

AFTER RECORDING RETURN TO:

Patrick Curran, General Manager
Silver Lake Water-Sewer District
P.O. Box 13888
Mill Creek WA 98082-1888

**NO EXCISE TAX
REQUIRED**

MAY 12 2011

KIRKE SIEVERS, Snohomish County Treasurer

By KIRKE SIEVERS



201105120260 8 PGS
05/12/2011 1:43pm \$69.00
SNOHOMISH COUNTY, WASHINGTON

INTERIM SEWER LIFT STATION AND RIGHT OF ENTRY AGREEMENT

Grantor(s): Silver Lake Water-Sewer District

Grantee(s): Snohomish School District No. 201

Abbreviated Legal: *Portion of Section 35, TOWN 28N, R26 5E, W. 1M
further described on attached Exhibit A*

Assessor's Property Tax

Parcel/Account Number(s): *280535 003001 00*

This Agreement ("Agreement") is made by and between Silver Lake Water-Sewer District, a Washington municipal corporation ("District"), and Snohomish School District No. 201, a Washington corporation ("Developer") (individually a "Party" and collectively the "Parties") for the purposes set forth below.

RECITALS

1.1 District owns and operates a sewer system in Snohomish County, Washington.

1.2 Developer entered into a Developer Extension Agreement dated the 14th day of October, 2010 ("Extension Agreement") with the District for the project known as "Glacier Peak High School Concession Stand Interim Lift Station" ("Project") to provide sewer service to a concession stand with restrooms ("Concession Stand") located at Glacier Peak High School through an Interim Sewer Lift Station and force main ("Extension Improvements" or "Interim Sewer Facilities"). The Extension Improvements have been constructed and are located on Developer's real property as legally described on **Exhibit A** attached hereto and incorporated herein in full by this reference ("Property") and as depicted on **Exhibit B** attached hereto and incorporated herein in full by this reference.

1.3 The Extension Agreement in Section 1(B) and District resolutions, policies and procedures impose certain duties and obligations on the Developer relating to the Interim Sewer Facilities, including:

- (a) the Interim Sewer Facilities are limited and restricted to only providing sewer service to the Concession Stand;
- (b) the Developer shall provide all electrical facilities and power at Developer's sole cost and expense to operate the Interim Sewer Facilities;
- (c) the Developer shall provide all telemetry and alarm systems to operate the Interim Sewer Facilities as required by the District at Developer's sole cost and expense;
- (d) the Developer shall provide the District continuous and uninterrupted right of entry and access onto the Property and to the Interim Sewer Facilities;
- (e) the Developer shall pay and reimburse to the District all of District's fees, costs and expenses incurred to operate, maintain and repair the Interim Sewer Facilities;
- (f) when permanent gravity sewer service is available to the Property capable of receiving flows from the Concession Stand as determined by the District, the Developer shall be required to construct and install at Developer's sole cost and expense all sewer lines and related improvements to provide gravity sewer service to the Concession Stand, all of such gravity sewer improvements to be in accordance with and fully comply with the District's sewer standards and specifications in effect at the time gravity service becomes available to the Property; such gravity sewer service improvements to be constructed within one (1) year of the District's notice to the Developer to construct and connect the Concession Stand to such gravity sewer service improvements; following the installation of such gravity sewer service improvements and the connection of the Concession Stand thereto, the Developer shall be required to abandon, decommission and remove the Interim Sewer Facilities at Developer's sole cost and expense; and
- (g) the District's agreement and consent to Developer to provide sewer service to the Concession Stand by the Interim Sewer Facilities shall be revoked upon the change of use of the Property or the sale or conveyance of the Property to another party.

1.4 The Extension Agreement also provides that the Developer's duties and obligations as set forth in the Section 1(B) of the Extension Agreement as summarized in Paragraph 1.3 above shall be covenants running with the land as described on Exhibit A and shall be recorded with the Snohomish County Auditor's Office against the Property, and that the Parties shall execute any and all documents necessary and appropriate to implement and enforce the provisions of Section 1(B) of the Extension Agreement.

1.5 The Parties now desire to enter into this Agreement to carry out the purposes, terms and conditions of Section 1(B) of the Extension Agreement.

NOW, THEREFORE, in consideration of the following terms and conditions, the Parties agree as follows:

AGREEMENT

2.1 The recitals set forth above are incorporated herein in full by this reference.

2.2 The Interim Sewer Facilities are limited and restricted to only providing sewer service to the Concession Stand.

2.3 The Developer shall provide all electrical facilities and power at Developer's sole cost and expense to operate the Interim Sewer Facilities. Because the District is not requiring the Developer to provide emergency power (such as a generator) to operate the Interim Sewer Facilities during a loss of power, the Developer shall immediately close the Concession Stand in the event of a power outage or loss. The Developer shall take all reasonable actions to insure that the Concession Stand is closed as soon as possible in the event of a power loss or outage to the Interim Sewer Facilities.

2.4 The Developer shall provide all telemetry and alarm systems to operate the Interim Sewer Facilities as required by the District at Developer's sole cost and expense.

2.5 The Developer hereby grants to the District and its agents right of entry and access onto the Property to access the Interim Sewer Facilities. The Developer shall provide the District continuous and uninterrupted access to the Interim Sewer Facilities for the purposes of operating, maintaining, repairing and replacing the Interim Sewer Facilities. This right of access shall include all equipment and personnel determined by the District to be necessary for the operation of the Interim Sewer Facilities. For such purposes, no landscaping, trees or shrubs shall be planted and maintained in the area of the Interim Sewer Facilities which would interfere with access thereto nor shall any construction or any other activity be undertaken in the area of the Interim Sewer Facilities which would interfere with such access. Any landscaping, trees or shrubs on the Property shall be maintained by the Developer to provide continuous access to the Interim Sewer Facilities. If the Interim Sewer Facilities are not accessible due to fencing, landscaping, trees or shrubbery, parked vehicles located over the unit or any other restriction, the Developer shall be assessed a special access charge as determined by the District of at least \$100.00, for each instance the Interim Sewer Facilities are not accessible depending on the circumstances and duration of each instance.

2.6 The District's sewer rates and all District fees, costs and expenses incurred by the District to operate, maintain, repair and replace the Interim Sewer Facilities are service charges for sewer service to the Developer's Interim Sewer Facilities and shall be paid by Developer to the District in accordance with RCW 57.08.081, and as such statute may be modified and amended, and all applicable District resolutions, policies and procedures.

2.7 The Developer shall be assessed an additional charge as determined by the District in the event of damage to the Interim Sewer Facilities caused by Developer's activities and/or misuse of such facilities. Misuse shall be defined by rules and regulations which have or will be adopted by the District to include, but not be limited to, the prohibition of glass,

metal, plastic, paint, motor oil, rocks, ceramics and other materials in the Interim Sewer Facilities. In the event of damage to the Interim Sewer Facilities, the District shall determine the cause of such damage and assess any charges for misuse of the facilities and the cost of repair or replacement associated or relating thereto in its sole judgment and discretion.

2.8 The Developer shall indemnify, defend and hold the District harmless and not responsible for damages to Developer or any third party arising out of any injury or damage to person or property caused by the Interim Sewer Facilities for any reason including overflow, power failure, and/or temporary loss of service, except to the extent any such injury or damage is caused by the negligent action or inaction of the District. The Developer hereby releases the District, and any successor thereto, from any liability for any personal injury or property damage relating in any way to the Interim Sewer Facilities including its installation, operation, repair and maintenance, and from any power failure resulting in operation of the Interim Sewer Facilities for any period of time, except to the extent any such injury or damage is caused by the negligent action or inaction of the District. Further, the Developer hereby releases the District for any damage to fencing, trees, shrubs, grass and any other type of landscaping relating to the Interim Sewer Facilities, provided that the District shall use reasonable care to attempt to avoid any such damage.

2.9 Enforcement of the above-referenced terms and conditions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any term or condition herein, either to restrain such violation or to recover damages. Failure by the District, or any successor thereto, to enforce any term or condition contained herein shall in no event be deemed a waiver of right to do so thereafter.

2.10 When permanent gravity sewer service is available to the Property capable of receiving flows from the Concession Stand as determined by the District in its sole discretion, the Developer shall be required to construct and install at Developer's sole cost and expense all sewer lines and related improvements to provide gravity sewer service to the Concession Stand, all of such gravity sewer improvements to be in accordance with and fully comply with the District's sewer standards and specifications in effect at the time gravity service becomes available to the Property; such gravity sewer service improvements to be constructed by the Developer within one (1) year of the District's notice to the Developer to construct and connect the Concession Stand to such gravity sewer service improvements. Following the installation of such gravity sewer service improvements and the connection of the Concession Stand thereto, the Developer shall abandon, decommission and remove the Interim Sewer Facilities at Developer's sole cost and expense.

2.11 The District's agreement and consent to Developer to provide sewer service to the Concession Stand by the Interim Sewer Facilities shall be revoked upon the change of use of the Property or the sale or conveyance of the Property to another party.

2.12 All terms, conditions, duties and obligations herein shall be covenants running with the land described in Exhibit "A" attached hereto and shall be binding upon the Parties'

successors and assigns. The District shall record this Agreement following its signature by the Developer and the District with Snohomish County Auditor's Office.

2.13 The District will cause to be performed certain services by its legal counsel, engineers and District personnel to carry out the foregoing purposes, including but not limited to the preparation and administration of this and any related agreements and documents. The Developer shall pay and reimburse to the District all fees and costs for such services as a condition of the District's agreement herein.

2.14 This Agreement contains the entire agreement between the Parties with respect to the actions contemplated in this Agreement; this Agreement shall not be modified or amended except in writing executed by all of the Parties.

2.15 All Parties represent and warrant that they have the authority to enter into this Agreement and to bind the respective Party. The individuals executing this Agreement on behalf of the respective Party represent and warrant that they have the authority and are duly authorized to do so.

2.16 All time limits set forth herein are of the essence. The Parties agree to perform all obligations under this Agreement with due diligence.

2.17 The laws of the State of Washington shall govern this Agreement. Venue and jurisdiction of any action arising out of or relating to this Agreement shall be in Snohomish County Superior Court.

2.18 This Agreement shall not be modified or amended except by written agreement signed by both Parties and duly recorded with the Snohomish County Auditor's Office.

2.19 This Agreement shall be effective on the date by which it is executed by both Parties ("Effective Date").

Silver Lake Water-Sewer District
("District")

By Richard Q. Gilmore
Its District Engineer
Dated 5-12-11

Snohomish School District No. 201
("Developer")

By William A. Myster
Its SUPERINTENDENT
Dated 5/6/11

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Richard Q. Gilmore 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 District Engineer of SILVER LAKE WATER-SEWER DISTRICT to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

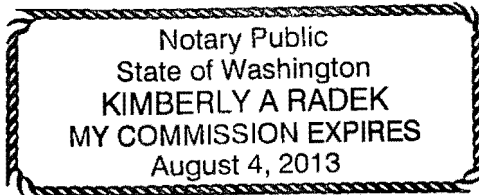
Dated May 12, 2011



Shelley K. Stevens
Print Name: Shelley K. Stevens
Notary Public for the State of Washington
My Appointment Expires 01-09-15

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that William A. Mester is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Superintendent of SNOHOMISH SCHOOL DISTRICT NO. 201 to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.



Dated May 6, 2011

Kimberly A. Radek
Print Name: Kimberly A. Radek
Notary Public for the State of Washington
My Appointment Expires 8-4-13

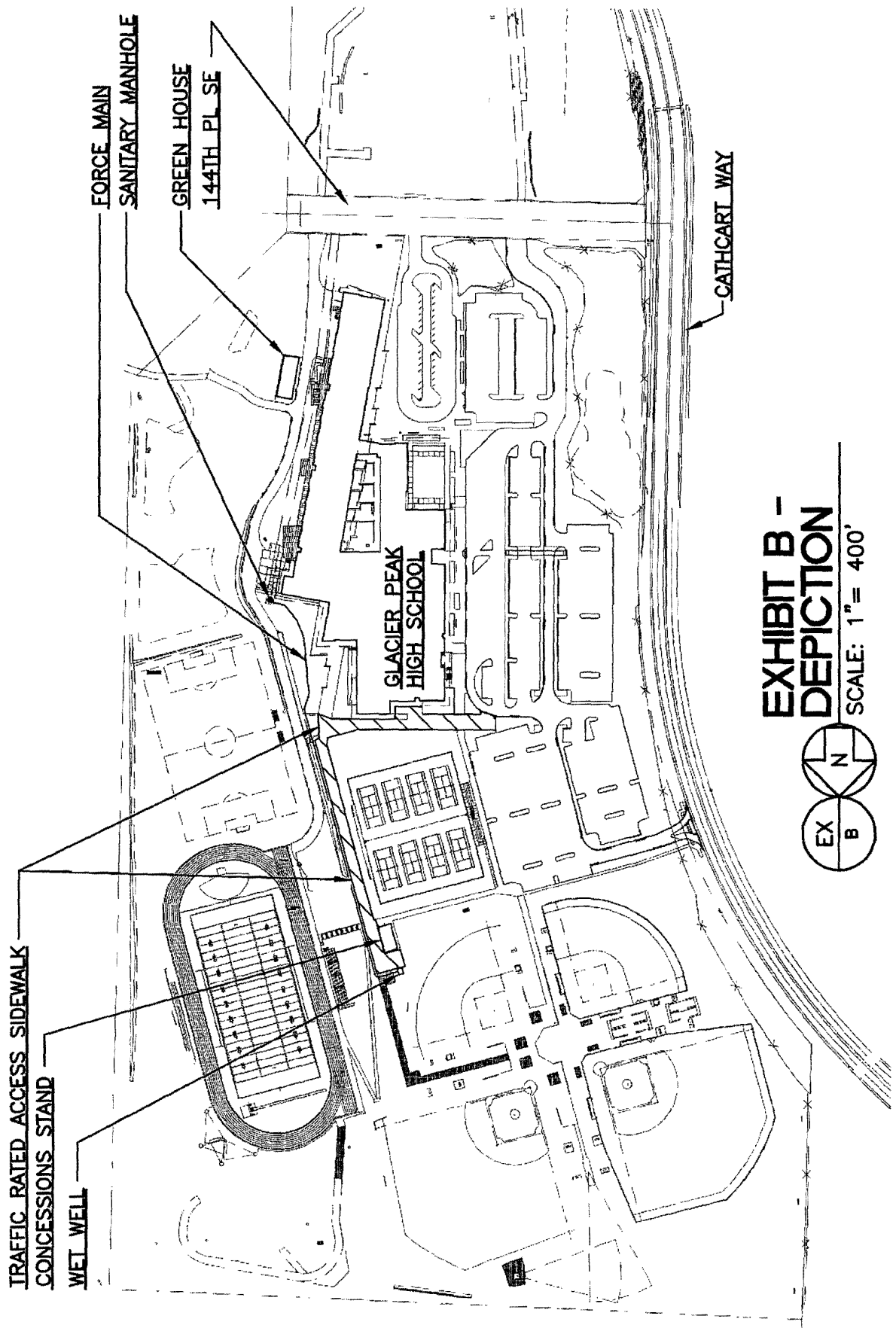
EXHIBIT A

REAL PROPERTY LEGAL DESCRIPTION

Silver Lake Water District
Interim Sewer Lift Station and Right of Entry Agreement

Property Account Summary – Legal Description
Snohomish County Assessor

Section 35 Township 28 Range 05 Quarter NW & SW - TH PTN E1/2 W1/2 SD SEC DAF: COM SE COR SD SEC TH N88*24 08W ALG S LN SD SEC 2644.32FT TO S 1/4 SEC COR TH N01*14 24E ALG N-S CTRLN SD SEC 107.00FT TO NLY MGN CATHCART WAY AS SHOWN ON SNO CO R/W PLAN FOR 132ND ST SE EXT DATED 8/4/1999 UNDER SURV #3571 TH N01*14 24E ALG SD N-S CTRLN 1367.76FT TO POB TH CONT N01*14 24E ALG SD N-S CTRLN 1727.18FT TO S LN OF N 121.00FT OF S1/2 SE1/4 NW1/4 AFRSD SEC 35 TH N87*39 51W ALG SD S LN 1327.26FT TO W LN SD SE 1/4 TH S01*22 49W ALG SD W LN 523.55FT TO AFRSD NLY MGN CATHCART WAY & BEG OF 1350.00FT RAD CRV TO R CTR OF WHICH BEARS S48*56 47W TH SELY ALG SD MGN & CRV THRU C/A OF 42*12 10 AN ARC DIST 994.38FT BEING ON E LN OF W 350.00FT E1/2 SW 1/4 SD SEC 35 TH S01*08 57W ALG SD E LN 601.36FT TO S LN N 154.28FT SE1/4 SW1/4 SD SEC 35 TH S87*44 30E ALG SD S LN 686.06FT TH N46*08 57E 410.77FT TO POB AKA LOT B BLA 05-101005-001 REC AFN 200502020493 & BLA 05-101005-002 REC AFN 200502020494 & ROS REC AFN 200502025226 - LESS RD R/W TO SNO CO PER SWD REC AFN 200709130176



**EXHIBIT B -
DEPICTION**

SCALE: 1" = 400'

