ON THE PROPERTY BEFORE OR AFTER CLOSING AND TO HAVE WAIVED AND RELEASED ITS RIGHT TO RECOVER FROM SELLER, AND ITS COUNCIL MEMBERS, OFFICERS, ATTORNEYS, EMPLOYEES, AND AGENTS OF SELLER AND FROM ANY REAL

ESTATE BROKERS OR AGENTS REPRESENTING OR PURPORTING TO REPRESENT SELLER, ANY AND ALL DAMAGES, LOSSES, LIABILITIES, COSTS, OR EXPENSES WHATSOEVER (INCLUDING ATTORNEYS' FEES AND COSTS) AND CLAIMS THEREFOR, WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, THAT MAY ARISE ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE PHYSICAL CONDITION OF THE PROPERTY OR ANY LAW, ORDINANCE, OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED (42 U.S.C. SECTIONS 9601 ET SEQ.), THE RESOURCES CONSERVATION AND RECOVERY ACT OF 1976 (42 U.S.C. SECTIONS 6901 ET SEQ.), THE CLEAN WATER ACT (33 U.S.C. SECTIONS 466 ET SEQ.), THE SAFE DRINKING WATER ACT (14 U.S.C. SECTIONS 1401-1450), THE HAZARDOUS MATERIALS TRANSPORTATION ACT (49 U.S.C. SECTIONS 1801 ET SEQ.), THE TOXIC SUBSTANCE CONTROL ACT (15 U.S.C. SECTIONS 2601-2629), AND THE MODEL TOXICS CONTROL ACT, RCW 70.105D. SUCH WAIVER AND RELEASE SHALL NOT APPLY WITH RESPECT TO ANY RELEASE OF HAZARDOUS SUBSTANCES OR DAMAGE TO THE PROPERTY CAUSED BY SELLER, SELLER'S EMPLOYEES, OFFICERS, COUNCIL MEMBERS OR AGENTS THAT OCCURS AFTER CLOSING AND AFFECTS THE PROPERTY.

Section 9. Environmental Issues.

9.1 Contamination. The Property is subject to environmental contamination, as disclosed in the reports and disclosure materials listed on Exhibit I attached hereto (the "Environmental Reports"). The Property may have additional environmental contamination within its boundaries and/or emanating from the Property that has not yet been discovered or is otherwise unknown as to nature and extent, and it may be potentially subject to contamination in the future from offsite sources including (without limitation) the former gas station site adjacent to the northeast corner of the Property.

The parties intend that, as between Buyer and Seller, Buyer or its successors will be solely responsible for undertaking any and all remediation of the Property after Closing to the extent required by law. Seller will not enter into any agreements or orders before Closing with the state or federal environmental regulatory agencies that would bind Buyer or the Property. Notwithstanding the foregoing, the parties recognize that Ecology will be doing the Ecology Work on a portion of the Property and that in connection therewith: (a) Seller will be granting to Ecology a right of access to conduct the Ecology Work on the Property; (b) Seller may be required by Ecology to execute a restrictive covenant with respect to the Property pursuant to RCW 70.105D.030(g) that is designed to preserve the cleanup measures performed by Ecology and minimize exposure to residual contamination. Buyer shall have the opportunity to review and approve of such restrictive covenant before recording, which approval Buyer will not unreasonably withhold provided that such covenant will not unreasonably interfere with Buyer's intended use or development of the Property as described in the Development Agreement. If Buyer reasonably determines that such covenant would unreasonably interfere with Buyer's intended use or development of the Property as described in the Development Agreement and Buyer notifies Seller of such determination, then Seller may (a) withdraw the request for approval of the covenant; (b) further negotiate with Ecology to try to arrive at a covenant

reasonably acceptable to Buyer; or (c) record the covenant, in which case Buyer shall have five (5) days after it learns of such recording to either waive its prior objection to the covenant or terminate this Agreement by written notice to Seller (in which case the Deposit shall be returned to Buyer).

Further notwithstanding the foregoing, with respect to contamination on the westerly portion of the Anderson Parcel emanating from the former school bus barn use of the NSD Property (the "Bus Barn Contamination"), Seller shall remediate the same pursuant to an agreement that Seller is currently negotiating with Ecology. Seller shall complete such remediation pursuant to such agreement before the Closing Date. Seller anticipates that Ecology will require Seller to monitor that portion of the Property affected by the Bus Barn Contamination for several years after Seller completes the remediation. Therefore, Buyer will grant to Seller at Closing a license permitting Seller, its employees, consultants, contractors and agents may enter onto the westerly portion of the Anderson Parcel to monitor the soils and groundwater to the extent required by Ecology (the "Monitoring Activities"). The form of the "Monitoring License" is attached hereto as Exhibit H.

The term "Hazardous Substance(s)" as used in this Agreement includes without limitation (a) those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", "hazardous wastes" or "solid waste" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; and (d) chlorinated solvents. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions or hazardous substances. The term "Release" means any intentional or unintentional entry of any Hazardous Substance into the environment, including but not limited to the abandonment or disposal of containers of Hazardous Substances unless permitted by applicable regulations.

9.2 Assignment and Buyer's Release, and Waiver of Claims. Seller hereby irrevocably assigns to Buyer, effective as of Closing, any and all claims Seller may have against any third party or other party with respect to remediation of the Property or with respect to any Hazardous Substances located within or originating from the Property. The claims assigned hereunder include all claims arising under any Environmental Law or under common law. Seller agrees to cooperate with Buyer in good faith regarding such claims by providing Buyer with relevant documents and fact witnesses within Seller's control, if any, and Buyer agrees to reimburse Seller for reasonable out-of-pocket costs Seller incurs in providing documents and fact witnesses requested by Buyer.

Effective as of Closing, Buyer shall be deemed to have released and forever discharged Seller, Seller's employees, officers, council members and agents from any claim or cause of action that Buyer has or may have that is related to the presence or alleged presence of Hazardous Substances at, below, or emanating from the Property. This release of claims shall not apply with respect to any release of Hazardous Substances by Seller, Seller's employees, officers, council members and agents that occurs after Closing and affects the Property. Except as provided in Section 5.1.1 or the Site Access Agreement, Buyer shall have no duty to defend or indemnify Seller or any employees, officers, board members or agents of Seller from any claims, causes of actions or liabilities whatsoever asserted against Seller by a third party, including but

not limited to claims by a private party or governmental entity (other than Buyer) alleging loss or seeking contribution or any other relief under any Environmental Law or common law.

9.3 Seller's Release and Waiver of Claims. Effective as of Closing, Seller shall be deemed to have released and forever discharged Buyer and its officials, employees, agents, successors and assigns, from any claim or cause of action that Seller has or may have related to the presence or alleged presence of Hazardous Substances at, below, or emanating from the Property. This release of claims shall not apply with respect to any release of Hazardous Substances by Buyer, Buyer's employees, officers, board members and agents that occurs after Closing and affects property owned by Seller adjacent to or in the vicinity of the Property. Seller shall have no duty to defend or indemnify Buyer from any claims, causes of actions or liabilities whatsoever asserted against Buyer by a third party, including but not limited to claims by a private party or governmental entity alleging loss or seeking contribution or any other relief under any Environmental Law or common law.

9.4 Rights Reservation. Notwithstanding the foregoing, upon Closing, Buyer and Seller reserve all their rights and defenses against any non-parties to this Agreement, including but not limited to the right to seek cost recovery or contribution under the Washington Model Toxics Control Act, RCW 70.105D *et seq.*, the Comprehensive Environmental Response and Liability Act of 1980, as amended, 42 USC § 9601 *et seq.*, or any other Environmental Law, statute or common law, regarding the presence, investigation or cleanup of any Hazardous Substance on, at, under, around or migrating from the Property. In addition, notwithstanding the foregoing, the waivers and releases contained in this Section 9 shall not apply to the extent of Third Party Claims brought against one party alleging an action in violation of an Environmental Law with respect to the Property by the other party.

Section 10. Intentionally Deleted.

Section 11. Costs and Expenses. Seller shall pay (a) the premium for the standard portion of the Title Policy, (b) one-half (1/2) of all escrow fees and costs, and (c) Seller's share of prorations. Buyer shall pay for (d) the premiums for the extended coverage portion or additional title insurance coverage or endorsements, (e) all costs of the Survey, (f) any document recording charges, (g) one-half (1/2) of all escrow fees and costs, and (h) Buyer's share of prorations. Because Seller is a public entity, no excise tax will be due on the Sale. Buyer and Seller shall each pay their own legal and professional fees and fees of other consultants. The Property is currently exempt from property taxes, so there are no taxes to prorate. All property taxes and assessments arising from and after Closing shall be the sole responsibility of Buyer. All other costs and expenses shall be allocated between Buyer and Seller in accordance with the customary practice in the City of Bothell, County of King, State of Washington. If the transaction is terminated by either party on account of default by the other, the defaulting party shall pay all escrow and title costs billed by the Escrow Holder.

Section 12. Condemnation and Casualty.

12.1 Condemnation. If before the Closing Date any condemnation or eminent domain proceedings are initiated that might result in the taking of any part of the Property with a value in

excess of \$100,000 or the taking or closing of any right of access to the Property, (a "Material Taking"), Buyer may:

(a) terminate this Agreement by written notice to Seller whereupon the parties shall proceed in accordance with Section 14 for a termination that is not the fault of either party; or

(b) proceed with the Closing, in which event Seller shall assign to Buyer all of Seller's right, title and interest in and to any award made in connection with such condemnation or eminent domain proceedings.

Seller shall immediately notify Buyer in writing of the commencement or occurrence of any condemnation or eminent domain proceedings. If such proceedings would result in a Material Taking of any of the Property, Buyer shall then notify Seller, within thirty (30) days of Buyer's receipt of Seller's notice, whether Buyer elects to exercise its rights under clause (a) or clause (b) of this Section 12. Closing shall be delayed, if necessary, until the later to occur of (i) the Closing Date or (ii) five (5) Business Days after the expiration of the 30-day period. If Buyer fails to timely elect to proceed under this Section 12, then Buyer will be deemed to have elected clause (b) above. If a taking is not a Material Taking, the parties shall proceed in accordance with clause (b) above.

12.2 Casualty. Risk of physical loss to the Pool Building or the Anderson Building shall be borne by Seller prior to the Closing Date and by Buyer thereafter. In the event that either of such buildings is damaged by fire, flood, earthquake or other casualty in an amount in excess of \$250,000, Buyer may, at its option, elect not to acquire the Property. If Buyer does not so elect or if the damage involved is \$250,000 or less, Buyer shall close the purchase, in which event, to the extent that Seller has received insurance proceeds therefore, Seller shall assign to Buyer Seller's interest in all net insurance proceeds relating to such damage. In the event that damage in excess of \$250,000 occurs and Buyer elects not to purchase the Property, then this Agreement shall be terminated and the provisions of Section 14 applicable to a termination of this Agreement without fault by either party shall apply.

Section 13. Legal and Equitable Enforcement of this Agreement.

13.1 Default by Seller. This Agreement pertains to the conveyance of real property, the unique nature of which is hereby acknowledged by the parties. Consequently, if Seller refuses or wrongfully fails to convey the Property to Buyer as required by this Agreement, or otherwise defaults in its obligations hereunder, and provided that Buyer is not default in its obligations hereunder, Buyer shall have the right to elect one of the following remedies: (a) specific performance of this Agreement; or (b) to terminate this Agreement upon written notice to Seller and receive a return of the Deposit in which case neither party shall have any further obligations to the other hereunder, except for the indemnities expressly stated to survive hereunder and Section 32 concerning attorney's fees. In no event shall Seller be liable to Buyer for any damages to Buyer, other than the return of the Deposit if Buyer elects to proceed under (b) above.

13.2 Default by Buyer. If Buyer fails without legal excuse to complete the purchase of the Property, the Deposit shall be forfeited to Seller as liquidated damages as the sole and exclusive remedy available to Seller. If the Closing fails to occur by reason of Buyer's default, the parties agree that the damages that Seller would suffer thereby are difficult or impossible to determine. The parties agree that the deposit is a reasonable sum, considering all circumstances that exist on the date of this Agreement, including: (1) the relationship of the foregoing sum to the range of harm to Seller that could reasonably be anticipated; and (2) the anticipation that proof of actual damages would be impracticable or extremely difficult to determine. This provision is not intended to apply to obligations that survive a termination of this Agreement, including but not limited to the provisions of Section 5.1.1 above or the Site Access Agreement, and Seller shall be entitled to receive amounts due thereunder in addition to the Deposit.

Section 14. Termination for Failure of Condition. If any of the conditions set forth herein are not satisfied or waived by the date provided in such condition, the party entitled to benefit of such condition shall have the right to terminate this Agreement and the escrow provided for herein by giving written notice of such termination to the other party and to Escrow Holder. In the event of such termination, all escrow and title charges shall be divided equally between the parties and this Agreement will be of no further force and effect and the parties shall have no further liability except as expressly set forth in this Agreement for matters expressly stated to survive termination of this Agreement and in the Site Access Agreement. All documents delivered to Escrow Holder shall be returned to the depositing party, the Deposit shall be returned to Buyer and Buyer shall return to Seller all due diligence items delivered by Seller to Buyer.

In addition, upon any termination, Buyer shall provide and assign to Seller all plans, surveys, specifications, permits, permit applications and similar materials for the Project in Buyer's possession or control. Any architect or engineer preparing plans or specifications for the Project shall consent in its contract (or by separate letter) to such assignment to and use by Seller of such materials. Buyer shall not be required to assign any rights to Seller to use names or trademarks that are proprietary to McMenamins.

Section 15. Boulevard Frontage Improvements. As part of the development of the Project, the City will require certain frontage improvements fronting and serving the Property along State Route 527 (Bothell Way N.E.) (including the access roadway to the Property). City is in the process of making improvements for a large portion of SR 527 and would plan to construct the frontage improvements serving the Property as part of the larger project; these will not be complete in front of the Anderson Parcel as of the Closing Date. Therefore, at Closing Buyer and Seller will enter into a development agreement with respect to the frontage improvements in the form attached hereto as Exhibit J requiring a cash payment in the amount of \$339,000, when requested by City (but not before 2012) (the "Frontage Agreement").

Until such time as the City begins construction of the State Route 527 frontage improvements, Buyer shall have a nonexclusive license to use the grassy area between the eastern boundary of the Property and the western edge of the sidewalk fronting the Property for certain yard improvements. Such use shall be at the expense and risk of Buyer. The form of this "Yard License" is attached hereto as Exhibit L.

Section 16. Repurchase Options.

16.1 Parking Parcel Repurchase Option. During the Public Benefits Period, Seller shall have the option to repurchase the Parking Parcel (or such lesser portion as Seller may designate) on the following terms and conditions:

(i) Seller must provide in exchange for the Parking Parcel (or portion thereof) either (i) fee title to a parcel adjacent or within 300 feet of any boundary of the Anderson Parcel, which parcel is improved with either surface or structured parking with not fewer than 140 spaces (the "Replacement Parking"); (ii) Seller intends to construct structured parking on the Parking Parcel (or portion thereof) promptly following its re-acquisition and during such construction provides alternative parking for Buyer's patrons within 300 feet of any boundary of the Anderson Parcel; and further provides a permanent easement for parking in the completed parking structure to Buyer without charge for not less than the Replacement Parking; or (iii) Seller provides a permanent easement for parking in a new structured parking facility adjacent to or within 300 feet of any boundary of the Anderson Parcel for the Replacement Parking without charge. Seller or its parking operator shall manage any Replacement Parking to ensure that 140 spaces are available for use by Buyer, its employees and invitees. Seller agrees to consult with Buyer on the design of the parking structure so that Buyer can have a meaningful opportunity to provide comments on the harmonizing of such design with the Project.

(ii) No cash payment is required for the repurchase. Seller will pay the transfer tax, if any, title, escrow and closing costs.

(iii) Seller must exercise its option by written notice to Buyer sent not later than 180 days before the end of the Public Benefits Period.

(iv) Any alternative site to be provided by Seller under (i) above must be reasonably satisfactory to Buyer and its lenders, including as to the state of title, location, access and condition (including environmental condition). Buyer will be responsible for obtaining releases and reconveyances from its lenders with regard to any deed of trust or other financing encumbering the Parking Parcel.

(v) This repurchase option shall be binding on and run with the land. A memorandum of the option shall be recorded against the Parking Parcel at Closing (the "Memorandum of Repurchase Option"). Seller agrees to subordinate the repurchase option to Buyer's financing encumbering the Parking Parcel at Buyer's request.

16.2 Property Repurchase Option. As further described in the Development Agreement, Seller shall have the option to repurchase the Property if Buyer fails to commence construction of the Project by the Construction Start Date (as provided in the Development Agreement), on the terms and conditions therein.

Section 17. Notice. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

If to Seller:

City of Bothell
18305 – 101st Avenue NE
Bothell, WA 98011
Attention: Bob Stowe
Fax No.: (425) 486-2434
Phone: (425) 486-3256

With a Copy to:

K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Attention: Shannon J. Skinner
Fax No.: (206) 623-7022
Phone: (206) 623-7580

If to Buyer:

Anderson School Properties LLC
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 223-952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next Business Day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered on the date of the hand delivery. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

Section 18. Time of Essence. Time is of the essence of this Agreement.

Section 19. Governing Law. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Washington.

Section 20. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 21. Captions. The captions in this Agreement are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

Section 22. Assignability. Buyer shall not assign its rights under this Agreement without Seller's prior written consent.

Section 23. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns.

Section 24. Modifications; Waiver. No waiver, modification amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is sought.

Section 25. Entire Agreement. This Agreement contains the entire agreement, including all of the exhibits attached hereto, between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded hereby.

Section 26. Partial Invalidity. Any provision of this Agreement which is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality or enforcement of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force and effect.

Section 27. Survival. The representations and warranties in this Agreement shall survive the Closing of this transaction for a period of one year following Closing, and written notice of any claim by a party for a breach thereof must be delivered to the other party within such time period. In addition, the indemnities and agreements contained in Sections 5.1.1, 30 and 32 shall survive the termination or expiration of this Agreement and shall survive the Closing. Except for the foregoing provisions, all other agreements of the parties contained in this Agreement shall terminate upon Closing.

Section 28. No Personal Liability of Officers or Directors.

28.1 Seller. Buyer acknowledges that this Agreement is entered into by Seller as a municipal corporation and Buyer agrees that no individual officer, council member, employee or representative of Seller shall have any personal liability under this Agreement or any document executed in connection with the transactions contemplated by this Agreement.

28.2 Buyer. Seller acknowledges that this Agreement is entered into by Buyer as a limited liability company and Seller agrees that no individual officer, director, member or representative of Buyer shall have any personal liability under this Agreement. Nothing shall preclude personal liability under the guaranties described in the Development Agreement.

Section 29. No Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

Section 30. Broker. Seller and Buyer represent each to the other that each has had no dealings with any broker, finder or other party concerning Buyer's purchase of the Property.

Seller agrees to indemnify and hold Buyer harmless from all loss, cost, damage or expense (including reasonable attorney's fees) incurred by Buyer as a result of any claim arising out of the acts of Seller for a commission, finder's fee or similar compensation made by any broker, finder or any party who claims to have dealt with Seller. Buyer agrees to indemnify and hold Seller harmless from all loss, cost, damage or expense (including reasonable attorney's fees) incurred by Seller as a result of any claim arising out of the acts of Buyer for a commission, finder's fee or similar compensation or made by any broker, finder or any party who claims to have dealt with Buyer except Brokers. The indemnities contained in this Section 30 shall survive the Closing or the termination of this Agreement.

Section 31. Business Days. "Business Days" as used herein means any day on which banks in Bothell, Washington are required to be open for business, excluding Saturdays and Sundays. If any deadline hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

Section 32. Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement (including, without limitation, enforcement of any obligation to indemnify, defend or hold harmless), or because of an alleged dispute, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover the reasonable attorneys' fees, charges and other costs incurred in connection with that action or proceeding, in addition to any other relief to which it may be entitled.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last written by the signatures below.

BUYER:

SELLER:

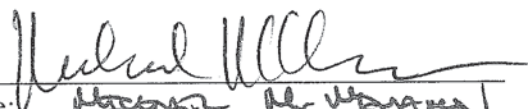
ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

CITY OF BOTHELL, a Washington
municipal corporation

By: _____

Name: _____

Its: _____


Name: MICHAEL McHENRY
Its: Sole Member AND Manager

By: _____

Name: _____

Title: _____

Seller agrees to indemnify and hold Buyer harmless from all loss, cost, damage or expense (including reasonable attorney's fees) incurred by Buyer as a result of any claim arising out of the acts of Seller for a commission, finder's fee or similar compensation made by any broker, finder or any party who claims to have dealt with Seller. Buyer agrees to indemnify and hold Seller harmless from all loss, cost, damage or expense (including reasonable attorney's fees) incurred by Seller as a result of any claim arising out of the acts of Buyer for a commission, finder's fee or similar compensation or made by any broker, finder or any party who claims to have dealt with Buyer except Brokers. The indemnities contained in this Section 30 shall survive the Closing or the termination of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last written by the signatures below.

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: _____
Name: _____
Its: _____

SELLER:

CITY OF BOTHELL, a Washington
municipal corporation

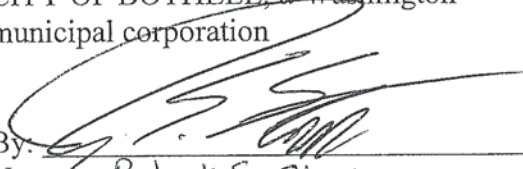
By:  _____
Name: Robert S. Stowe
Title: city manager

EXHIBIT A-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL B (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET; THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST 392.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR LESS.
(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT
NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS
OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-2

Legal Description of Pool Parcel

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 844.04 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 145.01 FEET TO THE SOUTH LINE OF SAID NORTH HALF AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°47'09" WEST ALONG SAID EAST LINE 246.00 FEET; THENCE SOUTH 88°51'39" EAST 179.06 FEET; THENCE NORTH 04°40'16" WEST 30.67 FEET; THENCE NORTH 49°32'21" WEST 21.16 FEET; THENCE SOUTH 85°35'12" WEST 3.19 FEET; THENCE NORTH 04°24'49" WEST 60.00 FEET; THENCE NORTH 85°35'12" EAST 30.00 FEET; THENCE NORTH 35°35'12" EAST 29.56 FEET; THENCE NORTH 04°51'47" WEST 39.64 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 244.75 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'17" A DISTANCE OF 46.51 FEET; THENCE NORTH 09°33'17" EAST 30.09 FEET TO THE SOUTH LINE OF SAID NORTH HALF; THENCE NORTH 88°39'20" WEST ALONG SAID SOUTH LINE 189.75 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 43,958 SQUARE FEET, MORE OR LESS. (BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-3

Legal Description of Parking Parcel

PARCEL B (AKA ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET; THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST 392.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR LESS. (BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-4

Depiction of Property and Parking Parcel

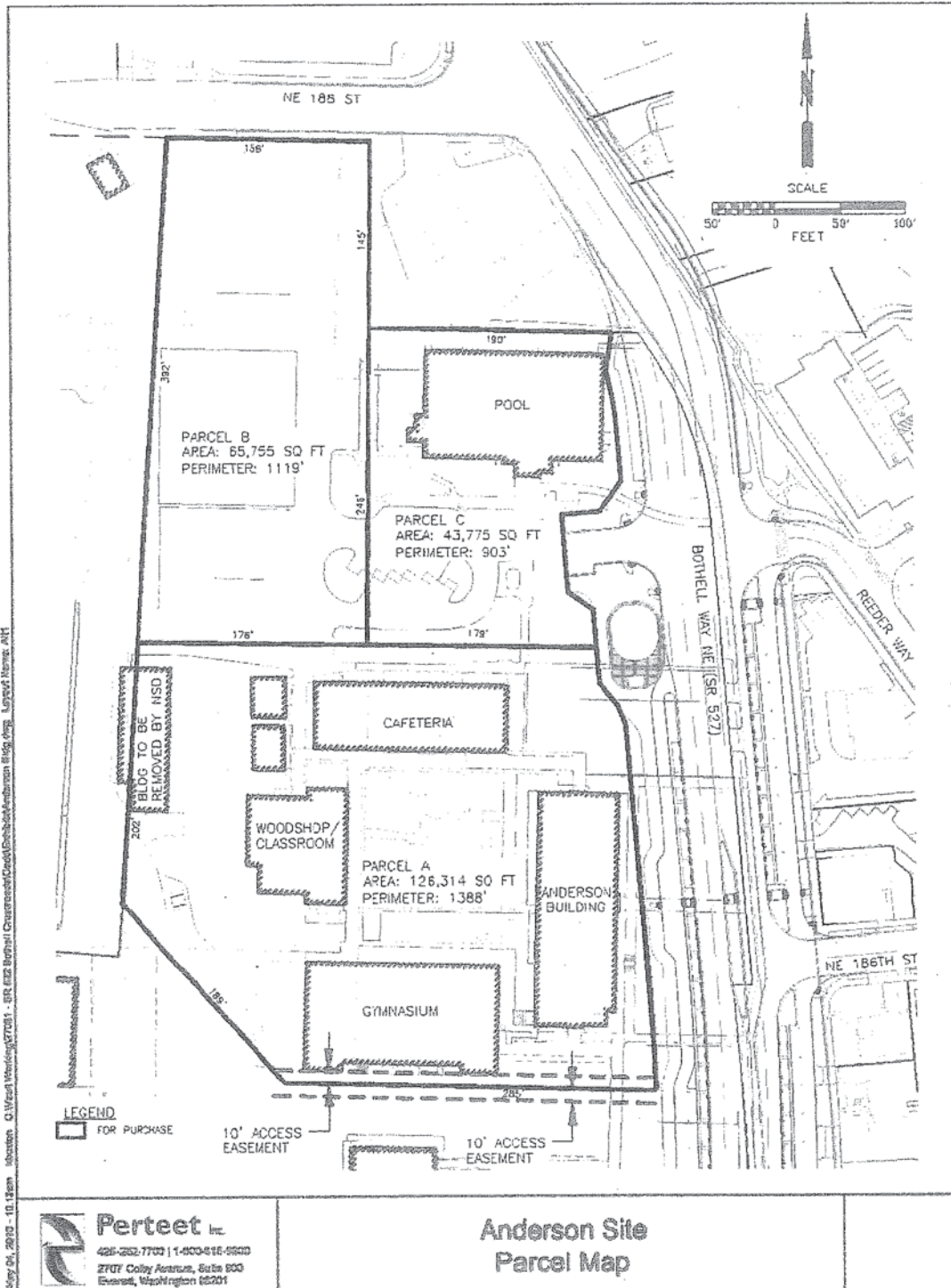


EXHIBIT B

Form of Historic Easement

WHEN RECORDED, RETURN TO:

**HISTORIC EASEMENT AGREEMENT
(Anderson Building)**

Grantor: Anderson School Properties LLC

Grantee: City of Bothell

Legal Description of Servient Property:

Abbreviated:

Additional legal at Exhibit A

Tax Parcel Number:

Legal Description of Benefitted Property:

Abbreviated:

Additional legal at Exhibit B

Tax Parcel Number:

This HISTORIC EASEMENT AGREEMENT (this “Agreement”) is made as of this _____ day of _____, 20____ (“Effective Date”), by ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company (together with its successors and assigns, “Owner”), for the benefit of the CITY OF BOTHELL, a Washington municipal corporation (“City”), with reference to the following facts:

RECITALS

A. Concurrently herewith, City is selling to Owner the real property described on Exhibit A attached hereto (the “Servient Property”), which property is improved with the historic W.A. Anderson School building (the “Anderson Building”). This Agreement is entered into pursuant to the purchase and sale agreement for such sale. Immediately following its acquisition, Owner is leasing the Anderson Building to McMenamins Brew Pubs, Inc., a Washington corporation (“Tenant”) for facilitate the redevelopment and operation of the Anderson Building.

B. The façade of the Anderson Building has important historic, aesthetic, architectural and cultural character. The “Historic Features” are exterior façade and surfaces of the Anderson Building. The Anderson Building is not currently listed on a historic register but may be at some time in the future.

C. City is the fee owner of the real property located in King County, Washington, legally described in the attached Exhibit B, which property is improved with City Hall (the “Benefited Property”). [*Alt: streets*]

D. The Servient Property is subject to the City of Bothell Municipal Code, the City of Bothell Comprehensive Plan and all other legal requirements affecting the Property (including those relating to historic registries if the Anderson Building is place on one) (collectively, the “Legal Requirements”).

E. Consistent with the Legal Requirements and as required by the terms of the sale of the Servient Property to Owner, Owner desires to grant an easement and establish covenants that will run with the Servient Property for the benefit of City, and its successors and assignees (collectively referred to herein as “Beneficiary”), to create a permanent historic preservation easement as set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, and for other good and valuable consideration the receipt of which is hereby acknowledged, Owner hereby grants and agrees as follows:

1. Historic Preservation Easement. Owner hereby conveys and grants to City a perpetual easement in the Servient Property for the purpose of preserving, protecting and maintaining the Historic Features in perpetuity (the “Easement”). The purpose of the Easement is to preserve, protect and maintain the historic, aesthetic and cultural character of the Historic Features on the Anderson Building.

2. Covenants.

2.1 Without the prior written consent of City (which shall not be unreasonably withheld or delayed by City in its capacity as Grantee of the Easement), no construction, alteration, remodeling or other activity shall be undertaken or permitted that would affect either the Historic Features or increase the height of the Anderson Building (including exterior façade and roof), alter or affect the exterior appearance of the Anderson Building (as depicted in the photographs attached hereto as Exhibit C), or adversely affect the structural soundness of the Anderson Building. Notwithstanding the foregoing, the reconstruction, repair, repainting, cleaning or refinishing of presently existing elements or parts of the Historic Features, damage to which has resulted from casualty, deterioration, wear or tear, shall be permitted without the prior approval of City, provided that such activities are performed in a manner that will not alter the appearance of the Historic Features. Further notwithstanding the foregoing, Owner may install a rooftop bar on the roof of the Anderson Building, so long as such improvements are in accordance with all Legal Requirements, including all applicable historic registry requirements. This restrictive covenant touches and concerns the land and shall run with the land.

2.2 The Anderson Building shall not be demolished with the prior written consent of City.

2.3 Owner agrees to maintain and repair the Anderson Building and the Historic Features, including repainting, cleaning and refinishing, in good and sound state of repair so that no more than minimal deterioration occurs in its present exterior appearance, subject to the casualty provisions in Section 3 below.

2.4 Nothing herein shall prevent Owner from altering the interior of the Anderson Building so long as such alterations do not alter the appearance and soundness of the Historic Features.

3. Casualty. If the Anderson Building is destroyed or damaged by fire or other casualty (excluding fire or other casualty caused by the intentional misconduct or criminal activity of Owner) to an extent that repair or reconstruction of the Anderson Building is not feasible economically (including by reason of the unavailability of sufficient insurance proceeds), in Owner's reasonable judgment, the restrictions and easement set forth herein may be extinguished with City's prior written consent, such consent not to be unreasonably withheld.

4. Inspection. Owner agrees that representatives of City or its agent or contractor shall be permitted at all reasonable times to inspect the Anderson Building. Inspections will normally take place from the street or exterior of the building. Nevertheless, City shall be permitted to enter and inspect the interior of the Anderson Building to insure maintenance of its structural soundness to support the Historic Features. Such inspection of the interior in connection with this Easement shall not occur more than annually in the absence of evidence of deterioration and shall be scheduled in advance with Owner at a mutually agreeable time (and Owner will not unreasonably withhold its consent in determining such time). This in no way limits other inspections required or permitted by law or regulation.

5. Indemnity. Owner shall indemnify, defend and hold City harmless from and against any and all liability, loss, damage, expense, actions and claims, including reasonable attorneys' fees and costs that may be asserted arising out of Owner's performance or default under this Agreement and the Easement and asserted against City, except in the case of the negligence or willful misconduct of City.

6. Benefited Parties. Notwithstanding anything contained herein to the contrary, this Section 6 shall govern which parties, both present and future, are intended to be included as Beneficiary under this Agreement and which parties may enforce the rights and remedies of Beneficiary hereunder.

6.1 City as Public Entity. City is a public entity and as such is charged with the enforcement of this Agreement in its entirety to further its public purpose mission, both as the owner of the Benefited Property and on behalf of itself or the public. Any successor entities of the City shall have all the rights and remedies of City hereunder, regardless of whether such successor owns any Benefited Property. Neither the public nor any party making claims on behalf of the public shall have any rights or remedies hereunder, it being solely the province of City to enforce this Agreement on behalf of the public.

6.2 Successors and Assigns of the Benefited Property. The rights to enforce the covenants and easements with regard to the Servient Property are appurtenant to the Benefited Property, touch and concern the land and shall run for the benefit of successive holders of ownership interests in the Benefited Property and to successors and assigns of City. A successor may succeed to the ownership of the Benefited Property; such successor shall have full enforcement rights hereunder.

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

8. Enforcement.

8.1 Right to Perform Work. If Owner fails to comply with any term of this Agreement regarding the preservation and maintenance of the Historic Features, then City, at its option, may upon thirty (30) days written notice (except in an emergency, where simultaneous notice shall be acceptable) to Owner perform such maintenance or other work as City deems necessary to cure the default of Owner ("Work"). Upon receipt of written statement from City, Owner shall promptly reimburse City for the reasonable cost of the Work actually incurred by such Beneficiary. Such reimbursement shall be due within ten (10) days of demand and shall bear interest at the rate of ten percent (10%) per annum from the date such costs are due until such costs are reimbursed. The rights of City hereunder shall include a reasonable right of access onto the Servient Property to perform the Work.

8.2 Default in General. In the event that Owner breaches any of the covenants contained in this Agreement, City shall be entitled to all remedies available at law or in equity, including but not limited to damages, specific performance and injunction. In the event of any litigation or other proceedings to enforce any provision of this Agreement, the prevailing party

shall be entitled to recover from the other party all costs, expenses and attorneys' fees incurred in such litigation or other proceeding (and any appeal therefrom and collection of any judgment or award rendered therein). Notwithstanding the foregoing, in no event shall any party be liable for consequential damages.

9. Governing Law. This Agreement shall be governed by the laws of the State of Washington.

10. Severability. If any one or more of the provisions of this 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 Agreement and all other applications of any such provision shall not be affected thereby.

11. Benefit; Runs with the Land. This Easement runs with the land and shall be a burden upon the Servient Property for the benefit of the Benefited Property.

12. Tenant Consent. Tenant executes this Agreement below to evidence its consent to the Easement and the provisions of this Agreement. The lease from Owner to Tenant shall be subject and subordinate to this Agreement and the Easement. Tenant shall redevelop, operate, manager, repair and restore the Anderson Building in compliance with the terms of this Agreement.

DATED as of the day and year written above.

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: _____
Name: _____
Its: Member

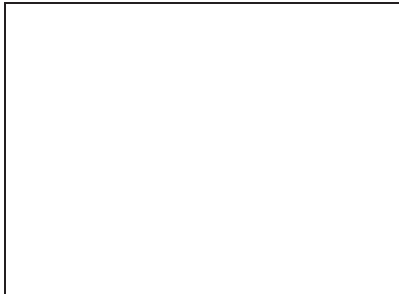
MCMENAMINS BREW PUBS, INC.,
a Washington corporation

By: _____
Name: _____
Its: _____

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 a member of Anderson School Properties LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2005.



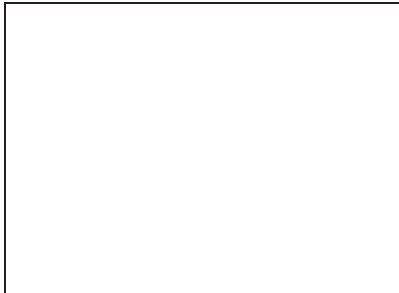
(Use this space for notarial seal)

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 a member of McMenamins Brew Pubs, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2005.



(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT A

To Historic Easement

Legal Description of Servient Property

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

EXHIBIT B

To Historic Easement

Legal Description of Benefited Property

EXHIBIT C

To Historic Easement

Exteriors Pictures of Anderson Building

EXHIBIT C

Form of Public Benefits Agreement

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

PUBLIC BENEFITS AGREEMENT

GRANTOR: ANDERSON SCHOOL PROPERTIES LLC AND
 MCMENAMINS BREW PUBS, INC.

GRANTEE: CITY OF BOTHELL

Legal Description:
 Abbreviated form:
 Additional legal on Exhibit A

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

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Purchase and Sale.....	2
1.1 The Property.....	2
1.2 Boundary Line Adjustment.....	3
1.3 Easements.....	3
Section 2. Purchase Price.....	4
2.1 Purchase Price.....	4
2.1.1 Cash.....	4
2.1.2 Public Benefits.....	4
2.2 Earnest Money.....	4
2.2.1 Deposit.....	4
Section 3. Development Approvals and Charges.....	5
Section 4. Escrow; Closing.....	5
4.1 Escrow.....	5
4.2 Closing.....	5
4.3 Buyer's Deliveries.....	6
4.4 Seller's Deliveries.....	6
4.5 Proof of Authority.....	7
4.6 Other Documents.....	7
4.7 Possession.....	7
4.8 Disbursement and Other Actions.....	7
4.8.1 Funds.....	7
4.8.2 Recording.....	7
4.8.3 Title Policy.....	8
4.8.4 Disbursement of Documents to the Parties.....	8
Section 5. Conditions Precedent to Closing.....	8
5.1 Buyer's Conditions.....	8
5.1.1 Inspections.....	8
5.1.2 Title Policy.....	9
5.1.3 Representations and Warranties.....	9
5.1.4 Ecology Work Complete.....	9
5.1.5 BLA.....	9
5.1.6 Seller's Performance.....	9
5.1.7 Casualty and Condemnation.....	10
5.2 Seller's Conditions.....	10
5.2.1 Buyer's Performance.....	10
5.2.2 Buyer's Representations and Warranties.....	10
5.2.3 Acquisition of Property.....	10
5.2.4 BLA.....	10
Section 6. Evidence of Title.....	10

6.1	Commitment.....	10
6.2	Issuance of Policy	11
Section 7.	Representations and Warranties.....	11
7.1	Seller	11
7.2	Buyer	12
7.3	Changes in Representations and Warranties	12
Section 8.	As Is	12
Section 9.	Environmental Issues	14
9.1	Contamination.....	14
9.2	Assignment and Buyer's Release, and Waiver of Claims.....	15
9.3	Seller's Release and Waiver of Claims.....	16
9.4	Rights Reservation	16
Section 10.	Intentionally Deleted.....	16
Section 11.	Costs and Expenses.....	16
Section 12.	Condemnation and Casualty.	16
12.1	Condemnation	16
12.2	Casualty.....	17
Section 13.	Legal and Equitable Enforcement of this Agreement.	17
13.1	Default by Seller	17
13.2	Default by Buyer	17
Section 14.	Termination for Failure of Condition.....	18
Section 15.	Boulevard Frontage Improvements.....	18
Section 16.	Repurchase Options	18
16.1	Parking Parcel Repurchase Option.....	19
16.2	Property Repurchase Option	19
Section 17.	Notice	19
Section 18.	Time of Essence	20
Section 19.	Governing Law.....	20
Section 20.	Counterparts	20
Section 21.	Captions	20
Section 22.	Assignability	20
Section 23.	Binding Effect	21
Section 24.	Modifications; Waiver	21
Section 25.	Entire Agreement	21
Section 26.	Partial Invalidity.....	21
Section 27.	Survival	21
Section 28.	No Personal Liability of Officers or Directors.....	21
28.1	Seller	21

28.2	Buyer	21
Section 29.	No Third Party Rights	21
Section 30.	Broker.....	21
Section 31.	Business Days	22
Section 32.	Attorneys' Fees	22
Section 1.	Definitions.....	8
Section 2.	Public Benefits	9
2.1	Generally	10
2.1.1	Community Meeting Room	10
2.1.2	Pool	11
2.1.3	Community Garden.....	11
2.2	Public Benefits Period.....	11
Section 3.	Buy-Out of Public Benefits.....	11
3.1	Optional.....	11
3.2	Mandatory	12
Section 4.	Non-Discrimination.....	12
Section 5.	Indemnity	13
Section 6.	Guaranty of Public Benefits	13
Section 7.	Certificate of Termination.....	13
7.1	When Developer Entitled to Certificate of Termination.....	13
7.2	Meaning and Effect of Certificate of Termination.....	13
Section 8.	Liens.....	14
Section 9.	Insurance	14
9.1	Insurance Requirements	14
9.1.1	Builders Risk.....	14
9.1.2	Commercial General Liability.....	14
9.1.3	Excess or Umbrella Liability	15
9.1.4	Property Insuranceev	15
9.2	Insurance Policies.....	15
9.3	Adjustments	16
Section 10.	Destruction or Condemnation	16
10.1	Total or Partial Destruction.....	16
10.2	Condemnation	16
Section 11.	Right to Assign or Otherwise Transfer	17
Section 12.	Default.....	18
Section 13.	Remedies	19
13.1	Remedies Upon Default	19
13.2	Copy of Notice of Default to Mortgagee	19
13.3	Mortgagee's Option To Cure Defaults.....	19

13.4	Provisions Surviving Termination	19
Section 14.	Representations and Warranties	19
Section 15.	Miscellaneous.....	20
15.1	Estoppel Certificates	20
15.2	Inspection	20
15.3	Entire Agreement	20
15.4	Modification	20
15.5	Successors and Assigns; Joint and Several	20
15.6	Notices.....	21
15.7	Execution in Counterparts.....	21
15.8	Waiver	22
15.9	Rights and Remedies Cumulative	22
15.10	Applicable Law; Jurisdiction	22
15.11	No Joint Venture	22
15.12	Consents	22
15.13	Conflict of Interest	22
15.14	Attorneys' Fees	22
15.15	Captions; Exhibits	23
15.16	Force Majeure	23
15.17	Fair Construction; Severability	23
15.18	Time of the Essence	24

PUBLIC BENEFITS AGREEMENT

THIS PUBLIC BENEFITS AGREEMENT (this "Agreement") is dated as of _____, 20____, and is between the CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Anderson"), and MCMENAMINS BREW PUBS, INC., a Washington corporation ("Brew Pubs") (Anderson and Brew Pubs are, collectively, "Developer").

RECITALS

A. Pursuant to that certain Purchase and Sale Agreement dated June_____, 2010 between City as seller and Anderson as buyer (the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property"). The parcel described on Exhibit A-1 (the "Anderson Parcel") is improved with the historic W.A. Anderson School Building (the "Anderson Building") and its related campus. The parcel described on Exhibit A-2 (the "Pool Parcel") is improved with the Northshore Costie/Ruiz Pool and related building (the "Pool Building").

B. Concurrently herewith, Anderson has leased the Property to Brew Pubs pursuant to a long term lease (the "Lease"). Brew Pubs is wholly owned by McMenamins, Inc., an Oregon corporation, which has common beneficial ownership with Anderson. The Lease requires that Brew Pubs develop and operate the Property as required by, and subject to the terms and conditions of, this Agreement and the Development Agreement.

C. As described in the Sale Agreement, City desires to foster the redevelopment of the Property, which is located in a key part of downtown Bothell, in a way that will contribute to the economic, cultural and recreational revitalization of the City. As described in the Development Agreement, Developer will be redeveloping the Property into a full service "McMenamins Complex" that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event and meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the "Project").

D. Developer has granted to City a Historic Preservation Easement to preserve, protect and maintain the historic façade and other features of the Anderson Building as more particularly described therein (the "Historic Easement"), which easement is being recorded contemporaneously herewith.

E. As part of the consideration for the purchase of the Property, as described in the Sale Agreement, Developer has agreed to provide certain public benefits as more particularly described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party in partial consideration for the purchase of the Property, and as a direct benefit to City and the general public and for other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

“Business Days” means any day on which banks in Bothell, Washington are required to be open for business, excluding Saturdays and Sundays. If any deadline hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

“Buy-Out” has the meaning given in Section 3.1 herein.

“Buy-Out Price” has the meaning given in Section 3.1 herein.

“Certificate of Termination” means a certificate issued by City to Developer pursuant to Section 7 of this Agreement.

“Community Garden” means the garden and pea patch located on the Anderson Parcel open to use by the community as more particularly described in Section 2.1.3 herein.

“Development Agreement” means the Development Agreement between the parties recorded contemporaneously herewith providing for the redevelopment of the Property into the Project.

“Early Termination Date” has the meaning given in Section 3.1 herein.

“Event(s) of Default” has the meaning given in Section 12 herein.

“Force Majeure” has the meaning given in Section 15.16 herein.

“Governmental Authorities” means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property and/or the management, operation, use, environmental cleanup or improvement thereof.

“Historic Easement” has the meaning given in Recital C.

“Historic Features” has the meaning given in the Historic Easement.

“Hospitality Project” means a facility that is operated with the key components of the Project, including, at a minimum, an approximately 70 room hotel, event and meeting space, restaurant and theater.

“Improvements” means all buildings, structures, improvements and fixtures now or hereafter placed or constructed in, under or upon the Property, including the to-be-renovated Anderson Building, other buildings to be built on the Property, the Pool and Pool Building, together with all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, public amenities, parking areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built by Developer on the Property.

“Legal Requirements” means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Property, the Project or its ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, The Americans With Disabilities Act of 1990, as amended (as interpreted and applied by the public agencies with jurisdiction over the Property), life safety requirements and environmental laws with respect to the handling, treatment, storage, disposal, discharge, use and transportation of hazardous substances.

“Mortgagee” means the holder of a first mortgage or deed of trust (“Mortgage”) encumbering Developer’s interest in any portion of the Property.

“Project” means the redevelopment of the Property to construct, renovate and operate the Improvements and features described in Recital B pursuant to the Plans (as described in the Development Agreement) and this Agreement.

“Project Documents” means this Agreement, the Sale Agreement, the Development Agreement, the Frontage Agreement and the Historic Easement.

“Public Benefits” has the meaning given in Section 2.1 herein.

“Public Benefits Period” has the meaning given in Section 2.2 herein.

“Restoration” has the meaning given in Section 3.2 herein.

“Sale Agreement” has the meaning given in Recital A above.

Section 2. Public Benefits.

2.1 Generally. Pursuant to this Agreement, for the Public Benefits Period, Developer will, at no cost to City, (i) either operate the Project in accordance with the Project Documents or, alternatively, ensure that a Hospitality Project is operated on the Property, in both cases in compliance with all Legal Requirements, and (ii) provide the Public Benefits to City and the public. City understands that as between Anderson and Brew Pubs, such parties intend that Brew Pubs shall be primarily responsible for providing the Public Benefits as provided herein. Nevertheless, Anderson is jointly and severally responsible for providing such Public Benefits as part of the consideration for its acquisition of the Property and thus both Anderson and Brew Pubs are parties to this Agreement.

The “Public Benefits” shall mean the provision without charge to City or the other users permitted below, including providing all necessary facilities and personnel as applicable, of each the following:

2.1.1 Community Meeting Room. Developer shall provide and make available to City for the use of the public a meeting room of approximately 750 square feet located in the one of the buildings to be constructed or renovated on the Property (the “Meeting Room”). The Meeting Room may be moved within the Project with the mutual agreement of the City and Developer. The Meeting Room shall be for the exclusive use as a community meeting room scheduled and programmed by City or its designee. Developer shall not be responsible for scheduling the Meeting Room use and the Meeting Room shall not be available for use by Developer as part of its commercial operation the Project. Developer shall make the Meeting Room available without charge to City or the public. Nevertheless, Developer may charge for catering or food service provided by Developer or its operator for Meeting Room use.

Developer shall be the sole caterer for Meeting Room use (unless Developer notifies City in writing that Developer no longer wishes to provide such catering). This shall not restrict Meeting Room users from bringing food for their own consumption in the Meeting Room (e.g., brown bag). City and Meeting Room users shall not be allowed to serve alcoholic beverages themselves; rather alcohol for Meeting Room use may only be provided by Developer, its licensed operator or a caterer in order to comply with alcohol licensing requirements. All Meeting Room use shall comply with applicable Legal Requirements.

Developer will provide at its expense routine janitorial service for the Meeting Room on a Monday-Friday or Sunday-Thursday basis. Persons using the Meeting Room shall be permitted to use the common area restrooms and passageways serving the Meeting Room. Nevertheless, Meeting Room users shall be responsible to clean up after their use of the Meeting Room and return it to the condition in which they found it.

City shall require users of the Meeting Room to sign license or use agreements in which users agree to indemnify City and Developer for claims arising out of use of the Meeting Room.

2.1.2 Pool. Developer shall operate or cause to be operated the Pool and Pool Building at least 98 hours per week and shall be open 7 days per week (including holidays). Bothell residents shall be entitled to use the Pool without admission charges during regular Pool operating hours. Nevertheless, Developer shall be entitled to close the Pool only for regularly scheduled and routine cleaning and maintenance, unless otherwise approved by City. Use of the Pool shall be subject to the normal health, safety and other rules of Developer applicable for all Pool Use. The Pool shall be available on a first come, first served basis (excluding users when Pool capacity is reached or limiting parts of the Pool at different times during the day for classes, events or restricted swim times). Free admission for Bothell residents does not include admission for groups, organizations or schools (which must make separate arrangements with Developer).

2.1.3 Community Garden. A Community Garden area of not less than 8,000 square feet shall be provided on the Anderson Parcel. Developer shall not be required to plant such area but rather make it available to Bothell residents for their use free of charge. Developer shall coordinate the use of the Community Garden or work with a community or nonprofit group to do such coordination. Either Developer or such community or nonprofit group shall maintain the Community Garden in a state available for use by gardeners and shall not allow it to become overgrown or unmanaged.

2.2 Public Benefits Period. The “Public Benefits Period” shall mean the period commencing on the latest date on which all components of the Project are open for public use (the “Commencement Date”) and ending fifteen (15) years later (on the 15th anniversary of the Commencement Date). The Commencement Date shall be the date on which all components of the Project are open for business to the public, which date shall be not later than the Opening Date under the Development Agreement. Promptly following the Commencement Date, City will record a notice in the form of Exhibit B attached hereto to give notice of the Commencement Date and the Public Benefits Period. The Public Benefits Period may be shortened or lengthened pursuant to Section 3 below.

Section 3. Buy-Out of Public Benefits.

3.1 Optional. By mutual agreement, the parties have determined that the Public Benefits have a value of a total of \$4,700,000 (\$26,112 per month), and are part of the purchase price for Anderson’s acquisition of the Property. At any time, either or both of the entities comprising Developer may “buy-out” the Public Benefits and terminate the Public Benefits Period and this Agreement (except for the provisions expressly stated herein to survive termination) in accordance with this section (the “Buy-Out”). To exercise its option to Buy-Out, Developer shall give prior written notice to the City of Developer’s election to Buy-Out the remainder of the Public Benefits Period and terminate this Agreement on a date not less than three (3) months in the future (the “Early Termination Date”). The price to Buy-Out the Public Benefits Period and terminate this Agreement is \$26,112 times the number of whole or partial months remaining in the Public Benefits Period as of the Early Termination Date (the “Buy-Out Price”). Developer shall

pay the Buy-out Price in cash to City not later than ten (10) days before the Early Termination Date set forth in Developer's notice. If Developer fails to timely make such payment, then this Agreement shall continue in full force and effect unless and until a Buy-Out occurs in the future.

3.2 Mandatory. In the event that any of the facilities, amenities or Improvements, including the Pool, Pool Building, Meeting Room or Community Garden, and the ancillary and common areas serving the same, are damaged or destroyed such that some or all of the Public Benefits can no longer be provided, and Developer elects not to rebuild, repair or restore the same (the "Restoration") (such election to be made within sixty (60) days following the date of damage or destruction), then Developer shall Buy-Out the remainder of the Public Benefits Period for the Buy-Out Price (calculated using the remainder of the Public Benefits Period from the date of casualty), such payment to be made not later than one hundred twenty (120) days following the damage or destruction. For this purpose only, if one but not both of the Meeting Room and Pool are damaged or destroyed and the Restoration does not occur as provided herein, Developer may separately Buy-Out such Public Benefits. The Buy-Out Price for the Meeting Room is \$906 per month, the Buy-Out Price for the Pool use is \$21,875 per month, and the Buy-Out Price for the Community Garden is \$3,331 per month.

If Developer elects to complete the Restoration so that the Public Benefits can be provided, Developer shall commence the Restoration within ninety (90) days after the casualty (or as soon thereafter as possible after all necessary permits and governmental approvals have been obtained) and work diligently to complete the same. The Public Benefits Period shall be extended for the same period that the Public Benefits are unavailable from the date of casualty.

In addition, if a Hospitality Project is no longer operated on the Property (other than for casualty as described above) during the Public Benefits Period and such non-operation continues for more than thirty (30) days after written notice thereof from City to Developer, or if for any reason (or than for casualty as described above) Developer does not provide all of the Public Benefits and such failure continues for more than thirty (30) days after written notice thereof from City to Developer, then Developer shall Buy-Out the Public Benefits for the Buy-Out Price. Such payment shall be made within thirty (30) days after written notice from City. The period used for calculating the Buy-Out Price shall commence on the last day that the Hospitality Project or a significant part thereof ceased to operate or all the Public Benefits were no longer provided.

Section 4. Non-Discrimination. In the implementation of this Agreement, including operation of the Project, Developer shall not discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of this nondiscrimination covenant, subject to the cure provisions of Section 12 hereof, City shall have the right to exercise all of its remedies for default hereunder.

Section 5. Indemnity. Developer shall indemnify, defend and hold City and its employees, officers and council members, harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Developer providing the Public Benefits, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors, assigns or invitees, on or with respect to the Property. City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is caused by the gross negligence or willful misconduct of City as to its own conduct. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, an indemnitee hereunder shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of such indemnitee. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding an indemnitee is made a party, such indemnitee shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by, counsel of its own choosing. To the extent indemnitee is indemnified under this section, Developer shall bear the cost of indemnitee's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without City's written approval, not to be unreasonably withheld.

Section 6. Guaranty of Public Benefits. Contemporaneously with the execution of this Agreement, Developer shall furnish an irrevocable and unconditional guaranty of performance by McMenamins, Inc. (the parent of Brew Pubs), in the form of Exhibit C attached hereto, guaranteeing the full and faithful performance of the obligations of Developer as required by this Agreement. This guaranty shall terminate upon issuance by City of the Certificate of Termination described in Section 7. Neither the provisions of this Section nor any guaranty accepted by City pursuant hereto, nor any damages or other amounts recovered by City thereunder, shall be construed to excuse faithful performance by Developer or to limit liability of Developer under this Agreement.

Section 7. Certificate of Termination.

7.1 When Developer Entitled to Certificate of Termination. Upon termination of the Public Benefits Period (whether by its expiration or termination as a result of a Buy-Out), City will furnish Developer with a recordable Certificate of Termination, substantially in the form attached hereto as Exhibit D hereto.

7.2 Meaning and Effect of Certificate of Termination. Issuance by City of a Certificate of Termination shall terminate this Agreement and each of its provisions except for the provisions described in Section 13.4 below that expressly survive termination of this Agreement. Any party thereafter acquiring or leasing all or any portion

of the Property shall not (because of such purchase or lease) have any obligation whatsoever under this Agreement.

Section 8. Liens. Except in connection with any Mortgages approved pursuant to the Development Agreement and refinances thereof and the documents recorded contemporaneously with the closing of Anderson's acquisition of the Property, in no event shall Developer, prior to recording of the Certificate of Termination, cause or permit any lien to attach to the including but not limited to mortgages, deeds of trust, mechanic's liens, attachment liens, judgment liens, execution liens, utility liens, security interests or encumbrances. Notwithstanding the foregoing, Developer may grant easements and similar encumbrances with City's prior written consent, which consent will not be unreasonably withheld. Developer shall promptly pay and discharge all liens not permitted hereunder. Nothing contained in this Agreement shall be construed as the consent or request of City, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment to the Project (or any part thereof). NOTICE IS HEREBY GIVEN THAT CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER, OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) THROUGH OR UNDER DEVELOPER.

Section 9. Insurance. The requirements of this Section 9 shall apply only until the Certificate of Termination is recorded.

9.1 Insurance Requirements. Developer shall maintain and keep in force insurance with the following requirements and maintain such additional insurance as required by Developer's Mortgagee.

9.1.1 Builders Risk. During periods of major construction on the Property, Builders Risk insurance covering interests of City, Developer, its contractor, subcontractors, and sub-subcontractors in the Project work. Builders Risk insurance shall be on a all-risk policy form (and may be a separate policy or included in the property insurance policy) and shall insure against the perils of fire and extended coverage and physical loss or damage including flood (if the Property is in a special flood hazard area and flood insurance is available), earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of \$75,000 for each occurrence. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Builders Risk insurance shall be written in the amount of the completed value of the Project with no coinsurance provisions. The Builders Risk insurance shall be maintained until City issues the Certificate of Termination.

9.1.2 Commercial General Liability. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence and a \$2,000,000 general aggregate limit. The Commercial General Liability insurance

shall be written on ISO occurrence form CG 00 01 (or other equivalent form) and shall cover liability arising from premises, operations, stop gap liability, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract. Developer's Commercial General Liability insurance shall be endorsed to name City as an insured using ISO Additional Insured endorsement CG 20 26 07 04 – Additional Insured Designated Person or Organization or a substitute endorsement providing equivalent coverage.

9.1.3 Excess or Umbrella Liability. Developer shall provide Excess or Umbrella Liability coverage at limits of not less than \$5,000,000 per occurrence and annual aggregate. This excess or umbrella coverage shall apply, at a minimum to both the Commercial General Liability insurance required herein and to any Automobile Liability coverage or any combination thereof.

9.1.4 Property Insurance. Until the Certificate of Termination is recorded, Developer shall carry property insurance covering the Project including all Improvements. Such insurance shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Causes of Loss Form CP 10 30. Developer shall also purchase and maintain earthquake and flood (if any of the buildings are located in a special flood hazard area and flood insurance is available), and equipment breakdown insurance. The property, earthquake and flood insurance shall be written in an amount equal to at least one hundred percent (100%) of the replacement cost of all Improvements. Equipment breakdown insurance shall be written with at least a \$1,000,000 equipment breakdown limit. Developer shall be responsible for payment of any deductibles under said insurance policies and any costs of restoration resulting from any uninsured or underinsured losses.

9.2 Insurance Policies. Insurance policies required herein:

9.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

9.2.1.1 The companies must be rated no less than "A," as to general policy holders rating and no less than "X" as to financial category in accordance with the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Incorporated.

9.2.1.2 Developer's insurance coverage shall be primary insurance as respects City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be excess of the Developer's and Contractor's insurance and shall not contribute with it.

9.2.2 Each such policy or certificate of insurance mentioned and required in this Section 12 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and

City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

9.2.3 The certificates of insurance and insurance policies shall be furnished to Developer and City prior to commencement of construction under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required for strict compliance with this Section 9.

9.2.4 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 12 of this Agreement, without cure or grace period. In addition to any other legal remedies, City at its sole option after written notice may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to City.

9.3 Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as Developer and City may mutually determine.

Section 10. Destruction or Condemnation.

10.1 Total or Partial Destruction. If the Improvements are totally or partially damaged or destroyed at any time during the Public Benefits Period, Developer shall either (a) conduct the Restoration such that Developer can continue to provide the Public Benefits, such decision to be made within sixty (60) days after the damage or destruction and such Restoration to commence within ninety (90) days after the damage or destruction (or as soon thereafter as all necessary permits and governmental approvals needed to commence the Restoration have been obtained); or (b) Buy-Out the remainder of the Public Benefits as provided in Section 3.2 above. In any event, Developer shall at its cost secure the Property, clear the debris and generally make the Property as safe and attractive as practical given the circumstances.

If for any reason the Improvements are not reconstructed as provided above or Developer does not complete the Buy-Out, without limiting any other rights or remedies that City has, no further development of the Property can occur without the prior approval of City. This Agreement shall continue to restrict future use and development of the Property during the Public Benefits Period (as the same may be extended as provided herein) and Developer or any successor of Developer shall obtain City's approval of the redevelopment plan before the Property is redeveloped. Any redevelopment plan shall include a plan to have a Hospitality Project operating on the Property, at a minimum.

10.2 Condemnation. If during the term of this Agreement the one or more of portions of the Property that provide the Public Benefits are taken or condemned

in the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Developer can no longer provide any of the Public Benefits under this Agreement, this Agreement shall terminate, as to the part taken only, on the date when possession of such portion of the Property that provides the Public Benefits is so taken is acquired by the condemning authority. No Buy-Out Price is required in connection with a condemnation. This Agreement shall continue in full force and effect as to any parts of the Property not taken.

Section 11. Right to Assign or Otherwise Transfer. Developer represents that Anderson's purchase of the Property is intended for long term development and operation and not for speculation. During the term of this Agreement, any transfers of the Property shall be made expressly subject to the terms, covenants and conditions of this Agreement.

11.1 Before issuance of a Certificate of Termination, Developer will not transfer the Property or any part thereof without the prior written consent of City to the proposed transfer and transferee, which consent shall be at the sole discretion of City. Notwithstanding any provision of this Section 11, (a) transfers of the Property to a Mortgagee and transfers of equity interests approved pursuant to the Financing Plan (as provided in the Development Agreement) shall be permitted; (b) transfers of beneficial ownership in Developer that do not individually or cumulatively result in a change of more than 49% of the beneficial ownership of Developer so long as, following such transfer(s), some or all of the principals, officers and key employees of McMenamins, Inc. existing as of the date of the signing the Sale Agreement continue to control Developer and the day-to-day operation of the Project; and (c) City shall not unreasonably withhold its consent if the proposed transferee is an operator of a Hospitality Project (which need not include a theater for this purpose) with demonstrated expertise, excellent reputation, not less than 10 years of experience in the ownership and construction of similar projects similar to the Project and a net worth sufficient, in City's reasonable judgment, to perform all of Developer's obligations hereunder and to operate the Project in a manner that provides the Public Benefits as required hereunder.

"Transfer" as used herein includes any sale, conveyance, transfer, ground lease or assignment (excluding the lease from Anderson to Brew Pubs), whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer, or any transfer of a controlling interest in the management of Developer. In addition, "Transfer" includes any sale or any transfer of direct or indirect interests in Developer or any of its constituent entities, other than transfers of minority interest that do not individually or in the aggregate result in the change of control or management of Developer, the Property or the Project.

11.2 If City approves of a transfer under Section 11.1, Developer shall deliver to City (a) a copy of the document evidencing such transfer, including a suitable

estoppel agreement(s), and (b) an assumption of all obligations of Developer under this Agreement in form reasonably satisfactory to City.

11.3 The transferee (and all succeeding and successor transferees) shall succeed to all rights and obligations of Developer under this Agreement, including any unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the written consent and release of City.

11.4 If Developer transfers the Property during the term of this Agreement without the prior written consent of City (other than transfers that do not require City's consent hereunder), then the Buy-Out Price shall be immediately due and payable. This obligation shall be a lien on the Property from the date of such unpermitted transfer, but shall be subordinate to a first Mortgage.

Section 12. Default. Developer's failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

12.1 The failure of Developer to provide all of the Public Benefits for the Public Benefits Period.

12.2 The failure of Developer to operate the Project or, at a minimum, a Hospitality Project, for the Public Benefits Period.

12.3 The failure of Developer to diligently restore the Project following a casualty in a manner sufficient to provide the Public Benefits, or alternatively to pay the Buy-Out Price within one hundred twenty (120) days after the casualty, as provided in Section 3.2.

12.4 The failure of Developer to comply with Section 8 or Section 9 of this Agreement or to satisfy the indemnities set out in this Agreement.

12.5 The making by Developer of an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

12.6 The appointment of a receiver or trustee of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or insolvency law which not dismissed or stayed by the court within sixty (60) days after such filing.

12.7 Any sale, assignment or other transfer in violation of Section 11 of this Agreement.

The happening of any of the above described events shall be an Event of Default hereunder. Notwithstanding the foregoing, except in the case of Section 12.5, 12.6, and 12.7 above as to which notice but no cure period shall apply, Developer shall have thirty (30) days following written notice from City to cure such default (or if such default cannot reasonably be cured within thirty (30) days, if Developer fails to commence such cure within 30 days and thereafter diligently pursue such cure to completion within (120) days).

Section 13. Remedies.

13.1 Remedies Upon Default. If an Event of Default occurs, Developer shall be liable to City for the Buy-Out Price (calculated from the date of the Event of Default) as the measure of damages incurred by City, plus reasonable attorneys fees and costs incurred by City in connection with Developer's default and enforcing City's remedies hereunder. Developer's liability shall not exceed the Buy-Out Price plus attorneys' fees and costs of enforcement.

City shall also be entitled to commence an action on the Guaranty following an Event of Default.

13.2 Copy of Notice of Default to Mortgagee. Whenever City shall deliver any notice or demand to the Developer with respect to any breach or default by Developer in its obligations or covenants under this Agreement, City shall also forward a copy of such notice or demand to each Mortgagee at the last address of such holder shown in the records of City.

13.3 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to the Restoration of the Project, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the Restoration, provided that the Mortgagee notifies City in writing of its intention to complete the Restoration in accordance with this Agreement.

13.4 Provisions Surviving Termination. The provisions of Section 5 shall survive any termination of this Agreement.

Section 14. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full right, power and authority to enter into this

Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 15. Miscellaneous.

15.1 Estoppel Certificates. City and Developer shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee, assignee or subtenant designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

15.2 Inspection. Until the Certificate of Termination is recorded, City shall have the right, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect on a confidential basis the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. City shall have the further right at all reasonable times to inspect the Property to determine compliance with the provisions of this Agreement. Further, City shall have all rights in its regulatory capacity to inspect the Property and construction activity.

15.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

15.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

15.5 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by any of the parties hereto except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law.

The obligations of Anderson and Brew Pubs, and of any other party who succeeds to their interests hereunder or in the Property, shall be joint and several.

15.6 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To City:	City of Bothell 18305 – 101 st Avenue NE Bothell, WA 98011 Attn: Bob Stowe
With a copy to:	K&L Gates LLP 925 Fourth Avenue Suite 2900 Seattle, WA 98104 Attn: Shannon Skinner
To Developer:	Anderson School Properties LLC McMenamins Brew Pubs, Inc. c/o McMenamins 430 N. Killingsworth Portland, OR 97217 Attn: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

15.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

15.8 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

15.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

15.10 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

15.11 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement 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, except as may be otherwise expressly provided herein.

15.12 Consents. Whenever consent or approval by City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of Bothell.

15.13 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

15.14 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including,

without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys,' paralegals, accountants,' and other experts' fees and all other fees, costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law.

15.15 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

15.16 Force Majeure. In addition to specific provisions of this Agreement, Developer shall not be deemed to be in default with regard to performance hereunder where delays in performance are due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act or delays in acting of any public or governmental entity or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not a cause beyond the control or without the fault of Developer ("Force Majeure").

Except for Force Majeure events arising by reason of damage, destruction or other casualty (which are addressed in Sections 3.2 and 10), for any Force Majeure delay that will cause provision of Public Benefits to be suspended in whole or in part for more than fifteen (15) days, Developer will keep City informed about the cause and nature of such delay and the progress in achieving a return to the provision of the Public Benefits required hereunder. In the event of such a delay exceeding fifteen (15) days, the Public Benefits Period will be extended for the same number of days. Times of performance under this Agreement may also be extended in writing by City and Developer.

15.17 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed

against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

15.18 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

[signatures on following page]

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

DATED this _____ day of _____, 20____.

CITY OF BOTHELL, a Washington
municipal corporation

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

MCMENAMINS BREW PUBS, INC., a
Washington corporation

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 _____ of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(Use this space for notarial 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 Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



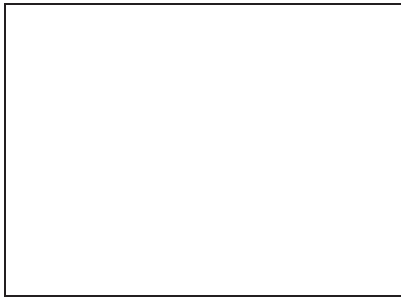
(Use this space for notarial seal)

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 McMenamins Brew Pubs, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20_____.



(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT A-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL B-- (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE

CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN
157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION;
THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET;
THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST
392.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR
LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE
ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO.
20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-2

Legal Description of Pool Parcel

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 844.04 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 145.01 FEET TO THE SOUTH LINE OF SAID NORTH HALF AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°47'09" WEST ALONG SAID EAST LINE 246.00 FEET; THENCE SOUTH 88°51'39" EAST 179.06 FEET; THENCE NORTH 04°40'16" WEST 30.67 FEET; THENCE NORTH 49°32'21" WEST 21.16 FEET; THENCE SOUTH 85°35'12" WEST 3.19 FEET; THENCE NORTH 04°24'49" WEST 60.00 FEET; THENCE NORTH 85°35'12" EAST 30.00 FEET; THENCE NORTH 35°35'12" EAST 29.56 FEET; THENCE NORTH 04°51'47" WEST 39.64 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 244.75 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'17" A DISTANCE OF 46.51 FEET; THENCE NORTH 09°33'17" EAST 30.09 FEET TO THE SOUTH LINE OF SAID NORTH HALF; THENCE NORTH 88°39'20" WEST ALONG SAID SOUTH LINE 189.75 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 43,958 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT B

Form of Certificate of Public Benefits Period

After recording return to

CERTIFICATE OF PUBLIC BENEFITS PERIOD

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMINS
BREW PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): _____

Assessor's Tax Parcel No(s): _____

Related Document: Public Benefits Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMINS BREW PUBS, INC., a Washington corporation (collectively, "Developer"), hereby agree and certify that the Public Benefits Period under that certain Public Benefits Agreement dated _____, 20__ (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 20__, commences and ends of the following dates:

Commencement Date: _____

Termination Date: _____

The Public Benefit Period may be shortened under the Buy-Out provisions of Section 3.2 of the Agreement and may be extended by reason of casualty or Force Majeure as provided in Sections 3 and 10 the Agreement. The Agreement was entered into with respect to the Property described on Exhibit A attached hereto.

IN WITNESS WHEREOF, City has caused this instrument to be executed this
_____ day of _____, _____.

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: _____
Title: _____

ANDERSON SCHOOL
PROPERTIES LLC, a Washington
limited liability company

By _____
Name _____
Title _____

MCMENAMINS BREW PUBS,
INC., a Washington corporation

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 _____ of City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, _____.

[illegible]

(Use this space for notarial 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 Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.

--

(Use this space for notarial 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 MCMENAMINS BREW PUBS, INC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT C
Form of Guaranty

GUARANTY AGREEMENT

This Guaranty Agreement is made as of _____, 20____, by McMenamins, Inc., an Oregon corporation ("Guarantor"), in favor of the City of Bothell, a Washington municipal corporation ("City"), with reference to the following facts.

RECITALS

A. Contemporaneously herewith, Anderson School Properties LLC, a Washington limited liability company ("Anderson"), is purchasing the property in Bothell, Washington commonly known as the Anderson Building campus and the Northshore Costie/Ruiz Pool Building (the "Property"). Concurrently herewith, Anderson is leasing the Property to McMenamins Brew Pubs, Inc. ("Brew Pubs") to facilitate the redevelopment and operation of the Property. Anderson and Brew Pubs are collectively called "Developer."

B. As part of the closing of the purchase of the Property, Developer and City are entering into a Public Benefits Agreement of even date herewith (the "Public Benefits Agreement") that requires Developer to provide certain Public Benefits as defined therein. The Public Benefits Agreement requires that Guarantor provides this Guaranty to City. Capitalized terms not otherwise defined herein shall have the meaning given them in the Public Benefits Agreement.

C. Guarantor is the parent of Brew Pubs and will benefit from the purchase of the Property by Anderson. Guarantor understands that redevelopment of the Property is crucial to mission and goals of City and that City would not sell the Property to Anderson without this Guaranty.

GUARANTY AGREEMENT

NOW, THEREFORE, in consideration of the sale of the Property to Anderson and as required by the Public Benefits Agreement, Guarantor unconditionally and irrevocably guarantees to City the provision of the Public Benefits as required by the Public Benefits Agreement and the full, faithful, timely and complete performance by Developer of all of the covenants and obligations of Developer under the Public Benefits Agreement. Guarantor further agrees to pay all reasonable costs and expenses, including reasonable attorneys' fees and costs, that may be incurred by City in enforcing this Guaranty. The obligations of Guarantor under this paragraph are called the "Obligations." Notwithstanding any provision of this Guaranty to the contrary, Guarantor's obligations

under this Guaranty shall not exceed the amount of the Buy-Out Price (as defined in the Public Benefits Agreement) calculated from the date of the Event of Default under the Public Benefits Agreement, and the reasonable costs and reasonable attorneys' fees incurred by City to enforce Guarantor's obligations under this Guaranty.

If for any reason there is an Event of Default by Developer under the Public Benefits Agreement then, in any such event, Guarantor, upon receipt of notice from City, agrees to cure such default and to perform, or cause Developer to perform, all of Developer's obligations under the Public Benefits Agreement.

Guarantor shall be responsible and liable to City for any losses, costs or expenses that City may suffer or incur as a result of any breach by Guarantor of any of the terms of this Guaranty or in the event that any of the representations or warranties made in writing by Guarantor to City are or were incorrect. If Guarantor defaults under this Guaranty, City may enforce this Guaranty against any or all persons liable hereunder. In the event of any default under this Guaranty or any action to enforce this Guaranty, City shall be entitled to recover all reasonable costs and expenses, including experts, accountants and attorney's fees and costs and including any such fees in any bankruptcy and appellate proceedings.

Guarantor agrees that its liability shall not be impaired or affected by (i) any renewals or extensions of the time for performance under the Public Benefits Agreement; (ii) any enforcement of or any forbearance or delay in enforcing the Public Benefits Agreement against Developer; (iii) any modifications of the terms or provisions of the Public Benefits Agreement; (iv) any settlement, release or compromise with Developer (except to the extent that the same are in a writing signed by Developer and City); (v) any lack of notice to Guarantor from City except that expressly provided for herein. City has no obligation to resort for payment to Developer or to any other person or entity or their properties, or to resort to any security, property, rights or remedies whatsoever, before enforcing this Guaranty.

Any other provisions hereof notwithstanding, this Guaranty shall terminate upon the issuance by City of a Certificate of Termination for the Project.

All diligence in collection, protection, or enforcement and all presentment, demand, protest and notice, as to anyone and everyone, whether Developer, Guarantor or others, of dishonor or default, the creation and existence of the Obligations, the acceptance of this Guaranty or any extensions of credit and indulgence hereunder, are hereby expressly waived. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any rights by way of subrogation or otherwise against Developer unless and until the full amount owing to City on the Obligations has been paid and the Obligations have been fully performed.

Upon the occurrence of an Event of Default under the Public Benefits Agreement that is not cured as provided within any applicable cure period under the Public Benefits Agreement, City may elect exercise any right or remedy it may have at law or in equity

against Developer under the Public Benefits Agreement. No such action by City will release or limit the liability of Guarantor to City, if the effect of that action is to deprive Guarantor of the right to collect reimbursement from Developer for any sums paid to City.

Guarantor assumes full responsibility for keeping fully informed of the financial condition of Developer and all other circumstances affecting Developer's ability to perform its obligations to City and agrees that City will have no duty to report to Guarantor any information that City receives about Developer's financial condition or any circumstances bearing on its ability to perform.

All notices which may be or are required to be given pursuant to this Guaranty shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, WA 98011
Attn: Bob Stowe
Fax No.: (425) 486-2434
Phone: (425) 486-3256

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner
Fax No.: (206) 623-7022
Phone: (206) 623-7580

To Guarantor: McMenamins, Inc.
430 N. Killingsworth
Portland, OR 97217
Attn: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided,

however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

This Guaranty shall be binding upon Guarantor, and upon the successors and assigns of Guarantor. This Guaranty shall run for the benefit of City, its successors and assigns.

This Guaranty may only be changed by an instrument in writing signed by the party against whom enforcement hereof is sought.

Guarantor acknowledge that the transactions contemplated hereby have been negotiated in the State of Washington, that Guarantor are to perform their obligations hereunder in the State of Washington and that after due consideration and consultation with counsel Guarantor and City have elected to have the internal laws of Washington apply hereto. Accordingly, this Guaranty shall be deemed made under and shall be construed in accordance and governed by the internal laws of the State of Washington without regard to principles of conflicts of laws. Guarantor hereby consents to the nonexclusive jurisdiction of the state courts located in King County, Washington and the federal courts in the Western District of Washington. Guarantor waives the defense of forum non conveniens in any such action and agrees that this Guaranty may be enforced in any such court.

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

MCMENAMINS, INC., an Oregon
corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

Form of Certification of Termination

After recording return to

CERTIFICATE OF TERMINATION

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMINS
BREW PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): _____

Assessor's Tax Parcel No(s): _____

Related Document: Public Benefits Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), hereby certifies that the Public Benefits Period has terminated under that certain Public Benefits Agreement dated _____, 20__ (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 2010. The Agreement is by and between City, and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMINS BREW PUBS, INC., a Washington corporation (collectively, "Developer"), and was entered into with respect to the Property described on Exhibit A attached hereto (the "Property").

This Certificate of Termination is and shall be a conclusive determination that the Agreement has terminated and is of no further force and effect. Notwithstanding this Certificate of Termination, Section 14.4 of the Agreement provides for the survival of certain covenants as between City and Developer, and nothing in this Certificate of Termination affects such survival.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

IN WITNESS WHEREOF, City has caused this instrument to be executed this _____ day of _____, _____.

CITY OF BOTHELL, a Washington
municipal corporation

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 City of Bothell 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 seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT D

Form of Earnest Money Note

PROMISSORY NOTE

\$350,000.00

Dated: _____, 2010
Bothell, Washington

FOR VALUE RECEIVED, ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Maker"), promises to pay to the order of CHICAGO TITLE INSURANCE COMPANY ("Holder"), 701 Fifth Avenue, Suite 3400, Seattle, WA 98104, the principal sum of THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$350,000.00), as the Earnest Money Note in accordance with Section 2.2 of that certain Purchase and Sale Agreement between Maker, as Buyer, and City of Bothell, a Washington municipal corporation, as Seller, dated _____, 2010 (the "Agreement"). This Note shall be payable within two (2) Business Days after satisfaction of Buyer's Inspection Condition under Section 5.1.1 the Agreement.

Maker's failure to pay the Earnest Money if required by the terms of the Agreement shall constitute a default by Maker under both the Agreement and this Note.

Maker promises to pay all costs, expenses and attorneys' fees incurred by Holder in the exercise of any remedy (with or without litigation) under this Note in any proceeding for the collection of the debt evidenced by this Note, or in any litigation or controversy arising from or connected with this Note.

Delay in exercising any of the Holder's rights or options hereunder shall not constitute a waiver thereof, and waiver of any right or option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

The provisions of this Note shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

This Note shall be construed according to the laws of the State of Washington and pursuant to the terms and conditions of the Agreement.

Time is of the essence of this Note and each and every term and provision hereof.

MAKER:

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: _____

Name: _____

Title: _____

EXHIBIT E

Form of Deed

After Recording Return To:

Attn:

BARGAIN AND SALE DEED

GRANTOR: City of Bothell

GRANTEE: Anderson School Properties LLC

Legal Description:

Abbreviated Form:

Additional legal on Page ____

Assessor's Tax Parcel ID#:

THE GRANTOR, CITY OF BOTHELL, a Washington municipal corporation, for and in consideration of ten dollars (\$10) in hand paid, bargains, sells and conveys to ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, the following described real estate, situated in the County of King, State of Washington.

See Exhibit A attached hereto.

Subject to and excepting those matters listed in Exhibit B attached hereto and incorporated herein by this reference.

Dated _____, 20_____.

CITY OF BOTHELL, a Washington
municipal corporation

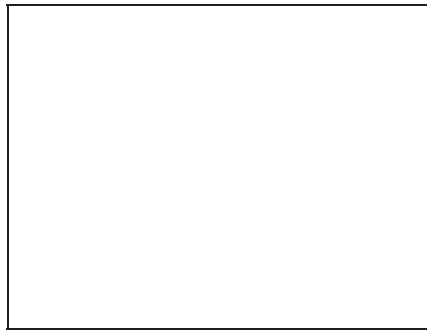
By: _____

Its: _____

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/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of City of Bothell 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 DEED

Legal Description

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL B-- (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET; THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST 392.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR LESS. (BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 844.04 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 145.01 FEET TO THE SOUTH LINE OF SAID NORTH HALF AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°47'09" WEST ALONG SAID EAST LINE 246.00 FEET; THENCE SOUTH 88°51'39" EAST 179.06 FEET; THENCE NORTH 04°40'16" WEST 30.67 FEET; THENCE NORTH 49°32'21" WEST 21.16 FEET; THENCE SOUTH 85°35'12" WEST 3.19 FEET; THENCE NORTH 04°24'49" WEST 60.00 FEET; THENCE NORTH 85°35'12" EAST 30.00 FEET; THENCE NORTH 35°35'12" EAST 29.56 FEET; THENCE NORTH 04°51'47" WEST 39.64 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 244.75 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'17" A DISTANCE OF 46.51 FEET; THENCE NORTH 09°33'17" EAST 30.09 FEET TO THE SOUTH LINE OF SAID NORTH HALF; THENCE NORTH 88°39'20" WEST ALONG SAID SOUTH LINE 189.75 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 43,958 SQUARE FEET, MORE OR LESS. (BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT B TO DEED

Exceptions

(to be added)

EXHIBIT F

Form of Bill of Sale

THIS BILL OF SALE ("Bill of Sale") is made as of _____, 20__, and is by CITY OF BOTHELL, a Washington municipal corporation ("Seller"), in favor of ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Buyer"), with reference to the following recitals.

RECITALS

A. Pursuant to the Purchase and Sale Agreement dated _____, 2010 (the "Agreement") between Seller and Buyer, Buyer has contracted to purchase the property legally described on Exhibit A attached hereto (the "Property") from Seller. As of the date hereof, Seller has conveyed the Property to Buyer.

B. Seller desires to assign, transfer, sell and convey to Buyer of all of Assignor's right, title and interest in and to the Personal Property (as defined below).

ASSIGNMENT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby sell and convey to Buyer all of Seller's right, title and interest in and to all personal property used in connection with the operation of the Property, including the property listed on Exhibit B attached hereto (the "Personal Property").

This Bill of Sale is made without recourse or warranty whatsoever except that Seller owns the Personal Property free and clear of all liens, exceptions, and encumbrances except the lien for personal property taxes not yet delinquent. Buyer hereby acknowledges and agrees that Buyer and its representatives have been afforded the opportunity to make such inspections of the Personal Property and matters related thereto as they desire. Except as provided in the Agreement, Buyer acknowledges that notwithstanding any prior or contemporaneous oral or written representations, statements, documents or understandings, Seller has not made and does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Personal Property and the Personal Property is sold to Buyer in an "AS IS" condition.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of _____, 20__.

SELLER:

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: _____
Title: _____

Exhibit A to Bill of Sale

Legal Description

Exhibit B to Bill of Sale

Description of Specific Items of Personal Property

EXHIBIT G

Form of Development Agreement

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

DEVELOPMENT AGREEMENT

GRANTOR: ANDERSON SCHOOL PROPERTIES LLC and MCMENAMINS
BREW PUBS, INC.

GRANTEE: CITY OF BOTHELL

Legal Description:
Abbreviated form:
Additional legal on Exhibit A

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

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions.....	2
Section 2. Intent and Relations.....	6
2.1 Generally	6
2.2 Standards	6
Section 3. Financing Plan.....	7
Section 4. General Terms of Conveyance	7
Section 5. Development.	7
5.1 Generally	7
5.2 Conditions Precedent to Commencement of Construction	8
5.3 Improvements and Development Fees	8
5.4 Approval Process	9
5.5 Non-Discrimination.....	11
5.6 Governmental Approvals	12
5.7 Purchase Option if Failure to Start Construction	12
Section 6. Disclaimer of Liability, Indemnity.....	13
6.1 Preparation of Site; Utilities	13
6.2 AS IS	13
6.3 Approvals and Permits	13
6.4 Indemnity	14
Section 7. Completion by Opening Date	14
Section 8. Guaranty of Completion.....	14
Section 9. Certificate of Performance.	15
9.1 When Developer Entitled to Certificate of Performance	15
9.2 Effect of Certificate of Performance; Termination of Agreement	15
Section 10. Construction Performance and Payment Bond	15
Section 11. Liens	15
Section 12. Insurance	15
12.1 Insurance Requirements	16
12.2 Insurance Policies.....	17
Section 13. Destruction or Condemnation.	17
13.1 Total or Partial Destruction.....	17
13.2 Condemnation	18
Section 14. Right to Assign or Otherwise Transfer	18
14.1 Transfers Before Certificate of Performance.	18
14.2 Transfers After Certificate of Performance.....	19
Section 15. Default.....	19

Section 16.	Remedies.....	21
16.1	Default Prior to Commencement of Construction	21
16.2	Default After Commencement of Construction	21
16.3	Copy of Notice of Default to Mortgagee	22
16.4	Mortgagee’s Option To Cure Defaults.....	22
16.5	Provisions Surviving Termination	22
Section 17.	Representations and Warranties	22
Section 18.	Miscellaneous.....	22
18.1	Estoppel Certificates	22
18.2	Inspection	23
18.3	Entire Agreement	23
18.4	Modification	23
18.5	Successors and Assigns; Joint and Several	23
18.6	Notices.....	23
18.7	Execution in Counterparts.....	24
18.8	Waiver	24
18.9	Rights and Remedies Cumulative	24
18.10	Applicable Law; Jurisdiction	25
18.11	No Joint Venture	25
18.12	Consents	25
18.13	Conflict of Interest	25
18.14	Discrimination.....	25
18.15	Attorneys’ Fees	25
18.16	Captions; Exhibits	26
18.17	Force Majeure	26
18.18	Fair Construction; Severability	26
18.19	Time of the Essence	27

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is dated as of _____, 20____, between the CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Anderson"), and MCMENAMINS BREW PUBS, INC., a Washington corporation ("Brew Pubs") (Anderson and Brew Pubs are, collectively, "Developer").

RECITALS

A. Pursuant to that certain Purchase and Sale Agreement dated June ____, 2010 between City as seller and Anderson as buyer (the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property"). The parcel described on Exhibit A-1 (the "Anderson Parcel") is improved with the historic W.A. Anderson School Building (the "Anderson Building") and its related campus. The parcel described on Exhibit A-2 (the "Pool Parcel") is improved with the Northshore Costie/Ruiz Pool and related building (the "Pool Building").

B. Concurrently herewith, Anderson has leased the Property to Brew Pubs pursuant to a long term lease (the "Lease"). Brew Pubs is wholly owned by McMenamins, Inc., an Oregon corporation, which has common beneficial ownership with Anderson. The Lease requires that Brew Pubs develop and operate the Property as required by and subject to the terms and conditions of this Agreement and the Public Benefits Agreement.

C. In August 2009, City solicited Requests for Concepts for redevelopment of the Property. Developer was the only respondent to provide a detailed concept for redevelopment of the Property in McMenamins Response to the City of Bothell's Request for Concepts, September 16, 2009 (the "RFC Response"), which concept was consistent with City's goals for the Property and the City.

D. As described in the Sale Agreement, City desires to foster the redevelopment of the Property, which is located in a key part of downtown Bothell, in a way that will contribute to the economic, cultural, and recreational revitalization of the City. Developer intends to submit plans for City's approval that provide for the redevelopment of the Property into a full service "McMenamins Complex" that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the "Project").

E. Developer has granted to City a Historic Preservation Easement to preserve, protect and maintain the historic façade and other features of the Anderson Building as

more particularly described therein (the “Historic Easement”), which easement is being recorded contemporaneously herewith.

F. As part of the consideration for the purchase of the Property, as described in the Sale Agreement, Developer has agreed to provide certain public benefits (the “Public Benefits”), as more particularly described in that certain Public Benefits Agreement between the parties (the “Public Benefits Agreement”), which agreement is being recorded contemporaneously herewith.

G. The Project is a private undertaking to be contracted, constructed and operated by Developer with Developer’s resources and will provide a significant redevelopment of the Property with accompanying public benefits. The parties intend by this Agreement to set forth their mutual agreement and undertakings with regard to the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Project upon the Property, and as a direct benefit to City and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

“Business Days” means any day on which banks in Bothell, Washington are required to be open for business, excluding Saturdays and Sundays. If any deadline hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

“Certificate of Performance” means a certificate issued by City to Developer pursuant to Section 9 of this Agreement.

“Closing” means the close of the sale of the Property pursuant to the Sale Agreement.

“Community Garden” means the garden located on the Anderson Parcel open to use by the community as more particularly described in the Public Benefits Agreement.

“Concept Design Documents” means an architectural or artist’s rendering that illustrates the scope of the Project, its location within the Property, and the relationship of the Project to its surroundings, consistent with the Design Guidelines and the scope of development. The intent of the Concept Design Documents is to provide, visually and in text, an idea as to the nature and density of the Project and its proposed mix of uses.

“Construction Documents” means, collectively, all construction documentation that Developer is required to submit to City as part of the process to obtain building permits for the Project and upon which Developer and Developer’s contractors will rely in building the Project. These documents are based on the Design Development Documents.

“Construction Schedule” means the schedule for construction of the Improvements approved as part of the Construction Documents.

“Construction Start Date” means the date that is the thirteenth (13th) month anniversary of the date this Agreement is recorded, but not earlier than May 10, 2012, subject to extension for Force Majeure. For purposes of illustration, if the recording date of this Agreement is April 10, 2011, then the Construction Start Date shall be May 10, 2012 (subject to extension for Force Majeure).

“Design Development Documents” means plans and specifications for the Project based on the Concept Design Documents and Schematic Design Documents. The Design Development Documents illustrate and describe the refinement of the design of the Project, establishing the scope, relationship, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major material and systems and establish in general their quality levels.

“Design Guidelines” means, collectively, the City of Bothell’s Comprehensive Plan, the City of Bothell Municipal Code, the City of Bothell Design and Construction Standards and Specifications, and other Legal Requirements that affect the Project and the Property.

“Effective Date” means the date set forth in the first paragraph of this Agreement.

“Event(s) of Default” has the meaning given in Section 15 herein.

“Financing Obligations” means the debt service obligations of Developer related to the financing of the Property and the Project.

“Financing Plan” has the meaning given in Section 3 herein.

“Force Majeure” has the meaning given in Section 18.17 herein.

“Frontage Agreement” means that certain Development Agreement re: Frontage Improvements between City and Developer recorded contemporaneously herewith providing for the construction of or payment for certain boulevard frontage improvements along SR 527 (Bothell Way N.E.).

“Governmental Authorities” means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental

unit, or any subdivision thereof, or any utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property and/or the management, operation, use, environmental cleanup or improvement thereof.

“Historic Easement” has the meaning given in Recital C.

“Historic Features” has the meaning given in the Historic Easement.

“Improvements” means all buildings, structures, improvements and fixtures now or hereafter placed or constructed in, under or upon the Property, including the to-be-renovated Anderson Building, other buildings to be built or renovated on the Anderson Parcel, and the Pool and Pool Building, together with all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, public amenities, parking areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built and/or renovated by Developer on the Property.

“Institutional Lender” means any international, national or state bank, commercial or savings bank, savings and loan association or trust company, insurance company, pension fund, real estate investment trust, or real estate operating company, in each case having assets in an amount in excess of \$50,000,000.

“Legal Requirements” means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Property, the Project or its ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, The Americans With Disabilities Act of 1990, as amended (as interpreted and applied by the public agencies with jurisdiction over the Property), life safety requirements and environmental laws with respect to the handling, treatment, storage, disposal, discharge, use and transportation of hazardous substances.

“Mortgagee” means the holder of a first mortgage or deed of trust (“Mortgage”) encumbering Developer’s interest in any portion of the Property, the proceeds of which are used to finance or refinance the construction of Improvements.

“Opening Date” means the date that is the twenty-sixth (26th) month anniversary of the date this Agreement is recorded, but not earlier than June 10, 2013, subject to extension for Force Majeure. For purposes of illustration, if the recording date of this Agreement is April 10, 2011, then the Opening Date shall be June 10, 2013 (subject to extension for Force Majeure).

“Plans” means, collectively, the Concept Design Documents, the Schematic Design Documents, the Design Development Documents and the Construction Documents, which documents have been approved by City pursuant to Section 5.

“Plans and Permits Schedule” means the schedule for submission of applications for the permits needed to construct the Project set forth on Exhibit D attached hereto.

“Project” means the redevelopment of the Property to construct and/or renovate the Improvements and features described in Recital D pursuant to the Plans.

“Project Documents” means this Agreement, the Sale Agreement, the Public Benefits Agreement, the Frontage Agreement and the Historic Easement.

“Propertyscape” shall mean the landscaping of all above-ground or outdoor public or private improvements on the Property, including, without limitation, lighting, public restrooms, furniture and artwork.

“Public Benefits” has the meaning given in the Public Benefits Agreement.

“Public Benefits Agreement” has the meaning given in Recital F.

“Repurchase Option” shall have the meaning given in Section 5.7.

“Sale Agreement” has the meaning given in Recital A.

“Schematic Design Documents” means:

Site plans showing the Improvements in relation to the Property, with all proposed connections to existing or proposed roads, utilities and services, together with a Propertyscape plan;

Plans, elevations, typical cross-sections and typical wall sections of all building areas;

Elevations of each building to determine the site lines and the specific configuration and relationship of design elements of the building exterior in relationship to streets;

Plans, elevations, and typical cross sections of the interior space of different types of building areas;

A preliminary selection of major building systems and construction materials;

A preliminary exterior finish schedule;

Proposed layouts for exterior signage and graphics;

Outline of the exterior lighting concept;

A description of servicing requirements, trash areas, loading docks, etc.;

Calculation of gross building area and open space.

“Substantial completion” or “substantially complete” means the date on which all of the following have occurred: (i) the Improvements required to be developed by this Agreement are complete according to approved Plans, except for punchlist items that do not substantially prevent the use of the Improvements for their intended purposes; and (ii) the City has issued a temporary or final certificate of occupancy for all of the building portions of the Improvements.

Section 2. Intent and Relations.

2.1 Generally. Pursuant to this Agreement, Developer will construct the Project pursuant to the Plans as provided in this Agreement and open the Project to the public for full service operation not later than the Opening Date. Development on the Property will include public spaces and Improvements sufficient to provide the Public Benefits and will in all respects preserve the Historic Features in accordance with the Historic Easement. This Agreement is intended by the parties to establish the design, development and performance criteria for the Project. The parties agree that Developer has sole responsibility for construction, obtaining all necessary permits and approvals and complying with all Legal Requirements as they relate to ownership, construction and operation of the Project. Developer shall at its own cost furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for completion of the Project. City has entered into this Agreement relying on Developer’s agreement that it will timely design and construct the Project. City understands that as between Anderson and Brew Pubs, such parties intend that Brew Pubs shall be primarily responsible for completion of the development of the Project as provided herein. Nevertheless, Anderson is jointly and severally responsible for such development as part of the consideration for its acquisition of the Property and thus both Anderson and Brew Pubs are parties to this Agreement.

2.2 Standards. Developer shall perform the terms of this Agreement according to the following standards:

2.2.1 All construction hereunder shall comply with, and be performed in accordance with, the Design Guidelines, the Plans, this Agreement and all Legal Requirements, free and clear of all liens (other than in connection with Approved Financing Plan and those contemplated by this Agreement).

2.2.2 Developer agrees to diligently design, construct and complete the Improvements pursuant to the Plans, in accordance with the requirements of City’s process for permitting the Project and in a good and workmanlike manner and of good quality.

2.2.3 Developer shall cause a copy of this Agreement to be delivered to its architects and general contractor(s).

Section 3. Financing Plan. Not later than sixty (60) days before the Construction Start Date, Developer shall submit for approval by City Developer's plan for construction and permanent financing of the purchase of the Property and the construction of all of the Project, including the equity component (the "Financing Plan"). Notwithstanding transfers of equity interests pursuant to the Financing Plan, some or all of the principals, officers and key employees of McMenamins, Inc. existing as of the date hereof shall continue to be in control of Developer and the day-to-day construction of the Project. Approval by City under this Section 3 shall not be unreasonably withheld. City shall respond to Developer's submittal of the Financing Plan within ten (10) days of its receipt thereof. The Financing Plan for construction of the Project shall require that Developer, at its sole cost, obtain financing and/or equity for 100% of all design, construction, development and ownership costs (whether "hard" or "soft") for the completion of the construction of Project, unless such costs have already been paid in full. The Financing Plan may include historic tax credit financing and mezzanine financing. The financing (not including equity components) shall be provided by one or more "Institutional Lenders." For purposes of City's approval of the Financing Plan, Developer will make financial information concerning the Project reasonably requested by City available for City's review. Not later than thirty (30) days before the Construction Start Date, Developer shall provide City with evidence of a loan commitment (and not merely a term sheet or application) from one or more Institutional Lenders on commercially reasonable terms to finance the construction of the Improvements pursuant to the Plans and any other financing or equity commitments required by the construction lender. If, in City's reasonable judgment, the Financing Plan indicates that the contemplated financing (i) conforms to the provisions of this Agreement, (ii) will reasonably be available when needed, and (iii) will provide sufficient funds to undertake and complete the Project, then City shall approve the Financing Plan. Any material modification of the approved Financing Plan shall be submitted for prior written approval of the City, and if not so approved, the previously approved Financing Plan shall continue to control.

Section 4. General Terms of Conveyance. Conveyance and ownership of the Property shall remain subject to the provisions of this Agreement during the term hereof. This Agreement shall be recorded prior to any Mortgage on the Property and all subsequent owners and lessees of all or any portion of the Property shall take subject to this Agreement during its term.

Section 5. Development.

5.1 Generally. Developer shall hereafter prepare the Plans for the development of the Project and submit them to City for its review and approval. Any approval by City of the Plans hereunder is in its capacity as the approving party under this Agreement and shall not constitute any of the regulatory approvals required under the applicable Legal Requirements to obtain the permits necessary to construct the Project. Developer shall submit the Plans in accordance with the Plans and Permits Schedule attached hereto as Exhibit D. Developer shall construct and complete Improvements on

the Property as specifically described and depicted in the Plans. The parties agree that no construction will commence prior to satisfaction of the conditions set forth in Section 5.2 below. The parties further agree that such construction shall commence not later than the Construction Start Date and occur and be substantially completed in accordance with the Construction Schedule (including substantial completion by the Opening Date), subject only to Force Majeure or as extended by written agreement of City. Such construction shall be completed substantially in accordance with the approved Construction Documents (subject to Section 5.4 below). Developer agrees that once construction has begun, Developer will proceed diligently (subject only to delays for Force Majeure) with such construction until the Project has been completed.

5.2 Conditions Precedent to Commencement of Construction.

The following conditions shall have been satisfied before commencing construction on the Property:

5.2.1 Compliance with Agreement. Developer shall be in material compliance with this Agreement, including, without limitation, all contracting requirements and receipt of all necessary permits for construction.

5.2.2 Approval. Developer shall have obtained City approval of all of the Plans and Financing Plan, in accordance with the approval processes set forth in this Agreement.

5.2.3 Conveyance. Fee title to the Property shall have transferred to Developer.

5.2.4 Permits. Developer shall have obtained all permits and other regulatory approvals for the construction of the Project from City and any other applicable Governmental Authority, including without limitation the building permit(s) for the Project.

5.3 Improvements and Development Fees.

5.3.1 Improvements.

(i) Permitting will be the Developer's responsibility. Developer shall submit the permit applications to the appropriate Governmental Authorities in accordance with the Plans and Permits Schedule.

(ii) Developer is responsible for all excavation and disposal of soils and other materials it removes from the Property.

(iii) Developer will conduct its construction activities in compliance with the Historic Easement.

(iv) Developer will construct, redevelop and rehabilitate the Anderson Building, the Community Garden, the Pool and Pool Building and other Improvements in a manner that will provide the Public Benefits as provided in the Public Benefits Agreement.

(v) Construction design shall not collect and convey ground water off-site.

(vi) All construction activities shall be in accordance with the restrictive covenant between City and the Department of Ecology recorded under AFN _____ .

(vii) No permanent buildings shall be constructed in the Parking Parcel (which is Parcel B on Exhibit A-1) during the Public Benefits Period.

(viii) As part of its redevelopment, Developer shall remove the covered walkway (including removal of all related debris) that is on the eastern portion of the Anderson Parcel and straddles the southern boundary of the Anderson Parcel. City owns the southerly adjoining property. Developer shall have a license to enter onto the southerly adjoining property for the purpose of removing the walkway.

5.3.2 Development and Other Fees. Developer is responsible for payment of all development, utility, hookup, capacity, permit, plan check, SEPA and other fees, charges and surcharges required by City in its regulatory capacity. At the times required by the City in its regulatory capacity, Developer shall pay all fees and development charges required in connection with the issuance of the Project permits. These include: (i) a pre-application fee, required to be paid before the initial coordination meeting between City and Developer's architect and engineering representatives; (ii) plan check, fire plan check and traffic concurrency surcharge, at the time of application for the applicable item; (iii) other fees, at the time of permit issuance; (iv) traffic impact fees at time of building permit issuance; and (v) fees for certain boulevard frontage improvements, as provided in the Frontage Agreement. These fees will not be in excess of the estimated amounts shown on Exhibit E attached hereto, provided that the assumptions on which such estimates were based remain accurate in all respects.

5.4 Approval Process. Developer shall submit for approval to City the items described in Sections 5.4.1 through 5.4.4 below in accordance with the Plans and Permits Schedule. These items shall be submitted to the City Manager or his designee for review for conformance with the Construction Schedule, RFC Response, Design Guidelines, Project description and Project Documents (including the provision of the Public Benefits). This review and approval is in addition to, and separate from, the normal City regulatory review and permitting process. Approvals by City under this Section 5.4 shall not be considered approvals required under City's regulatory and

permitting process. The City shall undertake its review and response expeditiously, and Developer shall likewise respond expeditiously to comments and requests for changes and further information. The parties shall cooperate in such process in view of the Plans and Permits Schedule.

Developer's request for approvals hereunder shall be in writing and shall include sufficient information and such other information as may be reasonably required to permit the City to make an informed decision with respect thereto. Approvals by City under this Section 5.4 shall not be unreasonably withheld or delayed. Such process of submittal, review, comment and re-submittal by Developer shall continue until such time as the submitted material has been approved by City.

Approval shall not be required for any modification, replacement, alteration or addition (but excluding any relocation) to any previously approved submission, unless there is a material change from the previously approved submission. For any material modifications thereto proposed by Developer, the procedure shall be as described in this section. As used in this Agreement, a "material modification" shall be one that would (i) conflict with any Design Guidelines or Project Documents; (ii) in any way alter the Historic Features or endanger their preservation as required by the Historic Easement; (iii) alter the exterior physical appearance of the Project (other than the Historic Features) in a readily apparent way; (iv) materially alter the exterior structure of any Improvements (other than the Historic Features) to be constructed or rehabilitated on the Property; (v) cost more than \$1,000,000 in hard construction costs; or (vi) result in a reduction in hard construction costs associated with the exterior portions of the Project of more than \$300,000.

5.4.1 Concept Design Plan. Developer and City will use best efforts to agree on a "Concept Design Plan" for the redevelopment of the Property in sufficient time for Developer to timely submit the permit applications described in the Plans and Permit Schedule. In designing the Project, Buyer shall design its interior pedestrian and vehicular circulation plan to coordinate with Seller's plans for the adjacent rights of way and properties. Any material modification of the Concept Design Plan shall be submitted to City for prior written approval, and if not so approved, the previously approved Concept Design Plan shall continue to control.

The Concept Design Plan to be submitted by Developer for approval shall be consistent with the RFC Response and the following: Developer shall develop the Project, all in accordance with the Design Guidelines, to be as described in this Development Agreement and to provide the Public Benefits. Developer shall ensure that the Property has parking for the Project with a sufficient number of parking spaces to satisfy the Design Guidelines.

5.4.2 Schematic Design Plan. Developer and City will use best efforts to agree on a "Schematic Design Plan" for the Improvements in sufficient time for Developer to submit the permit applications in accordance with the Plans and

Permit Schedule. City shall review the Schematic Design Plans for consistency with the RFC Response, the Design Guidelines and consistency with the provision of the Public Benefits. Any material modification of an approved Schematic Design Plan shall be submitted to City for prior written approval, and if not so approved, the previously approved Schematic Design Plan shall continue to control.

5.4.3 Design Development Plan. Developer and City will use best efforts to agree on a “Design Development Plan” for the Improvements in sufficient time for Developer to submit the permit applications in accordance with the Plans and Permit Schedule. City shall review the Design Development Plan with regard to matters relating to site planning, size, form and exterior finish of the Improvements, landscaping, lighting and design of open space areas, general design aesthetics, and consistency with the RFC Response, the Design Guidelines and consistency with the provision of the Public Benefits. Any material modification to an approved Design Development Plan shall be submitted for prior written approval by City, and if not so approved, the previously approved Design Development Plan shall continue to control.

5.4.4 Construction Plans. Developer and City will use best efforts to agree on “Construction Plans” for the Improvements in sufficient time for Developer to apply for the building permit in accordance with the Plans and Permit Application Schedule. The Construction Plans shall be based upon the approved Concept Design Plan, the Schematic Design Plan, the Design Development Plan and the Design Guidelines for such Improvements. The Construction Plans will include a construction schedule (which shall include the Construction Start Date and Opening Date) (the “Construction Schedule”).

Any modification to the approved Construction Documents or Construction Schedule shall be submitted for prior written approval by City, and if not so approved, the previously approved Construction Documents shall continue to control. City shall have the right to disapprove any modifications that (a) do not meet the requirements of this Agreement or any Project Documents(including the provision of the Public Benefits); (b) do not comply with all applicable Legal Requirements; (c) would violate the terms of any permits, licenses, permissions, consents or approvals required to be obtained from governmental agencies; (d) do not comply with approved Design Guidelines; (e) cause the Construction Schedule approved by City to be materially adversely affected or cause substantial completion not to occur by the Opening Date; or (f) involve proposed changes in work or materials that would be a material modification under Section 5.4 above.

5.5 Non-Discrimination. In the implementation of this Agreement, including construction of all Improvements pursuant to the Plans and any leasing of the Project, Developer shall not discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of this nondiscrimination covenant, subject to the cure provisions

of Section 15 hereof, City shall have the right to exercise all of its remedies for default hereunder.

5.6 Governmental Approvals. Developer shall apply, at its sole cost, to the appropriate Governmental Authorities or third parties for, and shall diligently pursue and obtain, all permits, licenses, permissions, consents or approvals required in connection with the construction of the Improvements.

5.7 Purchase Option if Failure to Start Construction or Event of Default Before Commencing Construction. If Developer fails to commence construction by the Construction Start Date, then City shall have the option to repurchase the Property (the “Repurchase Option”) for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement. Such Repurchase Option shall be City’s sole remedy for such failure hereunder. To exercise the Repurchase Option, City shall give written notice to Developer within ninety (90) days after the Construction Start Date. If Developer fails to commence construction by the Construction Start Date and City has not exercised the Repurchase Option in writing (or provided written notice to Developer that City elects to not exercise its Repurchase Option) by the 90th day after the Construction Start Date, then City shall be deemed to have exercised the Repurchase Option as of such 90th day.

The closing of the repurchase shall be not later than one (1) year following City’s exercise (including its deemed exercise) of the Repurchase Option on a business day selected by City on not less than fifteen (15) days written notice to Developer. If Developer has financing secured by a deed of trust on the Property, then City must pay the repurchase price at the time of the closing of the repurchase. If there is no such financing, then City may close such reacquisition any time during such one (1) year period but have the full one (1) year period to pay the repurchase price. In such event, City shall execute a note, secured by a deed of trust on the Property, payable to Anderson for the repurchase price with no interest payable in full on the one-year anniversary of the exercise of City’s Repurchase Option. The form of note and deed of trust shall be reasonably agreed by the parties during the time between City’s exercise of the Repurchase Option and closing of the repurchase.

Developer shall pay all transfer and excise taxes in connection with such transfer. The deed will be in the same form as used to convey the Property to Developer. In addition, Developer shall assign to City, without representation or warranty, all permits, contracts and Plans associated with the Project. Upon such reconveyance to City, no additional encumbrances shall exist on title than those that existed when title transferred to Developer, those consented to by City (except any Mortgage) and those that were recorded as part of the closing of the acquisition of the Property, including without limitation the lien of any Mortgage recorded against the Property in accordance with the Financing Plan. Developer shall be responsible for obtaining the reconveyance of any such Mortgage. If City exercises the Repurchase Option (or if City provides written notice to Developer that

City elects to not exercise its Repurchase Option), Developer shall be released from further obligations under this Agreement, the Public Benefits Agreement, the Historic Easement and the Frontage Agreement. Notwithstanding the foregoing, nothing herein shall limit Developer's liability for development and other fees (except the boulevard frontage fees) described in Section 5.3.2 that are due and payable before City exercises its Repurchase Option. Notwithstanding the foregoing, if Developer commences construction prior to City's exercise of the Repurchase Option, the Repurchase Option shall terminate. At Developer's request, upon such commencement, City shall provide written confirmation to a mortgagee that construction has commenced to satisfy a condition of a Mortgagee to advancing funds under a construction loan.

If City provides written notice to Developer that City elects to not exercise its Repurchase Option, then the parties shall cooperate to record a notice of termination of this Agreement at Developer's expense.

Section 6. Disclaimer of Liability, Indemnity.

6.1 Preparation of Site; Utilities. City shall not be responsible for any demolition or site preparation in connection with the Project or any existing Improvements on the Property. City makes no representations as to the availability or capacity of utility connections or service to the Property. Developer shall make arrangements for utility services directly with utility service providers (including City). Any costs of installation, connection, relocating or upgrading utilities shall be paid by Developer.

6.2 AS IS. City makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Property or structures thereon for any Improvements to be constructed or rehabilitated by Developer, and Developer warrants that it has not relied on representations or warranties, if any, made by City as to the physical or environmental condition of the Property or the structures thereon for any Improvements to be constructed or rehabilitated by the Developer.

6.3 Approvals and Permits. Approval by City of any item in its capacity as seller pursuant to the Sale Agreement or pursuant to Section 5.4 of this Agreement shall not constitute a representation or warranty by City that such item complies with Legal Requirements and City assumes no liability with respect thereto. Developer acknowledges that City has not made any representation or warranty with respect to Developer's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or Project. Nothing in this Agreement is intended or shall be construed to require that City exercise its discretionary authority under its regulatory ordinances approve the required permits for the Project or grant regulatory approvals. City is under no obligation or duty to supervise the design or construction of the Improvements pursuant to this Agreement. City's approval of the Plans under this Agreement shall not constitute any representation or warranty, express or

implied, as to the adequacy of the design or any obligation on City to insure that work or materials are in compliance with the Plans or any building requirements imposed by any governmental entity (including City in its regulatory capacity). City is under no obligation or duty, and disclaims any responsibility, to pay for the cost of construction of the Improvements, the cost of which shall at all times remain the sole liability of Developer.

6.4 Indemnity. Developer shall indemnify, defend and hold City, its employers, officers and council members harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Developer's development of the Project, operation of the Property or the construction of the Project, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors or assigns on or with respect to the Property. City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is caused by the gross negligence or willful misconduct of City as to its own conduct. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, an indemnitee hereunder shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of such indemnitee. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding an indemnitee is made a party, such indemnitee shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by, counsel of its own choosing. To the extent an indemnitee is indemnified under this section, Developer shall bear the cost of the indemnitee's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without City's written approval, not to be unreasonably withheld.

Section 7. Completion by Opening Date. The Construction Schedule requires substantial completion of the Project not later than the Opening Date. Developer shall diligently pursue the Project in order to achieve substantial completion of the Project by the Opening Date.

Section 8. Guaranty of Completion. Contemporaneously with the execution of this Agreement, Developer shall furnish an irrevocable and unconditional guaranty of performance by McMenamins, Inc. (the parent of Brew Pubs and affiliate of Anderson), in the form of Exhibit C attached hereto, guaranteeing the full and faithful performance of Developer's obligations under this Agreement. This guaranty shall terminate upon issuance by City of the Certificate of Performance described in Section 9 or repurchase of the Property pursuant to Section 5.7 or Section 16.1. Neither the provisions of this Section

nor any guaranty accepted by City pursuant hereto, shall be construed to excuse faithful performance by Developer or to limit liability of Developer under this Agreement.

Section 9. Certificate of Performance.

9.1 When Developer Entitled to Certificate of Performance.

Upon substantial completion of the Project in accordance with this Agreement and satisfaction of the other conditions of this Section 9, City will furnish Developer with a recordable Certificate of Performance, substantially in the form attached hereto as Exhibit B hereto. Notwithstanding the foregoing, City shall not be required to issue the Certificate of Performance if Developer is not then in material compliance with the terms of this Agreement. In addition, if punchlist items remain when Developer requests the Certificate of Performance, City may require as a condition to the issuance thereof that Developer post a bond or provide other financial assurance reasonably satisfactory to City to insure completion of the punchlist items, and Developer agrees to proceed with all reasonable diligence to complete the punchlist items.

9.2 Effect of Certificate of Performance; Termination of Agreement. Issuance by City of a Certificate of Performance shall terminate this Agreement and each of its provisions except for the provisions described in Section 16.4 below that expressly survive termination of this Agreement. No party acquiring or leasing any portion of the Property after issuance of the Certificate of Performance shall (because of such purchase or lease) have any obligation whatsoever under this Agreement.

Section 10. Construction Performance and Payment Bond. Developer shall, before commencing construction of the Project, to the extent required by its Mortgagee, provide or require its general contractor(s) to provide a performance and payment bond, in an amount equal to the estimated total construction cost of the Project or in such amount as may otherwise be required by the Mortgagee.

Section 11. Liens. Except in connection with any Mortgage approved pursuant to the Financing Plan, in no event shall Developer, prior to recording of the Certificate of Performance, cause or permit any lien to attach to the including but not limited to mortgages, deeds of trust, mechanic's liens, attachment liens, judgment liens, execution liens, security interests or encumbrances. Developer shall promptly pay and discharge all liens not permitted hereunder. Nothing contained in this Agreement shall be construed as the consent or request of City, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment to the Project (or any part thereof). NOTICE IS HEREBY GIVEN THAT CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) THROUGH OR UNDER DEVELOPER.

Section 12. Insurance. The requirements of this Section 12 shall apply until the Certificate of Performance is recorded unless otherwise noted in this Section.

12.1 Insurance Requirements. Developer shall maintain and keep in force insurance covering the Project, as provided below, and maintain such additional insurance as required by Developer's Mortgagee.

12.1.1 Builders Risk. Builders Risk insurance covering interests of City, Developer, its contractor, subcontractors, and sub-subcontractors in the Project work. Builders Risk insurance shall be on a all-risk policy form (and may be in a separate policy or included in the property insurance policy) and shall insure against the perils of fire and extended coverage and physical loss or damage including flood (if the buildings on the Property are located in a special flood hazard area and flood insurance is available), earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of not less than \$75,000 for each occurrence. Higher deductibles for flood (if applicable) and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Builders Risk insurance shall be written in the amount of the completed value of the Project with no coinsurance provisions. The Builders Risk insurance shall be maintained until City issues the Certificate of Performance.

12.1.2 Commercial General Liability. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence and a \$2,000,000 general aggregate limit. The Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 (or equivalent form) and shall cover liability arising from premises, operations, stop gap liability, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract. Developer's Commercial General Liability insurance shall be endorsed to name City as an additional insured using ISO Additional Insured endorsement CG 20 26 07 04 – Additional Insured Designated Person or Organization or a substitute endorsement providing equivalent coverage.

12.1.3 Excess or Umbrella Liability. Developer shall provide Excess or Umbrella Liability coverage at limits of not less than \$5,000,000 per occurrence and annual aggregate. This excess or umbrella coverage shall apply, at a minimum to both the Commercial General Liability insurance required herein and to any Automobile Liability coverage or any combination thereof.

12.1.4 Property Insurance. Until the Certificate of Performance is recorded, Developer shall carry property insurance covering the Project including all Improvements. Such insurance shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Causes of Loss Form CP 10 30. Developer shall also purchase and maintain earthquake, flood (if the buildings on the Property are located in a special flood hazard area and flood insurance is available) and equipment breakdown insurance. The property, earthquake and flood insurance shall be

written in an amount equal to at least one hundred percent (100%) of the replacement cost of all Improvements. Equipment breakdown insurance shall be written with at least a \$1,000,000 equipment breakdown limit. Developer shall be responsible for payment of any deductibles under said insurance policies and any costs of restoration resulting from any uninsured or underinsured losses.

12.2 Insurance Policies. Insurance policies required herein:

12.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

12.2.1.1 The companies shall have an A.M. Best rating of at least A VII and be licensed in the State of Washington.

12.2.1.2 Developer's insurance coverage shall be primary insurance as respects City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be excess of the Developer's and Contractor's insurance and shall not contribute with it.

12.2.2 Each such policy or certificate of insurance mentioned and required in this Section 12 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

12.2.3 The certificates of insurance and insurance policies shall be furnished to Developer and City before commencement of construction under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required under this Section 12.

12.2.4 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 15 of this Agreement, without cure or grace period. In addition to any other legal remedies, City at its sole option after written notice may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to City.

Section 13. Destruction or Condemnation.

13.1 Total or Partial Destruction. If the Improvements are totally or partially destroyed at any time during the term of this Agreement, Developer shall reconstruct or repair the damage consistent with the terms of this Agreement and

substantially complete the Project by the Opening Date, as extended by Force Majeure. In any event, Developer shall at its cost secure the Property, clear the debris and generally make the Property as safe and attractive as practical given the circumstances.

If for any reason the Improvements are not reconstructed as provided above, without limiting any other rights or remedies that City has, no further development of the Property can occur without the prior approval of City. This Agreement shall continue to restrict future development of the Property and Developer or any successor of Developer shall obtain City's approval of the redevelopment plan before the Property is redeveloped.

13.2 Condemnation. If during the term of this Agreement the whole or any substantial part of the Property is taken or condemned in the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Developer can no longer materially meet its obligations under this Agreement, this Agreement shall terminate upon the date when possession of the Property or portion thereof so taken shall be acquired by the condemning authority. As used herein, "substantial" shall be defined as reasonably preventing the operation of the Project and conduct of Developer's activities as contemplated hereby. If a taking occurs that is not substantial, this Agreement shall continue in full force and effect as to the part of the Property not taken.

Section 14. Right to Assign or Otherwise Transfer. Developer represents that Anderson's purchase of the Property is intended for development and not for speculation. During the term of this Agreement, any transfers of the Property pursuant to the following sections shall be made expressly subject to the terms, covenants and conditions of this Agreement.

14.1 Transfers Before Certificate of Performance.

14.1.1 During the term of this Agreement, Developer will not transfer the Property or any part thereof without the prior written consent of City, which consent shall be at the sole discretion of City. Notwithstanding the foregoing, transfers to a Mortgagee permitted by the Financing Plan shall be permitted.

"Transfer" as used herein includes any sale, conveyance, transfer, ground lease or assignment (excluding the lease to Brew Pubs), whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer. In addition, "Transfer" includes any sale or any transfer of direct or indirect interests in Developer or any of its constituent entities, other than transfers of minority interest that do not individually or in the aggregate result in the change of control or management of Developer, the Property or the Project or transfers of equity interests approved pursuant to the Financing Plan.

14.1.2 If City approves of a transfer under Section 14.1, Developer shall deliver to City (a) a copy of the document evidencing such transfer,

including a suitable estoppel agreement(s), and (b) an assumption of all obligations of Developer under this Agreement in form reasonably satisfactory to City.

14.1.3 The transferee (and all succeeding and successor transferees) shall succeed to and assume all rights and obligations of Developer under this Agreement, including any unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the express written consent and release by City.

14.1.4 If Developer transfers the Property during the term of this Agreement without the prior written consent of City (other than transfers that do not require the consent of City hereunder), then City or its designee shall have an option to purchase the Property for the same price as paid by such unpermitted transferee. Such option must be exercised within ninety (90) days after City receives written notice from Developer of the unpermitted transfer and close within thirty (30) days after exercise of the option. Such transferee shall be obliged to sell the Property to City (or its designee) on the same terms and conditions as those upon which the transferee purchased the Property.

14.2 Transfers After Certificate of Performance. After issuance of the Certificate of Performance by City pursuant to Section 9, this Agreement shall not restrict any transfers. Nevertheless, the transfer restrictions contained in the Public Benefits Agreement shall remain in full force and effect.

Section 15. Default. Developer's failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

15.1 The failure of Developer to substantially comply with the standards of performance for the Project as set forth in Section 2 of this Agreement, including without limitation submission of Plans and permit applications for approval as required herein, commencement of construction of the Project by the Construction Start Date and substantial completion of the Project by the Opening Date (subject to extension for Force Majeure as provided herein).

15.2 The failure of Developer to comply with the terms of any Financing Obligations, and such failure is not cured within any time permitted by the lender holding such obligations.

15.3 The failure of Developer to submit and obtain approval as to any modifications of the Plans as required in Section 5.

15.4 The failure of Developer to construct the Project substantially in accordance with the Plans, as the same may be modified pursuant to Section 5.4.

15.5 The failure of Developer to diligently prosecute construction the Project in accordance with the Construction Schedule, including without limitation commencing construction of the Project by the Construction Start Date and substantially completing the Project by the Opening Date, and the failure of Developer to open the Project for full service operation to the public by the Opening Date, in both cases subject to extension for Force Majeure as provided herein..

15.6 Conversion of any portion of the Property or the Improvements to any use other than the uses permitted in this Agreement or the Public Benefits Agreement.

15.7 The failure of Developer to comply with Section 11 or Section 12 of this Agreement.

15.8 The making by Developer of an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

15.9 The appointment of a receiver or trustee of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or insolvency law which not dismissed or stayed by the court within sixty (60) days after such filing.

15.10 Any sale, assignment or other transfer in violation of Section 14 of this Agreement.

15.11 The failure of Developer to provide and maintain any security required under this Agreement, including but not limited to, the construction performance and payment bonds.

15.12 Any default in the performance of any other obligations of Developer hereunder.

The happening of any of the above described events shall be an Event of Default hereunder. Notwithstanding the foregoing, except in the case of Section 15.8, 15.9, and 15.10 above as to which notice but no cure period shall apply, Developer shall have thirty (30) days following written notice from City to cure such default (or if such default cannot reasonably be cured within 30 days, if Developer fails to commence such cure within 30 days and thereafter diligently pursue such cure to completion within one hundred twenty (120) days).

Section 16. Remedies.

16.1 Default Prior to Commencement of Construction. If an Event of Default occurs prior to the time that Developer commences construction on the Property and such Event of Default is not cured within any applicable cure period for such Event of Default under Section 15 or under Section 16.4, City, as its sole remedy for such Event of Default, shall have the right to repurchase the Property for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement and on the other terms set forth in Section 5.7 of this Agreement as if City exercised the Repurchase Option under Section 5.7. Notwithstanding the foregoing, if Developer cures such Event of Default prior to City notifying Seller that City will repurchase the Property under this Section 16.1 on account of such Event of Default, City will have no right to repurchase the Property on account of such Event of Default. Further, notwithstanding the foregoing, nothing herein shall limit Developer's liability for development and other fees (except the boulevard frontage fees) described in Section 5.3.2 that are due and payable before City exercises its repurchase option under this section.

16.2 Default After Commencement of Construction. If an Event of Default occurs after the time that Developer commences construction on the Property, and such Event of Default is not cured within any applicable time period under Section 15 or under Section 16.4, City shall have all cumulative rights and remedies under law or in equity, including but not limited to the following:

16.2.1 Damages. Developer shall be liable for any and all damages incurred by City, except that Developer shall not be liable for consequential damages incurred by City.

16.2.2 Specific Performance. City shall be entitled to specific performance of each and every obligation of Developer under this Agreement without any requirement to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.2.3 Injunction. City shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.2.4 Guaranty. City shall be entitled to draw upon or foreclose all or any part, commence an action for equitable or other relief, and/or proceed against Developer and any guarantor for all direct monetary damages, costs and expenses

arising from the Event of Default and to recover all such damages, costs and expenses, including reasonable attorneys' fees.

16.3 Copy of Notice of Default to Mortgagee. Whenever City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement, City shall at the same time forward a copy of such notice or demand to each Mortgagee approved by City at the last address of such holder shown in the records of City.

16.4 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies City in writing of its intention to complete the Project according to the approved final Construction Documents. Any Mortgagee who shall properly complete the Project shall be entitled, upon written request made to City, to issuance of a Certificate of Performance in accordance with Section 9 above.

16.5 Provisions Surviving Termination. Upon termination of this Agreement, the Indemnification obligation set forth in Section 6.4 shall remain with the parties then obligated thereunder, and such obligation shall not be assumed or deemed assumed by any subsequent owner of all or any portion of the Property.

Section 17. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 18. Miscellaneous.

18.1 Estoppel Certificates. City and Developer shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee, assignee or subtenant designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its

knowledge, all conditions under the Agreement have been satisfied by City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

18.2 Inspection. Until the Certificate of Performance is recorded, City shall have the right under this Agreement, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. City shall have the further right at all reasonable times to inspect the Property, including any construction work thereon, to determine compliance with the provisions of this Agreement. Further, City shall have all rights in its regulatory capacity to inspect the Property and construction activity.

18.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

18.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

18.5 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by Developer except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law. The obligations of Anderson and Brew Pubs, and of any other party who succeeds to their interests hereunder or in the Property, shall be joint and several.

18.6 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To City:	City of Bothell
	18305 – 101 st Avenue NE
	Bothell, Washington 98011
	Attn: Bob Stowe

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

To Developer: Anderson School Properties LLC
McMenamins Brew Pubs, Inc.
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

18.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

18.8 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

18.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either

party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

18.10 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

18.11 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement 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, except as may be otherwise expressly provided herein.

18.12 Consents. Whenever consent or approval by City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of City.

18.13 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

18.14 Discrimination. Developer, for itself and its successors and assigns, agrees that during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, handicap or national origin.

18.15 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys,' accountants,' and other experts' fees and all other fees, costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts.

18.16 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

18.17 Force Majeure. In addition to specific provisions of this Agreement, Developer shall not be deemed to be in default with regard to performance of any provision of this Agreement (including construction of the Project in accordance with the Construction Schedule) where delays to performance are due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act or delay in acting of any public or governmental entity, including to issue permits or approvals for the Project (provided that all submissions by Developer are timely and in accordance with applicable requirements) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not a cause beyond the control or without the fault of Developer (“Force Majeure”). For any Force Majeure delay that will cause substantial completion of the Project to be delayed more than fifteen (15) days, Developer will keep City informed about the cause and nature of such delay and the progress in achieving such substantial completion. Times of performance under this Agreement may also be extended in writing by City and Developer.

18.18 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms’ length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

18.19 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

[Signatures on the following page.]

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

DATED this _____ day of _____, 20____.

CITY OF BOTHELL, a Washington
municipal corporation

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____


MCMENAMINS BREW PUBS, INC.,
a Washington corporation

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 _____ of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(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 Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.

[illegible]

(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 McMenamins Brew Pubs, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL B-- (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE

AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET; THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST 392.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-2

Legal Description of Pool Parcel

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 844.04 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 145.01 FEET TO THE SOUTH LINE OF SAID NORTH HALF AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°47'09" WEST ALONG SAID EAST LINE 246.00 FEET; THENCE SOUTH 88°51'39" EAST 179.06 FEET; THENCE NORTH 04°40'16" WEST 30.67 FEET; THENCE NORTH 49°32'21" WEST 21.16 FEET; THENCE SOUTH 85°35'12" WEST 3.19 FEET; THENCE NORTH 04°24'49" WEST 60.00 FEET; THENCE NORTH 85°35'12" EAST 30.00 FEET; THENCE NORTH 35°35'12" EAST 29.56 FEET; THENCE NORTH 04°51'47" WEST 39.64 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 244.75 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'17" A DISTANCE OF 46.51 FEET; THENCE NORTH 09°33'17" EAST 30.09 FEET TO THE SOUTH LINE OF SAID NORTH HALF; THENCE NORTH 88°39'20" WEST ALONG SAID SOUTH LINE 189.75 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 43,958 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT B

Form of Certification of Performance

After recording return to

CERTIFICATE OF PERFORMANCE

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMINS
BREW PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): _____

Assessor's Tax Parcel No(s): _____

Related Document: Development Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), hereby certifies that ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMINS BREW PUBS, INC., a Washington corporation (collectively, "Developer"), have satisfactorily completed construction of the Improvements on the Property described on Exhibit A attached hereto (the "Property"), as such Improvements are described in the Development Agreement dated _____, 20__ (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 20__.

This Certificate of Performance is and shall be a conclusive determination that the Developer has satisfied, or City has waived, each of the agreements, covenants and conditions contained in the Agreement as to the development of the Improvements pursuant to Section 5 of the Agreement.

Notwithstanding this Certificate of Performance, Section 16.4 of the Agreement provides for the survival of certain covenants as between City and Developer, and nothing in this Certificate of Performance affects such survival.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

IN WITNESS WHEREOF, City has caused this instrument to be executed this _____ day of _____, _____.

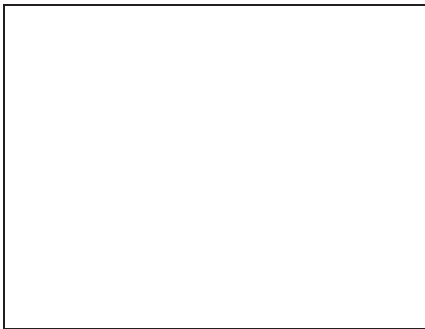
CITY OF BOTHELL, a Washington
municipal corporation

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 City of Bothell 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 C

Form of Performance Guaranty

GUARANTY OF COMPLETION

This Guaranty of Completion is made as of _____, 20____, by McMenamins, Inc., an Oregon corporation (“Guarantor”), in favor of the City of Bothell, a Washington municipal corporation (“City”), with reference to the following facts.

RECITALS

A. Contemporaneously herewith, Anderson School Properties LLC, a Washington limited liability company (“Anderson”), is purchasing the property in Bothell, Washington commonly known as the Anderson Building campus and the Northshore Costie/Ruiz Pool Building (the “Property”). Anderson is leasing the Property to McMenamins Brew Pubs, Inc., a Washington corporation (“Brew Pubs”) concurrently herewith to facilitate the redevelopment and operation of the Property. Anderson and Brew Pubs are collectively called “Developer.”

B. As part of the closing of the purchase of the Property, Developer and City are entering into a Development Agreement of even date herewith (the “Development Agreement”) that provides for the rehabilitation of the Anderson Building and other development of the Property. The Development Agreement requires that Guarantor provides this Guaranty to City. Capitalized terms not otherwise defined herein shall have the meaning given them in the Development Agreement.

C. Guarantor is the parent of Brew Pubs and will benefit from the purchase of the Property by Anderson. Guarantor understands that redevelopment of the Property is crucial to mission and goals of City and that City would not sell the Property to Anderson without this Guaranty.

GUARANTY AGREEMENT

NOW, THEREFORE, in consideration of the sale of the Property to Anderson and as required by the Development Agreement, Guarantor unconditionally and irrevocably guarantees to City the full, faithful, timely and complete performance by Developer of Developer’s obligations under the Development Agreement. Guarantor further agrees to pay all costs and expenses, including attorneys’ fees, that may be incurred by City in enforcing this Guaranty. The obligations of Guarantor under this paragraph are called the “Obligations.”

If for any reason there is an Event of Default by Developer under the Development Agreement then, in any such event, Guarantor, upon receipt of notice from City, agrees to cure such default and to perform, or cause Developer to perform, all of Developer’s obligations under the Development Agreement.

If Guarantor fails to cure or cause cure of Developer’s default as provided above (such cure by Guarantor in any event commence not later than 30 days after notice to Guarantor from City and thereafter proceed diligently and continuously), City, at City’s option, shall have the

right to complete the Project. City's rights to complete the Project shall be subject to the rights of the construction lender to the Project to also complete the Project, such that if such lender is undertaking the construction of the Project, City shall not interfere with such construction activity (provide that such construction activity is in compliance with the Development Agreement). The amount of all expenditures reasonably incurred by City in curing the default shall be immediately due and payable by Guarantor to City.

Guarantor shall be responsible and liable to City for any losses, costs or expenses that City may suffer or incur as a result of any breach by Guarantor of any of the terms of this Guaranty or in the event that any of the representations or warranties made in writing by Guarantor to City are or were incorrect. If Guarantor defaults under this Guaranty, City may enforce this Guaranty against any or all persons liable hereunder and pursue any rights and remedies available at law or in equity, including without limitation actions for damages and specific performance. Guarantor agrees that, given the unique nature of the proposed development on the Property, that City may not be in a position to complete the development and that specific performance is an appropriate remedy hereunder. In the event of any default under this Guaranty or in any action to enforce this Guaranty, City shall be entitled to recover all reasonable costs and expenses, including experts, accountants and attorney's fees and costs and including any such fees in any bankruptcy and appellate proceedings.

Guarantor agrees that its liability shall not be impaired or affected by (i) any renewals or extensions of the time for performance under the Development Agreement; (ii) any enforcement of or any forbearance or delay in enforcing the Development Agreement against Developer; (iii) any modifications of the terms or provisions of the Development Agreement; (iv) any settlement, release or compromise with Developer (except to the extent that the same are in a writing signed by Developer and City); (v) any lack of notice to Guarantor from City except that expressly provided for herein. City has no obligation to resort for payment to Developer or to any other person or entity or their properties, or to resort to any security, property, rights or remedies whatsoever, before enforcing this Guaranty.

Any other provisions hereof notwithstanding, this Guaranty shall terminate upon the issuance by City of a Certificate of Performance for the Project or repurchase of the Property by City pursuant to Sections 5.7 or 16.1 of the Development Agreement.

All diligence in collection, protection, or enforcement and all presentment, demand, protest and notice, as to anyone and everyone, whether Developer, Guarantor or others, of dishonor or default, the creation and existence of the Obligations, the acceptance of this Guaranty or any extensions of credit and indulgence hereunder, are hereby expressly waived. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any rights by way of subrogation or otherwise against Developer unless and until the full amount owing to City on the Obligations has been paid and the Obligations have been fully performed.

Upon the occurrence of an Event of Default under the Development Agreement that is not cured within any applicable cure period under the Development Agreement, City may exercise any right or remedy it may have at law or in equity against Developer under the Development Agreement. No such action by City will release or limit the liability of Guarantor to City, if the

effect of that action is to deprive Guarantor of the right to collect reimbursement from Developer for any sums paid to City.

Guarantor assumes full responsibility for keeping fully informed of the financial condition of Developer and all other circumstances affecting Developer's ability to perform its obligations to City and agrees that City will have no duty to report to Guarantor any information that City receives about Developer's financial condition or any circumstances bearing on its ability to perform.

All notices which may be or are required to be given pursuant to this Guaranty shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, WA 98011
Attn: Bob Stowe
Fax No. (425) 486-2434
Phone: (425) 486-3256

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner
Fax: (206) 623-7022

To Guarantor: McMenamins, Inc.
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

This Guaranty shall be binding upon Guarantor, and upon the successors and assigns of Guarantor. This Guaranty shall run for the benefit of City, its successors and assigns.

This Guaranty may only be changed by an instrument in writing signed by the party against whom enforcement hereof is sought.

Guarantor acknowledge that the transactions contemplated hereby have been negotiated in the State of Washington, that Guarantor are to perform their obligations hereunder in the State of Washington and that after due consideration and consultation with counsel Guarantor and City have elected to have the internal laws of Washington apply hereto. Accordingly, this Guaranty shall be deemed made under and shall be construed in accordance and governed by the internal laws of the State of Washington without regard to principles of conflicts of laws. Guarantor hereby consents to the nonexclusive jurisdiction of the state courts located in King County, Washington and the federal courts in the Western District of Washington. Guarantor waives the defense of forum non conveniens in any such action and agrees that this Guaranty may be enforced in any such court.

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

Notwithstanding any provision of this Guaranty to the contrary, Guarantor shall have no obligation hereunder on account of any Event of Default under the Development Agreement that occurs prior to commencement of construction on the Property pursuant to the Development Agreement. City's sole remedy on account of any such Event of Default shall be to repurchase the Property in accordance with the terms of Sections 5.7 and 16.1 of the Development Agreement.

McMenamins, Inc., an Oregon corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

Plans and Permit Schedule

Developer shall prepare the Plans for the development of the Project on the Property sufficiently detailed to obtain all necessary grading, right of way, utilities, building, plumbing, mechanical, electrical and other permits from the City of Bothell and other Governmental Authorities. Developer will submit such Plans and permit applications not later than the following dates (subject to extension for Force Majeure:

Plans	Deadlines for Submission to City
Concept Design Plans, Schematic Design Plans, Design Development Plans, Construction Plans and Construction Schedule	All Plans in this section are due at such time so that the Construction Plans and Construction Schedule are submitted to the City not later than (i) the fifth (5 th) month anniversary of the date this Agreement is recorded for all proposed Plans and (ii) not later than the seventh (7 th) month anniversary of the date this Agreement is recorded for all final Plans
Permits/SEPA	Deadlines for Permit Application/SEPA Submissions
Environmental (SEPA) determination Permits: Grading, Right of Way, Utilities, Building, Plumbing, Mechanical, Electrical (from Washington State Department of Labor and Industries), Re-roof (if not done as part of Building Permit) and sign	All Permits/SEPA submissions in this section are due at such time so that the applications for the listed permits are submitted to the City not later than the eighth (8 th) month anniversary of the date this Agreement is recorded

EXHIBIT E

Development, Traffic Impact and Boulevard Frontage Fees Estimates

Type of fee / frontage improvement construction cost	How calculated	Amount
Estimated development fees excluding traffic impact fees		
Pre-application	Established by fee resolution.	\$1,213
Environmental review (SEPA)	Fee based on amount of review time, which should be shorter than normal review time because proposed uses are covered by the Planned Action EIS. Mitigating measures from the EIS may be applied. Assume 8 hours x \$140.80 per hour = \$1,126.	\$1,126
Plan check	Paid on submittal of application at 65 percent of permit fees. Permit fees are based on valuation of the proposed construction. Valuation of the McMenamins construction is assumed at \$15,000,000. Permit fees for a \$15,000,000 construction project are calculated at \$6,730.50 for the first \$1,000,000 + \$4.50 for each additional \$1,000 or fraction thereof, which totals \$69,731. The plan check fee would be 65 percent of \$69,731, or \$45,325, plus consultant review fees if required.	\$45,325
Fire plan check	Collected for all new commercial and multi-family buildings and first-time or change-of-use tenant improvements. The McMenamins construction would constitute change-of-use tenant improvements. Calculated at \$.06 per square foot x assumed total floor area of 67,024 square feet, or \$4,021.	\$4,021
Traffic concurrency capacity reporting and monitoring surcharge	Different fees depending on whether a development is classified as “minor” (generates between 3 and 19 peak hour trips), “medium” (between 20 and 50 peak hour trips) or “major” (more than 50 peak hour trips). Assuming as a “worst case” that McMenamins would be a major development, the fee would be \$2,722	\$2,722
Grading permit	Plan review + permit fee, varies by amount of grading. Grading of less than 1,000 cubic yards assumed.	\$232
Right of way permit	Major, associated with development, set fee	\$218
Utilities permits (water, storm drainage, sanitary sewer)	Various permits. Assumes 1) existing three-inch water meters serving the Anderson complex and the Northshore Pool are adequate for McMenamins’ usage; 2) an existing unutilized two-inch water service to the property can be used for irrigation; and 3) no additional meters will be required. Remaining fees would cover service line fees, sanitary sewer facilities charges, backflow assembly inspections, processing fees and other related fees.	\$3,387
Building permits	See “Plan check” above for calculation method	\$69,731
Plumbing permits	(Permit fee) + (type of fixture x fee per fixture x number of fixtures) + (plan check fee at 65 percent of previous total). Total, assuming 70-room hotel and other previously identified uses: \$5,420	\$5,420
Mechanical permits	(Permit fee) + (type of fixture x fee per fixture x number of fixtures) + (plan check fee at 65 percent of previous total). Total, assuming 70-room hotel and other previously identified uses: \$2,809.62	\$2,810
Electrical permits	Not collected by City: administered by state Department of Labor and Industries	
Development	Per-hour billing for planning, civil engineering and traffic review and	\$22,661

Type of fee / frontage improvement construction cost	How calculated	Amount
review	related inspections. Assumes 160 hours x average per hour fee of \$141.63 = \$22,661	
Energy review	For tenant improvements (assumes no new construction), \$263 per building (5) + \$68 per hotel room (70) = \$6,075	\$6,075
State building code fee	\$4.50 per building permit x assumed 5 building permits = \$22.50 + \$2 per hotel room (70) = \$162.50	\$163
Total estimated development fees, excluding traffic impact fees		\$165,104
Estimated traffic impact fees		
Traffic impact fees	<p>Traffic impact fees are based on the type of land use x unit of measure (e.g., number of dwellings, gross floor area), + a 3 percent administrative fee. Fees effective July 1, 2010, are utilized in this analysis. Proposed McMenamins land uses include a hotel, pub, restaurant, retail shops, pool, and movie and live theaters.</p> <p>In its analysis staff took into account overlapping uses (e.g., hotel guests are likely to dine in the restaurant <u>and</u> view movies in the theater) and the continuation of existing uses (e.g., the pool) that would not add new traffic.</p> <p>Total traffic impact fees based on individual McMenamins uses, as if new: \$496,828 After 10 percent deduction for overlapping uses (\$49,683): \$447,145 After deduction for offsetting existing uses (\$248,720): \$198,425 After addition of 3 percent administrative fee (\$5,953): \$204,378</p>	\$204,378
Total estimated development fees		\$369,482
Estimated frontage improvement construction costs		
Frontage improvement construction cost	<p>Frontage improvement construction costs are separate from and in addition to traffic impact fees, unless the required frontage improvements would increase roadway capacity, in which case a portion of the construction costs may be credited against the impact fees. In the case of McMenamins, none of the required frontage improvements would increase roadway capacity. It is assumed that the City would contribute all land for right of way and construct SR 527 through-lanes and median landscaping; and that McMenamins would pay in lieu of construction for required improvements west of the median landscaping.</p> <p>The required improvements include a 10-foot vehicle access lane with pull-out in front of the Anderson Building, curb and gutter for the</p>	

Type of fee / frontage improvement construction cost	How calculated	Amount
	<p>access lane, a 10-foot sidewalk, ADA ramps, trees immediately behind the sidewalk, related landscaping, irrigation, street furniture, and illumination. The improvements extend along SR 527 from the parcel's southern boundary to its northern boundary. The concrete wall, seating area, and planting within the wall around the existing significant tree on the northern portion of the frontage is not included in the cost estimate. The materials, such as trees, access lane pavers, landscaping, illumination, and furniture, shall match the materials used in the rest of the boulevard. The estimated cost of constructing these improvements is \$339,000.</p> <p>To accommodate McMenamins' desire for more space between the northeast corner of the Anderson Building and the edge of sidewalk, required frontage improvements have been reduced from the standard boulevard design by eliminating a row of parallel parking and reducing the sidewalk width from 14 feet to 10 feet.</p>	\$339,000
Grand total, estimated development fees + estimated frontage improvement construction costs:		\$708,482

EXHIBIT H

Form of Monitoring License

MONITORING LICENSE

This MONITORING LICENSE (this “Agreement”) is dated as of _____, 2011, and is by and between the CITY OF BOTHELL, a Washington municipal corporation (“Licensee”), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company (“Licensor”).

RECITALS

A. Contemporaneously herewith, Licensor has acquired from Licensee the real property described on Exhibit A attached hereto (the “Licensor’s Property”).

B. Licensee is the owner of the real property that is adjacent to the west of the Licensor’s Property that it purchased from the Northshore School District No. 417 (the “Licensee’s Property”). Licensee has recently completed an environmental remediation on the Licensee’s Property and the westerly portion of the Licensor’s Property pursuant to an agreement with the Washington Department of Ecology (“Ecology”).

C. Ecology requires that Licensee monitor soils and/or groundwater following the completion of the remediation for some period of years. This monitoring is required on the Licensor’s Property outside of any buildings (the “License Area”). The general location of the monitoring wells is shown on Exhibit B attached hereto.

D. The parties wish to provide a temporary license for Licensee to enter upon the License Area to install and maintain monitoring equipment, inspect and conduct monitoring activities with respect to the environmental remediation completed by Licensee, as required by Ecology (collectively, the “Monitoring Activities”). Thus, Licensor has agreed to grant a temporary license to Licensee for the purposes and on the terms and conditions described herein.

AGREEMENT

1. Grant of License. For and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor grants to Licensee a temporary license for Licensee and its employees and contractors to enter onto the License Area for the purpose of conducting the Monitoring Activities (the “License”). Licensee shall install, maintain and use any monitoring equipment in the License Area at its sole risk and expense. Licensee shall conduct the Monitoring Activities in such a manner as to not unreasonably interfere with Licensor’s or McMenamins Brew Pubs, Inc.’s use and operation of the Licensor’s Property.

The term of the License shall expire automatically 90 days after the time when Ecology no longer requires Licensee to conduct the Monitoring Activities. Within such 90-day period, Licensee shall remove any monitoring equipment and abandon any monitoring wells in accordance with Ecology’s standards.

2. Maintenance. Licensee shall at its expense maintain any monitoring equipment in good and safe condition and repair. Licensor shall have no duty at all to ready the License Area for Licensee's use hereunder or to maintain the License Area for the use by Licensee hereunder.

3. Indemnity. Licensee will defend, indemnify and hold harmless Licensor from and against any loss, damage, penalty, claim, liability, suit or expense, including reasonable attorneys' fees (collectively, "Loss") to the extent arising from the use of the License Area pursuant to this Agreement. "Loss" shall include any liens arising from Licensee's use of the License Area, but shall exclude that portion of any Loss to the extent caused by the negligence of Licensor.

4. Insurance. Licensee self-insures for claims of the type related to the Monitoring Activities.

5. Notice. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

If to Licensee:

City of Bothell
18305 – 101st Avenue NE
Bothell, Washington 98011
Attn: Bob Stowe
Fax No. (425) 486-2434
Phone: (425) 486-3256

If to Licensor:

Anderson School Properties LLC
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 223-0109

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for

informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

6. Attorney's Fees and Costs. If any party brings 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.

7. Governing Law. This Agreement shall be governed by Washington law.

8. 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.

9. Headings. The headings used herein are for convenience only and are not to be used in interpreting this Agreement.

10. 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.

11. Recording. The License and the rights granted hereunder to Licensee are for the personal benefit of Licensee and do not run with any land owned by Licensee and may not be assigned by Licensee. Neither party shall record this Agreement or a memorandum thereof.

12. 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.

13. Not an Interest in Real Property. Licensors and Licensee agree that the rights granted herein do not create an easement, lease or other interest in real property.

14. Compliance with Laws. Licensee shall conduct all Monitoring Activities in compliance with all applicable laws and regulations, orders and directives of applicable governmental agencies.

15. Assumption of Risk. Licensee, in its capacity as licensee hereunder, assumes all risk of injury, loss or damage to Licensee and its employees and contractors entering the License Area pursuant to this License, other than to the extent caused by the willful misconduct or gross negligence of Licensors, its employees or agents.

[signatures on next page]

LICENSEE:

CITY OF BOTHELL, a Washington municipal corporation

By: _____
Name: _____
Title: _____

LICENSOR:

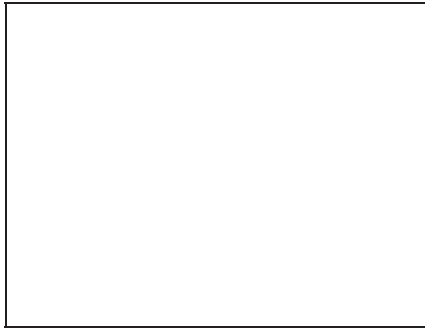
ANDERSON SCHOOL PROPERTIES LLC, a
Washington limited liability company

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 the City of Bothell, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



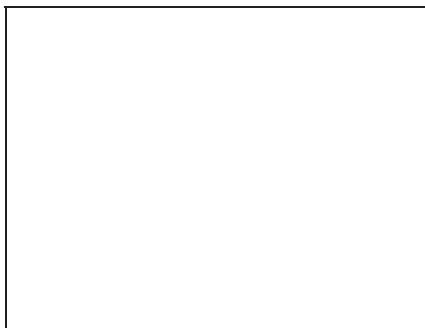
(Use this space for notarial stamp/seal)

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 Anderson School Properties 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

**LICENSOR'S PROPERTY
[Anderson Property]**

Exhibit B

Depiction of Monitoring Well Locations

EXHIBIT I

List of Reports Delivered to Buyer

Phase I Environmental Site Assessment (“ESA”) (Shockey/Brent dated January 2006)

Geotechnical Site Characterization (GeoEngineers, January 2006)

Phase II ESA Report, GeoEngineers Report, dated July 2006)

Remedial Investigation Work Plan (GeoEngineers, January 2007) (including reports referenced therein at Section 2.0 re: “Bothell BP Station” and “BP Oil Station #11352”)

Remedial Investigation (“RI”) (GeoEngineers Report, dated December 2007)

Groundwater Assessment Report (GeoEngineers, April 2008)

Groundwater Assessment Report (GeoEngineers, September 2008)

Asbestos Survey and Lead Paint Screening (Pacific Rim, January 2006)

Underground Storage Tank Removal Monitoring Report—Ricketts Administration Building (GeoEngineers, October 27, 2008)

Supplemental Investigation Report—Northshore Downtown Bothell Properties (GeoEngineers, September 23, 2008)

Letter dated November 6, 2008 from Laura Brent, Project Manager for Northshore School District to Michael Boykin, U.S. Environmental Protection Agency (re: Horse Creek)

Memorandum dated June 12, 2007 from Renee Nordeen to Michael Boykin, as provided to Laura Brent by email on June 12, 2007

Consent Decree, *State of Washington v. G. Richard Bell*, King County Superior Court Cause No. 93-2-04496-8 (March 20, 1992)

Seller Disclosure Statement

Letter from City of Bothell to Department of Ecology with proposed Agreed Order and Work Plan for interim soil cleanup at Northshore School District Bus Barn Site (May 7, 2010)

Northshore School District Bus Barn Feasibility Study Revision No. 2 (Parametrix, May 2010)

EXHIBIT J

Form of Frontage Agreement

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

DEVELOPMENT AGREEMENT
RE: FRONTAGE IMPROVEMENTS

GRANTOR: ANDERSON SCHOOL PROPERTIES LLC and MCMENAMINS
BREW PUBS, INC.

GRANTEE: CITY OF BOTHELL

Legal Description:
Abbreviated form:
Additional legal on Exhibit A

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

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions.....	2
Section 2. Payment of Frontage Fee	3
Section 3. Guaranty of Payment.....	3
Section 4. Certificate of Payment.....	3
4.1 When Developer Entitled to Certificate of Payment.....	3
4.2 Effect of Certificate of Payment; Termination of Agreement	3
Section 5. Default and Remedies	3
Section 6. Remedies.....	4
6.1 Remedies Upon Default	4
Section 7. Miscellaneous.....	4
7.1 Entire Agreement	4
7.2 Modification.....	4
7.3 Successors and Assigns; Joint and Several	4
7.4 Notices.....	4
7.5 Execution in Counterparts.....	5
7.6 Waiver	5
7.7 Rights and Remedies Cumulative	6
7.8 Applicable Law; Jurisdiction	6
7.9 No Joint Venture	6
7.10 Conflict of Interest	6
7.11 Attorneys' Fees	6
7.12 Captions; Exhibits	7
7.13 Fair Construction; Severability	7
7.14 Time of the Essence	7

**DEVELOPMENT AGREEMENT
RE: FRONTAGE IMPROVEMENTS**

THIS DEVELOPMENT AGREEMENT RE: FRONTAGE IMPROVEMENTS (this “Agreement”) is dated as of _____, 20____, between the CITY OF BOTHELL, a Washington municipal corporation (“City”), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company (“Anderson”), and MCMENAMINS BREW PUBS, INC., a Washington corporation (“Brew Pubs”) (Anderson and Brew Pubs are, collectively, “Developer”).

RECITALS

A. Pursuant to that certain Purchase and Sale Agreement dated June_____, 2010 between City as seller and Anderson as buyer (the “Sale Agreement”), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the “Property”). The parcel described on Exhibit A-1 (the “Anderson Parcel”) is improved with the historic W.A. Anderson School Building (the “Anderson Building”) and its related campus. The parcel described on Exhibit A-2 (the “Pool Parcel”) is improved with the Northshore Costie/Ruiz Pool and related building (the “Pool Building”).

B. Concurrently herewith, Anderson has leased the Property to Brew Pubs pursuant to a long term lease (the “Lease”). Brew Pubs is wholly owned by McMenamins, Inc., an Oregon corporation, which has common beneficial ownership with Anderson.

C. In August 2009, City solicited Requests for Concepts for redevelopment of the Property. Developer was the only respondent to provide a detailed concept for redevelopment of the Property in McMenamins Response to the City of Bothell’s Request for Concepts, September 16, 2009 (the “RFC Response”), which concept was consistent with City’s goals for the Property and the City.

D. As described in the Sale Agreement, City desires to foster the redevelopment of the Property, which is located in a key part of downtown Bothell, in a way that will contribute to the economic, cultural, and recreational revitalization of the City. Developer intends to submit plans for City’s approval that provide for the redevelopment of the Property into a full service “McMenamins Complex” that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the “Project”). Developer has agreed to construct the Project as further provided in and subject to the terms and conditions of the separate Development Agreement between such parties and the City recorded contemporaneously herewith (the “Development Agreement”). Such Development Agreement is in addition to this Agreement.

E. The Property fronts on State Route 527 on its eastern boundary. As part of the development of the Project, certain improvements to State Route 527 are required by the City. These include construction of an access lane from the main highway and installing curbing, sidewalks, handicapped ramps, lighting and landscaping (collectively, the “Frontage Improvements”).

F. The City is also planning to improve and realign the State Route 527 as a larger project. Rather than having Developer construct the Frontage Improvements separately from the larger project, the parties have agreed that the City will construct them as part of its highway project. In the Sale Agreement, Anderson has agreed to pay or cause Brew Pubs to pay the City for its construction of the Frontage Improvements in the amount of the Frontage Fee (as defined below).

G. The Project is a private undertaking to be contracted, constructed and operated by Developer with Developer’s resources and will provide a significant redevelopment of the Property with accompanying public benefits. The parties intend by this Agreement to set forth their mutual agreement and undertakings with regard to the Frontage Improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Project upon the Property, and as a direct benefit to City and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

“Certificate of Payment” means a certificate issued by City to Developer pursuant to Section 4 of this Agreement.

“Development Agreement” has the meaning given in Recital D.

“Event(s) of Default” has the meaning given in Section 15 herein.

“Project” means the redevelopment of the Property to construct the improvements and features described in Recital D.

“Project Documents” has the meaning given in the Development Agreement.

“Sale Agreement” has the meaning given in Recital A.

Section 2. Payment of Frontage Fee. Developer agrees to pay to the City the amount of Three Hundred Thirty-Nine Thousand Dollars (\$339,000) as Developer's agreed contribution to the construction cost of the Frontage Improvements (the "Frontage Fee"). The Frontage Fee shall be due within thirty (30) days after written demand from the City. The City shall not demand payment of the Frontage Fee before January 1, 2012 and not after December 31, 2027. If the Frontage Fee is not timely paid to the City, it will bear interest at 12% per annum from the date it is due until paid. If the City has not completed the Frontage Improvements within five (5) years after it collects the Frontage Fee, it shall return the Frontage Fee (but not any interest thereon) it received to the Developer that paid the fee.

If City repurchases the Property pursuant to Sections 5.7 or 16.1 of the Development Agreement, Developer's obligation to pay the Frontage Fee shall terminate. If Developer has paid the Frontage Fee to City before such repurchase occurs, City shall refund the Frontage Fee (but not any interest thereon) to the Developer that paid the fee.

Section 3. Guaranty of Payment. Contemporaneously with the execution of this Agreement, Developer shall furnish an irrevocable and unconditional guaranty of payment by McMenamins, Inc. (the parent of Brew Pubs), in the form of Exhibit C attached hereto (the "Guaranty"), guaranteeing the full and timely payment of the Frontage Fee as required by this Agreement. This Guaranty shall terminate upon issuance by City of the Certificate of Payment described in Section 4. Neither the provisions of this Section nor any guaranty accepted by City pursuant hereto, nor any damages or other amounts recovered by City thereunder, shall be construed to excuse payment by Developer as required under this Agreement.

Section 4. Certificate of Payment.

4.1 When Developer Entitled to Certificate of Payment. Upon timely payment of the Frontage Fee in accordance with this Agreement, City will furnish Developer with a recordable Certificate of Payment, substantially in the form attached hereto as Exhibit B.

4.2 Effect of Certificate of Payment; Termination of Agreement. Issuance by City of a Certificate of Payment shall terminate Developer's obligations under this Agreement. No party acquiring or leasing any portion of the Property after issuance of the Certificate of Payment shall (because of such purchase or lease) have any obligation to pay the Frontage Fee under this Agreement.

Section 5. Default and Remedies. The failure by Developer to pay the Frontage Fee as and when required under this Agreement shall be an Event of Default hereunder.

Section 6. Remedies.

6.1 Remedies Upon Default. If an Event of Default occurs, City shall have all cumulative rights and remedies under law or in equity, including but not limited to the following:

6.1.1.1 Damages. Developer shall be liable for any and all damages in the amount of the Frontage Fee, plus interest as provided in Section 2.

6.1.1.2 Guaranty. City shall be entitled to commence an action against any guarantor under the Guaranty for the Frontage Fee, plus interest as provided in Section 2, as more particularly provided in the Guaranty.

Section 7. Miscellaneous.

7.1 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

7.2 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

7.3 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by Developer except pursuant to the express terms of this Agreement or as permitted in the Development Agreement or the Public Benefits Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law. The obligations of Anderson and Brew Pubs, and of any other party who succeeds to their interests hereunder or in the Property, shall be joint and several.

7.4 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, Washington 98011
Attn: Bob Stowe

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

To Developer: Anderson School Properties LLC
McMenamins Brew Pubs, Inc.
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

7.5 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

7.6 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time

for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

7.7 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

7.8 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

7.9 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement 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, except as may be otherwise expressly provided herein.

7.10 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

7.11 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys,' accountants,' and other experts' fees and all other fees, costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts.

7.12 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for

convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

7.13 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

7.14 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

[Signatures on the following page.]

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

DATED this _____ day of _____, 20____.

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: _____
Title: _____

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: _____
Name: _____
Title: _____


MCMENAMINS BREW PUBS, INC., a
Washington corporation

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 _____ of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(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 Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.

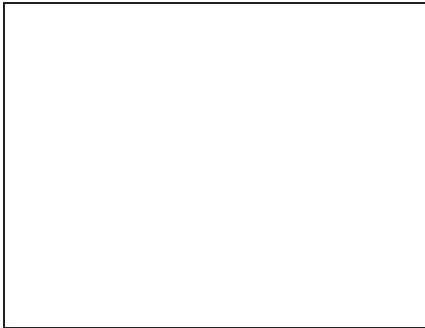
(Use this space for notarial stamp/seal)

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 McMenamins Brew Pubs, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20____.



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PARCEL B (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK

COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 157.71 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 391.01 FEET; THENCE NORTH 88°51'39" WEST 178.60 FEET; THENCE NORTH 03°50'28" EAST 392.00 FEET TO THE POINT OF BEGINNING.
THE ABOVE-DESCRIBED PARCEL CONTAINS 65,798 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT A-2

Legal Description of Pool Parcel

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 844.04 FEET TO THE EAST LINE OF THE WEST 844 FEET OF SAID SUBDIVISION; THENCE SOUTH 00°47'09" WEST ALONG SAID EAST LINE 145.01 FEET TO THE SOUTH LINE OF SAID NORTH HALF AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°47'09" WEST ALONG SAID EAST LINE 246.00 FEET; THENCE SOUTH 88°51'39" EAST 179.06 FEET; THENCE NORTH 04°40'16" WEST 30.67 FEET; THENCE NORTH 49°32'21" WEST 21.16 FEET; THENCE SOUTH 85°35'12" WEST 3.19 FEET; THENCE NORTH 04°24'49" WEST 60.00 FEET; THENCE NORTH 85°35'12" EAST 30.00 FEET; THENCE NORTH 35°35'12" EAST 29.56 FEET; THENCE NORTH 04°51'47" WEST 39.64 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 244.75 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'17" A DISTANCE OF 46.51 FEET; THENCE NORTH 09°33'17" EAST 30.09 FEET TO THE SOUTH LINE OF SAID NORTH HALF; THENCE NORTH 88°39'20" WEST ALONG SAID SOUTH LINE 189.75 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 43,958 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

PERTEET, INC
PROJECT NO. 27061.002
MAY 4, 2010

EXHIBIT B

Form of Certification of Payment

After recording return to

CERTIFICATE OF PAYMENT

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMINS
BREW PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): _____

Assessor's Tax Parcel No(s): _____

Related Document: Frontage Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), hereby certifies that ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMINS BREW PUBS, INC., a Washington corporation (collectively, "Developer"), have timely paid the Frontage Fee due to the City with respect to the Property described on Exhibit A attached hereto (the "Property"), as required in the Development Agreement Re: Frontage Improvements dated _____, 20__ (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 20__.

This Certificate of Payment is and shall be a conclusive determination that the Developer has paid the Frontage Fee.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

EXHIBIT C

Form of Payment Guaranty

GUARANTY OF PAYMENT

This Guaranty of Payment is made as of _____, 20____, by McMenamins, Inc., an Oregon corporation ("Guarantor"), in favor of the City of Bothell, a Washington municipal corporation ("City"), with reference to the following facts.

RECITALS

A. Contemporaneously herewith, Anderson School Properties LLC, a Washington limited liability company ("Anderson"), is purchasing the property in Bothell, Washington commonly known as the Anderson Building campus and the Northshore Costie/Ruiz Pool Building (the "Property"). Anderson is leasing the Property to McMenamins Brew Pubs, Inc., a Washington corporation ("Brew Pubs") concurrently herewith to facilitate the redevelopment and operation of the Property. Anderson and Brew Pubs are collectively called "Developer."

B. As part of the closing of the purchase of the Property, Developer and City are entering into a Development Agreement Re: Frontage Improvements of even date herewith (the "Frontage Agreement") that provides for payment of a certain Frontage Fee as described and defined in the Frontage Agreement. The Frontage Agreement requires that Guarantor provides this Guaranty to City. Capitalized terms not otherwise defined herein shall have the meaning given them in the Frontage Agreement.

C. Guarantor is the parent of Brew Pubs and will benefit from the purchase of the Property by Developer. Guarantor understands that redevelopment of the Property is crucial to mission and goals of City and that City would not sell the Property to Anderson without this Guaranty.

GUARANTY AGREEMENT

NOW, THEREFORE, in consideration of the sale of the Property to Anderson and as required by the Frontage Agreement, Guarantor unconditionally and irrevocably guarantees to City the full, faithful, timely and complete payment of the Frontage Fee and interest thereon by Developer as required by the Frontage Agreement. Guarantor further agrees to pay all costs and expenses, including attorneys' fees that may be incurred by City in enforcing this Guaranty. The obligations of Guarantor under this paragraph are called the "Obligations."

If for any reason there is an Event of Default by Developer under the Frontage Agreement then, in any such event, Guarantor, upon receipt of notice from City, agrees to cure such default and to perform, or cause Developer to perform, all of Developer's obligations under the Frontage Agreement.

If Guarantor defaults under this Guaranty, City may enforce this Guaranty against any or all persons liable hereunder and pursue any rights and remedies available at law or in equity, including without limitation actions for damages and specific performance. In the event of any

default under this Guaranty or in any action to enforce this Guaranty, City shall be entitled to recover all reasonable costs and expenses, including experts, accountants and attorney's fees and costs and including any such fees in any bankruptcy and appellate proceedings. Guarantor's obligations under this Guaranty shall not exceed the amount of the Obligations.

Guarantor agrees that its liability shall not be impaired or affected by (i) any renewals or extensions of the time for performance under the Frontage Agreement; (ii) any enforcement of or any forbearance or delay in enforcing the Frontage Agreement against Developer; (iii) any modifications of the terms or provisions of the Frontage Agreement; (iv) any settlement, release or compromise with Developer (except to the extent that the same are in a writing signed by Developer and City); (v) any lack of notice to Guarantor from City except that expressly provided for herein. City has no obligation to resort for payment to Developer or to any other person or entity or their properties, or to resort to any security, property, rights or remedies whatsoever, before enforcing this Guaranty.

Any other provisions hereof notwithstanding, this Guaranty shall terminate upon the issuance by City of a Certificate of Payment for the Frontage Fee or upon the repurchase of the Property by City pursuant to Section 5.7 or 16.1 of the Development Agreement.

All diligence in collection, protection, or enforcement and all presentment, demand, protest and notice, as to anyone and everyone, whether Developer, Guarantor or others, of dishonor or default, the creation and existence of the Obligations, the acceptance of this Guaranty or any extensions of credit and indulgence hereunder, are hereby expressly waived. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any rights by way of subrogation or otherwise against Developer unless and until the full amount owing to City on the Obligations has been paid and the Obligations have been fully performed.

Upon the occurrence of a default under the Frontage Agreement, City may elect exercise any other right or remedy it may have at law or in equity against Developer. No such action by City will release or limit the liability of Guarantor to City, if the effect of that action is to deprive Guarantor of the right to collect reimbursement from Developer for any sums paid to City.

Guarantor assumes full responsibility for keeping fully informed of the financial condition of Developer and all other circumstances affecting Developer's ability to perform its obligations to City and agrees that City will have no duty to report to Guarantor any information that City receives about Developer's financial condition or any circumstances bearing on its ability to perform.

All notices which may be or are required to be given pursuant to this Guaranty shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, Washington 98011
Attn: Bob Stowe

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

To Guarantor: McMenamins, Inc.
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

This Guaranty shall be binding upon Guarantor, and upon the successors and assigns of Guarantor. This Guaranty shall run for the benefit of City, its successors and assigns.

This Guaranty may only be changed by an instrument in writing signed by the party against whom enforcement hereof is sought.

Guarantor acknowledge that the transactions contemplated hereby have been negotiated in the State of Washington, that Guarantor are to perform their obligations hereunder in the State of Washington and that after due consideration and consultation with counsel Guarantor and City have elected to have the internal laws of Washington apply hereto. Accordingly, this Guaranty shall be deemed made under and shall be construed in accordance and governed by the internal laws of the State of Washington without regard to principles of conflicts of laws. Guarantor hereby consents to the nonexclusive jurisdiction of the state courts located in King County, Washington and the federal courts in the Western District of Washington. Guarantor waives the

defense of forum non conveniens in any such action and agrees that this Guaranty may be enforced in any such court.

[signature on next page]

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

McMenamins, Inc., an Oregon corporation

By:_____

Name:_____

Title:_____

EXHIBIT K

Form of Access Easement

After Recording Return To:

K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet**

Document Title:

Reciprocal Access Easement Agreement

Grantor(s): City of Bothell

Anderson School Properties LLC

Grantee(s): Anderson School Properties LLC

City of Bothell

Legal description (abbreviated: i.e. lot, block, plat or section, township, range):

Additional legal is on page ____ of document.

Assessor's Property Tax Parcel/Account Number:

Assessor Tax #

RECIPROCAL ACCESS EASEMENT AGREEMENT

THIS RECIPROCAL ACCESS EASEMENT AGREEMENT (this “Easement Agreement”) is entered into as of _____, 2011, by and between Anderson School Properties LLC, a Washington limited liability company (“Anderson”), and the City of Bothell, a municipal corporation of the State of Washington (the “City”). This Easement Agreement is entered into with reference to the following:

RECITALS

A. Contemporaneously herewith, the City sold real property to Anderson pursuant to that certain Purchase and Sale Agreement between the parties dated _____, 2010 (the “PSA”), which property is legally described in Exhibit A attached hereto (the “Anderson Property”).

B. The City retained ownership of that certain southerly adjoining parcel of land described legally in Exhibit B attached hereto (the “City Property”).

C. The parties’ plans for the development and use of their respective properties include a joint twenty (20) foot wide access easement along the boundary between their properties (ten (10) feet on either side of the boundary). The access easement granted herein is located in the area described on Exhibit C attached hereto (the “Easement Area”) and depicted on Exhibit D attached hereto. The Easement Area is currently a paved parking lot.

D. The PSA provides that the parties will grant each to the other a reciprocal non-exclusive easement for the use of the access easement at the closing of Anderson’s acquisition of the Anderson Property.

AGREEMENT

NOW, THEREFORE, in furtherance of the recitals set forth above, which are incorporated herein by reference, and in consideration of the mutual promises and covenants set forth below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties acknowledge and agree to the following:

1. Grant of Reciprocal Easements. The City hereby grants and conveys to Anderson a perpetual, non-exclusive easement over, under and across that portion of the Easement Area that is located on the City Property. Anderson hereby grants and conveys to the City a perpetual, non-exclusive easement over, under and across that portion of the Easement Area that is located on the Anderson Property. The easements described in this section are collectively called the “Easement.” Each party grants the Easement for the purposes of (a) ingress and egress, including pedestrian and vehicular access and emergency vehicle and personnel access, by each party and its tenants and their respective employees, agents, contractors, invitees, tenants and licensees, as well as by emergency responders, and (b) installation, construction, maintenance, operation, repair and replacement of a private access driveway or roadway as provided herein (the “Road”).

2. Construction and Maintenance of Road. Each party may in its sole discretion improve the Easement Area located on its own property with the Road at its expense. By mutual written agreement, the parties may agree to develop the Road jointly and share the expense thereof in whatever manner they agree. In performing the construction Road work, neither party shall unreasonably interfere with the other's activities on its property. The parties shall coordinate with one another in such construction process so as to minimize the interference with one another's use of its property. All construction work performed on the Easement Area and Road shall be performed in good, workmanlike and lien free manner.

Each party shall maintain at its expense the Easement Area and, if constructed, the Road located on its own property in good and serviceable condition. By mutual written agreement of the parties, the parties may agree to jointly maintain the Easement Area and Road and share the cost in whatever manner they agree. If one party fails to maintain the portion of the Easement Area and Road located on its property as required herein, after thirty (30) days prior written notice to the non-maintaining party, the other party may do the maintenance or repairs. In such event, the non-maintaining party shall pay for its share of such costs for the portion of the Easement Area on its property within fifteen (15) days after written demand (accompanied by invoices or other evidence of costs incurred) from the party doing the maintenance or repairs.

3. No Buildings or Parking. No buildings or other structures shall be constructed or located within the Easement Area. Neither party shall permit parking in or block access to the Easement Area, except for temporary blockage during construction, repaving or other repairs (and such construction and repairs shall be done so as to minimize the interference with the use of the Easement Area).

4. Reservation. Each party reserves the right to use the Easement Area on its property for purposes not inconsistent with the rights granted to the other party herein, including without limitation the right to grant other easements within the Easement Area (including utility easements) so long as the same do not unreasonably interfere with the Easement granted herein.

5. Indemnification. The City and Anderson each shall protect, defend and save harmless the other from any and all claims, demands, loss, damage, expense (including attorneys' fees), liens, charges and liability of every kind and description, including personal injury and for any damage to or loss of or destruction of property whatsoever (collectively, "Claims") suffered by such other party because, by reason of, or arising from the exercise of any of the rights granted herein; provided that, neither party shall be obligated to indemnify the other for the portion of any claim or liability to the extent caused by the sole or concurrent negligence of such other party or its agents, employees, contractors or licensees.

6. Run with the Land. The rights and obligations of the parties touch and concern the land and shall inure to the benefit of and be binding upon the respective successors and assigns. The parties further agree that this Easement Agreement shall be considered a covenant that runs with the land.

7. Attorneys' Fees. In the event of litigation, including alternative dispute resolution, with respect to the enforcement or interpretation of this Easement Agreement, including appeals, the

prevailing party in such litigation shall be entitled to recover, from the non-prevailing party, the prevailing party's reasonable attorneys' fees, costs and disbursements.

8. Notices. Any notice required or permitted to be given hereunder shall be in writing and may be (a) personally served, (b) sent by reputable overnight courier, (c) sent by United States Mail or (d) sent by facsimile transmission (with a copy mailed concurrently by United States mail or concurrently sent by overnight courier), and shall be deemed to have been given (i) when personally served, (ii) the next business day if sent by overnight courier, (iii) two (2) business days after having been deposited in the United States mail, return receipt requested, postage prepaid and properly addressed, if sent by United States mail and (iv) on the day of transmission if a business day, or if not, on the next business day, if sent by facsimile transmission (with a copy concurrently mailed or sent by United States mail or overnight courier as above provided). Addresses for notice by overnight courier or for notice by United States mail and facsimile numbers are as follows:

If to Anderson: Anderson School Properties LLC
 c/o McMenamins
 430 N. Killingsworth
 Portland, OR 97217
 Attention: Larry Dortmund

With a copy to:

If to City: City of Bothell
 18305 – 101st Avenue NE
 Bothell, WA 98011
 Attention: Bob Stowe

with a copy to: K&L Gates LLP
 925 Fourth Avenue, Suite 2900
 Seattle, WA 98104
 Attention: Shannon Skinner

Either party may change its address for notice by giving the other party written notice thereof as herein provided. Notices shall not be given by email.

(Remainder of page left intentionally blank)

IN WITNESS WHEREOF, this Easement Agreement has been executed the day and year first above written.

CITY:

CITY OF BOTHELL

By: _____

Name: _____

Its: _____

ANDERSON:

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: _____

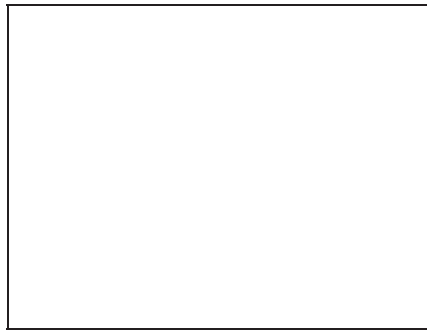
Name: _____

Its: _____

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 Anderson School Properties LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



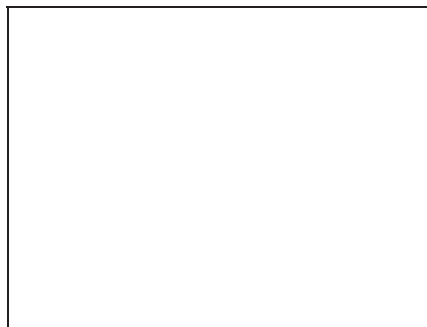
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF _____)
) 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 the City of Bothell, 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 Anderson Property

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

EXHIBIT B
Legal Description of City Property

[To come—description of southerly adjoiner]

EXHIBIT C
Legal Description of Easement Area

EXHIBIT D
Depiction of Easement Areas

EXHIBIT L

Form of Yard License

YARD LICENSE

This YARD LICENSE (this “Agreement”) is dated as of _____, 2011, and is by and between the CITY OF BOTHELL, a Washington municipal corporation (“Licensor”), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company (“Licensee”).

RECITALS

A. Contemporaneously herewith, Licensee has acquired the real property described on Exhibit A attached hereto (the “Benefited Property”). The Benefited Property is improved with the historic Anderson School Building.

B. Licensor is the owner of the real property that is the subject of this Agreement and is depicted on Exhibit B attached hereto (the “License Area”). Licensee intends to redevelop the Benefited Property with a hotel and entertainment complex. The License Area is a grassy area between the eastern boundary of the Benefited Property and the sidewalk along State Route 527 in front of the Benefited Property.

C. Licensor plans to complete boulevard improvements in front of the Benefited Property, including the construction of a boulevard and realignment of State Route 527, in the next several years.

D. The parties wish to provide a temporary license for Licensee to enter upon the License Area to install, maintain and use certain yard improvements, including landscaping, outdoor seating, fire pit and other items approved by Licensor (collectively, the “Yard Improvements”) until such time as Licensor commences the boulevard improvements work. Thus, Licensor has agreed to grant a temporary license to Licensee for the purposes and on the terms and conditions described herein.

AGREEMENT

1. Grant of License. For and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor grants to Licensee a temporary license for Licensee and its tenant, employees, contractors and invitees to enter onto the License Area for the purpose of installing, maintaining and using the Yard Improvements (the “License”). Before installing the Yard Improvements, Licensee shall provide plans and visual renderings thereof to Licensor for Licensor’s approval. All Yard Improvements shall be in accordance with all applicable legal requirements (including obtaining city and other permits as required). Signs shall not be permitted Yard Improvements. Licensee shall install, maintain and use the Yard Improvements in the License Area at its sole risk and expense. The Yard Improvements shall not encroach onto

or interfere with the sidewalk or public right of way, whether physically or with respect to sight lines, or create other safety concerns, as reasonably determined by Licensor.

The term of the License shall expire automatically on the earlier to occur of (i) thirty (30) days after Licensor gives written notice to Licensee that work on the boulevard improvements is going to commence, and (ii) after the date that is five (5) years after the date of this Agreement, thirty (30) days after Licensor gives written notice to Licensee that the License is terminated. Within such 30-day period, Licensee shall remove the Yard Improvements (unless otherwise agreed by Licensor). Licensor shall not compensate Licensee for the Yard Improvements or their removal.

2. Maintenance. Licensee shall at its expense maintain the Yard Improvements in good, neat, trash-free and safe condition and repair. Licensor shall keep all plants and landscaping in the License Area properly irrigated and promptly replace dead plants and landscaping. Licensor shall not allow fires in the fire pit to be unattended and shall keep appropriate fire suppressants nearby.

3. Indemnity. Licensee will defend, indemnify and hold harmless Licensor from any loss, claim, liability or suit, including reasonable attorneys' fees, for any loss, damage, claim, action, liability or penalty (collectively, "Loss") to the extent arising from the use of the License Area pursuant to the License. "Loss" shall include any liens arising from Licensee's use of the License Area, but shall exclude that portion of any Loss caused by the negligence of Licensor.

4. Insurance. Licensee shall maintain a commercial general liability policy insuring claims in connection with actions and omissions occurring in connection with this Agreement, with minimum limits of coverage of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollar (\$2,000,000.00) aggregate, with an umbrella policy of not less than Five Million Dollars (\$5,000,000.00), bodily injury or death and property damage combined. Such policy shall (a) name Licensor as an additional insured, and (b) be maintained with an insurance company licensed to do business in Washington and reasonably acceptable to Licensor.

5. Notice. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

If to Licensor:

City of Bothell
18305 – 101st Avenue NE
Bothell, WA 98011
Attention: Bob Stowe
Fax No. (425) 486-2434
Phone: (425) 486-3256

If to Licensee:
Anderson School Properties LLC
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund
Fax No. (503) 294-0837
Phone (503) 223-952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

6. Attorney's Fees and Costs. If any party brings 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.

7. Governing Law. This Agreement shall be governed by Washington law.

8. 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.

9. Headings. The headings used herein are for convenience only and are not to be used in interpreting this Agreement.

10. 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.

11. Recording. This Agreement and the License are for the personal benefit of Licensors and do not create an interest in the land or run for the benefit of future owners of the Land. Neither party shall record this Agreement or a memorandum thereof.

12. 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.

LICENSOR:

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: _____
Title: _____

LICENSEE:

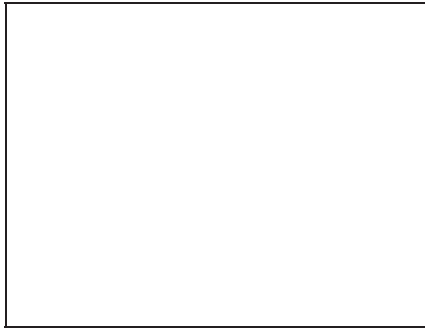
ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

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 the City of Bothell, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



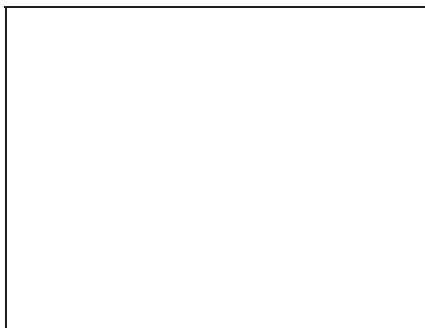
(Use this space for notarial stamp/seal)

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 Anderson School Properties 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

BENEFITED PROPERTY

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF SAID SUBDIVISION WITH THE NORTH LINE OF THE SOUTH 145 FEET OF THE NORTH HALF OF SAID SUBDIVISION, SAID INTERSECTION BEING ON THE SOUTHERLY RIGHT OF WAY MARGIN OF NE 188TH STREET (HASBROUK COUNTY ROAD); THENCE SOUTH 88°39'20" EAST ALONG SAID NORTH LINE AND MARGIN 686.33 FEET; THENCE SOUTH 03°50'28" WEST 392.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 03°50'28" WEST 202.00 FEET; THENCE SOUTH 41°07'05" EAST 189.00 FEET; THENCE SOUTH 88°55'30" EAST 291.27 FEET TO A NON-RADIAL INTERSECTION WITH AN ARC OF A CURVE CONCAVE TO THE WEST FROM WHICH ITS CENTER BEARS SOUTH 87°54'31" WEST, 2,331.00 FEET DISTANT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°46'18" A DISTANCE OF 112.76 FEET TO A POINT OF TANGENCY; THENCE NORTH 04°51'47" WEST 179.93 FEET; THENCE NORTH 40°19'35" WEST 31.06 FEET; THENCE NORTH 04°40'16" WEST 26.87 FEET; THENCE NORTH 88°51'39" WEST 357.66 FEET TO THE POINT OF BEGINNING.

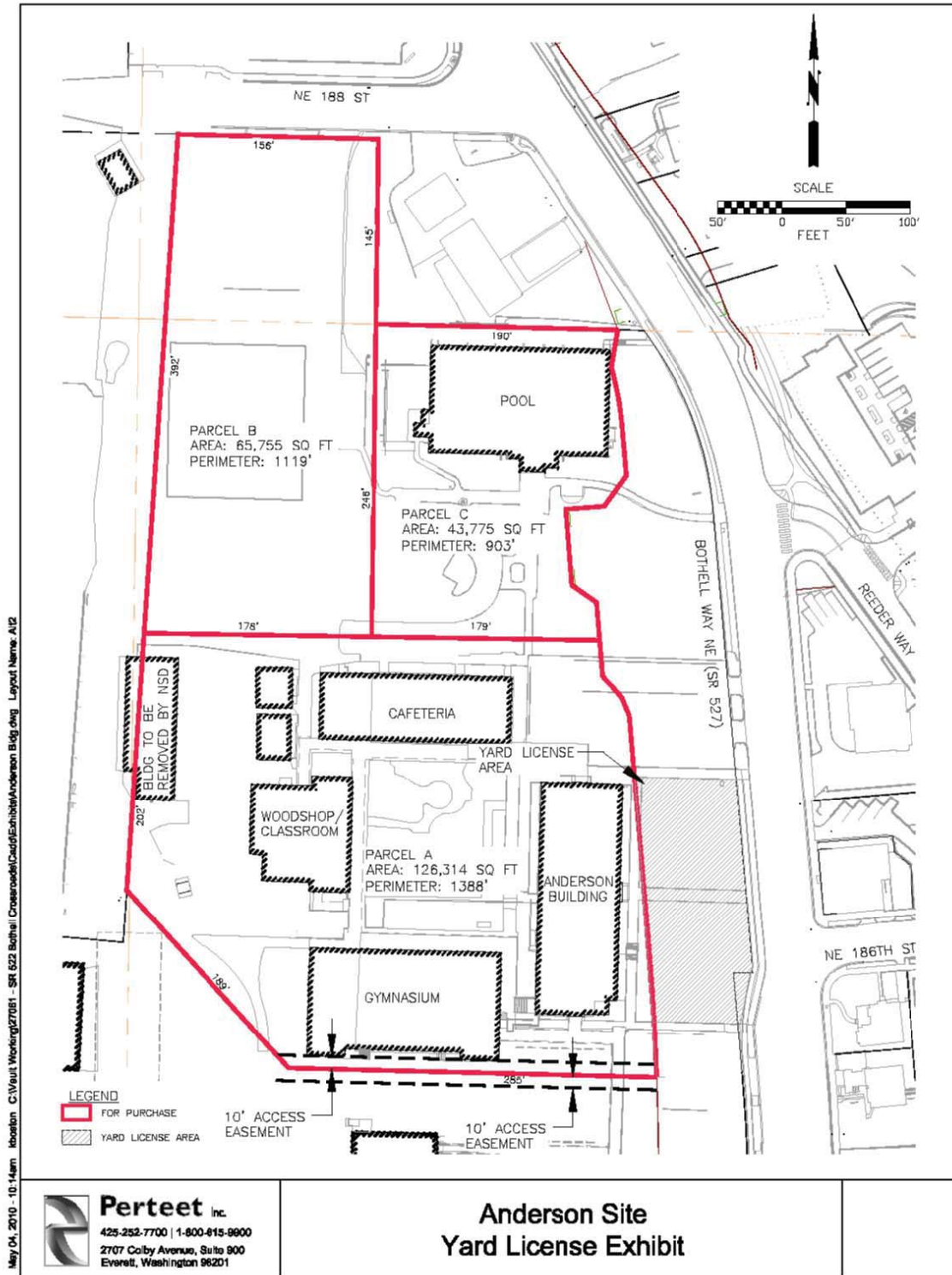
THE ABOVE-DESCRIBED PARCEL CONTAINS 127,054 SQUARE FEET, MORE OR LESS.

(BEING A PORTION OF LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. 2009-00001, AS RECORDED UNDER RECORDING NO. 20090610900001, RECORDS OF SAID COUNTY.

.

Exhibit B

Depiction of License Area



FIRST AMENDMENT
TO PURCHASE AND SALE AGREEMENT

This First Amendment to Purchase and Sale Agreement (this "Amendment") is dated as of September 21, 2010 and is by and between the City of Bothell, a Washington municipal corporation ("Seller"), and Anderson School Properties LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010 (the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer's Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an extension of the Contingency Period as to Buyer's review of the Ecology Work only (the "Ecology Work Review"). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contingency Period Extension. The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to December 22, 2010. Buyer shall have until 5:00 p.m. on December 22, 2010 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. Buyer agrees that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer's sole discretion.

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as extended herein), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

3. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

In witness whereof, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC, a
Washington limited liability company

By: 

Name: Barbara McIlhenny

Title: SOLE MEMBER / MANAGER

SECOND AMENDMENT
TO PURCHASE AND SALE AGREEMENT

This Second Amendment to Purchase and Sale Agreement (this "Amendment") is dated as of December 10, 2010 and is by and between the City of Bothell, a Washington municipal corporation ("Seller"), and Anderson School Properties LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010 (together, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer's Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer's review of the Ecology Work only (the "Ecology Work Review"). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contingency Period Extension. The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to February 22, 2011. Buyer shall have until 5:00 p.m. on February 22, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the First Amendment to Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer's sole discretion.

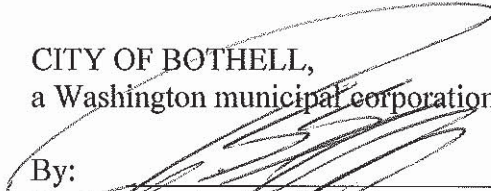
If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as extended herein), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

3. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

In witness whereof, the parties have executed this Amendment as of the date first set forth above.

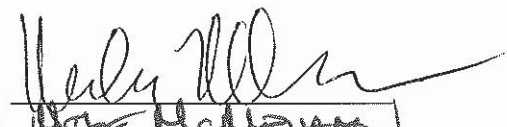
SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stove
Title: City manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC, a
Washington limited liability company

By: 
Name: Mike McManis
Title: Manager

THIRD AMENDMENT
TO PURCHASE AND SALE AGREEMENT

This Third Amendment to Purchase and Sale Agreement (this "Amendment") is dated as of February 22, 2011 and is by and between the City of Bothell, a Washington municipal corporation ("Seller"), and Anderson School Properties LLC, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010 and Second Amendment to Purchase and Sale Agreement dated December 10, 2010 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer's Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer's review of the Ecology Work only (the "Ecology Work Review"). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contingency Period Extension. The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to March 24, 2011. Buyer shall have until 5:00 p.m. on March 24, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the amendments to the Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer's sole discretion.

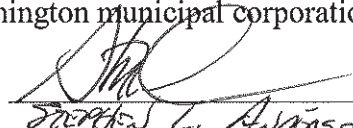
If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

In witness whereof, the parties have executed this Amendment as of the date first set forth above.

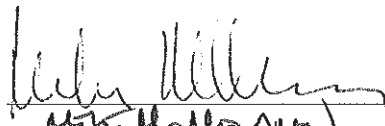
SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Stephen L. Anderson
Title: Deputy City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC, a
Washington limited liability company

By: 
Name: Mike Holloman
Title: MANAGER

FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of March 22, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer's Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer's review of the Ecology Work only (the "Ecology Work Review"). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Contingency Period Extension.** The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to April 8, 2011. Buyer shall have until 5:00 p.m. on April 8, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the amendments to the Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer's sole discretion.

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stowe

Title: City manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 

Name: Mike McManamin

Title: President

FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of April 8th, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer's Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer's review of the Ecology Work only (the "**Ecology Work Review**"). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Contingency Period Extension.** The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to April 22, 2011. Buyer shall have until 5:00 p.m. on April 22, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the amendments to the Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer's sole discretion.

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

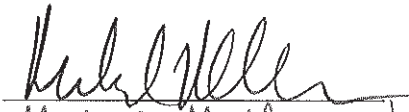
SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 
Name: Michael J. Anderson
Title: MANAGER

SIXTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SIXTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “**Amendment**”) is dated as of April 22nd, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation (“**Seller**”), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company (“**Buyer**”). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011 (collectively, the “**Agreement**”). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer’s Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer’s review of the Ecology Work only (the “**Ecology Work Review**”). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Contingency Period Extension.** The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to May 4, 2011. Buyer shall have until 5:00 p.m. on May 4, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the amendments to the Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer’s sole discretion.

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Stephen C. Anderson

Title: Deputy City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: _____

Name: _____

Title: _____

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

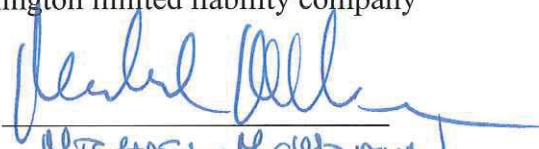
SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 
Name: MICHAEL ROBINSON
Title: MANAGER

SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “**Amendment**”) is dated as of May 4, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation (“**Seller**”), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company (“**Buyer**”). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011 and as amended by Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011 (collectively, the “**Agreement**”). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. As part of Buyer’s Inspection under Section 5.1.1 of the Agreement, Buyer is reviewing the proposed Ecology Work. Ecology has not completed its planning for the Ecology Work and Buyer has requested an additional extension of the Contingency Period as to Buyer’s review of the Ecology Work only (the “**Ecology Work Review**”). The parties desire to extend the expiration of the Contingency Period as to the Ecology Work Review as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Contingency Period Extension.** The expiration of the Contingency Period as to the Ecology Work Review only is hereby extended to May 11, 2011. Buyer shall have until 5:00 p.m. on May 11, 2011 to deliver its notice to Seller that the Inspection Condition as to the Ecology Work Review is satisfied or the Agreement shall terminate. As provided in the amendments to the Purchase and Sale Agreement described above, Buyer has agreed that, except for the Ecology Work Review, the Inspection Condition is satisfied and Buyer has approved of all matters (except its review of the Ecology Work) that are the subject of the Inspection Condition. Any approval by Buyer of the Inspection Condition as to the Ecology Work remains subject to Buyer’s sole discretion.

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: _____

Name: _____

Title: _____

If Buyer provides notice that the Inspection Condition as to the Ecology Work Review is satisfied not later than the end of the Contingency Period (as provided), then Buyer shall convert the Earnest Money Note to cash within two (2) Business Days thereafter.

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.


SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 
Name: Michael W. Anderson
Title: MANAGER

EIGHTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS EIGHTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “**Amendment**”) is dated as of May 11, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation (“**Seller**”), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company (“**Buyer**”). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, as amended by Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011 and as amended by Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011 (collectively, the “**Agreement**”). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties agreed to seven prior extensions of the Contingency Period as to the Ecology Work Review because of the delays by Ecology in the planning and preparation for the Ecology Work beyond the time originally anticipated by the parties. Ecology is now ready to proceed with the Ecology Work and has indicated its intention to complete the Ecology Work in a timely and diligent manner, however, the parties desire to provide for a holdback to address certain activities related to the Ecology Work that may be necessary after Closing, and to extend certain dates, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Contingency Period Satisfaction.** Buyer hereby provides notice that the Inspection Condition (as defined in Section 5.1.1 of the Agreement) is satisfied. Buyer shall convert the Earnest Money Note to cash within two (2) Business Days after the date hereof.

2. **Ecology Work Holdback.** Section 4 of the Agreement is hereby amended as provided in this section.

A. Sales Proceeds. Section 4.8.1(A) and Section 4.8.1(B) are amended by adding the following at the end of each Section before the period: “and net of the Holdback provided for in Section 4.9.”

B. Holdback. A new Section 4.9 is added to the Agreement as follows:

“4.9 Monitoring Costs Holdback. The parties agree that at Closing the amount of \$100,000 shall be retained from the Purchase Price proceeds payable to Seller (the “Holdback”). The Holdback shall be held by Escrow Holder in an interest bearing escrow account in accordance with this provision, with interest thereon payable to Seller. The Holdback shall be available for disbursement to Buyer in one disbursement only in the amount necessary to reimburse Buyer for the Monitoring Costs as provided herein.

As used herein, “Monitoring Costs” shall mean the actual third party costs incurred by Buyer to complete the following tasks if Ecology fails to do the same, as described in Ecology’s Final Cleanup Action Plan (the “CAP”) and in accordance with the schedule described in the Ecology work plan, following the time that the Ecology Work is Complete: (a) perform the groundwater monitoring and analysis required by the Ecology work plan(s) and the sampling and analysis for compliance monitoring plan from wells to be installed by Ecology on the Property; and (b) if such monitoring reveals that the groundwater has not achieved applicable cleanup standards, then either or both of (i) injecting an oxidizing compound into the monitoring wells to further remediate soil and groundwater; and (ii) conducting a vapor intrusion investigation at the Pool Building and, if such investigation demonstrates that vapor intrusion is occurring, then installing necessary mitigation measures at the Pool Building.

The Holdback shall be available for disbursement to Buyer for a period ending on the earlier to occur of either (i) May 1, 2013 or (ii) the date that is 10 days after receipt by Buyer of a memorandum, or such other form of documentation, prepared and issued by Ecology that the work required under the CAP is complete or no further investigative or remedial action is necessary under the CAP at the Pool Parcel (the “Closeout Memo”). Buyer shall use commercially reasonable efforts to have Ecology issue the Closeout Memo by May 1, 2013, including using the Holdback for the purposes described above (but without being required to spend in excess of such sum for such work). To obtain the disbursement from the Holdback, Buyer shall provide copies of paid invoices and other supporting documentation regarding the requested Monitoring Costs to both Seller and Escrow Holder. If Seller does not object in writing within thirty (30) days after receipt of such documentation (with copies of such notice delivered to both Buyer and Escrow Holder), then Escrow Holder shall promptly disburse the requested amount. If Seller objects in writing within such thirty-day period, then based on the arguments set forth in Seller’s objection, along with Buyer’s response to Seller’s objection, the parties agree to submit the matter to a third-party environmental consultant, acceptable to both the parties, for a written determination whether the costs incurred by the Buyer were or are reasonably

permitted under the definition of Monitoring Costs set forth above. The third-party consultant's determination shall be issued within thirty (30) days of receiving the assignment, and the determination shall be final and binding on the parties. Seller and Buyer shall each pay one-half of the cost of the third-party consultant.

If any funds remain in the Holdback upon the earlier to occur of either (i) May 1, 2013 or (ii) 10 days after receipt by Buyer of the Closeout Memo, except to the extent that Buyer has made a claim to the same, then Escrow Holder shall promptly disburse the remainder (including any undisputed portion) to Seller.

If any amounts are disbursed to Buyer from the Holdback pursuant to this provision, then the Public Benefits Period for the Pool use public benefit described in the Public Benefits Agreement shall be extended by the number of months obtained by dividing the disbursed Holdback amount by \$21,875 (the Buy-Out Price for the Pool use). The resulting number shall be rounded to a whole number of months. Thus, if the entire Holdback amount was disbursed to Buyer, then the Public Benefits Period for the Pool use public benefit would be extended by five (5) months."

3. **Date Changes.** Given the status of the Ecology Work, the parties agree to make certain adjustments in the Closing Date (as provided in the Agreement), the Construction Start Date, Opening Date and the date for exercise of the Repurchase Option (as provided in the Development Agreement that is attached as Exhibit G to the Agreement) and Public Benefits Period (as provided in the Public Benefits Agreement that is attached as Exhibit C to the Agreement) as provided below.

A. **Closing and Other Dates.** Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("Closing") shall take place thirty (30) days after the Ecology Work is Complete, but not later than December 31, 2011 or such earlier date as the parties may mutually agree (the "Closing Date"), unless extended as hereinafter provided.

Seller shall monitor when the Ecology Work is Complete in relation to the Closing Date and provide written notice to Buyer when Seller learns that the Ecology Work is Complete so the parties can determine the Closing Date hereunder."

Further, Section 16.2 of the Agreement is amended and restated in its entirety as follows:

16.2 **Property Repurchase Option.** As further described in the Development Agreement, Seller shall have the option to repurchase the Property if Buyer fails to commence construction of the Project by May 1, 2013 (as provided in the Development Agreement), on the terms and conditions therein.

B. The Development Agreement is hereby amended as provided below:

1. Sale Agreement. The first sentence of Recital A of the Development Agreement is deleted and replaced with the following: "Pursuant to that certain Purchase and Sale Agreement between City, as seller, and Anderson, as buyer, dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011 and Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011 (collectively, the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property")."

2. Construction Start Date and Opening Date. The following definitions in the Development Agreement are hereby amended or added as follows:

"Construction Start Date" means the date that is the later of (i) the thirteenth (13th) month anniversary of the date this Agreement is recorded and (ii) the second (2nd) month anniversary of the date on which Buyer receives the Closeout Memo, but not earlier than November 1, 2012, subject to extension for Force Majeure. For purposes of illustration, if the date on which this Agreement is recorded is October 1, 2011 and the date on which Buyer receives the Closeout Memo is December 1, 2012, then the Construction Start Date shall be February 1, 2013 (subject to extension for Force Majeure).

"Opening Date" means the date that is the later of (i) the twenty-sixth (26th) month anniversary of the date this Agreement is recorded or (ii) the thirteenth (13th) month anniversary of the Construction Start Date, but not earlier than December 1, 2013, subject to extension for Force Majeure. For purposes of illustration, if the recording date for this Agreement is October 1, 2011 and the Construction Start Date is February 1, 2013, then the Opening Date shall be March 1, 2014 (subject to extension for Force Majeure)."

3. Repurchase Option. The first paragraph of Section 5.7 of the Development Agreement is hereby amended and restated as follows:

5.7 Purchase Option if Failure to Start Construction or Event of Default Before Commencing Construction. If Developer fails to commence construction by May 1, 2013, then City shall have the option to repurchase the Property (the "Repurchase Option") for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement. Such Repurchase Option shall be City's sole remedy for such failure hereunder. To exercise the Repurchase Option, City shall give written notice to Developer within ninety (90) days after May 1, 2013. If Developer

fails to commence construction by May 1, 2013 and City has not exercised the Repurchase Option in writing (or provided written notice to Developer that City elects to not exercise its Repurchase Option) by the 90th day after May 1, 2013, then City shall be deemed to have exercised the Repurchase Option as of such 90th day.

Further, Section 16.1 of the Development Agreement is amended and restated as follows:

16.1 Default Prior to Commencement of Construction. If an Event of Default occurs prior to the time that Developer commences construction on the Property and such Event of Default is not cured within any applicable cure period for such Event of Default under Section 15 or under Section 16.4, City, as its sole remedy for such Event of Default, shall have the right to repurchase the Property for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement and on the other terms set forth in Section 5.7 of this Agreement as if City exercised the Repurchase Option under Section 5.7, except that the references in such section to May 1, 2013 shall instead be to "the Construction Start Date." Notwithstanding the foregoing, if Developer cures such Event of Default prior to City notifying Seller that City will repurchase the Property under this Section 16.1 on account of such Event of Default, City will have no right to repurchase the Property on account of such Event of Default. Further, notwithstanding the foregoing, nothing herein shall limit Developer's liability for development and other fees (except the boulevard frontage fees) described in Section 5.3.2 that are due and payable before City exercises its repurchase option under this section.

C. Public Benefits Period. The Public Benefits Agreement is hereby amended as provided below.

1. Sale Agreement. The first sentence of Recital A of the Public Benefits Agreement is deleted and replaced with the following: "Pursuant to that certain Purchase and Sale Agreement between City, as seller, and Anderson, as buyer, dated June 24, 2010, First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011 and Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011 (collectively, the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property")."

2. The following definitions are hereby added to the Public Benefits Agreement in their alphabetical order:

“Opening Date” means the date that is the later of (i) the twenty-sixth (26th) month anniversary of the date this Agreement is recorded or (ii) the thirteenth (13th) month anniversary of the Construction Start Date (as defined in the Development Agreement), but not earlier than December 1, 2013, subject to extension for Force Majeure. For purposes of illustration, if the recording date for this Agreement is October 1, 2011 and the Construction Start Date is February 1, 2013, then the Opening Date shall be March 1, 2014 (subject to extension for Force Majeure).”

3. Section 2.2 of the Public Benefits Agreement is hereby amended and restated in its entirety, as provided below.

“2.2 Public Benefits Period. The “Public Benefits Period” shall mean the period commencing on the latest date on which all components of the Project are open for public use (the “Commencement Date”) and ending fifteen (15) years later (on the 15th anniversary of the Commencement Date), subject to extension with respect to the Pool use public benefit as provided in Section 4.9 of the Sale Agreement. The Commencement Date shall be the date on which all components of the Project are open for business to the public, which date shall be not later than the Opening Date. Promptly following the Commencement Date, City will record a notice in the form of Exhibit B attached hereto to give notice of the Commencement Date and the Public Benefits Period. The Public Benefits Period may be shortened or lengthened pursuant to Section 3 below.

4. The following sentence is hereby added to the end of Section 7.1: “If the Public Benefits Period as to the Pool Use public benefit is extended pursuant to Section 4.9 of the Sale Agreement, then City will not provide the Certificate of Termination to Developer until the end of the Public Benefits Period for the Pool use public benefit.”

5. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

[signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 

Name: Mike McMenamin

Title: Mgr

**NINTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS NINTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of October 19, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, as amended by Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, as amended by Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011 and as amended by Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties agreed to eight prior amendments to address the Ecology Work. The Ecology Work is now Complete and the parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Ecology Work**. The parties agree that the Ecology Work is Complete, as defined in and provided for in the Agreement. Therefore, the condition to Buyer's obligation to purchase the Property set forth in Section 5.1.4 of the Agreement has been satisfied.

2. **Closing Date**. To accommodate Buyer's financing needs, the parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing**. The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than December 21, 2011 or such earlier date as the parties may mutually agree (the "**Closing Date**").

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Bob Stone

Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: 

Name: Monica Anderson

Title: Manager

TENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS TENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of December 19, 2011 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, as amended by Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, as amended by Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, as amended by Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, and as amended by Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:


"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than January 17, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

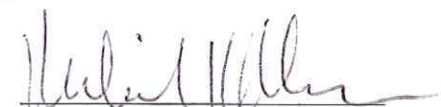
CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 
Name: Michael McMenamin
Title: Sole Member and Manager

ELEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS ELEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of January 17, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, as amended by Second Amendment to Purchase and Sale Agreement dated December 10, 2010, as amended by Third Amendment to Purchase and Sale Agreement dated February 22, 2011, as amended by Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, as amended by Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, as amended by Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, as amended by Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, as amended by Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, as amended by Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, and as amended by Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"**4.2 Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than February 17, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

2. **Additional Deposit.** Upon execution of this Amendment, Buyer shall deposit cash in the amount of \$10,000 with Escrow Holder to be held as additional earnest money (the "**Additional Deposit**"). The Additional Deposit shall be applicable to the Purchase Price and shall be treated as part of the Deposit in all respects.

3. **Development Deadlines.** The deadlines stated in the Project Documents as falling a certain number of months from the date of recording any of the Project Documents (as defined in the Development Agreement), the anniversary date of any Project Documents, or from the Closing Date shall be reduced by one (1) month. The affected deadlines are the Construction Start Date and Opening Date as defined in the Development Agreement and Public Benefits Agreement and the deadlines in the Plans and Permit Schedule as described in the Development Agreement. Therefore, the following definitions in the Development Agreement are hereby amended as follows:

“‘**Construction Start Date**’ means the date that is the later of (i) the twelfth (12th) month anniversary of the date this Agreement is recorded, and (ii) the second (2nd) month anniversary of the date on which Developer receives the Closeout Memo, but not earlier than November 1, 2012, subject to extension for Force Majeure. For purposes of illustration, if the date on which this Agreement is recorded is February 17, 2012 and the date on which Developer received the Closeout Memo is December 1, 2012, then the Construction Start Date shall be February 17, 2013 (subject to extension for Force Majeure).”

“‘**Opening Date**’ means the date that is the later of (i) the twenty-fifth (25th) month anniversary of the date this Agreement is recorded, or (ii) the 13th month anniversary of the Construction Start Date, but not earlier than December 1, 2013, subject to extension for Force Majeure. For purposes of illustration, if the recording date of this Agreement is February 17, 2012 and the Construction Start Date is February 17, 2013, then the Opening Date shall be March 17, 2014 (subject to extension for Force Majeure).”

The following definition in the Public Benefits Agreement is hereby amended as follows:

“‘**Opening Date**’ means the date that is the later of (i) the twenty-fifth (25th) month anniversary of the date this Agreement is recorded, or (ii) the 13th month anniversary of the Construction Start Date (as defined in the Development Agreement), but not earlier than December 1, 2013, subject to extension for Force Majeure. For purposes of illustration, if the recording date of this Agreement is February 17, 2012 and the Construction Start Date is February 17, 2013, then the Opening Date shall be March 17, 2014 (subject to extension for Force Majeure).”

The Plans and Permits Schedule referenced in and attached to the Development Agreement is amended to be as set forth on the revised Exhibit D attached hereto.

4. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Sole Member and Manager

EXHIBIT D

Plans and Permits Schedule

Developer shall prepare the Plans for the development of the Project on the Property sufficiently detailed to obtain all necessary grading, right of way, utilities, building, plumbing, mechanical, electrical and other permits from the City of Bothell and other Governmental Authorities. Developer will submit such Plans and permit applications not later than the following dates (subject to extension for Force Majeure:

<u>Plans</u>	<u>Deadlines for Submission to City</u>
Concept Design Plans, Schematic Design Plans, Design Development Plans, Construction Plans and Construction Schedule	All Plans in this section are due at such time so that the Construction Plans and Construction Schedule are submitted to the City not later than (i) the fourth (4 th) month anniversary of the date this Agreement is recorded for all proposed Plans and (ii) not later than the sixth (6 th) month anniversary of the date this Agreement is recorded for all final Plans
<u>Permits/SEPA</u>	<u>Deadlines for Permit Application/SEPA Submissions</u>
Environmental (SEPA) determination Permits: Grading, Right of Way, Utilities, Building, Plumbing, Mechanical, Electrical (from Washington State Department of Labor and Industries), Re-roof (if not done as part of Building Permit) and sign	All Permits/SEPA submissions in this section are due at such time so that the applications for the listed permits are submitted to the City not later than the seventh (7 th) month anniversary of the date this Agreement is recorded

**TWELFTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWELFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of February 15, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, and Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than February 24, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Manager

**THIRTEENTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS THIRTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of February 22, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012 and Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to extend the date for Closing and increase the Deposit, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than April 24, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

2. **Second Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Seventy-Five Thousand Dollars (\$75,000) to Escrow Holder to be held as additional earnest money (the "**Second Additional Deposit**"). Only one-half of the

Second Additional Deposit, or Thirty-seven Thousand Five Hundred Dollars (\$37,500), however, shall be applicable to the Purchase Price. The remaining one-half of the Second Additional Deposit shall NOT be applicable to the Purchase Price. The Second Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$435,000, only \$397,500 shall be applicable to the Purchase Price). The non-applicable half of the Second Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 


Name: Robert S. Stowp

Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Manager

**FOURTEENTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS FOURTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of April 24, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, and Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than April 27, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stowp

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Sole Member and Manager

**FIFTEENTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS FIFTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of April 27, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012 and Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date**. The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

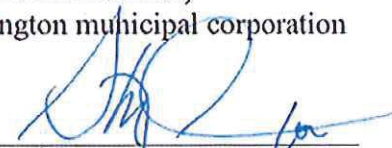
"4.2 **Closing**. The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than May 4, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

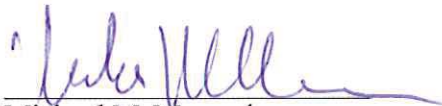
CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stowe
Title: City manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 
Name: Michael McMenamin
Title: Manager

**SIXTEENTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS SIXTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of May 2, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012 and Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place not later than May 17, 2012 or such earlier date as the parties may mutually agree (the "**Closing Date**")."

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Manager

**SEVENTEENTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS SEVENTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of May 17, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012 and Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012 and Fifteen Amendment to Purchase and Sale Agreement dated May 2, 2012 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

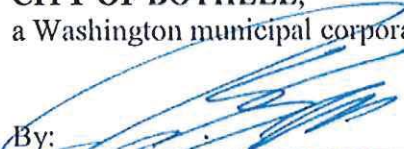
"4.2 Closing. The consummation of the purchase and sale of the Property ("Closing") shall take place not later than May 23, 2012 or such earlier date as the parties may mutually agree (the "Closing Date")."

3. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

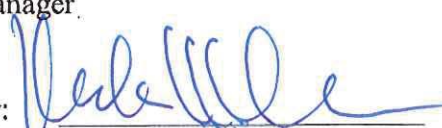
CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stowp
Title: city manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 
Name: Michael McMenamin
Title: Manager

EIGHTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS EIGHTEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of May 22, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteen Amendment to Purchase and Sale Agreement dated May 2, 2012 and Seventeen Amendment to Purchase and Sale Agreement dated May 17, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 Closing. The consummation of the purchase and sale of the Property ("Closing") shall take place not later than May 31, 2012 or such earlier date as the parties may mutually agree (the "Closing Date")."

3. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stolar

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 

Name: Michael McMenamin

Title: Manager

NINETEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS NINETEENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of May 31, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteen Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012 and Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to establish a mutually acceptable date for Closing, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:


"4.2 Closing. The consummation of the purchase and sale of the Property ("Closing") shall take place not later than June 7, 2012 or such earlier date as the parties may mutually agree (the "Closing Date")."

3. No Other Changes. Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

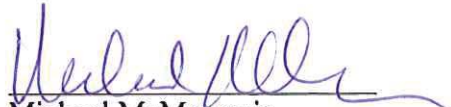
CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stowp
Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: 
Name: Michael McMehamin
Title: Manager

**TWENTIETH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWENTIETH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of June 6, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, and Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 Closing. The consummation of the purchase and sale of the Property ("Closing") shall take place not later than June 27, 2012 or such earlier date as the parties may mutually agree (the "Closing Date")."

2. **Third Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Seventy-Five Thousand Dollars (\$75,000) to Escrow Holder to be held as additional earnest money (the "Third Additional Deposit"). Only one-half of the Third Additional Deposit, or Thirty-seven Thousand Five Hundred Dollars (\$37,500), however, shall be applicable to the Purchase Price. The remaining one-half of the Third Additional Deposit shall NOT be applicable to the Purchase Price. The Third Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$510,000, only \$435,000 shall be applicable to the Purchase Price). The non-applicable half of the Third Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **New Easement.** Section 1.3 of the Agreement is amended to add the requirement for an additional easement for maintaining a portion of a storm water system, to include the relocation of Horse Creek by Seller to the easement area, in the form attached hereto as Exhibit A (the "Storm Water Easement"). The Storm Water Easement shall be included in the definition of "Easements" and will be signed by the parties at Closing. The easement area shall be counted as part of the setback requirement for the redevelopment on the Anderson Parcel.

4. **Conditions.** Seller hereby confirms that the only Buyer's Conditions Precedent remaining are those set forth in sections 5.1.2, 5.1.3, 5.1.6, and 5.1.7.

4. **Development and Public Benefits Agreements.** The Development Agreement and the Public Benefits Agreement shall be revised in their entirety to be in the forms attached hereto as Exhibits B and C, instead of the forms to which the parties previously agreed.

5. **Holdback.** Section 4.9 of the Agreement (added by the Eighth Amendment) is deleted and replaced with the following:

"4.9 Remediation Costs Holdback. The parties agree that at Closing the amount of \$100,000 shall be retained from the Purchase Price proceeds payable to Seller (the "Holdback"). The Holdback shall be held by Escrow Holder in an interest bearing escrow account in accordance with this provision, with interest thereon payable to Seller. The Holdback shall be available for disbursement to Buyer in the amount necessary to reimburse Buyer for the Remediation Costs as provided herein.

As used herein, "Remediation Costs" shall mean the actual third party costs incurred by Buyer to conduct some or all of the following tasks: (a) perform groundwater monitoring, sampling, and analysis from wells installed or to be installed by Ecology or Buyer on the Property; and (b) if such monitoring reveals that the groundwater has not achieved applicable cleanup standards, then any or all of the following: (i) injecting an oxidizing compound into the monitoring wells to further

remediate soil and groundwater; (ii) removing, either through the existing monitoring wells located on the Property or via the sump located in the pool, contaminated groundwater for offsite disposal; (iii) conducting a vapor intrusion investigation at the Pool Building and, if such investigation demonstrates that vapor intrusion is occurring, then installing necessary mitigation measures at the Pool Building; and (iv) closing monitoring wells upon receipt of approval from Ecology that monitoring the groundwater is no longer necessary or required.

The Holdback shall be available for disbursement to Buyer for a period ending on August 1, 2014. To obtain disbursement(s) from the Holdback, Buyer shall provide copies of paid invoices and other supporting documentation regarding the requested Remediation Costs to both Seller and Escrow Holder. Buyer may not request disbursement from the Holdback more than once per calendar quarter. If Seller does not object in writing within thirty (30) days after receipt of such documentation (with copies of such notice delivered to both Buyer and Escrow Holder), then Escrow Holder shall promptly disburse the requested amount. If Seller objects in writing within such thirty-day period, then based on the arguments set forth in Seller's objection, along with Buyer's response to Seller's objection, the parties agree to submit the matter to a third-party environmental consultant, acceptable to both the parties, for a written determination whether the costs incurred by the Buyer were or are reasonably permitted under the definition of Remediation Costs set forth above. The third-party consultant's determination shall be issued within thirty (30) days of receiving the assignment, and the determination shall be final and binding on the parties. Seller and Buyer shall each pay one-half of the cost of the third-party consultant. All costs of Escrow Holder in holding and administering the Holdback shall be deducted from the Holdback.

If any funds remain in the Holdback upon August 1, 2014, except to the extent that Buyer has made a claim to the same, then Escrow Holder shall promptly disburse the remainder (including any undisputed portion) to Seller.

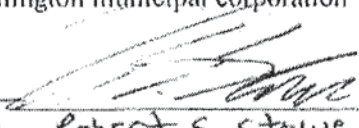
If any amounts are disbursed to Buyer from the Holdback pursuant to this provision, then the Public Benefits Period for the Pool use public benefit described in the Public Benefits Agreement shall be extended by the number of months obtained by dividing the disbursed Holdback amount by \$21,875 (the Buy-Out Price for the Pool use). The resulting number shall be rounded to a whole number of months. Thus, if the entire Holdback amount was disbursed to Buyer, then the Public Benefits Period for the Pool use public benefit would be extended by five (5) months."

6. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stowe
Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

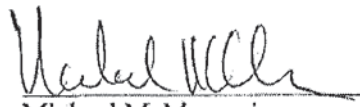
By: 
Name: Michael McMenamin
Title: Manager

EXHIBIT A

Storm Water Easement

(see attached)

After Recording Return To:

City of Bothell

City Clerk Division

18305 – 101st Ave. NE

Bothell, WA 98011

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)**Document Title(s)** (or transactions contained therein):

Sanitary Sewer/Storm Drainage Easement

Reference Number(s) of Documents assigned or released: N/A**Grantor(s):** Anderson School Properties LLC**Grantee(s):** City of Bothell**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range):☐ Ptn. of SE 1/4 of SE 1/4 of Sec. 6, Twn 26N, R 5E, W.M., King County, WA

Additional legal is on Exhibits A and B to document.

Assessor's Property Tax Parcel/Account Number: 062605-9369-05; 062605-9052-07

SANITARY SEWER/STORM DRAINAGE EASEMENT

THIS SANITARY SEWER/STORM DRAINAGE EASEMENT (this "Easement") is granted this ____ day of _____, 2012, by Anderson School Properties LLC, a Washington limited liability company, hereinafter referred to as "Grantor," to City of Bothell, a municipal corporation of the State of Washington, hereinafter referred to as "Grantee."

WHEREAS, contemporaneously herewith, Grantor has purchased from Grantee that certain parcel of land situated in the County of King, State of Washington, described in the attached Exhibit A (the "Property"); and

WHEREAS, to improve storm water drainage in the City of Bothell, Grantee is planning to redevelop a storm water system, which includes relocation and daylighting of portions of Horse Creek. Grantee plans to relocate a portion of this storm water system, as well as sanitary sewer facilities, to the Easement Area; and

WHEREAS, the parties have agreed that Grantor will grant Grantee an easement for stormwater, drainage, creek sanitary sewer and pedestrian walkway purposes, on the terms and conditions contained herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants to Grantee a perpetual, exclusive easement for the relocation, construction and maintenance of a stormwater drainage system and sanitary sewer, including permanent drainage structures, sewer lines, pipes, culverts, stream channel and associated erosion and sediment control facilities (which may include structural walls, woody debris and plantings, together with a pedestrian walkway (collectively, the "Facilities") under, across, over and through that portion of Grantor's property described in the attached Exhibit B (the "Easement Area"), together with the right of access thereto. The Easement Area is depicted on the attached Exhibit C.

Grantor also grants to Grantee a temporary construction easement for the construction of the Facilities during the initial construction thereof. Such construction easement shall be over and upon a 20 foot strip adjoining the Easement Area to the east described on Exhibit D and depicted on Exhibit E attached hereto (the "Construction Easement Area"). In using such construction easement, Grantee shall not unreasonably interfere with Grantor's or tenants' use of the Property. Notwithstanding the foregoing, Grantee may temporarily block use of parking spaces in the Construction Easement Area as needed during construction and during normal daily working hours. Upon completion of the initial construction of the Facilities, Grantee shall restore the Construction Easement Area to at least as good condition as existed before Grantee's construction. This temporary construction easement shall terminate when Grantor begins construction of its project

(including parking) in the Construction Easement Area. Grantor shall provide at least fifteen (15) days prior written notice to Grantee that Grantor is about to commence such construction. The parties agree to coordinate with each other regarding construction of the Facilities and Grantor's project, including discussing plans for transition areas (such as slopes and barriers).

Grantee shall at all times exercise its rights herein in compliance with all of the requirements of the statutes, ordinances, rules and regulations of all public authorities having jurisdiction, as amended from time to time.

Grantee shall have the right of ingress and egress over and across the land of Grantor to and from the Easement Area and Construction Easement Area (including the right to travel through driveway and parking areas with vehicles) and the right to clear and keep cleared all trees (including trimming of overhanging branches and vegetation) and other obstructions from the Easement Area. No buildings or other structures shall be constructed or located upon or above the Facilities within the Easement Area without the express written permission of Grantee. Grantee may fence the Easement Area with fencing approved by Grantor, which approval shall not be unreasonable withheld..

Grantee shall protect, indemnify, defend, and save harmless Grantor from any and all claims, demands, loss, damage, expense (including reasonable attorneys' fees), liens, charges and liability of every kind and description, including personal injury and for any damage to or loss of or destruction of property whatsoever suffered by Grantor because, by reason of, or arising from the exercise of any of the rights granted herein; provided that, Grantee shall not be obligated to indemnify Grantor for the portion of any claim or liability caused by the sole or concurrent negligence of Grantor or its agents.

This Easement shall run with the land. The rights, conditions and provisions of this Easement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties.

This Easement is made subject to all prior easements and encumbrances of record.

This Easement may be executed in counterparts.

[signatures on next page]

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

GRANTOR:

**ANDERSON SCHOOL PROPERTIES
LLC**, a Washington limited liability
company

By: New School Properties LLC,
a Washington limited liability
company, Its Manager

By: _____
Name: Michael McMenamin
Title: Sole Member and Manager

GRANTEE:

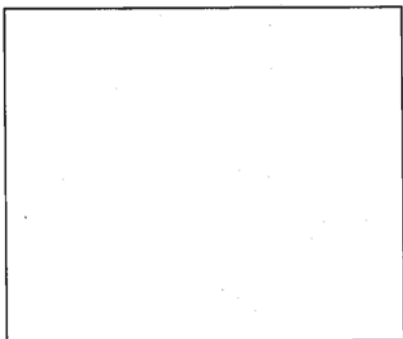
CITY OF BOTHELL, a municipal
corporation

By: _____
Name: Robert S. Stowe
Title: City Manager

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



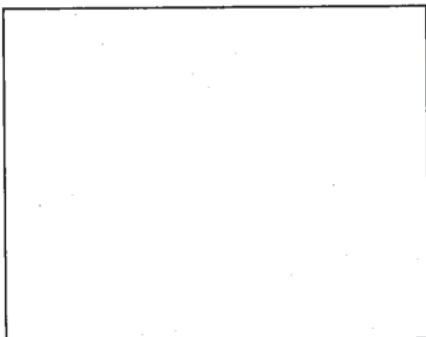
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert S. Stowe 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 City Manager of the City of Bothell 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: Catherine E. Jansen
My commission expires _____

Exhibit A

Legal Description of the Property

Lots 1 and 3, City of Bothell Boundary Line Adjustment Number BLA 2010-00006,
recorded under Recording Number 20101230900001, in King County, Washington.

Tax Parcel No. 062605-9052-07

Exhibit B

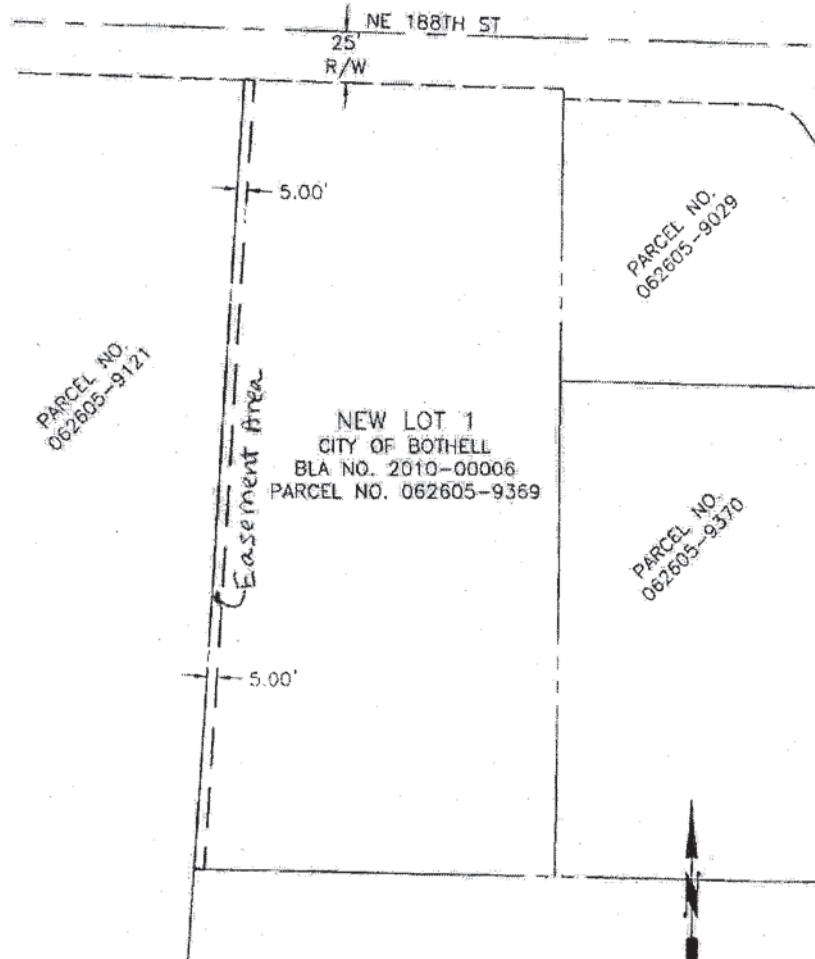
Legal Description of Easement Area

The west five (5.00) feet of Lot 1 and Lot 3, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

Exhibit C

**Depiction of Easement Area
(see attached)**


EXHIBIT C
 POR. SE 1/4, SE 1/4, SEC. 6, T. 26 N., R. 5 E., W.M.



LEGEND:
 SF... SQUARE FEET
 R/W... RIGHT OF WAY

80 40 0 80
 SCALE IN FEET

PROJECT PARCEL NO. 062605-9369	EXHIBIT MAP of TAX LOT PARCEL NO. 062605-9369 CITY OF BOTHELL	
EASEMENT (SF±) 1,960	For: Bothell, City of	
	DATE: May 14, 2012	Sheet 1 of 1



Pertee Inc.

425-252-7700 | 1-800-615-9900

2707 Colby Avenue, Suite 900

Everett, Washington 98201

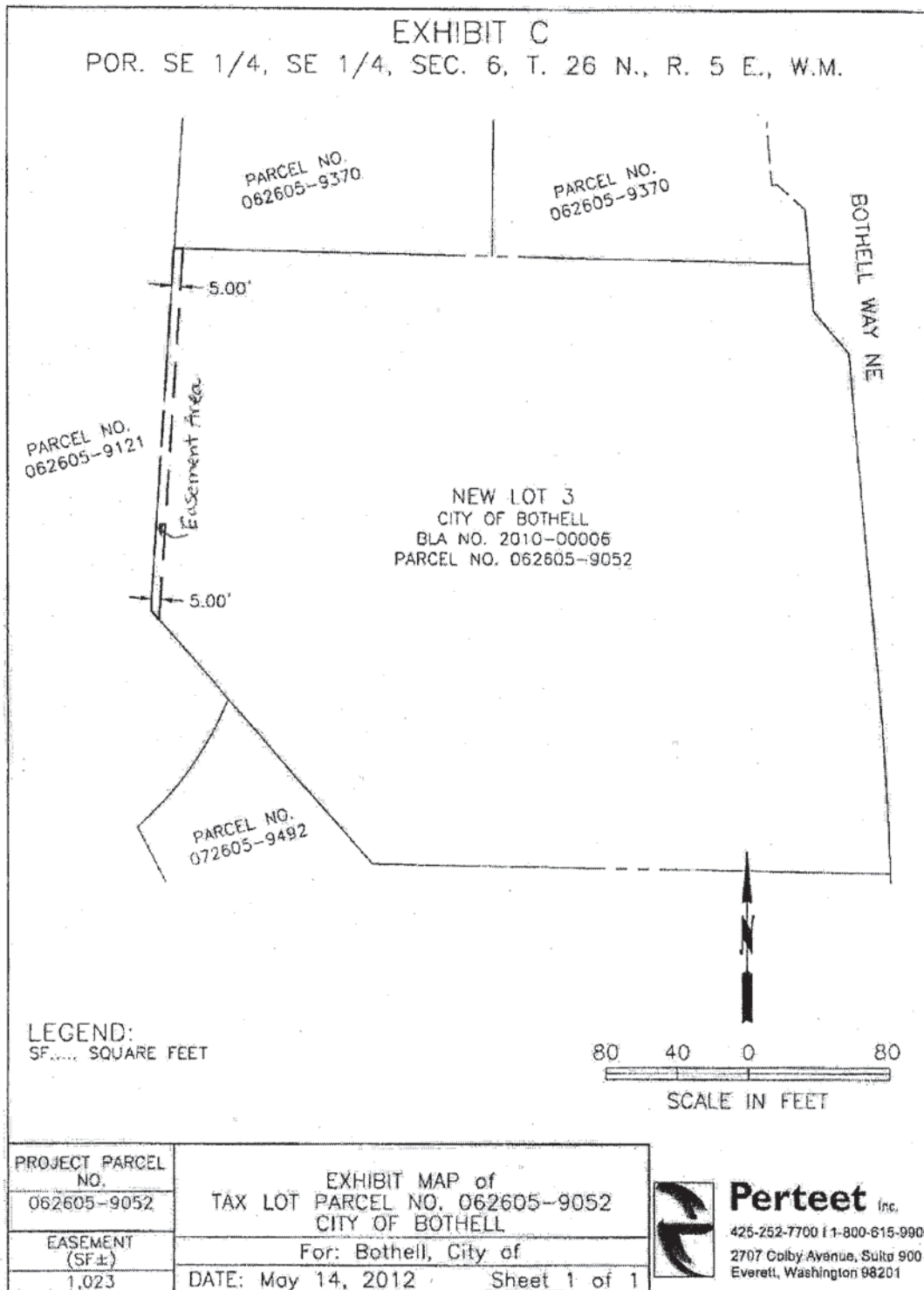


Exhibit D

Legal Description of Construction Easement Area

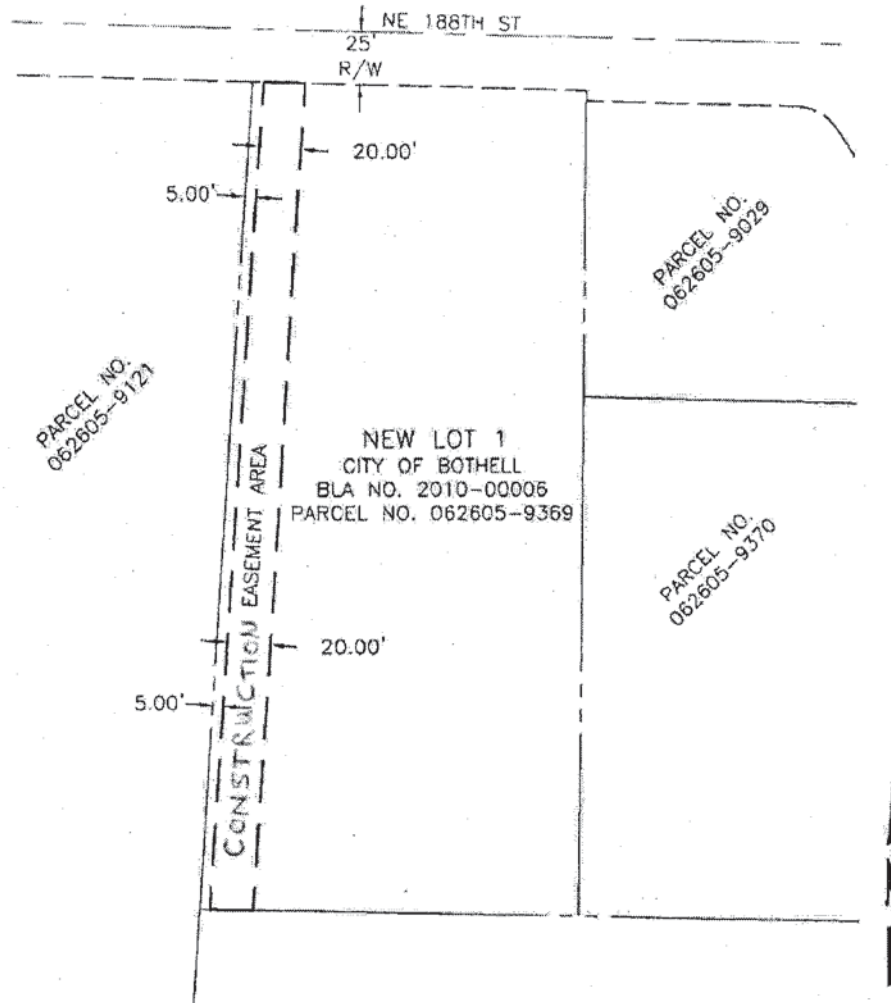
The Easterly twenty (20.00) feet of the most Westerly twenty-five (25.00) feet of Lot 1 and Lot 3, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

Exhibit E

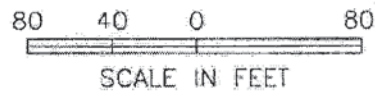
**Depiction of Construction Easement Area
(see attached)**


EXHIBIT E

POR. SE 1/4, SE 1/4, SEC. 6, T. 26 N., R. 5 E., W.M.



LEGEND:
SF..... SQUARE FEET
R/W., RIGHT OF WAY



PROJECT PARCEL NO. 062605-9369	EXHIBIT MAP of TAX LOT PARCEL NO. 062605-9369 CITY OF BOTHELL		Perteet Inc. 425-252-7700 1-800-815-8900 2707 Colby Avenue, Suite 900 Everett, Washington 98201
EASEMENT (SF±) 7,839			
For: Bothell, City of			
DATE: May 23, 2012		Sheet 1 of 1	

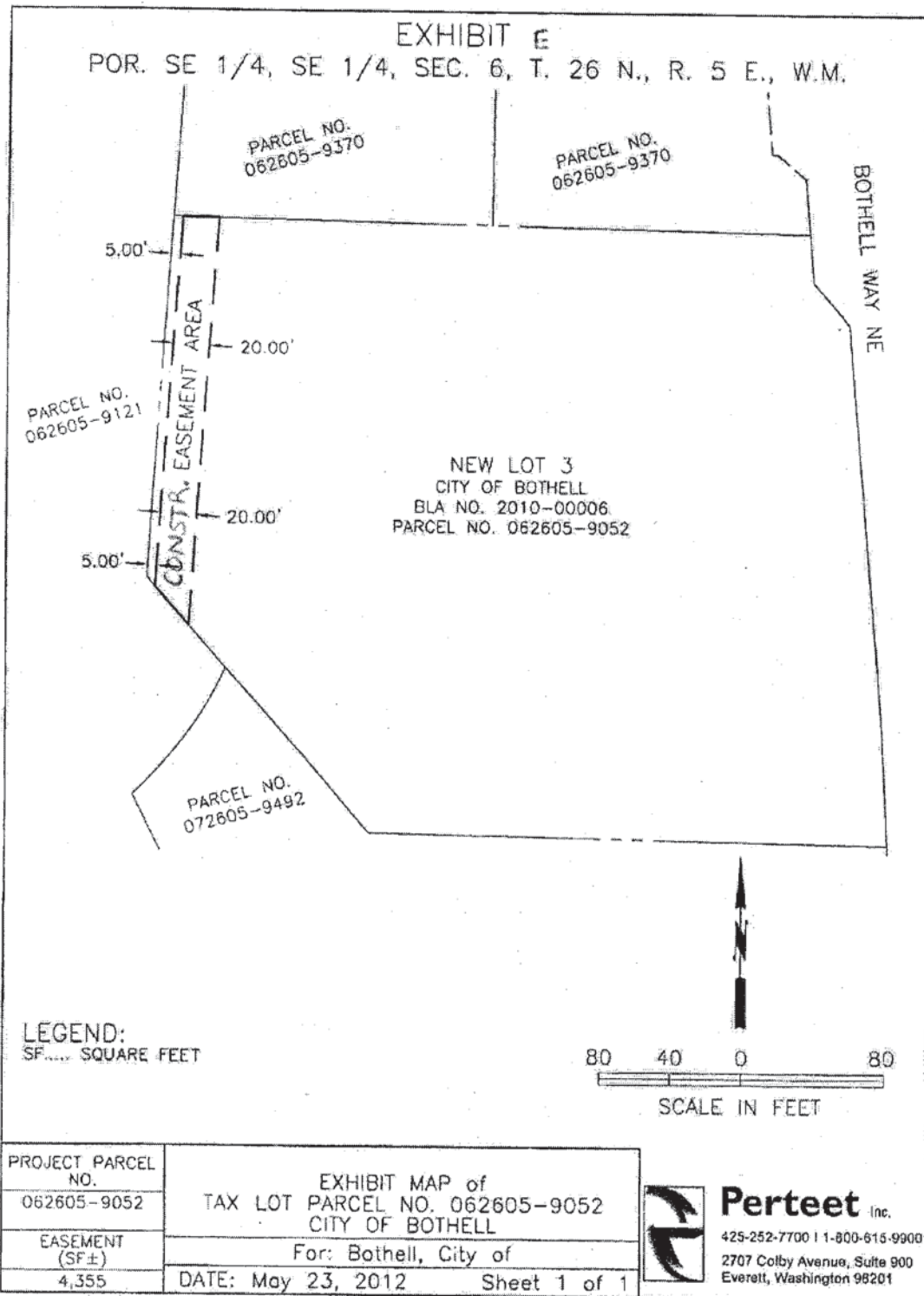


EXHIBIT B

Development Agreement

(see attached)

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

DEVELOPMENT AGREEMENT

GRANTOR: ANDERSON SCHOOL PROPERTIES LLC

GRANTEE: CITY OF BOTHELL

Legal Description:

Abbreviated form: Lots 1-3, City of Bothell BLA No. 2010-00006, Rec. No.
20101230900001

Additional legal on Exhibit A

Assessor's Property Tax Parcel Account Number(s): 062605-9369-05; 062605-9370-02;
062605-09052-07

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions	2
Section 2. Intent and Relations.	6
2.1 Generally.....	6
2.2 Standards.....	6
Section 3. Financing Plan	7
Section 4. General Terms of Conveyance	7
Section 5. Development.....	7
5.1 Generally.....	7
5.2 Conditions Precedent to Commencement of Construction.....	8
5.3 Improvements and Development Fees.....	8
5.4 Approval Process	9
5.5 Non-Discrimination	11
5.6 Governmental Approvals.....	12
5.7 Purchase Option if Failure to Start Construction.....	12
Section 6. Disclaimer of Liability, Indemnity.	13
6.1 Preparation of Site; Utilities	13
6.2 AS IS.....	13
6.3 Approvals and Permits.....	13
6.4 Indemnity	14
Section 7. Completion by Opening Date	14
Section 8. Guaranty of Completion	14
Section 9. Certificate of Performance.....	15
9.1 When Developer Entitled to Certificate of Performance.....	15
9.2 Effect of Certificate of Performance; Termination of Agreement.....	15
Section 10. Construction Performance and Payment Bond	15
Section 11. Liens.....	15
Section 12. Insurance	15
12.1 Insurance Requirements.....	16
12.2 Insurance Policies	17
Section 13. Destruction or Condemnation.....	17
13.1 Total or Partial Destruction.....	17
13.2 Condemnation.....	18
Section 14. Right to Assign or Otherwise Transfer	18
14.1 Transfers Before Certificate of Performance.....	18
14.2 Transfers After Certificate of Performance	19
Section 15. Default	19

Section 16.	Remedies.....	21
16.1	Default Prior to Commencement of Construction	21
16.2	Default After Commencement of Construction.....	21
16.3	Copy of Notice of Default to Mortgagee	22
16.4	Mortgagee's Option To Cure Defaults	22
16.5	Provisions Surviving Termination.....	22
Section 17.	Representations and Warranties.....	22
Section 18.	Miscellaneous.	22
18.1	Estoppel Certificates	22
18.2	Inspection.....	23
18.3	Entire Agreement.....	23
18.4	Modification.....	23
18.5	Successors and Assigns; Joint and Several.....	23
18.6	Notices	23
18.7	Execution in Counterparts	24
18.8	Waiver.....	24
18.9	Rights and Remedies Cumulative.....	24
18.10	Applicable Law; Jurisdiction.....	25
18.11	No Joint Venture.....	25
18.12	Consents.....	25
18.13	Conflict of Interest	25
18.14	Discrimination	25
18.15	Attorneys' Fees	25
18.16	Captions; Exhibits.....	26
18.17	Force Majeure	26
18.18	Fair Construction; Severability	26
18.19	Time of the Essence	27

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is dated as of the ____ day of _____, 2012, between the CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Anderson" or "Developer").

RECITALS

A. Pursuant to that certain Purchase and Sale Agreement between City, as seller, and Anderson, as buyer, dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, and Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012 (collectively, the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property"). The parcel described on Exhibit A-1 (the "Anderson Parcel") is improved with the historic W.A. Anderson School Building (the "Anderson Building") and its related campus. The parcel described on Exhibit A-2 (the "Pool Parcel") is improved with the Northshore Costie/Ruiz Pool (the "Pool") and related building (the "Pool Building").

B. Concurrently herewith, Anderson has leased the Property to McMenamin's Brew Pubs, Inc., a Washington corporation ("Brew Pubs") pursuant to a long term lease (the "Lease"). Brew Pubs is wholly owned by McMenamins, Inc., an Oregon corporation, which has common beneficial ownership with Anderson. The Lease requires that Anderson develop and Brew Pubs operate the Property as required by and subject to the terms and conditions of this Agreement and the Public Benefits Agreement.

C. In August 2009, City solicited Requests for Concepts for redevelopment of the Property. Developer was the only respondent to provide a detailed concept for

redevelopment of the Property in McMenamins Response to the City of Bothell's Request for Concepts, September 16, 2009 (the "RFC Response"), which concept was consistent with City's goals for the Property and the City.

D. As described in the Sale Agreement, City desires to foster the redevelopment of the Property, which is located in a key part of downtown Bothell, in a way that will contribute to the economic, cultural, and recreational revitalization of the City. Developer intends to submit plans for City's approval that provide for the redevelopment of the Property into a full service "McMenamins Complex" that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the "Project").

E. Developer has granted to City a Historic Preservation Easement to preserve, protect and maintain the historic façade and other features of the Anderson Building as more particularly described therein (the "Historic Easement"), which easement is being recorded contemporaneously herewith.

F. As part of the consideration for the purchase of the Property, as described in the Sale Agreement, Developer has agreed to provide certain public benefits (the "Public Benefits"), as more particularly described in that certain Public Benefits Agreement between the parties (the "Public Benefits Agreement"), which agreement is being recorded contemporaneously herewith.

G. The Project is a private undertaking to be contracted, constructed and operated by Developer with Developer's resources and will provide a significant redevelopment of the Property with accompanying public benefits. The parties intend by this Agreement to set forth their mutual agreement and undertakings with regard to the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Project upon the Property, and as a direct benefit to City and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

"Business Days" means any day on which banks in Bothell, Washington are required to be open for business, excluding Saturdays and Sundays. If any deadline

hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

“Certificate of Performance” means a certificate issued by City to Developer pursuant to Section 9 of this Agreement.

“Closing” means the close of the sale of the Property pursuant to the Sale Agreement.

“Community Garden” means the garden located on the Anderson Parcel open to use by the community as more particularly described in the Public Benefits Agreement.

“Concept Design Documents” means an architectural or artist’s rendering that illustrates the scope of the Project, its location within the Property, and the relationship of the Project to its surroundings, consistent with the Design Guidelines and the scope of development. The intent of the Concept Design Documents is to provide, visually and in text, an idea as to the nature and density of the Project and its proposed mix of uses.

“Construction Documents” means, collectively, all construction documentation that Developer is required to submit to City as part of the process to obtain building permits for the Project and upon which Developer and Developer’s contractors will rely in building the Project. These documents are based on the Design Development Documents.

“Construction Schedule” means the schedule for construction of the Improvements approved as part of the Construction Documents.

“Construction Start Date” means July 1, 2013, subject to extension for Force Majeure.

“Design Development Documents” means plans and specifications for the Project based on the Concept Design Documents and Schematic Design Documents. The Design Development Documents illustrate and describe the refinement of the design of the Project, establishing the scope, relationship, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major material and systems and establish in general their quality levels.

“Design Guidelines” means, collectively, the City of Bothell’s Comprehensive Plan, the City of Bothell Municipal Code, the City of Bothell Design and Construction Standards and Specifications, and other Legal Requirements that affect the Project and the Property.

“Effective Date” means the date set forth in the first paragraph of this Agreement.

“Event(s) of Default” has the meaning given in Section 15 herein.

"Financing Obligations" means the debt service obligations of Developer related to the financing of the Property and the Project.

"Financing Plan" has the meaning given in Section 3 herein.

"Force Majeure" has the meaning given in Section 18.17 herein.

"Frontage Agreement" means that certain Development Agreement re: Frontage Improvements between City and Developer recorded contemporaneously herewith providing for the construction of or payment for certain boulevard frontage improvements along Bothell Way N.E.

"Governmental Authorities" means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property and/or the management, operation, use, environmental cleanup or improvement thereof.

"Historic Easement" has the meaning given in Recital E.

"Historic Features" has the meaning given in the Historic Easement.

"Improvements" means all buildings, structures, improvements and fixtures now or hereafter placed or constructed in, under or upon the Property, including the to-be-renovated Anderson Building, other buildings to be built or renovated on the Anderson Parcel, and the Pool and Pool Building, together with all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, public amenities, parking areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built and/or renovated by Developer on the Property.

"Institutional Lender" means any international, national or state bank, commercial or savings bank, savings and loan association or trust company, insurance company, pension fund, real estate investment trust, or real estate operating company, in each case having assets in an amount in excess of \$50,000,000.

"Legal Requirements" means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Property, the Project or its ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, The Americans With Disabilities Act of 1990, as amended (as interpreted and applied by the public agencies with jurisdiction over the Property), life safety requirements and environmental laws with respect to the handling, treatment, storage, disposal, discharge, use and transportation of hazardous substances.

"Mortgagee" means the holder of a first mortgage or deed of trust ("Mortgage") encumbering Developer's interest in any portion of the Property, the proceeds of which are used to finance or refinance the construction of Improvements.

"Opening Date" means August 1, 2014, subject to extension for Force Majeure.

"Plans" means, collectively, the Concept Design Documents, the Schematic Design Documents, the Design Development Documents and the Construction Documents, which documents have been approved by City pursuant to Section 5.

"Plans and Permits Schedule" means the schedule for submission of applications for the permits needed to construct the Project set forth on Exhibit D attached hereto.

"Pool" has the meaning given in Recital A.

"Project" means the redevelopment of the Property to construct and/or renovate the Improvements and features described in Recital D pursuant to the Plans.

"Project Documents" means this Agreement, the Sale Agreement, the Public Benefits Agreement, the Frontage Agreement and the Historic Easement.

"Propertyscape" shall mean the landscaping of all above-ground or outdoor public or private improvements on the Property, including, without limitation, lighting, public restrooms, furniture and artwork.

"Public Benefits" has the meaning given in the Public Benefits Agreement.

"Public Benefits Agreement" has the meaning given in Recital F.

"Repurchase Option" shall have the meaning given in Section 5.7.

"Sale Agreement" has the meaning given in Recital A.

"Schematic Design Documents" means:

Site plans showing the Improvements in relation to the Property, with all proposed connections to existing or proposed roads, utilities and services, together with a Propertyscape plan;

Plans, elevations, typical cross-sections and typical wall sections of all building areas;

Elevations of each building to determine the site lines and the specific configuration and relationship of design elements of the building exterior in relationship to streets;

Plans, elevations, and typical cross sections of the interior space of different types of building areas;

A preliminary selection of major building systems and construction materials;

A preliminary exterior finish schedule;

Proposed layouts for exterior signage and graphics;

Outline of the exterior lighting concept;

A description of servicing requirements, trash areas, loading docks, etc.;

Calculation of gross building area and open space.

“Substantial completion” or “substantially complete” means the date on which all of the following have occurred: (i) the Improvements required to be developed by this Agreement are complete according to approved Plans, except for punchlist items that do not substantially prevent the use of such Improvements for their intended purposes; and (ii) the City has issued a temporary or final certificate of occupancy for all of the building portions of such Improvements.

Section 2. Intent and Relations.

2.1 Generally. Pursuant to this Agreement, Developer will construct the Project pursuant to the Plans as provided in this Agreement and open the Project to the public for full service operation not later than the Opening Date. Development on the Property will include public spaces and Improvements sufficient to provide the Public Benefits and will in all respects preserve the Historic Features in accordance with the Historic Easement. This Agreement is intended by the parties to establish the design, development and performance criteria for the Project. The parties agree that Developer has sole responsibility for construction, obtaining all necessary permits and approvals and complying with all Legal Requirements as they relate to ownership, construction and operation of the Project. Developer shall at its own cost furnish all plans, engineering, supervision, labor, material, supplies and equipment necessary for completion of the Project. City has entered into this Agreement relying on Developer’s agreement that it will timely design and construct the Project.

2.2 Standards. Developer shall perform the terms of this Agreement according to the following standards:

2.2.1 All construction hereunder shall comply with, and be performed in accordance with, the Design Guidelines, the Plans, this Agreement and all Legal Requirements, free and clear of all liens (other than in connection with Approved Financing Plan and those contemplated by this Agreement).

2.2.2 Developer agrees to diligently design, construct and complete the Improvements pursuant to the Plans, in accordance with the requirements of City's process for permitting the Project and in a good and workmanlike manner and of good quality.

2.2.3 Developer shall cause a copy of this Agreement to be delivered to its architects and general contractor(s).

Section 3. Financing Plan. Not later than sixty (60) days before the Construction Start Date, Developer shall submit for approval by City Developer's plan for construction and permanent financing of the construction including the equity component (the "Financing Plan"). Notwithstanding transfers of equity interests pursuant to the Financing Plan, some or all of the principals, officers and key employees of McMenamins, Inc. existing as of the date hereof shall continue to be in control of Developer and the day-to-day construction of the Project. Approval by City under this Section 3 shall not be unreasonably withheld. City shall respond to Developer's submittal of the Financing Plan within ten (10) days of its receipt thereof. The Financing Plan for construction of the Project shall require that Developer, at its sole cost, obtain financing and/or equity for 100% of all design, construction, development and ownership costs (whether "hard" or "soft") for the completion of the construction of Project, unless such costs have already been paid in full. The Financing Plan may include historic tax credit financing and mezzanine financing. The financing (not including equity components) shall be provided by one or more "Institutional Lenders." For purposes of City's approval of the Financing Plan, Developer will make financial information concerning the Project reasonably requested by City available for City's review. Not later than thirty (30) days before the Construction Start Date, Developer shall provide City with evidence of a loan commitment (and not merely a term sheet or application) from one or more Institutional Lenders on commercially reasonable terms to finance the construction of the Improvements pursuant to the Plans and any other financing or equity commitments required by the construction lender. If, in City's reasonable judgment, the Financing Plan indicates that the contemplated financing (i) conforms to the provisions of this Agreement, (ii) will reasonably be available when needed, and (iii) will provide sufficient funds to undertake and complete the Project, then City shall approve the Financing Plan. Any material modification of the approved Financing Plan shall be submitted for prior written approval of the City, and if not so approved, the previously approved Financing Plan shall continue to control.

Section 4. General Terms of Conveyance. Conveyance and ownership of the Property shall remain subject to the provisions of this Agreement during the term hereof. This Agreement shall be recorded prior to any Mortgage on the Property and all subsequent owners and lessees of all or any portion of the Property shall take subject to this Agreement during its term.

Section 5. Development.

5.1 Generally. Developer shall hereafter prepare the Plans for the development of the Project and submit them to City for its review and approval. Any approval by City of the Plans hereunder is in its capacity as the approving party under this Agreement and shall not constitute any of the regulatory approvals required under the applicable Legal Requirements to obtain the permits necessary to construct the Project. Developer shall submit the Plans in accordance with the Plans and Permits Schedule attached hereto as Exhibit D. Developer shall construct and complete Improvements on the Property as specifically described and depicted in the Plans. The parties agree that no construction will commence prior to satisfaction of the conditions set forth in Section 5.2 below. The parties further agree that such construction shall commence not later than the Construction Start Date and occur and be substantially completed in accordance with the Construction Schedule (including substantial completion by the Opening Date), subject only to Force Majeure or as extended by written agreement of City. Such construction shall be completed substantially in accordance with the approved Construction Documents (subject to Section 5.4 below). Developer agrees that once construction has begun, Developer will proceed diligently (subject only to delays for Force Majeure) with construction until the Project has been completed.

5.2 Conditions Precedent to Commencement of Construction. The following conditions shall have been satisfied before commencing construction on the Property:

5.2.1 Compliance with Agreement. Developer shall be in material compliance with this Agreement, including, without limitation, all contracting requirements and receipt of all necessary permits for construction.

5.2.2 Approval. Developer shall have obtained City approval of all of the Plans and Financing Plan, in accordance with the approval processes set forth in this Agreement.

5.2.3 Conveyance. Fee title to the Property shall have transferred to Developer.

5.2.4 Permits. Developer shall have obtained all permits and other regulatory approvals for the construction of the Project from City and any other applicable Governmental Authority, including without limitation the building permit(s) for the Project.

5.3 Improvements and Development Fees.

5.3.1 Improvements.

(i) Permitting will be Developer's responsibility. Developer shall submit the permit applications to the appropriate Governmental Authorities in accordance with the Plans and Permits Schedule.

(ii) Developer is responsible for all excavation and disposal of soils and other materials it removes from the Property.

(iii) Developer will conduct its construction activities in compliance with the Historic Easement.

(iv) Developer will construct, redevelop and rehabilitate the Anderson Building, the Community Garden, the Pool and Pool Building and other Improvements in a manner that will provide the Public Benefits as provided in the Public Benefits Agreement.

(v) Except as provided in the Twentieth Amendment to the Sale Agreement, construction design shall not collect and convey ground water off-site.

(vi) Intentionally deleted.

(vii) No permanent buildings shall be constructed in the Parking Parcel (which is Parcel B on Exhibit A-1) during the Public Benefits Period.

(viii) As part of the Project, Developer shall remove the covered walkway (including removal of all related debris) that is on the eastern portion of the Anderson Parcel and straddles the southern boundary of the Anderson Parcel. City owns the southerly adjoining property. Developer shall have a license to enter onto the southerly adjoining property for the purpose of removing the walkway.

5.3.2 Development and Other Fees. Developer is responsible for payment of all development, utility, hookup, capacity, permit, plan check, SEPA and other fees, charges and surcharges required by City in its regulatory capacity. At the times required by the City in its regulatory capacity, Developer shall pay all fees and development charges required in connection with the issuance of the Project permits. These include: (i) a pre-application fee, required to be paid before the initial coordination meeting between City and Developer's architect and engineering representatives; (ii) plan check, fire plan check and traffic concurrency surcharge, at the time of application for the applicable item; (iii) other fees, at the time of permit issuance; (iv) traffic impact fees at time of building permit issuance; and (v) fees for certain boulevard frontage improvements,

as provided in the Frontage Agreement. These fees will not be in excess of the estimated amounts shown on Exhibit E attached hereto, provided that the assumptions on which such estimates were based remain accurate in all respects.

5.4 Approval Process. Developer shall submit for approval to City the items described in Sections 5.4.1 through 5.4.4 below in accordance with the Plans and Permits Schedule. These items shall be submitted to the City Manager or his designee for review for conformance with the Construction Schedule, RFC Response, Design Guidelines, Project description and Project Documents (including the provision of the Public Benefits). This review and approval is in addition to, and separate from, the normal City regulatory review and permitting process. Approvals by City under this Section 5.4 shall not be considered approvals required under City's regulatory and permitting process. The City shall undertake its review and response expeditiously, and Developer shall likewise respond expeditiously to comments and requests for changes and further information. The parties shall cooperate in such process in view of the Plans and Permits Schedule.

Developer's request for approvals hereunder shall be in writing and shall include sufficient information and such other information as may be reasonably required to permit the City to make an informed decision with respect thereto. Approvals by City under this Section 5.4 shall not be unreasonably withheld or delayed. Such process of submittal, review, comment and re-submittal by Developer shall continue until such time as the submitted material has been approved by City.

Approval shall not be required for any modification, replacement, alteration or addition (but excluding any relocation) to any previously approved submission, unless there is a material change from the previously approved submission. For any material modifications thereto proposed by Developer, the procedure shall be as described in this section. As used in this Agreement, a "material modification" shall be one that would (i) conflict with any Design Guidelines or Project Documents; (ii) in any way alter the Historic Features or endanger their preservation as required by the Historic Easement; (iii) alter the exterior physical appearance of the Project (other than the Historic Features) in a readily apparent way; (iv) materially alter the exterior structure of any Improvements (other than the Historic Features) to be constructed or rehabilitated on the Property; (v) cost more than \$1,000,000 in hard construction costs; or (vi) result in a reduction in hard construction costs associated with the exterior portions of the Project of more than \$300,000.

5.4.1 Concept Design Plan. Developer and City will use best efforts to agree on a "Concept Design Plan" for the redevelopment of the Property in sufficient time for Developer to timely submit the permit applications described in the Plans and Permits Schedule. In designing the Project, Buyer shall design its interior pedestrian and vehicular circulation plan to coordinate with Seller's plans for the adjacent rights of way and properties. Any material modification of the Concept Design Plan shall

be submitted to City for prior written approval, and if not so approved, the previously approved Concept Design Plan shall continue to control.

The Concept Design Plan to be submitted by Developer for approval shall be consistent with the RFC Response and the following: Developer shall develop the Project, all in accordance with the Design Guidelines, to be as described in this Development Agreement and to provide the Public Benefits. Developer shall ensure that the Property has parking for the Project with a sufficient number of parking spaces to satisfy the Design Guidelines.

5.4.2 Schematic Design Plan. Developer and City will use best efforts to agree on a "Schematic Design Plan" for the Improvements in sufficient time for Developer to submit the permit applications in accordance with the Plans and Permits Schedule. City shall review the Schematic Design Plans for consistency with the RFC Response, the Design Guidelines and consistency with the provision of the Public Benefits. Any material modification of an approved Schematic Design Plan shall be submitted to City for prior written approval, and if not so approved, the previously approved Schematic Design Plan shall continue to control.

5.4.3 Design Development Plan. Developer and City will use best efforts to agree on a "Design Development Plan" for the Improvements in sufficient time for Developer to submit the permit applications in accordance with the Plans and Permits Schedule. City shall review the Design Development Plan with regard to matters relating to site planning, size, form and exterior finish of the Improvements, landscaping, lighting and design of open space areas, general design aesthetics, and consistency with the RFC Response, the Design Guidelines and consistency with the provision of the Public Benefits. Any material modification to an approved Design Development Plan shall be submitted for prior written approval by City, and if not so approved, the previously approved Design Development Plan shall continue to control.

5.4.4 Construction Plans. Developer and City will use best efforts to agree on "Construction Plans" for the Improvements in sufficient time for Developer to apply for the building permit in accordance with the Plans and Permit Application Schedule. The Construction Plans shall be based upon the approved Concept Design Plan, the Schematic Design Plan, the Design Development Plan and the Design Guidelines for such Improvements. The Construction Plans will include a construction schedule (which shall include the Construction Start Date and Opening Date) (the "Construction Schedule").

Any modification to the approved Construction Documents or Construction Schedule shall be submitted for prior written approval by City, and if not so approved, the previously approved Construction Documents shall continue to control. City shall have the right to disapprove any modifications that (a) do not meet the requirements of this Agreement or any Project Documents (including the provision of the Public Benefits);

(b) do not comply with all applicable Legal Requirements; (c) would violate the terms of any permits, licenses, permissions, consents or approvals required to be obtained from governmental agencies; (d) do not comply with approved Design Guidelines; (e) cause the Construction Schedule approved by City to be materially adversely affected or cause substantial completion not to occur by the Opening Date; or (f) involve proposed changes in work or materials that would be a material modification under Section 5.4 above.

5.5 Non-Discrimination. In the implementation of this Agreement, including construction of all Improvements pursuant to the Plans and any leasing of the Project, Developer shall not discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of this nondiscrimination covenant, subject to the cure provisions of Section 15 hereof, City shall have the right to exercise all of its remedies for default hereunder.

5.6 Governmental Approvals. Developer shall apply, at its sole cost, to the appropriate Governmental Authorities or third parties for, and shall diligently pursue and obtain, all permits, licenses, permissions, consents or approvals required in connection with the construction of the Improvements.

5.7 Purchase Option if Failure to Start Construction or Event of Default Before Commencing Construction. If Developer fails to commence construction of the Project by July 1, 2013, then City shall have the option to repurchase the Property (the "Repurchase Option") for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement. Such Repurchase Option shall be City's sole remedy for such failure hereunder. To exercise the Repurchase Option, City shall give written notice to Developer within ninety (90) days after July 1, 2013. If Developer fails to commence construction by July 1, 2013 and City has not exercised the Repurchase Option in writing (or provided written notice to Developer that City elects to not exercise its Repurchase Option) by the 90th day after July 1, 2013, then City shall be deemed to have exercised the Repurchase Option as of such 90th day.

The closing of the repurchase shall be not later than one (1) year following City's exercise (including its deemed exercise) of the Repurchase Option on a business day selected by City on not less than fifteen (15) days written notice to Developer. If Developer has financing secured by a deed of trust on the Property, then City must pay the repurchase price at the time of the closing of the repurchase. If there is no such financing, then City may close such reacquisition any time during such one (1) year period but have the full one (1) year period to pay the repurchase price. In such event, City shall execute a note, secured by a deed of trust on the Property, payable to Anderson for the repurchase price with no interest payable in full on the one-year anniversary of the exercise of City's Repurchase Option. The form of note and deed of trust shall be reasonably agreed by the parties during the time between City's exercise of the Repurchase Option and closing of the repurchase.

Developer shall pay all transfer and excise taxes in connection with such transfer. The deed will be in the same form as used to convey the Property to Developer. In addition, Developer shall assign to City, without representation or warranty, all permits, contracts and Plans associated with the Project. Upon such reconveyance to City, no additional encumbrances shall exist on title than those that existed when title transferred to Developer, those consented to by City (except any Mortgage) and those that were recorded as part of the closing of the acquisition of the Property, including without limitation the lien of any Mortgage recorded against the Property in accordance with the Financing Plan. Developer shall be responsible for obtaining the reconveyance of any such Mortgage. If City exercises the Repurchase Option (or if City provides written notice to Developer that City elects to not exercise its Repurchase Option), Developer shall be released from further obligations under this Agreement, the Public Benefits Agreement, the Historic Easement and the Frontage Agreement. Notwithstanding the foregoing, nothing herein shall limit Developer's liability for development and other fees (except the boulevard frontage fees) described in Section 5.3.2 that are due and payable before City exercises its Repurchase Option. Notwithstanding the foregoing, if Developer commences construction of the Project prior to City's exercise of the Repurchase Option, the Repurchase Option shall terminate. At Developer's request, upon such commencement, City shall provide written confirmation to a Mortgagee that construction has commenced to satisfy a condition of a Mortgagee to advancing funds under a construction loan.

If City provides written notice to Developer that City elects to not exercise its Repurchase Option, then the parties shall cooperate to record a notice of termination of this Agreement at Developer's expense.

Section 6. Disclaimer of Liability, Indemnity.

6.1 Preparation of Site; Utilities. City shall not be responsible for any demolition or site preparation in connection with the Project or any existing Improvements on the Property. City makes no representations as to the availability or capacity of utility connections or service to the Property. Developer shall make arrangements for utility services directly with utility service providers (including City). Any costs of installation, connection, relocating or upgrading utilities shall be paid by Developer.

6.2 AS IS. City makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Property or structures thereon for any Improvements to be constructed or rehabilitated by Developer, and Developer warrants that it has not relied on representations or warranties, if any, made by City as to the physical or environmental condition of the Property or the structures thereon for any Improvements to be constructed or rehabilitated by the Developer.

6.3 Approvals and Permits. Approval by City of any item in its capacity as seller pursuant to the Sale Agreement or pursuant to Section 5.4 of this

Agreement shall not constitute a representation or warranty by City that such item complies with Legal Requirements and City assumes no liability with respect thereto. Developer acknowledges that City has not made any representation or warranty with respect to Developer's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or Project. Nothing in this Agreement is intended or shall be construed to require that City exercise its discretionary authority under its regulatory ordinances approve the required permits for the Project or grant regulatory approvals. City is under no obligation or duty to supervise the design or construction of the Improvements pursuant to this Agreement. City's approval of the Plans under this Agreement shall not constitute any representation or warranty, express or implied, as to the adequacy of the design or any obligation on City to insure that work or materials are in compliance with the Plans or any building requirements imposed by any governmental entity (including City in its regulatory capacity). City is under no obligation or duty, and disclaims any responsibility, to pay for the cost of construction of the Improvements, the cost of which shall at all times remain the sole liability of Developer.

6.4 Indemnity. Developer shall indemnify, defend and hold City, its employers, officers and council members harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Developer's development of the Project, operation of the Property or the construction of the Project, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors or assigns on or with respect to the Property. City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is caused by the gross negligence or willful misconduct of City as to its own conduct. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, an indemnitee hereunder shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of such indemnitee. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding an indemnitee is made a party, such indemnitee shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by, counsel of its own choosing. To the extent an indemnitee is indemnified under this section, Developer shall bear the cost of the indemnitee's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without City's written approval, not to be unreasonably withheld.

Section 7. Completion by Opening Date. The Construction Schedule requires substantial completion of the Project not later than the Opening Date. Developer shall

diligently pursue the Project in order to achieve substantial completion of the Project by the Opening Date.

Section 8. Guaranty of Completion. Contemporaneously with the execution of this Agreement, Developer shall furnish an irrevocable and unconditional guaranty of performance by McMenamins, Inc. (the parent of Brew Pubs and affiliate of Anderson), in the form of Exhibit C attached hereto, guaranteeing the full and faithful performance of Developer's obligations under this Agreement. This guaranty shall terminate upon issuance by City of the Certificate of Performance described in Section 9 or repurchase of the Property pursuant to Section 5.7 or Section 16.1. Neither the provisions of this Section nor any guaranty accepted by City pursuant hereto, shall be construed to excuse faithful performance by Developer or to limit liability of Developer under this Agreement.

Section 9. Certificate of Performance.

9.1 When Developer Entitled to Certificate of Performance.

Upon substantial completion of all of the Project in accordance with this Agreement and satisfaction of the other conditions of this Section 9, City will furnish Developer with a recordable Certificate of Performance, substantially in the form attached hereto as Exhibit B hereto. Notwithstanding the foregoing, City shall not be required to issue the Certificate of Performance if Developer is not then in material compliance with the terms of this Agreement. In addition, if punchlist items remain when Developer requests the Certificate of Performance, City may require as a condition to the issuance thereof that Developer post a bond or provide other financial assurance reasonably satisfactory to City to insure completion of the punchlist items, and Developer agrees to proceed with all reasonable diligence to complete the punchlist items.

9.2 Effect of Certificate of Performance; Termination of Agreement. Issuance by City of a Certificate of Performance shall terminate this Agreement and each of its provisions except for the provisions described in Section 16.4 below that expressly survive termination of this Agreement. No party acquiring or leasing any portion of the Property after issuance of the Certificate of Performance shall (because of such purchase or lease) have any obligation whatsoever under this Agreement.

Section 10. Construction Performance and Payment Bond. Developer shall, before commencing construction of the Project, to the extent required by its Mortgagee, provide or require its general contractor(s) to provide a performance and payment bond, in an amount equal to the estimated total construction cost of the Project or in such amount as may otherwise be required by the Mortgagee.

Section 11. Liens. Except in connection with any Mortgage approved pursuant to the Financing Plan, in no event shall Developer, prior to recording of the Certificate of Performance, cause or permit any lien to attach to the including but not limited to

mortgages, deeds of trust, mechanic's liens, attachment liens, judgment liens, execution liens, security interests or encumbrances. Developer shall promptly pay and discharge all liens not permitted hereunder. Nothing contained in this Agreement shall be construed as the consent or request of City, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment to the Project (or any part thereof). NOTICE IS HEREBY GIVEN THAT CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) THROUGH OR UNDER DEVELOPER.

Section 12. Insurance. The requirements of this Section 12 shall apply until the Certificate of Performance is recorded unless otherwise noted in this Section.

12.1 Insurance Requirements. Developer shall maintain and keep in force or cause Brew Pubs to maintain and keep in force insurance covering the Project, as provided below, and maintain such additional insurance as required by Developer's Mortgagee.

12.1.1 Builders Risk. Builders Risk insurance covering interests of City, Developer, its contractor, subcontractors, and sub-subcontractors in the Project work. Builders Risk insurance shall be on a all-risk policy form (and may be in a separate policy or included in the property insurance policy) and shall insure against the perils of fire and extended coverage and physical loss or damage including flood (if the buildings on the Property are located in a special flood hazard area and flood insurance is available), earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of not less than \$75,000 for each occurrence. Higher deductibles for flood (if applicable) and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Builders Risk insurance shall be written in the amount of the completed value of the Project with no coinsurance provisions. The Builders Risk insurance shall be maintained until City issues the Certificate of Performance.

12.1.2 Commercial General Liability. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence and a \$2,000,000 general aggregate limit. The Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 (or equivalent form) and shall cover liability arising from premises, operations, stop gap liability, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract. Developer's Commercial General Liability insurance shall be endorsed to name City as an additional insured using ISO Additional Insured endorsement CG 20 26 07 04 - Additional Insured Designated Person or Organization or a substitute endorsement providing equivalent coverage.

12.1.3 Excess or Umbrella Liability. Developer shall provide or cause Brew Pubs to provide Excess or Umbrella Liability coverage at limits of not less than \$5,000,000 per occurrence and annual aggregate. This excess or umbrella coverage shall apply, at a minimum to both the Commercial General Liability insurance required herein and to any Automobile Liability coverage or any combination thereof.

12.1.4 Property Insurance. Until the Certificate of Performance is recorded, Developer shall carry or cause Brew Pubs to carry property insurance covering the Project including all Improvements. Such insurance shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Causes of Loss Form CP 10 30. Developer shall also purchase and maintain or cause Brew Pubs to purchase and maintain earthquake, flood (if the buildings on the Property are located in a special flood hazard area and flood insurance is available) and equipment breakdown insurance. The property, earthquake and flood insurance shall be written in an amount equal to at least one hundred percent (100%) of the replacement cost of all Improvements. Equipment breakdown insurance shall be written with at least a \$1,000,000 equipment breakdown limit. Developer shall be responsible for payment of any deductibles under said insurance policies and any costs of restoration resulting from any uninsured or underinsured losses.

12.2 Insurance Policies. Insurance policies required herein:

12.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

12.2.1.1 The companies shall have an A.M. Best rating of at least A VII and be licensed in the State of Washington.

12.2.1.2 Developer's insurance coverage shall be primary insurance as respects City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be excess of the Developer's and Contractor's insurance and shall not contribute with it.

12.2.2 Each such policy or certificate of insurance mentioned and required in this Section 12 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

12.2.3 The certificates of insurance and insurance policies shall be furnished to Developer and City before commencement of construction

under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required under this Section 12.

12.2.4 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 15 of this Agreement, without cure or grace period. In addition to any other legal remedies, City at its sole option after written notice may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to City.

Section 13. Destruction or Condemnation.

13.1 Total or Partial Destruction. If the Improvements are totally or partially destroyed at any time during the term of this Agreement, Developer shall reconstruct or repair the damage consistent with the terms of this Agreement and substantially complete the Project by the Opening Date, as extended by Force Majeure. In any event, Developer shall at its cost secure the Property, clear the debris and generally make the Property as safe and attractive as practical given the circumstances.

If for any reason the Improvements are not reconstructed as provided above, without limiting any other rights or remedies that City has, no further development of the Property can occur without the prior approval of City. This Agreement shall continue to restrict future development of the Property and Developer or any successor of Developer shall obtain City's approval of the redevelopment plan before the Property is redeveloped.

13.2 Condemnation. If during the term of this Agreement the whole or any substantial part of the Property is taken or condemned in the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Developer can no longer materially meet its obligations under this Agreement, this Agreement shall terminate upon the date when possession of the Property or portion thereof so taken shall be acquired by the condemning authority. As used herein, "substantial" shall be defined as reasonably preventing the operation of the Project and conduct of Developer's activities as contemplated hereby. If a taking occurs that is not substantial, this Agreement shall continue in full force and effect as to the part of the Property not taken.

Section 14. Right to Assign or Otherwise Transfer. Developer represents that Anderson's purchase of the Property is intended for development and not for speculation. During the term of this Agreement, any transfers of the Property pursuant to the following sections shall be made expressly subject to the terms, covenants and conditions of this Agreement.

14.1 Transfers Before Certificate of Performance.

14.1.1 During the term of this Agreement, Developer will not transfer the Property or any part thereof without the prior written consent of City,

which consent shall be at the sole discretion of City. Notwithstanding the foregoing, transfers to a Mortgagee permitted by the Financing Plan shall be permitted.

"Transfer" as used herein includes any sale, conveyance, transfer, ground lease or assignment (excluding the lease to Brew Pubs), whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer. In addition, "Transfer" includes any sale or any transfer of direct or indirect interests in Developer or any of its constituent entities, other than transfers of minority interest that do not individually or in the aggregate result in the change of control or management of Developer, the Property or the Project or transfers of equity interests approved pursuant to the Financing Plan.

14.1.2 If City approves of a transfer under Section 14.1, Developer shall deliver to City (a) a copy of the document evidencing such transfer, including a suitable estoppel agreement(s), and (b) an assumption of all obligations of Developer under this Agreement in form reasonably satisfactory to City.

14.1.3 The transferee (and all succeeding and successor transferees) shall succeed to and assume all rights and obligations of Developer under this Agreement, including any unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the express written consent and release by City.

14.1.4 If Developer transfers the Property during the term of this Agreement without the prior written consent of City (other than transfers that do not require the consent of City hereunder), then City or its designee shall have an option to purchase the Property for the same price as paid by such unpermitted transferee. Such option must be exercised within ninety (90) days after City receives written notice from Developer of the unpermitted transfer and close within thirty (30) days after exercise of the option. Such transferee shall be obliged to sell the Property to City (or its designee) on the same terms and conditions as those upon which the transferee purchased the Property.

14.2 Transfers After Certificate of Performance. After issuance of the Certificate of Performance by City pursuant to Section 9, this Agreement shall not restrict any transfers. Nevertheless, the transfer restrictions contained in the Public Benefits Agreement shall remain in full force and effect.

Section 15. Default. Developer's failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

15.1 The failure of Developer to substantially comply with the standards of performance for the Project as set forth in Section 2 of this Agreement, including without limitation submission of Plans and permit applications for approval as required herein, commencement of construction of the Project by the Construction Start Date and substantial completion of the Project by the Opening Date (subject to extension for Force Majeure as provided herein).

15.2 The failure of Developer to comply with the terms of any Financing Obligations, and such failure is not cured within any time permitted by the lender holding such obligations.

15.3 The failure of Developer to submit and obtain approval as to any modifications of the Plans as required in Section 5.

15.4 The failure of Developer to construct the Project substantially in accordance with the Plans, as the same may be modified pursuant to Section 5.4.

15.5 The failure of Developer to diligently prosecute construction of the Project in accordance with the Construction Schedule, including without limitation commencing construction of the Project by the Construction Start Date and substantially completing of the Project by the Opening Date, and the failure of Developer to open the Project for full service operation to the public by the Opening Date, in both cases subject to extension for Force Majeure as provided herein.

15.6 Conversion of any portion of the Property or the Improvements to any use other than the uses permitted in this Agreement or the Public Benefits Agreement.

15.7 The failure of Developer to comply with Section 11 or Section 12 of this Agreement.

15.8 The making by Developer of an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

15.9 The appointment of a receiver or trustee of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or insolvency law which not dismissed or stayed by the court within sixty (60) days after such filing.

15.10 Any sale, assignment or other transfer in violation of Section 14 of this Agreement.

15.11 The failure of Developer to provide and maintain any security required under this Agreement, including but not limited to, the construction performance and payment bonds.

15.12 Any default in the performance of any other obligations of Developer hereunder.

The happening of any of the above described events shall be an Event of Default hereunder. Notwithstanding the foregoing, except in the case of Section 15.8, 15.9, and 15.10 above as to which notice but no cure period shall apply, Developer shall have thirty (30) days following written notice from City to cure such default (or if such default cannot reasonably be cured within 30 days, if Developer fails to commence such cure within 30 days and thereafter diligently pursue such cure to completion within one hundred twenty (120) days).

Section 16. Remedies.

16.1 Default Prior to Commencement of Construction. If an Event of Default occurs prior to the time that Developer commences construction and such Event of Default is not cured within any applicable cure period for such Event of Default under Section 15 or under Section 16.4, City, as its sole remedy for such Event of Default, shall have the right to repurchase the Property for the cash portion of the purchase price paid by Developer for the Property under the Sale Agreement and on the other terms set forth in Section 5.7 of this Agreement as if City exercised the Repurchase Option under Section 5.7, except that the references in such section to July 1, 2013 shall instead be to "the Construction Start Date." Notwithstanding the foregoing, if Developer cures such Event of Default prior to City notifying Developer that City will repurchase the Property under this Section 16.1 on account of such Event of Default, City will have no right to repurchase the Property on account of such Event of Default. Further, notwithstanding the foregoing, nothing herein shall limit Developer's liability for development and other fees (except the boulevard frontage fees) described in Section 5.3.2 that are due and payable before City exercises its repurchase option under this section.

16.2 Default After Commencement of Construction. If an Event of Default occurs after the time that Developer commences construction of the Project, and such Event of Default is not cured within any applicable time period under Section 15 or under Section 16.4, City shall have all cumulative rights and remedies under law or in equity, including but not limited to the following:

16.2.1 Damages. Developer shall be liable for any and all damages incurred by City, except that Developer shall not be liable for consequential damages incurred by City.

16.2.2 Specific Performance. City shall be entitled to specific performance of each and every obligation of Developer under this Agreement without any requirement to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.2.3 Injunction. City shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

16.2.4 Guaranty. City shall be entitled to draw upon or foreclose all or any part, commence an action for equitable or other relief, and/or proceed against Developer and any guarantor for all direct monetary damages, costs and expenses arising from the Event of Default and to recover all such damages, costs and expenses, including reasonable attorneys' fees.

16.3 Copy of Notice of Default to Mortgagee. Whenever City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement, City shall at the same time forward a copy of such notice or demand to each Mortgagee approved by City at the last address of such holder shown in the records of City.

16.4 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies City in writing of its intention to complete the Project according to the approved final Construction Documents. Any Mortgagee who shall properly complete the Project shall be entitled, upon written request made to City, to issuance of a Certificate of Performance in accordance with Section 9 above.

16.5 Provisions Surviving Termination. Upon termination of this Agreement, the Indemnification obligation set forth in Section 6.4 shall remain with

the parties then obligated thereunder, and such obligation shall not be assumed or deemed assumed by any subsequent owner of all or any portion of the Property.

Section 17. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 18. Miscellaneous.

18.1 Estoppel Certificates. City and Developer shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective Mortgagee, assignee or subtenant designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

18.2 Inspection. Until the Certificate of Performance is recorded, City shall have the right under this Agreement, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. City shall have the further right at all reasonable times to inspect the Property, including any construction work thereon, to determine compliance with the provisions of this Agreement. Further, City shall have all rights in its regulatory capacity to inspect the Property and construction activity.

18.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

18.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

18.5 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by Developer except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law. The obligations of Anderson and Brew Pubs, and of any other party who succeeds to their interests hereunder or in the Property, shall be joint and several.

18.6 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, Washington 98011
Attn: Bob Stowe

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

To Developer: Anderson School Properties LLC
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

18.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

18.8 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

18.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

18.10 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

18.11 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement 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, except as may be otherwise expressly provided herein.

18.12 Consents. Whenever consent or approval by City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of City.

18.13 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or

employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

18.14 Discrimination. Developer, for itself and its successors and assigns, agrees that during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, handicap or national origin.

18.15 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys,' accountants,' and other experts' fees and all other fees, costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts.

18.16 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

18.17 Force Majeure. In addition to specific provisions of this Agreement, Developer shall not be deemed to be in default with regard to performance of any provision of this Agreement (including construction of the Project in accordance with the Construction Schedule) where delays to performance are due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act or delay in acting of any public or governmental entity, including to issue permits or approvals for the Project (provided that all submissions by Developer are timely and in accordance with applicable requirements) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not a cause beyond the control or without the fault of Developer ("Force Majeure"). For avoidance of doubt, "Force Majeure" shall not include the environmental condition of the Pool Parcel or the failure of the Washington Department of Ecology to provide or issue any particular report, memorandum or other assurance regarding

the environmental condition of the Pool Parcel (such as a "no further action letter" or a "closeout memo"). For any Force Majeure delay that will cause substantial completion of the Project to be delayed more than fifteen (15) days, Developer will keep City informed about the cause and nature of such delay and the progress in achieving such substantial completion. Times of performance under this Agreement may also be extended in writing by City and Developer.

18.18 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

18.19 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

[Signatures on the following page.]

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

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: Robert S. Stowe
Title: City Manager

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

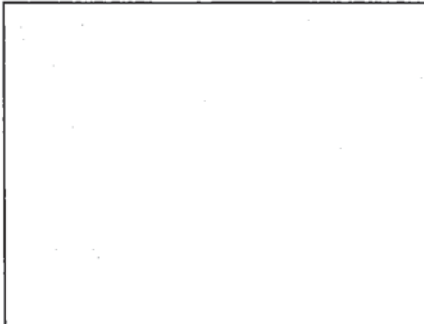
By: New School Properties LLC, a
Washington limited liability company, Its
Manager

By: _____
Name: Michael McMenamin
Title: Sole Member and Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert S. Stowe 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 City Manager of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



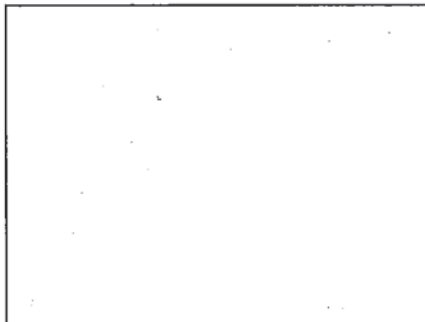
(Use this space for notarial stamp/seal)

Notary Public
Print Name: Catherine E. Jansen
My commission expires _____

STATE OF)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties 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-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

Lot 3, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

PARCEL B-- (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

Lot 1, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

EXHIBIT A-2

Legal Description of Pool Parcel

Lot 2, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

EXHIBIT B

Form of Certification of Performance

After recording return to

CERTIFICATE OF PERFORMANCE

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC

Abbreviated Legal Description

(Full legal description on Ex. A): Lots 1-3, City of Bothell BLA No. 2010-00006,
Rec. No. 20101230900001

Assessor's Tax Parcel No(s): 062605-9369-05; 062605-9370-02; 062605-09052-07

Related Document: Development Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), hereby certifies that ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, ("Developer"), has satisfactorily completed construction of the Improvements on the Property described on Exhibit A attached hereto (the "Property"), as such Improvements are described in the Development Agreement dated _____, 2012 (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 2012.

This Certificate of Performance is and shall be a conclusive determination that the Developer has satisfied, or City has waived, each of the agreements, covenants and conditions contained in the Agreement as to the development of the Improvements pursuant to Section 5 of the Agreement.

Notwithstanding this Certificate of Performance, Section 16.4 of the Agreement provides for the survival of certain covenants as between City and Developer, and nothing in this Certificate of Performance affects such survival.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

IN WITNESS WHEREOF, City has caused this instrument to be executed this _____ day of _____, _____.

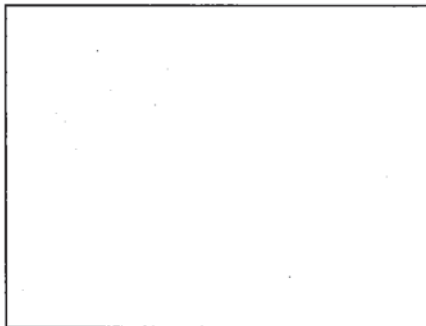
CITY OF BOTHELL, a Washington
municipal corporation

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 City of Bothell 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 C

Form of Performance Guaranty

GUARANTY OF COMPLETION (Development Agreement)

This Guaranty of Completion is made as of the ____ day of _____, 2012, by McMenamins, Inc., an Oregon corporation ("Guarantor"), in favor of the City of Bothell, a Washington municipal corporation ("City"), with reference to the following facts.

RECITALS

A. Contemporaneously herewith, Anderson School Properties LLC, a Washington limited liability company ("Anderson"), is purchasing the property in Bothell, Washington commonly known as the Anderson Building campus and the Northshore Costie/Ruiz Pool Building (the "Property"). Anderson is leasing the Property to McMenamin's Brew Pubs, Inc., a Washington corporation ("Brew Pubs") concurrently herewith to facilitate the redevelopment and operation of the Property. Anderson is also referred to herein as "Developer."

B. As part of the closing of the purchase of the Property, Developer and City are entering into a Development Agreement of even date herewith (the "Development Agreement") that provides for the rehabilitation of the Anderson Building and other development of the Property. The Development Agreement requires that Guarantor provides this Guaranty to City. Capitalized terms not otherwise defined herein shall have the meaning given them in the Development Agreement.

C. Guarantor is the parent of Brew Pubs and will benefit from the purchase of the Property by Anderson. Guarantor understands that redevelopment of the Property is crucial to the mission and goals of City and that City would not sell the Property to Anderson without this Guaranty.

GUARANTY AGREEMENT

NOW, THEREFORE, in consideration of the sale of the Property to Anderson and as required by the Development Agreement, Guarantor unconditionally and irrevocably guarantees to City the full, faithful, timely and complete performance by Developer of Developer's obligations under the Development Agreement. Guarantor further agrees to pay all costs and expenses, including attorneys' fees, that may be incurred by City in enforcing this Guaranty. The obligations of Guarantor under this paragraph are called the "Obligations."

If for any reason there is an Event of Default by Developer under the Development Agreement then, in any such event, Guarantor, upon receipt of notice from City, agrees to cure such default and to perform, or cause Developer to perform, all of Developer's obligations under the Development Agreement.

If Guarantor fails to cure or cause cure of Developer's default as provided above (such cure by Guarantor in any event to commence not later than 30 days after notice to Guarantor

from City and thereafter proceed diligently and continuously), City, at City's option, shall have the right to complete the Project. City's rights to complete the Project shall be subject to the rights of the construction lender to the Project to also complete the Project, such that if such lender is undertaking the construction of the Project, City shall not interfere with such construction activity (provided that such construction activity is in compliance with the Development Agreement). The amount of all expenditures reasonably incurred by City in curing the default shall be immediately due and payable by Guarantor to City.

Guarantor shall be responsible and liable to City for any losses, costs or expenses that City may suffer or incur as a result of any breach by Guarantor of any of the terms of this Guaranty or in the event that any of the representations or warranties made in writing by Guarantor to City are or were incorrect. If Guarantor defaults under this Guaranty, City may enforce this Guaranty against any or all persons liable hereunder and pursue any rights and remedies available at law or in equity, including without limitation actions for damages and specific performance. Guarantor agrees that, given the unique nature of the proposed development on the Property, that City may not be in a position to complete the development and that specific performance is an appropriate remedy hereunder. In the event of any default under this Guaranty or in any action to enforce this Guaranty, City shall be entitled to recover all reasonable costs and expenses, including experts, accountants and attorneys' fees and costs and including any such fees in any bankruptcy and appellate proceedings.

Guarantor agrees that its liability shall not be impaired or affected by (i) any renewals or extensions of the time for performance under the Development Agreement; (ii) any enforcement of or any forbearance or delay in enforcing the Development Agreement against Developer; (iii) any modifications of the terms or provisions of the Development Agreement; (iv) any settlement, release or compromise with Developer (except to the extent that the same are in a writing signed by Developer and City); (v) any lack of notice to Guarantor from City except that expressly provided for herein. City has no obligation to resort for payment to Developer or to any other person or entity or their properties, or to resort to any security, property, rights or remedies whatsoever, before enforcing this Guaranty.

Any other provisions hereof notwithstanding, this Guaranty shall terminate upon the issuance by City of a Certificate of Performance for the Project or repurchase of the Property by City pursuant to Sections 5.7 or 16.1 of the Development Agreement.

All diligence in collection, protection, or enforcement and all presentment, demand, protest and notice, as to anyone and everyone, whether Developer, Guarantor or others, of dishonor or default, the creation and existence of the Obligations, the acceptance of this Guaranty or any extensions of credit and indulgence hereunder, are hereby expressly waived. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any rights by way of subrogation or otherwise against Developer unless and until the full amount owing to City on the Obligations has been paid and the Obligations have been fully performed.

Upon the occurrence of an Event of Default under the Development Agreement that is not cured within any applicable cure period under the Development Agreement, City may exercise any right or remedy it may have at law or in equity against Developer under the Development

Agreement. No such action by City will release or limit the liability of Guarantor to City, if the effect of that action is to deprive Guarantor of the right to collect reimbursement from Developer for any sums paid to City.

Guarantor assumes full responsibility for keeping fully informed of the financial condition of Developer and all other circumstances affecting Developer's ability to perform its obligations to City and agrees that City will have no duty to report to Guarantor any information that City receives about Developer's financial condition or any circumstances bearing on its ability to perform.

All notices which may be or are required to be given pursuant to this Guaranty shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 - 101st Avenue NE
Bothell, WA 98011
Attn: Bob Stowe
Fax No. (425) 486-2434
Phone: (425) 486-3256

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner
Fax: (206) 623-7022

To Guarantor: McMenamins, Inc.
430 N. Killingsworth
Portland, OR 97217
Attention: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

This Guaranty shall be binding upon Guarantor, and upon the successors and assigns of Guarantor. This Guaranty shall run for the benefit of City, its successors and assigns.

This Guaranty may only be changed by an instrument in writing signed by the party against whom enforcement hereof is sought.

Guarantor acknowledges that the transactions contemplated hereby have been negotiated in the State of Washington, that Guarantor is to perform its obligations hereunder in the State of Washington and that after due consideration and consultation with counsel Guarantor and City have elected to have the internal laws of Washington apply hereto. Accordingly, this Guaranty shall be deemed made under and shall be construed in accordance and governed by the internal laws of the State of Washington without regard to principles of conflicts of laws. Guarantor hereby consents to the nonexclusive jurisdiction of the state courts located in King County, Washington and the federal courts in the Western District of Washington. Guarantor waives the defense of forum non conveniens in any such action and agrees that this Guaranty may be enforced in any such court.

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

Notwithstanding any provision of this Guaranty to the contrary, Guarantor shall have no obligation hereunder on account of any Event of Default under the Development Agreement that occurs prior to commencement of construction on the Property pursuant to the Development Agreement. City's sole remedy on account of any such Event of Default shall be to repurchase the Property in accordance with the terms of Sections 5.7 and 16.1 of the Development Agreement.

McMenamins, Inc., an Oregon corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

Plans and Permits Schedule

Developer shall prepare the Plans for the development of the Project on the Property sufficiently detailed to obtain all necessary grading, right of way, utilities, building, plumbing, mechanical, electrical and other permits from the City of Bothell and other Governmental Authorities. Developer will submit such Plans and permit applications not later than the following dates (subject to extension for Force Majeure:

<u>Plans</u>	<u>Deadlines for Submission to City</u>
Concept Design Plans, Schematic Design Plans, Design Development Plans, Construction Plans and Construction Schedule	All Plans in this section are due at such time so that the Construction Plans and Construction Schedule are submitted to the City not later than (i) the fourth (4 th) month anniversary of the date this Agreement is recorded for all proposed Plans and (ii) not later than the sixth (6 th) month anniversary of the date this Agreement is recorded for all final Plans
<u>Permits/SEPA</u>	<u>Deadlines for Permit Application/SEPA Submissions</u>
Environmental (SEPA) determination Permits: Grading, Right of Way, Utilities, Building, Plumbing, Mechanical, Electrical (from Washington State Department of Labor and Industries), Re-roof (if not done as part of Building Permit) and sign	All Permits/SEPA submissions in this section are due at such time so that the applications for the listed permits are submitted to the City not later than the seventh (7 th) month anniversary of the date this Agreement is recorded.

EXHIBIT E

Development, Traffic Impact and Boulevard Frontage Fees Estimates

Type of fee / frontage improvement construction cost	How calculated	Amount
Estimated development fees excluding traffic impact fees		
Pre-application	Established by fee resolution.	\$1,213
Environmental review (SEPA)	Fee based on amount of review time, which should be shorter than normal review time because proposed uses are covered by the Planned Action EIS. Mitigating measures from the EIS may be applied. Assume 8 hours x \$140.80 per hour = \$1,126.	\$1,126
Plan check	Paid on submittal of application at 65 percent of permit fees. Permit fees are based on valuation of the proposed construction. Valuation of the McMenamins construction is assumed at \$15,000,000. Permit fees for a \$15,000,000 construction project are calculated at \$6,730.50 for the first \$1,000,000 + \$4.50 for each additional \$1,000 or fraction thereof, which totals \$69,731. The plan check fee would be 65 percent of \$69,731, or \$45,325, plus consultant review fees if required.	\$45,325
Fire plan check	Collected for all new commercial and multi-family buildings and first-time or change-of-use tenant improvements. The McMenamins construction would constitute change-of-use tenant improvements. Calculated at \$.06 per square foot x assumed total floor area of 67,024 square feet, or \$4,021.	\$4,021
Traffic concurrency capacity reporting and monitoring surcharge	Different fees depending on whether a development is classified as "minor" (generates between 3 and 19 peak hour trips), "medium" (between 20 and 50 peak hour trips) or "major" (more than 50 peak hour trips). Assuming as a "worst case" that McMenamins would be a major development, the fee would be \$2,722	\$2,722
Grading permit	Plan review + permit fee, varies by amount of grading. Grading of less than 1,000 cubic yards assumed.	\$232
Right of way permit	Major, associated with development, set fee	\$218
Utilities permits (water, storm drainage, sanitary sewer)	Various permits. Assumes 1) existing three-inch water meters serving the Anderson complex and the Northshore Pool are adequate for McMenamins' usage; 2) an existing unutilized two-inch water service to the property can be used for irrigation; and 3) no additional meters will be required. Remaining fees would cover service line fees, sanitary sewer facilities charges, backflow assembly inspections, processing fees and other related fees.	\$3,387
Building permits	See "Plan check" above for calculation method	\$69,731
Plumbing permits	(Permit fee) + (type of fixture x fee per fixture x number of fixtures) + (plan check fee at 65 percent of previous total). Total, assuming 70-room hotel and other previously identified uses: \$5,420	\$5,420
Mechanical permits	(Permit fee) + (type of fixture x fee per fixture x number of fixtures) + (plan check fee at 65 percent of previous total). Total, assuming 70-room hotel and other previously identified uses: \$2,809.62	\$2,810

Type of fee / frontage improvement construction cost	How calculated	Amount
Electrical permits	Not collected by City: administered by state Department of Labor and Industries	
Development review	Per-hour billing for planning, civil engineering and traffic review and related inspections. Assumes 160 hours x average per hour fee of \$141.63 = \$22,661	\$22,661
Energy review	For tenant improvements (assumes no new construction), \$263 per building (5) + \$68 per hotel room (70) = \$6,075	\$6,075
State building code fee	\$4.50 per building permit x assumed 5 building permits = \$22.50 + \$2 per hotel room (70) = \$162.50	\$163
Total estimated development fees, excluding traffic impact fees		\$165,104
Estimated traffic impact fees		
Traffic impact fees	<p>Traffic impact fees are based on the type of land use x unit of measure (e.g., number of dwellings, gross floor area), + a 3 percent administrative fee. Fees effective July 1, 2010, are utilized in this analysis. Proposed McMenamins land uses include a hotel, pub, restaurant, retail shops, pool, and movie and live theaters.</p> <p>In its analysis staff took into account overlapping uses (e.g., hotel guests are likely to dine in the restaurant and view movies in the theater) and the continuation of existing uses (e.g., the pool) that would not add new traffic.</p> <p>Total traffic impact fees based on individual McMenamins uses, as if new: \$496,828 After 10 percent deduction for overlapping uses (\$49,683): \$447,145 After deduction for offsetting existing uses (\$248,720): \$198,425 After addition of 3 percent administrative fee (\$5,953): \$204,378</p>	\$204,378
Total estimated development fees		\$369,482
Estimated frontage improvement construction costs		
Frontage improvement construction cost	Frontage improvement construction costs are separate from and in addition to traffic impact fees, unless the required frontage improvements would increase roadway capacity, in which case a portion of the construction costs may be credited against the impact fees. In the case of McMenamins, none of the required frontage improvements would increase roadway capacity. It is assumed that the City would contribute all land for right of way and construct Bothell Way NE through-lanes and median landscaping; and that McMenamins would pay in lieu of construction for required improvements west of the median landscaping.	

Type of fee / frontage improvement construction cost	How calculated	Amount
	<p>The required improvements include a 10-foot vehicle access lane with pull-out in front of the Anderson Building, curb and gutter for the access lane, a 10-foot sidewalk, ADA ramps, trees immediately behind the sidewalk, related landscaping, irrigation, street furniture, and illumination. The improvements extend along Bothell Way NE from the parcel's southern boundary to its northern boundary. The concrete wall, seating area, and planting within the wall around the existing significant tree on the northern portion of the frontage is not included in the cost estimate. The materials, such as trees, access lane pavers, landscaping, illumination, and furniture, shall match the materials used in the rest of the boulevard. The estimated cost of constructing these improvements is \$339,000.</p> <p>To accommodate McMenamins' desire for more space between the northeast corner of the Anderson Building and the edge of sidewalk, required frontage improvements have been reduced from the standard boulevard design by eliminating a row of parallel parking and reducing the sidewalk width from 14 feet to 10 feet.</p>	\$339,000
	Grand total, estimated development fees + estimated frontage improvement construction costs:	\$708,482

EXHIBIT C

Public Benefits Agreement

(see attached)

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

PUBLIC BENEFITS AGREEMENT

GRANTOR: ANDERSON SCHOOL PROPERTIES LLC AND
 MCMENAMIN'S BREW PUBS, INC.

GRANTEE: CITY OF BOTHELL

Legal Description:

Abbreviated form:

Lots 1-3, City of Bothell BLA No. 2010-00006,
Rec. No. 20101230900001

Additional legal on Exhibit A

Assessor's Property Tax Parcel Account Number(s): 062605-9369-05; 062605-9370-02;
062605-09052-07

TABLE OF CONTENTS

	<u>Page</u>
Section 1. Definitions	5
Section 2. Public Benefits.....	7
2.1 Generally.....	7
2.1.1 Community Meeting Room	7
2.1.2 Pool	8
2.1.3 Community Garden.....	8
2.2 Public Benefits Period	9
Section 3. Buy-Out of Public Benefits.....	9
3.1 Optional	9
3.2 Mandatory	9
Section 4. Non-Discrimination	10
Section 5. Indemnity	10
Section 6. Guaranty of Public Benefits.....	11
Section 7. Certificate of Termination	11
7.1 When Developer Entitled to Certificate of Termination	11
7.2 Meaning and Effect of Certificate of Termination	11
Section 8. Liens.....	11
Section 9. Insurance.....	12
9.1 Insurance Requirements.....	12
9.1.1 Builders Risk.....	12
9.1.2 Commercial General Liability	12
9.1.3 Excess or Umbrella Liability	13
9.1.4 Property Insurance	13
9.2 Insurance Policies	13
9.3 Adjustments	14
Section 10. Destruction or Condemnation.....	14
10.1 Total or Partial Destruction.....	14
10.2 Condemnation.....	14
Section 11. Right to Assign or Otherwise Transfer	15
Section 12. Default	16
Section 13. Remedies.....	17
13.1 Remedies Upon Default.....	17
13.2 Copy of Notice of Default to Mortgagee	17
13.3 Mortgagee's Option To Cure Defaults	17
13.4 Provisions Surviving Termination.....	17
Section 14. Representations and Warranties.....	17

Section 15.	Miscellaneous	18
15.1	Estoppel Certificates	18
15.2	Inspection.....	18
15.3	Entire Agreement.....	18
15.4	Modification.....	18
15.5	Successors and Assigns; Joint and Several.....	18
15.6	Notices	19
15.7	Execution in Counterparts	19
15.8	Waiver.....	19
15.9	Rights and Remedies Cumulative.....	20
15.10	Applicable Law; Jurisdiction.....	20
15.11	No Joint Venture.....	20
15.12	Consents.....	20
15.13	Conflict of Interest.....	20
15.14	Attorneys' Fees	20
15.15	Captions; Exhibits.....	21
15.16	Force Majeure	21
15.17	Fair Construction; Severability.....	21
15.18	Time of the Essence.....	22

PUBLIC BENEFITS AGREEMENT

THIS PUBLIC BENEFITS AGREEMENT (this "Agreement") is dated as of the ____ day of _____, 2012, and is between the CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company ("Anderson"), and MCMENAMIN'S BREW PUBS, INC., a Washington corporation ("Brew Pubs") (Anderson and Brew Pubs are, collectively, "Developer").

RECITALS

A. Pursuant to that certain Purchase and Sale Agreement between City, as seller, and Anderson, as buyer, dated June 24, 2010, First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012 and Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, and Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012 (collectively, the "Sale Agreement"), concurrently herewith Anderson has acquired that certain real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property"). The parcel described on Exhibit A-1 (the "Anderson Parcel") is improved with the historic W.A. Anderson School Building (the "Anderson Building") and its related campus. The parcel described on Exhibit A-2 (the "Pool Parcel") is improved with the Northshore Costie/Ruiz Pool (the "Pool") and related building (the "Pool Building").

B. Concurrently herewith, Anderson has leased the Property to Brew Pubs pursuant to a long term lease (the "Lease"). Brew Pubs is wholly owned by McMenamins, Inc., an Oregon corporation, which has common beneficial ownership with Anderson. The Lease requires that Anderson develop and Brew Pubs operate the Property as required by, and subject to the terms and conditions of, this Agreement and the Development Agreement.

C. As described in the Sale Agreement, City desires to foster the redevelopment of the Property, which is located in a key part of downtown Bothell, in a way that will contribute to the economic, cultural and recreational revitalization of the City. As described in the Development Agreement, Anderson will be redeveloping the Property into a full service "McMenamins Complex" that includes a spa (soaking pool, spa and massage treatments), pub/bars, live music venue, movie theater, event and meeting space, an approximately 70-room hotel and gardens and to redevelop the Pool and Pool Building, to be used by the public and in connection with such facility (the "Project").

D. Developer has granted to City a Historic Preservation Easement to preserve, protect and maintain the historic façade and other features of the Anderson Building as more particularly described therein (the "Historic Easement"), which easement is being recorded contemporaneously herewith.

E. As part of the consideration for the purchase of the Property, as described in the Sale Agreement, Developer has agreed to provide certain public benefits as more particularly described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party in partial consideration for the purchase of the Property, and as a direct benefit to City and the general public and for other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

"Business Days" means any day on which banks in Bothell, Washington are required to be open for business, excluding Saturdays and Sundays. If any deadline hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

"Buy-Out" has the meaning given in Section 3.1 herein.

"Buy-Out Price" has the meaning given in Section 3.1 herein.

"Certificate of Termination" means a certificate issued by City to Developer pursuant to Section 7 of this Agreement.

"Community Garden" means the garden and pea patch located on the Anderson Parcel open to use by the community as more particularly described in Section 2.1.3 herein.

"Development Agreement" means the Development Agreement between the parties recorded contemporaneously herewith providing for the redevelopment of the Property into the Project.

"Early Termination Date" has the meaning given in Section 3.1 herein.

"Event(s) of Default" has the meaning given in Section 12 herein.

"Force Majeure" has the meaning given in Section 15.16 herein.

"Governmental Authorities" means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property and/or the management, operation, use, environmental cleanup or improvement thereof.

"Historic Easement" has the meaning given in Recital D.

"Historic Features" has the meaning given in the Historic Easement.

"Hospitality Project" means a facility that is operated with the key components of the Project, including, at a minimum, an approximately 70 room hotel, event and meeting space, restaurant and theater.

"Improvements" means all buildings, structures, improvements and fixtures now or hereafter placed or constructed in, under or upon the Property, including the to-be-renovated Anderson Building, other buildings to be built on the Property, the Pool and Pool Building, together with all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, public amenities, parking areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built by Developer on the Property.

"Legal Requirements" means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Property, the Project or its ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, The Americans With Disabilities Act of 1990, as amended (as interpreted and applied by the public agencies with jurisdiction over the Property), life safety requirements and environmental laws with respect to the handling, treatment, storage, disposal, discharge, use and transportation of hazardous substances.

"Mortgagee" means the holder of a first mortgage or deed of trust ("Mortgage") encumbering Developer's interest in any portion of the Property.

“Opening Date” means August 1, 2014, subject to extension for Force Majeure.

“Pool” has the meaning given in Recital A.

“Pool Use” has the meaning given in Section 2.1.2 herein.

“Project” means the redevelopment of the Property to construct, renovate and operate the Improvements and features described in Recital B pursuant to the Plans (as described in the Development Agreement) and this Agreement.

“Project Documents” means this Agreement, the Sale Agreement, the Development Agreement, the Frontage Agreement and the Historic Easement.

“Public Benefits” has the meaning given in Section 2.1 herein.

“Public Benefits Period” has the meaning given in Section 2.2 herein.

“Restoration” has the meaning given in Section 3.2 herein.

“Sale Agreement” has the meaning given in Recital A above.

Section 2. Public Benefits.

2.1 Generally. Pursuant to this Agreement, for the Public Benefits Period, Developer will, at no cost to City, (i) either operate the Project in accordance with the Project Documents or, alternatively, ensure that a Hospitality Project is operated on the Property, in both cases in compliance with all Legal Requirements, and (ii) provide the Public Benefits to City and the public. City understands that as between Anderson and Brew Pubs, such parties intend that Brew Pubs shall be primarily responsible for providing the Public Benefits as provided herein. Nevertheless, Anderson is jointly and severally responsible for providing such Public Benefits as part of the consideration for its acquisition of the Property and thus both Anderson and Brew Pubs are parties to this Agreement.

The “Public Benefits” shall mean the provision without charge to City or the other users permitted below, including providing all necessary facilities and personnel as applicable, of each the following:

2.1.1 Community Meeting Room. Developer shall provide and make available to City for the use of the public a meeting room of approximately 750 square feet located in the one of the buildings to be constructed or renovated on the Property (the “Meeting Room”). The Meeting Room may be moved within the Project with the mutual agreement of the City and Developer. The Meeting Room shall be for the

exclusive use as a community meeting room scheduled and programmed by City or its designee. Developer shall not be responsible for scheduling the Meeting Room use and the Meeting Room shall not be available for use by Developer as part of its commercial operation the Project. Developer shall make the Meeting Room available without charge to City or the public. Nevertheless, Developer may charge for catering or food service provided by Developer or its operator for Meeting Room use.

Developer shall be the sole caterer for Meeting Room use (unless Developer notifies City in writing that Developer no longer wishes to provide such catering). This shall not restrict Meeting Room users from bringing food for their own consumption in the Meeting Room (e.g., brown bag). City and Meeting Room users shall not be allowed to serve alcoholic beverages themselves; rather alcohol for Meeting Room use may only be provided by Developer, its licensed operator or a caterer in order to comply with alcohol licensing requirements. All Meeting Room use shall comply with applicable Legal Requirements.

Developer will provide at its expense routine janitorial service for the Meeting Room on a Monday-Friday or Sunday-Thursday basis. Persons using the Meeting Room shall be permitted to use the common area restrooms and passageways serving the Meeting Room. Nevertheless, Meeting Room users shall be responsible to clean up after their use of the Meeting Room and return it to the condition in which they found it.

City shall require users of the Meeting Room to sign license or use agreements in which users agree to indemnify City and Developer for claims arising out of use of the Meeting Room.

2.1.2 Pool. Developer shall operate or cause to be operated the Pool and Pool Building at least 98 hours per week and shall be open 7 days per week (including holidays) ("Pool Use"). Bothell residents shall be entitled to use the Pool without admission charges during regular Pool operating hours. Nevertheless, Developer shall be entitled to close the Pool only for regularly scheduled and routine cleaning and maintenance, unless otherwise approved by City. Use of the Pool shall be subject to the normal health, safety and other rules of Developer applicable for all Pool Use. The Pool shall be available on a first come, first served basis (excluding users when Pool capacity is reached or limiting parts of the Pool at different times during the day for classes, events or restricted swim times). Free admission for Bothell residents does not include admission for groups, organizations or schools (which must make separate arrangements with Developer).

2.1.3 Community Garden. A Community Garden area of not less than 8,000 square feet shall be provided on the Anderson Parcel. Developer shall not be required to plant such area but rather make it available to Bothell residents for their use free of charge. Developer shall coordinate the use of the Community Garden or work with a community or nonprofit group to do such coordination. Either Developer or such

community or nonprofit group shall maintain the Community Garden in a state available for use by gardeners and shall not allow it to become overgrown or unmanaged.

2.2 Public Benefits Period. The "Public Benefits Period" shall mean the period commencing on the latest date on which all components of the Project are open for public use (the "Commencement Date") and ending fifteen (15) years later (on the 15th anniversary of the Commencement Date), subject to extension with respect to the Pool Use public benefit as provided in Section 4.9 of the Sale Agreement. The Commencement Date shall be the date on which all components of the Project are open for business to the public, which date shall be not later than the Opening Date. Promptly following the Commencement Date, City will record a notice in the form of Exhibit B attached hereto to give notice of the Commencement Date and the Public Benefits Period. The Public Benefits Period may be shortened or lengthened pursuant to Section 3 below.

Section 3. Buy-Out of Public Benefits.

3.1 Optional. By mutual agreement, the parties have determined that the Public Benefits have a value of a total of \$4,700,000 (\$26,112 per month), and are part of the purchase price for Anderson's acquisition of the Property. At any time, either or both of the entities comprising Developer may "buy-out" the Public Benefits and terminate the Public Benefits Period and this Agreement (except for the provisions expressly stated herein to survive termination) in accordance with this section (the "Buy-Out"). To exercise its option to Buy-Out, Developer shall give prior written notice to the City of Developer's election to Buy-Out the remainder of the Public Benefits Period and terminate this Agreement on a date not less than three (3) months in the future (the "Early Termination Date"). The price to Buy-Out the Public Benefits Period and terminate this Agreement is \$26,112 times the number of whole or partial months remaining in the Public Benefits Period as of the Early Termination Date (the "Buy-Out Price"). Notwithstanding the foregoing, to the extent that the Meeting Room and/or Community Garden public benefits become available for City or public use as provided above before the Commencement Date, Developer shall receive a credit against the Buy-Out Price for the number of whole months that each of such public benefits is so available at the Buy-Out Price rates for such public benefit set forth in the last sentence of the first paragraph of Section 3.2 below. Developer shall pay the Buy-out Price in cash to City not later than ten (10) days before the Early Termination Date set forth in Developer's notice. If Developer fails to timely make such payment, then this Agreement shall continue in full force and effect unless and until a Buy-Out occurs in the future.

3.2 Mandatory. In the event that any of the facilities, amenities or Improvements, including the Pool, Pool Building, Meeting Room or Community Garden, and the ancillary and common areas serving the same, are damaged or destroyed such that some or all of the Public Benefits can no longer be provided, and Developer elects not to rebuild, repair or restore the same (the "Restoration") (such election to be made within sixty (60) days following the date of damage or destruction), then Developer shall Buy-Out

the remainder of the Public Benefits Period for the Buy-Out Price (calculated using the remainder of the Public Benefits Period from the date of casualty), such payment to be made not later than one hundred twenty (120) days following the damage or destruction. For this purpose only, if one but not both of the Meeting Room and Pool are damaged or destroyed and the Restoration does not occur as provided herein, Developer may separately Buy-Out such Public Benefits. The Buy-Out Price for the Meeting Room is \$906 per month, the Buy-Out Price for the Pool Use is \$21,875 per month, and the Buy-Out Price for the Community Garden is \$3,331 per month.

If Developer elects to complete the Restoration so that the Public Benefits can be provided, Developer shall commence the Restoration within ninety (90) days after the casualty (or as soon thereafter as possible after all necessary permits and governmental approvals have been obtained) and work diligently to complete the same. The Public Benefits Period shall be extended for the same period that the Public Benefits are unavailable from the date of casualty.

In addition, if a Hospitality Project is no longer operated on the Property (other than for casualty as described above) during the Public Benefits Period and such non-operation continues for more than thirty (30) days after written notice thereof from City to Developer, or if for any reason (or than for casualty as described above) Developer does not provide all of the Public Benefits and such failure continues for more than thirty (30) days after written notice thereof from City to Developer, then Developer shall Buy-Out the Public Benefits for the Buy-Out Price. Such payment shall be made within thirty (30) days after written notice from City. The period used for calculating the Buy-Out Price shall commence on the last day that the Hospitality Project or a significant part thereof ceased to operate or all the Public Benefits were no longer provided.

Section 4. Non-Discrimination. In the implementation of this Agreement, including operation of the Project, Developer shall not discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of this nondiscrimination covenant, subject to the cure provisions of Section 12 hereof, City shall have the right to exercise all of its remedies for default hereunder.

Section 5. Indemnity. Developer shall indemnify, defend and hold City and its employees, officers and council members, harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Developer providing the Public Benefits, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors, assigns or invitees, on or with respect to the Property. City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is caused by the gross negligence or willful misconduct of City as to its own conduct. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, an indemnitee hereunder shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of such indemnitee. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding an indemnitee is made a party, such indemnitee shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by, counsel of its own choosing. To the extent indemnitee is indemnified under this section, Developer shall bear the cost of indemnitee's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without City's written approval, not to be unreasonably withheld.

Section 6. Guaranty of Public Benefits. Contemporaneously with the execution of this Agreement, Developer shall furnish an irrevocable and unconditional guaranty of performance by McMenamins, Inc. (the parent of Brew Pubs), in the form of Exhibit C attached hereto, guaranteeing the full and faithful performance of the obligations of Developer as required by this Agreement. This guaranty shall terminate upon issuance by City of the Certificate of Termination described in Section 7. Neither the provisions of this Section nor any guaranty accepted by City pursuant hereto, nor any damages or other amounts recovered by City thereunder, shall be construed to excuse faithful performance by Developer or to limit liability of Developer under this Agreement.

Section 7. Certificate of Termination.

7.1 When Developer Entitled to Certificate of Termination. Upon termination of the Public Benefits Period (whether by its expiration or termination as a result of a Buy-Out), City will furnish Developer with a recordable Certificate of Termination, substantially in the form attached hereto as Exhibit D hereto. If the Public Benefits Period as to the Pool Use public benefit is extended pursuant to Section 4.9 of the Sale Agreement, then City will not provide the Certificate of Termination to Developer until the end of the Public Benefits Period for the Pool Use public benefit.

7.2 Meaning and Effect of Certificate of Termination. Issuance by City of a Certificate of Termination shall terminate this Agreement and each of its provisions except for the provisions described in Section 13.4 below that expressly survive termination of this Agreement. Any party thereafter acquiring or leasing all or any portion of the Property shall not (because of such purchase or lease) have any obligation whatsoever under this Agreement.

Section 8. Liens. Except in connection with any Mortgages approved pursuant to the Development Agreement and refinances thereof and the documents recorded contemporaneously with the closing of Anderson's acquisition of the Property, in no event shall Developer, prior to recording of the Certificate of Termination, cause or permit any

lien to attach to the including but not limited to mortgages, deeds of trust, mechanic's liens, attachment liens, judgment liens, execution liens, utility liens, security interests or encumbrances. Notwithstanding the foregoing, Developer may grant easements and similar encumbrances with City's prior written consent, which consent will not be unreasonably withheld. Developer shall promptly pay and discharge all liens not permitted hereunder. Nothing contained in this Agreement shall be construed as the consent or request of City, express or implied, for the performance of any labor or services or for the furnishing of any materials or equipment to the Project (or any part thereof). NOTICE IS HEREBY GIVEN THAT CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER, OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) THROUGH OR UNDER DEVELOPER.

Section 9. Insurance. The requirements of this Section 9 shall apply only until the Certificate of Termination is recorded.

9.1 Insurance Requirements. Developer shall maintain and keep in force insurance with the following requirements and maintain such additional insurance as required by Developer's Mortgagee.

9.1.1 Builders Risk. During periods of major construction on the Property, Builders Risk insurance covering interests of City, Developer, its contractor, subcontractors, and sub-subcontractors in the Project work. Builders Risk insurance shall be on a all-risk policy form (and may be a separate policy or included in the property insurance policy) and shall insure against the perils of fire and extended coverage and physical loss or damage including flood (if the Property is in a special flood hazard area and flood insurance is available), earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of \$75,000 for each occurrence. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Builders Risk insurance shall be written in the amount of the completed value of the Project with no coinsurance provisions. The Builders Risk insurance shall be maintained until City issues the Certificate of Termination.

9.1.2 Commercial General Liability. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence and a \$2,000,000 general aggregate limit. The Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 (or other equivalent form) and shall cover liability arising from premises, operations, stop gap liability, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract. Developer's Commercial General Liability insurance shall be endorsed to name City as an insured using ISO Additional Insured endorsement CG 20 26 07 04 – Additional

Insured Designated Person or Organization or a substitute endorsement providing equivalent coverage.

9.1.3 Excess or Umbrella Liability. Developer shall provide Excess or Umbrella Liability coverage at limits of not less than \$5,000,000 per occurrence and annual aggregate. This excess or umbrella coverage shall apply, at a minimum to both the Commercial General Liability insurance required herein and to any Automobile Liability coverage or any combination thereof.

9.1.4 Property Insurance. Until the Certificate of Termination is recorded, Developer shall carry property insurance covering the Project including all Improvements. Such insurance shall contain coverage against loss or damage by perils no less broad than the current edition of the ISO Special Causes of Loss Form CP 10 30. Developer shall also purchase and maintain earthquake and flood (if any of the buildings are located in a special flood hazard area and flood insurance is available), and equipment breakdown insurance. The property, earthquake and flood insurance shall be written in an amount equal to at least one hundred percent (100%) of the replacement cost of all Improvements. Equipment breakdown insurance shall be written with at least a \$1,000,000 equipment breakdown limit. Developer shall be responsible for payment of any deductibles under said insurance policies and any costs of restoration resulting from any uninsured or underinsured losses.

9.2 Insurance Policies. Insurance policies required herein:

9.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

9.2.1.1 The companies must be rated no less than "A," as to general policy holders rating and no less than "X" as to financial category in accordance with the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Incorporated.

9.2.1.2 Developer's insurance coverage shall be primary insurance as respects City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be excess of the Developer's and Contractor's insurance and shall not contribute with it.

9.2.2 Each such policy or certificate of insurance mentioned and required in this Section 12 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

9.2.3 The certificates of insurance and insurance policies shall be furnished to Developer and City prior to commencement of construction under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required for strict compliance with this Section 9.

9.2.4 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 12 of this Agreement, without cure or grace period. In addition to any other legal remedies, City at its sole option after written notice may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to City.

9.3 Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as Developer and City may mutually determine.

Section 10. Destruction or Condemnation.

10.1 Total or Partial Destruction. If the Improvements are totally or partially damaged or destroyed at any time during the Public Benefits Period, Developer shall either (a) conduct the Restoration such that Developer can continue to provide the Public Benefits, such decision to be made within sixty (60) days after the damage or destruction and such Restoration to commence within ninety (90) days after the damage or destruction (or as soon thereafter as all necessary permits and governmental approvals needed to commence the Restoration have been obtained); or (b) Buy-Out the remainder of the Public Benefits as provided in Section 3.2 above. In any event, Developer shall at its cost secure the Property, clear the debris and generally make the Property as safe and attractive as practical given the circumstances.

If for any reason the Improvements are not reconstructed as provided above or Developer does not complete the Buy-Out, without limiting any other rights or remedies that City has, no further development of the Property can occur without the prior approval of City. This Agreement shall continue to restrict future use and development of the Property during the Public Benefits Period (as the same may be extended as provided herein) and Developer or any successor of Developer shall obtain City's approval of the redevelopment plan before the Property is redeveloped. Any redevelopment plan shall include a plan to have a Hospitality Project operating on the Property, at a minimum.

10.2 Condemnation. If during the term of this Agreement the one or more of portions of the Property that provide the Public Benefits are taken or condemned in the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Developer can no longer provide any of the Public Benefits under this Agreement, this Agreement shall terminate, as to the part taken only, on the date when possession of such portion of the Property that provides the Public Benefits is so taken is acquired by the

condemning authority. No Buy-Out Price is required in connection with a condemnation. This Agreement shall continue in full force and effect as to any parts of the Property not taken.

Section 11. Right to Assign or Otherwise Transfer. Developer represents that Anderson's purchase of the Property is intended for long term development and operation and not for speculation. During the term of this Agreement, any transfers of the Property shall be made expressly subject to the terms, covenants and conditions of this Agreement.

11.1 Before issuance of a Certificate of Termination, Developer will not transfer the Property or any part thereof without the prior written consent of City to the proposed transfer and transferee, which consent shall be at the sole discretion of City. Notwithstanding any provision of this Section 11, (a) transfers of the Property to a Mortgagee and transfers of equity interests approved pursuant to the Financing Plan (as provided in the Development Agreement) shall be permitted; (b) transfers of beneficial ownership in Developer that do not individually or cumulatively result in a change of more than 49% of the beneficial ownership of Developer so long as, following such transfer(s), some or all of the principals, officers and key employees of McMenamins, Inc. existing as of the date of the signing the Sale Agreement continue to control Developer and the day-to-day operation of the Project; and (c) City shall not unreasonably withhold its consent if the proposed transferee is an operator of a Hospitality Project (which need not include a theater for this purpose) with demonstrated expertise, excellent reputation, not less than 10 years of experience in the ownership and construction of similar projects similar to the Project and a net worth sufficient, in City's reasonable judgment, to perform all of Developer's obligations hereunder and to operate the Project in a manner that provides the Public Benefits as required hereunder.

"Transfer" as used herein includes any sale, conveyance, transfer, ground lease or assignment (excluding the lease from Anderson to Brew Pubs), whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer, or any transfer of a controlling interest in the management of Developer. In addition, "Transfer" includes any sale or any transfer of direct or indirect interests in Developer or any of its constituent entities, other than transfers of minority interest that do not individually or in the aggregate result in the change of control or management of Developer, the Property or the Project.

11.2 If City approves of a transfer under Section 11.1, Developer shall deliver to City (a) a copy of the document evidencing such transfer, including a suitable estoppel agreement(s), and (b) an assumption of all obligations of Developer under this Agreement in form reasonably satisfactory to City.

11.3 The transferee (and all succeeding and successor transferees) shall succeed to all rights and obligations of Developer under this Agreement, including any

unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the written consent and release of City.

11.4 If Developer transfers the Property during the term of this Agreement without the prior written consent of City (other than transfers that do not require City's consent hereunder), then the Buy-Out Price shall be immediately due and payable. This obligation shall be a lien on the Property from the date of such unpermitted transfer, but shall be subordinate to a first Mortgage.

Section 12. Default. Developer's failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

12.1 The failure of Developer to provide all of the Public Benefits for the Public Benefits Period.

12.2 The failure of Developer to operate the Project or, at a minimum, a Hospitality Project, for the Public Benefits Period.

12.3 The failure of Developer to diligently restore the Project following a casualty in a manner sufficient to provide the Public Benefits, or alternatively to pay the Buy-Out Price within one hundred twenty (120) days after the casualty, as provided in Section 3.2.

12.4 The failure of Developer to comply with Section 8 or Section 9 of this Agreement or to satisfy the indemnities set out in this Agreement.

12.5 The making by Developer of an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

12.6 The appointment of a receiver or trustee of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or insolvency law which not dismissed or stayed by the court within sixty (60) days after such filing.

12.7 Any sale, assignment or other transfer in violation of Section 11 of this Agreement.

The happening of any of the above described events shall be an Event of Default hereunder. Notwithstanding the foregoing, except in the case of Section 12.5, 12.6, and 12.7 above as to which notice but no cure period shall apply, Developer shall have thirty

(30) days following written notice from City to cure such default (or if such default cannot reasonably be cured within thirty (30) days, if Developer fails to commence such cure within 30 days and thereafter diligently pursue such cure to completion within (120) days).

Section 13. Remedies.

13.1 Remedies Upon Default. If an Event of Default occurs, Developer shall be liable to City for the Buy-Out Price (calculated from the date of the Event of Default) as the measure of damages incurred by City, plus reasonable attorneys fees and costs incurred by City in connection with Developer's default and enforcing City's remedies hereunder. Developer's liability shall not exceed the Buy-Out Price plus attorneys' fees and costs of enforcement.

City shall also be entitled to commence an action on the Guaranty following an Event of Default.

13.2 Copy of Notice of Default to Mortgagee. Whenever City shall deliver any notice or demand to the Developer with respect to any breach or default by Developer in its obligations or covenants under this Agreement, City shall also forward a copy of such notice or demand to each Mortgagee at the last address of such holder shown in the records of City.

13.3 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to the Restoration of the Project, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the Restoration, provided that the Mortgagee notifies City in writing of its intention to complete the Restoration in accordance with this Agreement.

13.4 Provisions Surviving Termination. The provisions of Section 5 shall survive any termination of this Agreement.

Section 14. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 15. Miscellaneous.

15.1 Estoppel Certificates. City and Developer shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee, assignee or subtenant designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

15.2 Inspection. Until the Certificate of Termination is recorded, City shall have the right, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect on a confidential basis the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. City shall have the further right at all reasonable times to inspect the Property to determine compliance with the provisions of this Agreement. Further, City shall have all rights in its regulatory capacity to inspect the Property and construction activity.

15.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

15.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

15.5 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by any of the parties hereto except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law. The obligations of Anderson and Brew Pubs, and of any other party who succeeds to their interests hereunder or in the Property, shall be joint and several.

15.6 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 – 101st Avenue NE
Bothell, WA 98011
Attn: Bob Stowe

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner

To Developer: Anderson School Properties LLC
McMenamin's Brew Pubs, Inc.
c/o McMenamins
430 N. Killingsworth
Portland, OR 97217
Attn: Larry Dortmund

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

15.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

15.8 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate

this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

15.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

15.10 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the King County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

15.11 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement 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, except as may be otherwise expressly provided herein.

15.12 Consents. Whenever consent or approval by City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of Bothell.

15.13 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

15.14 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals, accountants', and other experts' fees and all other fees,

costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law.

15.15 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

15.16 Force Majeure. In addition to specific provisions of this Agreement, Developer shall not be deemed to be in default with regard to performance hereunder where delays in performance are due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act or delays in acting of any public or governmental entity or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not a cause beyond the control or without the fault of Developer ("Force Majeure"). For avoidance of doubt, "Force Majeure" shall not include the environmental condition of the Pool Parcel or the failure of the Washington Department of Ecology to provide or issue any particular report, memorandum or other assurance regarding the environmental condition of the Pool Parcel (such as a "no further action letter" or a "closeout memo").

Except for Force Majeure events arising by reason of damage, destruction or other casualty (which are addressed in Sections 3.2 and 10), for any Force Majeure delay that will cause provision of Public Benefits to be suspended in whole or in part for more than fifteen (15) days, Developer will keep City informed about the cause and nature of such delay and the progress in achieving a return to the provision of the Public Benefits required hereunder. In the event of such a delay exceeding fifteen (15) days, the Public Benefits Period will be extended for the same number of days. Times of performance under this Agreement may also be extended in writing by City and Developer.

15.17 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so

that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

15.18 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

[signatures on following page]

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

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: Robert S. Stowe
Title: City Manager

**ANDERSON SCHOOL PROPERTIES
LLC**, a Washington limited liability company

By: New School Properties LLC, a Washington
limited liability company, Its Manager

By: _____
Name: Michael McMenamin
Title: Sole Member and Manager

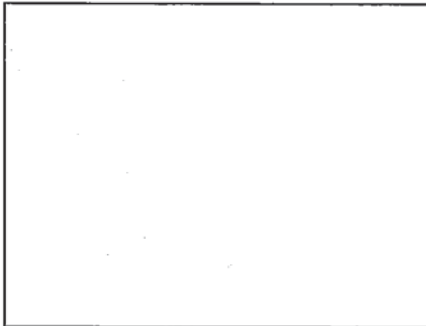
MCMENAMIN'S BREW PUBS, INC., a
Washington corporation

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert S. Stowe 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 City Manager of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



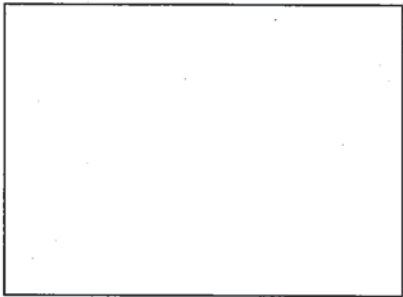
(Use this space for notarial stamp/seal)

Notary Public
Print Name: Catherine E. Jansen
My commission expires _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



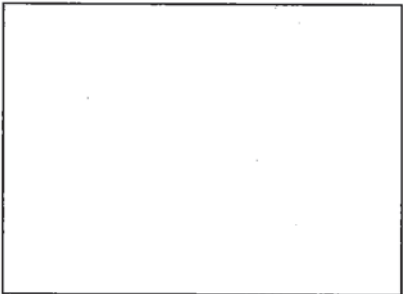
(Use this space for notarial seal)

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 McMenamin's Brew Pubs, Inc. 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 seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT A-1

Legal Description of Anderson Parcel

PARCEL A (AKA ANDERSON SOUTHERLY PARCEL)

Lot 3, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

PARCEL B-- (AKA PARKING PARCEL/ANDERSON NORTHWESTERLY PARCEL)

Lot 1, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

EXHIBIT A-2

Legal Description of Pool Parcel

PARCEL C (AKA ANDERSON NORTHEASTERLY PARCEL)

Lot 2, City of Bothell Boundary Line Adjustment Number BLA 2010-00006, recorded under Recording Number 20101230900001, in King County, Washington.

EXHIBIT B

Form of Certificate of Public Benefits Period

After recording return to

CERTIFICATE OF PUBLIC BENEFITS PERIOD

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMIN'S
BREW PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): Lots 1-3, City of Bothell BLA No. 2010-00006,
Rec. No. 20101230900001

Assessor's Tax Parcel No(s): 062605-9369-05; 062605-9370-02;
062605-09052-07

Related Document: Public Benefits Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMIN'S BREW PUBS, INC., a Washington corporation (collectively, "Developer"), hereby agree and certify that the Public Benefits Period under that certain Public Benefits Agreement dated _____, 2012 (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 2012, commences and ends of the following dates:

Commencement Date: _____

Termination Date: _____

The Public Benefit Period may be shortened under the Buy-Out provisions of Section 3.2 of the Agreement and may be extended by reason of casualty or Force Majeure as provided in Sections 3 and 10 the Agreement. The Agreement was entered into with respect to the Property described on Exhibit A attached hereto.

IN WITNESS WHEREOF, City has caused this instrument to be executed this
_____ day of _____, _____.

CITY OF BOTHELL, a Washington
municipal corporation

By: _____

Name: _____

Title: _____

ANDERSON SCHOOL
PROPERTIES LLC, a Washington
limited liability company

By: New School Properties LLC,
a Washington limited liability
company, Its Manager

By: _____

Name: Michael McMenamin

Title: Sole Member and Manager

MCMENAMIN'S BREW PUBS,
INC., a Washington corporation

By: _____

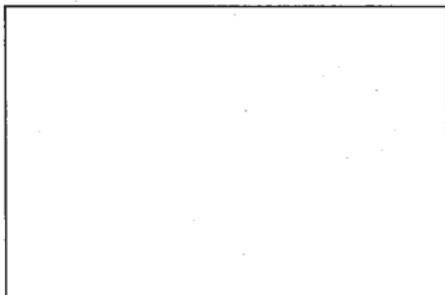
Name: _____

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 City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____.



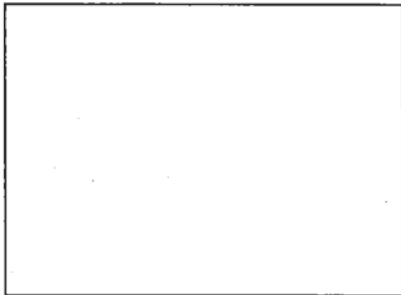
(Use this space for notarial seal)

Notary Public
Print/Type Name _____
My commission expires _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



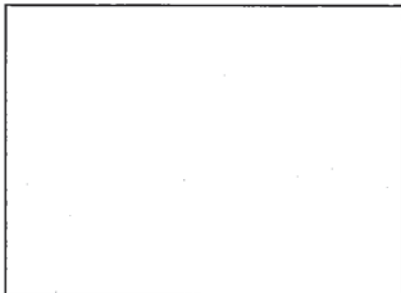
(Use this space for notarial seal)

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 MCMENAMIN'S BREW PUBS, INC. 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 seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT C
Form of Guaranty

GUARANTY AGREEMENT
(Public Benefits Agreement)

This Guaranty Agreement is made as of _____, 2012, by McMenamins, Inc., an Oregon corporation ("Guarantor"), in favor of the City of Bothell, a Washington municipal corporation ("City"), with reference to the following facts.

RECITALS

A. Contemporaneously herewith, Anderson School Properties LLC, a Washington limited liability company ("Anderson"), is purchasing the property in Bothell, Washington commonly known as the Anderson Building campus and the Northshore Costie/Ruiz Pool Building (the "Property"). Concurrently herewith, Anderson is leasing the Property to McMenamin's Brew Pubs, Inc. ("Brew Pubs") to facilitate the redevelopment and operation of the Property. Anderson and Brew Pubs are collectively called "Developer."

B. As part of the closing of the purchase of the Property, Developer and City are entering into a Public Benefits Agreement of even date herewith (the "Public Benefits Agreement") that requires Developer to provide certain Public Benefits as defined therein. The Public Benefits Agreement requires that Guarantor provides this Guaranty to City. Capitalized terms not otherwise defined herein shall have the meaning given them in the Public Benefits Agreement.

C. Guarantor is the parent of Brew Pubs and will benefit from the purchase of the Property by Anderson. Guarantor understands that redevelopment of the Property is crucial to mission and goals of City and that City would not sell the Property to Anderson without this Guaranty.

GUARANTY AGREEMENT

NOW, THEREFORE, in consideration of the sale of the Property to Anderson and as required by the Public Benefits Agreement, Guarantor unconditionally and irrevocably guarantees to City the provision of the Public Benefits as required by the Public Benefits Agreement and the full, faithful, timely and complete performance by Developer of all of the covenants and obligations of Developer under the Public Benefits Agreement. Guarantor further agrees to pay all reasonable costs and expenses, including reasonable attorneys' fees and costs, that may be incurred by City in enforcing this Guaranty. The obligations of Guarantor under this paragraph are called the "Obligations." Notwithstanding any provision of this Guaranty to the contrary, Guarantor's obligations

under this Guaranty shall not exceed the amount of the Buy-Out Price (as defined in the Public Benefits Agreement) calculated from the date of the Event of Default under the Public Benefits Agreement, and the reasonable costs and reasonable attorneys' fees incurred by City to enforce Guarantor's obligations under this Guaranty.

If for any reason there is an Event of Default by Developer under the Public Benefits Agreement then, in any such event, Guarantor, upon receipt of notice from City, agrees to cure such default and to perform, or cause Developer to perform, all of Developer's obligations under the Public Benefits Agreement.

Guarantor shall be responsible and liable to City for any losses, costs or expenses that City may suffer or incur as a result of any breach by Guarantor of any of the terms of this Guaranty or in the event that any of the representations or warranties made in writing by Guarantor to City are or were incorrect. If Guarantor defaults under this Guaranty, City may enforce this Guaranty against any or all persons liable hereunder. In the event of any default under this Guaranty or any action to enforce this Guaranty, City shall be entitled to recover all reasonable costs and expenses, including experts, accountants and attorney's fees and costs and including any such fees in any bankruptcy and appellate proceedings.

Guarantor agrees that its liability shall not be impaired or affected by (i) any renewals or extensions of the time for performance under the Public Benefits Agreement; (ii) any enforcement of or any forbearance or delay in enforcing the Public Benefits Agreement against Developer; (iii) any modifications of the terms or provisions of the Public Benefits Agreement; (iv) any settlement, release or compromise with Developer (except to the extent that the same are in a writing signed by Developer and City); (v) any lack of notice to Guarantor from City except that expressly provided for herein. City has no obligation to resort for payment to Developer or to any other person or entity or their properties, or to resort to any security, property, rights or remedies whatsoever, before enforcing this Guaranty.

Any other provisions hereof notwithstanding, this Guaranty shall terminate upon the issuance by City of a Certificate of Termination for the Project.

All diligence in collection, protection, or enforcement and all presentment, demand, protest and notice, as to anyone and everyone, whether Developer, Guarantor or others, of dishonor or default, the creation and existence of the Obligations, the acceptance of this Guaranty or any extensions of credit and indulgence hereunder, are hereby expressly waived. The payment by Guarantor of any amount pursuant to this Guaranty shall not in any way entitle Guarantor to any rights by way of subrogation or otherwise against Developer unless and until the full amount owing to City on the Obligations has been paid and the Obligations have been fully performed.

Upon the occurrence of an Event of Default under the Public Benefits Agreement that is not cured as provided within any applicable cure period under the Public Benefits Agreement, City may elect exercise any right or remedy it may have at law or in equity

against Developer under the Public Benefits Agreement. No such action by City will release or limit the liability of Guarantor to City, if the effect of that action is to deprive Guarantor of the right to collect reimbursement from Developer for any sums paid to City.

Guarantor assumes full responsibility for keeping fully informed of the financial condition of Developer and all other circumstances affecting Developer's ability to perform its obligations to City and agrees that City will have no duty to report to Guarantor any information that City receives about Developer's financial condition or any circumstances bearing on its ability to perform.

All notices which may be or are required to be given pursuant to this Guaranty shall be in writing and delivered to the parties at the following addresses:

To City: City of Bothell
18305 - 101st Avenue NE
Bothell, WA 98011
Attn: Bob Stowe
Fax No.: (425) 486-2434
Phone: (425) 486-3256

With a copy to: K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner
Fax No.: (206) 623-7022
Phone: (206) 623-7580

To Guarantor: McMenamins, Inc.
430 N. Killingsworth
Portland, OR 97217
Attn: Larry Dortmund
Fax No.: (503) 294-0837
Phone: (503) 952-0579

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided,

however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

This Guaranty shall be binding upon Guarantor, and upon the successors and assigns of Guarantor. This Guaranty shall run for the benefit of City, its successors and assigns.

This Guaranty may only be changed by an instrument in writing signed by the party against whom enforcement hereof is sought.

Guarantor acknowledge that the transactions contemplated hereby have been negotiated in the State of Washington, that Guarantor are to perform their obligations hereunder in the State of Washington and that after due consideration and consultation with counsel Guarantor and City have elected to have the internal laws of Washington apply hereto. Accordingly, this Guaranty shall be deemed made under and shall be construed in accordance and governed by the internal laws of the State of Washington without regard to principles of conflicts of laws. Guarantor hereby consents to the nonexclusive jurisdiction of the state courts located in King County, Washington and the federal courts in the Western District of Washington. Guarantor waives the defense of forum non conveniens in any such action and agrees that this Guaranty may be enforced in any such court.

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

MCMENAMINS, INC., an Oregon
corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

Form of Certification of Termination

After recording return to

CERTIFICATE OF TERMINATION

GRANTOR: CITY OF BOTHELL

GRANTEE: ANDERSON SCHOOL PROPERTIES LLC AND MCMENAMIN'S BREW
PUBS, INC.

Abbreviated Legal Description

(Full legal description on Ex. A): Lots 1-3, City of Bothell BLA No. 2010-00006, Rec.
No. 20101230900001

Assessor's Tax Parcel No(s): 062605-9369-05; 062605-9370-02;
062605-09052-07

Related Document: Public Benefits Agreement (Doc. No. _____)

The CITY OF BOTHELL, a Washington municipal corporation ("City"), hereby certifies that the Public Benefits Period has terminated under that certain Public Benefits Agreement dated _____, 2012 (the "Agreement"), which was recorded in the Records of the King County Auditor, Washington, as Document No. _____, on _____, 2012. The Agreement is by and between City, and ANDERSON SCHOOL PROPERTIES LLC, a Washington limited liability company, and MCMENAMIN'S BREW PUBS, INC., a Washington corporation (collectively, "Developer"), and was entered into with respect to the Property described on Exhibit A attached hereto (the "Property").

This Certificate of Termination is and shall be a conclusive determination that the Agreement has terminated and is of no further force and effect. Notwithstanding this Certificate of Termination, Section 14.4 of the Agreement provides for the survival of certain covenants as between City and Developer, and nothing in this Certificate of Termination affects such survival.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

IN WITNESS WHEREOF, City has caused this instrument to be executed this ____ day
of _____, ____.

CITY OF BOTHELL, a Washington
municipal corporation

By: _____

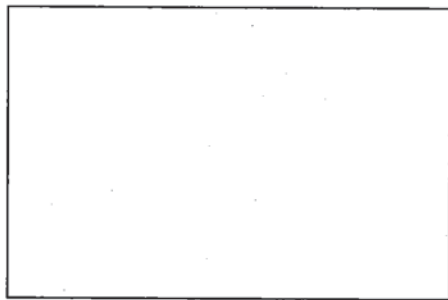
Name: _____

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 City of Bothell 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 seal)

Notary Public
Print/Type Name _____
My commission expires _____

**TWENTY-FIRST AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWENTY-FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of June 27, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012, and Twentieth Amendment to Purchase and Sale Agreement dated June 6, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement to extend the Closing Date, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("**Closing**") shall take place on June 29, 2012 (the "**Closing Date**")."

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow
Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: _____
Name: Michael McMenamin
Title: Manager

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("Closing") shall take place on June 29, 2012 (the "**Closing Date**")."

2. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

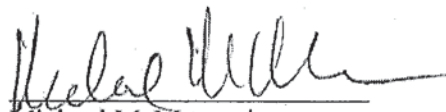
CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: 
Name: Michael McMenamin
Title: Manager

**TWENTY-SECOND AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWENTY-SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of June 29, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012, Twentieth Amendment to Purchase and Sale Agreement dated June 6, 2012 and Twentieth-First Amendment to Purchase and Sale Agreement dated June 27, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement to extend the Closing Date, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("Closing") shall take place on July 3, 2012 (the "Closing Date")."

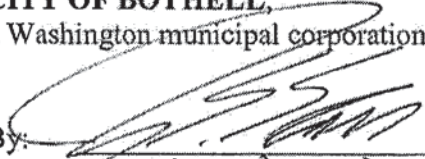
2. **Fourth Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Seven Thousand Five Hundred Dollars (\$7,500) to Escrow Holder to be held as additional earnest money (the "Fourth Additional Deposit"). Only one-half of the Fourth Additional Deposit, or Three Thousand Seven Hundred Fifty Dollars (\$3,750), however, shall be applicable to the Purchase Price. The remaining one-half of the Fourth Additional Deposit shall NOT be applicable to the Purchase Price. The Fourth Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$517,500, only \$438,750 shall be applicable to the Purchase Price). The non-applicable half of the Fourth Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stow
Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: _____
Name: Michael McMenamin
Title: Manager

"4.2 **Closing.** The consummation of the purchase and sale of the Property ("Closing") shall take place on July 3, 2012 (the "Closing Date")."

2. **Fourth Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Seven Thousand Five Hundred Dollars (\$7,500) to Escrow Holder to be held as additional earnest money (the "Fourth Additional Deposit"). Only one-half of the Fourth Additional Deposit, or Three Thousand Seven Hundred Fifty Dollars (\$3,750), however, shall be applicable to the Purchase Price. The remaining one-half of the Fourth Additional Deposit shall NOT be applicable to the Purchase Price. The Fourth Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$517,500, only \$438,750 shall be applicable to the Purchase Price). The non-applicable half of the Fourth Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **No Other Changes.** Except as specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: Mike McMenamin
Name: Michael McMenamin
Title: Manager

TWENTY-THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS TWENTY-THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is dated as of July 3, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("**Seller**"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("**Buyer**"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012, Twentieth Amendment to Purchase and Sale Agreement dated June 6, 2012, Twenty-First Amendment to Purchase and Sale Agreement dated June 27, 2012 and Twenty-Second Amendment to Purchase and Sale Agreement dated June 29, 2012 (collectively, the "**Agreement**"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement to extend the Closing Date, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

“4.2 **Closing.** The consummation of the purchase and sale of the Property (“Closing”) shall take place on July 11, 2012 (the “Closing Date”).”

2. **Fifth Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Eighteen Thousand Six Hundred Fifty Dollars (\$18,650) to Escrow Holder to be held as additional earnest money (the “**Fifth Additional Deposit**”). Of the Fifth Additional Deposit, only Five Thousand Six Hundred Twenty-five Dollars (\$5,625), however, shall be applicable to the Purchase Price. The remainder of the Fifth Additional Deposit, which shall be Thirteen Thousand Twenty-five Dollars (\$13,025), shall NOT be applicable to the Purchase Price. The Fifth Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$536,150, only \$444,375 shall be applicable to the Purchase Price). The non-applicable part of the Fifth Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

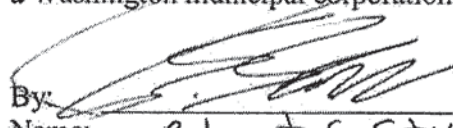
3. **Damage to Property.** Seller shall not be responsible for any vandalism damage to the Property occurring before the Closing Date, including repair or replacement of two windows in the gym building recently broken by vandals. Subject to Section 12.2 of the Agreement, Buyer shall accept the Property with such vandalism damage.

4. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 
Name: Robert S. Stow
Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: _____
Name: Michael McMenamin
Title: Manager

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: Mike McMenamin
Name: Michael McMenamin
Title: Manager

**TWENTY-FOURTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWENTY-FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of July 11, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012, Twentieth Amendment to Purchase and Sale Agreement dated June 6, 2012, Twenty-First Amendment to Purchase and Sale Agreement dated June 27, 2012, Twenty-Second Amendment to Purchase and Sale Agreement dated June 29, 2012 and Twenty-Third Amendment to Purchase and Sale Agreement dated July 3, 2012 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement to extend the Closing Date, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

“4.2 **Closing.** The consummation of the purchase and sale of the Property (“Closing”) shall take place on July 16, 2012 (the “Closing Date”).”

2. **Sixth Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Twelve Thousand Five Hundred Dollars (\$12,500) to Escrow Holder to be held as additional earnest money (the “Sixth Additional Deposit”). Of the Sixth Additional Deposit, only Three Thousand Seven Hundred Fifty Dollars (\$3,750), however, shall be applicable to the Purchase Price. The remainder of the Sixth Additional Deposit, which shall be Eight Thousand Seven Hundred Fifty Dollars (\$8,750), shall NOT be applicable to the Purchase Price. The Sixth Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$548,650, only \$448,125 shall be applicable to the Purchase Price). The non-applicable part of the Sixth Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein on the Closing Date. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stow

Title: CITY MANAGER

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: 

Name: Michael McMenamin

Title: Manager

**TWENTY-FIFTH AMENDMENT
TO PURCHASE AND SALE AGREEMENT**

THIS TWENTY-FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is dated as of July 16, 2012 and is by and between the **CITY OF BOTHELL**, a Washington municipal corporation ("Seller"), and **ANDERSON SCHOOL PROPERTIES LLC**, a Washington limited liability company ("Buyer"). This Amendment is made with reference to the following facts:

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated June 24, 2010, as amended by First Amendment to Purchase and Sale Agreement dated September 21, 2010, Second Amendment to Purchase and Sale Agreement dated December 10, 2010, Third Amendment to Purchase and Sale Agreement dated February 22, 2011, Fourth Amendment to Purchase and Sale Agreement dated March 22, 2011, Fifth Amendment to Purchase and Sale Agreement dated April 8, 2011, Sixth Amendment to Purchase and Sale Agreement dated April 22, 2011, Seventh Amendment to Purchase and Sale Agreement dated May 4, 2011, Eighth Amendment to Purchase and Sale Agreement dated May 11, 2011, Ninth Amendment to Purchase and Sale Agreement dated October 19, 2011, Tenth Amendment to Purchase and Sale Agreement dated December 19, 2011, Eleventh Amendment to Purchase and Sale Agreement dated January 17, 2012, Twelfth Amendment to Purchase and Sale Agreement dated February 15, 2012, Thirteenth Amendment to Purchase and Sale Agreement dated February 22, 2012, Fourteenth Amendment to Purchase and Sale Agreement dated April 24, 2012, Fifteenth Amendment to Purchase and Sale Agreement dated April 27, 2012, Sixteenth Amendment to Purchase and Sale Agreement dated May 2, 2012, Seventeenth Amendment to Purchase and Sale Agreement dated May 17, 2012, Eighteenth Amendment to Purchase and Sale Agreement dated May 22, 2012, Nineteenth Amendment to Purchase and Sale Agreement dated May 31, 2012, Twentieth Amendment to Purchase and Sale Agreement dated June 6, 2012, Twenty-First Amendment to Purchase and Sale Agreement dated June 27, 2012, Twenty-Second Amendment to Purchase and Sale Agreement dated June 29, 2012, Twenty-Third Amendment to Purchase and Sale Agreement dated July 3, 2012 and Twenty-Fourth Amendment to Purchase and Sale Agreement dated July 11, 2012 (collectively, the "Agreement"). The Agreement provides for the purchase by Buyer of certain real property owned by Seller located in Bothell, Washington on the terms and conditions set forth in the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement.

B. The parties wish to amend the Agreement to extend the Closing Date, as provided herein.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Closing Date.** The parties agree to extend the Closing Date as hereafter provided. Therefore, Section 4.2 of the Agreement is amended and restated in its entirety as follows:

“4.2 **Closing.** The consummation of the purchase and sale of the Property (“Closing”) shall take place on July 20, 2012 (the “Closing Date”).”

2. **Seventh Additional Deposit.** Upon execution of this Amendment, Buyer shall wire transfer the amount of Ten Thousand Dollars (\$10,000) to Escrow Holder to be held as additional earnest money (the “Seventh Additional Deposit”). Of the Seventh Additional Deposit, only Three Thousand Dollars (\$3,000), however, shall be applicable to the Purchase Price. The remainder of the Seventh Additional Deposit, which shall be Seven Thousand Dollars (\$7,000), shall NOT be applicable to the Purchase Price. The Seventh Additional Deposit shall be treated as part of the Deposit in all respects, except with respect to application of the Deposit to the Purchase Price (as to which, of the total Deposit of \$558,650, only \$451,125 shall be applicable to the Purchase Price). The non-applicable part of the Seventh Additional Deposit shall be paid to Seller as additional consideration for the extension of the Closing Date provided for herein upon the execution of this Amendment. If this Agreement terminates without Closing occurring, the non-applicable portion of the Deposit shall be paid to the party entitled to receive the Deposit.

3. **Release of Deposit from Escrow.** Not later than July 17, 2012, Escrow Holder shall wire transfer the entire Deposit, including the Seventh Additional Deposit and all prior additional deposits, and all interest thereon, to Seller.

4. **No Other Changes.** Except as a specifically set forth herein, the Agreement remains unchanged and is in full force and effect.

[signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

SELLER:

CITY OF BOTHELL,
a Washington municipal corporation

By: 

Name: Robert S. Stoup

Title: City Manager

BUYER:

ANDERSON SCHOOL PROPERTIES LLC,
a Washington limited liability company

By: New School Properties LLC,
a Washington limited liability company,
Its Manager

By: 

Name: Michael McMenamin

Title: Manager

CHICAGO TITLE REC. CO.
REC. 1303.502-6
6/9/12

After Recording Return To:
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
Attn: Shannon Skinner



20120720000381
CHICAGO TITLE MEMO 67.00
PAGE-001 OF 006
07/20/2012 09:41
KING COUNTY, WA

MEMORANDUM OF REPURCHASE OPTION

GRANTOR: Anderson School Properties LLC

GRANTEE: City of Bothell

Legal Description:

Abbreviated form: Lot 1, City of Bothell Boundary Line Adjustment recorded under Recording No. 20101230900001

Additional legal on Exhibit A.

Assessor's Property Tax Parcel Account Number(s): 062605-9369-05

Related Document: Public Benefits Agreement (Doc. No. ~~13~~ _____)

~~13~~ 20120720000381
This MEMORANDUM OF REPURCHASE OPTION (this "Memorandum") is dated this 20th day of July, 2012 between Anderson School Properties LLC, a Washington limited liability company ("Grantor") and the City of Bothell, a Washington municipal corporation ("Grantee").

Pursuant to a Purchase and Sale Agreement dated June 24, 2010, as amended (the "Agreement"), Grantee is the Seller and Grantor is the Buyer of the "Property" as defined in the Public Benefits Agreement described below. The Property includes the parcel legally described on Exhibit A attached hereto (the "Parking Parcel").

Grantor, McMenamin's Brew Pubs, Inc., a Washington corporation ("Brew Pubs"), and Grantee have entered into a Public Benefits Agreement recorded of even date herewith under Recording No. 20120720000381 (the "Public Benefits Agreement"), which provides for Grantor and Brew Pubs to provide certain public benefits with respect to the Property. The "Public Benefits Period" runs for the defined period of time described in the Public Benefits Agreement. A Certificate of Public Benefits Period will be recorded in the real property records of King County when the commencement date of the Public Benefits Period is fixed. A Certificate of Termination will be recorded in the real property records of King County when the Public Benefits Period is terminated.


During the Public Benefits Period, Grantee shall have the option to repurchase the Parking Parcel (or such lesser portion as Grantee shall designate) on the terms and conditions contained in the Agreement.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed as of the date above written.

GRANTOR:

ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: New School Properties LLC, a
Washington limited liability company,
Its Manager

By: 
Name: Michael McMenamin
Title: Sole Member and Manager

GRANTEE:

CITY OF BOTHELL, a Washington
municipal corporation

By: _____
Name: Robert S. Stowe
Title: City Manager

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During the Public Benefits Period, Grantee shall have the option to repurchase the Parking Parcel (or such lesser portion as Grantee shall designate) on the terms and conditions contained in the Agreement.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed as of the date above written.

GRANTOR:

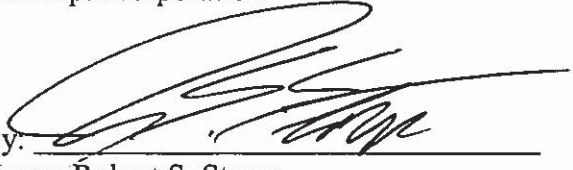
ANDERSON SCHOOL PROPERTIES
LLC, a Washington limited liability
company

By: New School Properties LLC, a
Washington limited liability company,
Its Manager

By: _____
Name: Michael McMenamin
Title: Sole Member and Manager

GRANTEE:

CITY OF BOTHELL, a Washington
municipal corporation

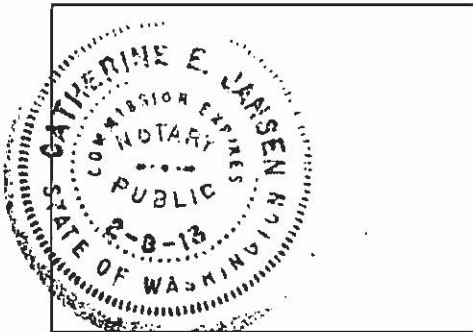
By: 
Name: Robert S. Stowe
Title: City Manager

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert S. Stowe 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 City Manager of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-20-12



(Use this space for notarial stamp/seal)

Catherine E. Jansen
Notary Public
Print Name: Catherine E. Jansen
My commission expires 2-8-13

STATE OF)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



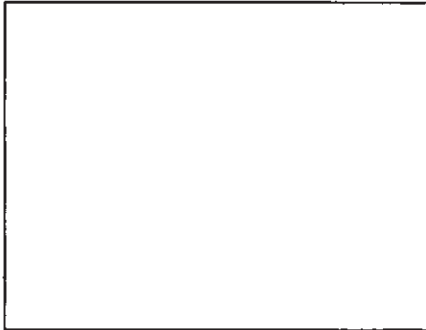
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert S. Stowe 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 City Manager of the City of Bothell to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



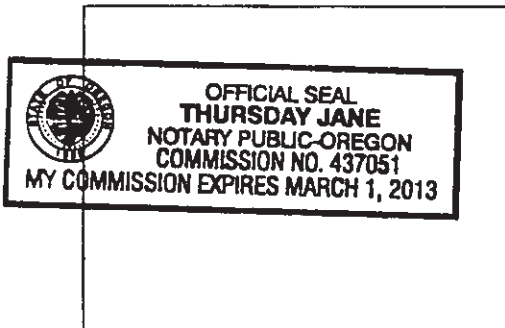
(Use this space for notarial stamp/seal)

Notary Public
Print Name: Catherine E. Jansen
My commission expires _____

STATE OF *Oregon*)
) ss.
COUNTY OF *Waltham*)

I certify that I know or have satisfactory evidence that Michael McMenamin 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 Sole Member and Manager of New School Properties LLC, the Manager of Anderson School Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: *June 18, 2012*



(Use this space for notarial stamp/seal)

Thursday Jane

Notary Public
Print Name *Thursday Jane*
My commission expires *March 1, 2013*

EXHIBIT A

Parking Parcel (Anderson Northwesterly Parcel)

Lot 1, City of Bothell Boundary Line Adjustment Number BLA 2010-00006,
recorded under Recording Number 20101230900001, in King County,
Washington.

Tax Parcel No. 062605-9369-05