

EVERETT SCHOOL DISTRICT NO. 2

Snohomish County, Washington

November 4, 2003

RESOLUTION NO. 780

A resolution of the Board of Directors ("Board") of Everett School District No. 2 ("District") to purchase real property for improvements to the Silver Lake Elementary School campus.

WHEREAS, the District has identified a need for additional real property for school purposes; and

WHEREAS, Chien Dinh Nguyen and Huong Thi Huynh, husband and wife ("Seller"), own property ("Huynh Property") legally described on Exhibit A of the Earnest Money Receipt and Agreement attached hereto as Attachment 1 and incorporated herein by this reference ("Agreement"), which Huynh Property appears suitable for the District's use for such purposes; and

WHEREAS, the District's Associate Superintendent Finance and Operations and the Seller have executed the Agreement, for the Board's approval, for the District to purchase the Huynh Property, subject to and in accordance with the terms of the Agreement; and

WHEREAS, the Board desires to acquire the Huynh Property, but only if it is free of hazardous and dangerous materials and wastes, the District will acquire adequate title, the property (after investigation) is otherwise suitable for the District's use, and the financial terms of the Agreement (upon review of a professionally designated real estate appraisal (as defined in RCW 74.46.020)) are consistent with applicable law;

NOW, THEREFORE, BE IT RESOLVED that the actions of the District's Superintendent, Carol Whitehead (and her authorized designees), in negotiating and executing the Agreement are hereby ratified, affirmed and approved;

AND FURTHER RESOLVED that the District should acquire the Huynh Property, subject to and in accordance with the terms of the Agreement, provided that the following conditions, at a minimum, are satisfied:

(a) the Huynh Property shall have been professionally inspected for hazardous and dangerous materials and wastes, and the District shall not purchase the Huynh Property unless the Huynh Property is free of such materials and wastes; provided that the District, in the District's determination in its sole discretion, may, but shall not be obligated to, accept materials and wastes typically found in older structures such as those on the Huynh Property as long as such materials and wastes may be disposed of during building demolition completely, legally, safely, and for a cost which is not inconsistent with the District's experience with demolition projects generally;

(b) the District's title to the Huynh Property shall be free and clear of all liens and encumbrances except those which are not, in the District's determination in its sole discretion, inconsistent with the District's intended use of the Huynh Property, and shall be insurable to meet such standard;

(c) the District shall have obtained (at the District's expense) a market value appraisal of the Huynh Property by a professionally-designated real estate appraiser (as defined by RCW 74.46.020), and the District shall have determined, upon review of such appraisal, that the terms and conditions of the Agreement are consistent with applicable law; and

(d) the Seller, as defined in the Agreement, shall comply with the Agreement;

AND FURTHER RESOLVED that the District's Superintendent, Carol Whitehead (or her authorized designees), be, and she hereby is, authorized and directed to purchase the Huynh Property subject to and in accordance with the terms of this resolution on behalf of the District and take such other and further actions as may be necessary or appropriate to accomplish the purchase.

ADOPTED this 4th day of November, 2003.

EVERETT SCHOOL DISTRICT NO. 2
a political subdivision of the State of
Washington

By Karen Madsen
Karen Madsen, President

By Kristie Dutton, Vice-President

By Sue Cooper, Member

By Roy Yates, Member

By Paul Roberts, Member

ATTEST:

By Carol Whitehead
Carol Whitehead, Ed.D.
Secretary for the Board

**EARNEST MONEY RECEIPT AND AGREEMENT
FOR REAL PROPERTY**

Everett, Washington
October 15, 2003

EVERETT SCHOOL DISTRICT NO. 2, a political subdivision of the State of Washington ("Purchaser"), hereby agrees to purchase, and Chien Dinh Nguyen and Huong Thi Huynh, husband and wife ("Seller"), hereby agrees to sell, the real estate located in Everett, Washington and more particularly described on EXHIBIT A attached hereto and incorporated herein by this reference ("Premises").

AGREEMENT

In consideration of the foregoing and the performance of the mutual covenants herein contained, Seller and Purchaser agree as follows:

1. Earnest Money

Purchaser will deposit a refundable earnest money note in the form of EXHIBIT B attached hereto with BayTown Escrow, Inc. ("Escrow Company") in the amount of Five-thousand and No/100 (\$5,000.00) within five (5) days of Purchaser's approval of the condition of title pursuant to Section 2 below. Within five (5) days of Purchaser's satisfaction with or waiver of the contingencies set forth in this Agreement, the earnest money note shall be paid and the earnest money shall become nonrefundable absent a default by Seller. Any interest earned on the earnest money shall be credited against the Purchase Price or returned to Purchaser, as the case may be.

2. Title

Title of Seller at closing is to be free of encumbrances or defects, except encumbrances and defects approved in writing by Purchaser within ten (10) business days after examination of the preliminary title commitment and legible copies of all exceptions to title that are listed in said commitment. Encumbrances to be discharged by Seller may be paid out of the purchase price at closing.

3. Personal Property

There is no personal property included with the sale of the Premises. Seller may, at Seller's option and expense, remove plants, trees and shrubs.

4. Purchase Price

The total purchase price for the Premises is Two Hundred Ten Thousand and No/100 Dollars (\$210,000.00) of which the earnest money is part. The purchase price, including earnest money, shall be paid to Seller in cash through escrow.

5. Title Insurance

Purchaser's title shall be insured by a title insurance company chosen by Purchaser at Purchaser's sole discretion ("Title Company"). Seller shall make available to Purchaser a preliminary commitment for title insurance issued by Title Company showing the condition of Seller's title to the Premises. Seller shall deliver to Purchaser at closing an owner's ALTA standard coverage policy of title insurance in the face amount of the purchase price insuring Purchaser's title subject to no exceptions other than the exceptions set forth in Section 2 above. If title is not insurable as provided above and cannot be made so insurable by the intended closing date of this Agreement, the earnest money shall be refunded and all rights of Purchaser terminated; provided, however, Purchaser may waive defects and elect to purchase.

6. Conveyance of Title

Seller shall convey good and merchantable title to Purchaser at closing by statutory warranty deed, subject only to matters specified in Section 2 hereof.

7. Risk of Loss

Seller shall deliver the Premises to Purchaser at closing in the same condition existing as of the date hereof. Risk of loss of or damage to the Premises shall be borne by Seller until the date of closing. Thereafter, Purchaser shall bear the risk of loss. In the event of loss of or damage to the Premises, or a portion thereof, prior to the date upon which Purchaser assumes the risk, Purchaser may terminate this Agreement and the earnest money shall be refunded; provided, however, that Purchaser shall not terminate this Agreement if Seller agrees in writing to restore the Premises substantially to the present condition by the date of closing. Notwithstanding Purchaser's right to terminate this Agreement in the event of loss of or damage to all or a portion of the Premises, Purchaser may elect to purchase the Premises in the condition existing on the date of closing, and the purchase price shall be reduced by an amount equal to the proceeds paid or payable under any policies of insurance carried by Seller.

8. Condemnation

In the event that the Premises are or become the subject of a condemnation proceeding, Purchaser shall have the right, at Purchaser's option, to terminate this Agreement by giving written notice thereof to Seller on or before the date fixed for closing, in which event Purchaser's obligations hereunder shall be null and void and of no further effect and Purchaser's earnest money deposit shall be returned to Purchaser. If Purchaser does not so terminate this Agreement, the purchase price for the Premises shall be reduced by the total of any awards or other proceeds received by Seller at or prior to closing with respect to any taking and at closing Seller shall assign to Purchaser all rights of Seller in and to any awards or other proceeds payable by reason of any taking. Seller agrees to notify Purchaser of eminent domain proceedings within five (5) days after Seller learns thereof.

9. Possession

Purchaser shall be entitled to possession on closing.

10. Broker/Commissions

The Seller represents to the Purchaser that it has engaged no broker or agent in connection with the negotiations leading to this Agreement. The Purchaser represents to the Seller that it has engaged a broker in connection with the negotiations leading to this Agreement, and agrees to pay any brokerage commissions, finder's fees or like payments associated with the services of this broker. If any other claims for brokerage commissions or finder's fees or like payments arise out of or in connection with this transaction, all such claims and costs including reasonable attorney fees shall be defended by, and if sustained, paid by, the party whose alleged actions or commitment form the basis of such claims.

11. Closing Agent

The sale shall be closed in escrow in the office of Escrow Company after satisfaction or waiver of the contingencies set forth in Section 17 herein, but in no event later than November 14, 2003, which shall be the termination date of this Agreement. Purchaser and Seller shall, on demand, deposit in escrow with the closing agent all instruments and monies necessary to complete the sale in accordance with this Agreement.

12. Proration of Taxes, etc.

Taxes for the current year, interest and rents shall be prorated as of closing.

13. Closing Costs

Purchaser shall pay all closing costs, including:

- (a) premium for a standard form owner's policy of title insurance in the face amount of the purchase price;
- (b) State of Washington real estate excise taxes;
- (c) cost of recording the deed;
- (d) Closing Agent's escrow fee; and
- (e) Seven Hundred and Fifty Dollars (\$750) for Seller's expenditures incurred in the process of evaluating Purchaser's offer.

14. Seller's Representations and Warranties

Seller represents and warrants to Purchaser that:

- (a) The execution and delivery of this Agreement by Seller, and the consummation of the transaction contemplated hereby, has been duly authorized by all necessary action on the part of Seller, and such documents constitute valid and enforceable obligations of Seller legally enforceable in accordance with their terms;
- (b) Seller has received no notice from any governmental authority that the Premises, or any part thereof, is in violation of any law or regulation applicable to the Premises, and Seller has no knowledge of any facts which might be a basis for any such notice;
- (c) Seller has no knowledge of any obvious or unobvious defects in the Premises or any portion thereof;
- (d) All persons and corporations supplying labor, materials, equipment, services or other items to the Premises have been paid, and there are no claims or liens therefor;
- (e) No local improvement district assessments, payable in annual installments or otherwise, have been made against the Premises which are unpaid;
- (f) There are no actions, suits, claims or legal proceedings or any other proceedings affecting the Premises, at law or equity, before any court or governmental agency;

(g) Seller has no knowledge of any pending changes in real estate taxation with respect to the Premises, including any planned assessments affecting the Premises or changes to the assessed value of the Premises or any pending or threatened condemnation actions with respect to the Premises;

(h) Seller has good, indefeasible, insurable and marketable title to the Premises in fee simple;

(i) Seller has not failed to disclose to Purchaser any material adverse fact or condition affecting Seller or the Premises which would affect the transaction contemplated by this Agreement;

(j) Seller is not in default or breach under any agreement, contract, or other document or matter which affects the Premises;

(k) The Premises and any improvements thereon, to the best of Seller's knowledge, do not materially violate any applicable building or zoning ordinances, and Seller is unaware of any material defect in the Premises or improvements thereon;

(l) Seller has no knowledge of any release(s) of "Hazardous Substances," as defined below, on the Premises during the prior twenty (20) years;

(m) To Seller's knowledge, the Premises are free of the presence of Hazardous Substances; the Premises have not at any time been used for the generation, transportation, management, handling, treatment, storage, manufacture, emission, disposal or deposit of any Hazardous Substances or material containing Hazardous Substances; and the Premises are in compliance with all environmental laws, however and wherever promulgated;

(n) No Hazardous Substances have been deposited, stored or treated on the Premises by Seller or any of Seller's agents during Seller's ownership, and Seller is not and has not been a transporter, operator or generator of Hazardous Substances; and

(o) Seller has no knowledge of any underground storage tanks on the Premises, including, without limitation, abandoned or empty tanks or tanks filled with inert substances such as sand.

"Hazardous Substances" means any industrial waste, toxic waste, chemical contaminant or other substance considered hazardous to life, health or property, including, without limitation, any substance designated as hazardous or toxic under the Comprehensive Environmental Response, Compensation and

Liability Act, 42 U.S.C. § 9601 *et seq.*, the Safe Water Drinking Act, 42 U.S.C. § 300F, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Hazardous Waste Management Statute, Chapter 70.95 RCW, the Hazardous Waste Fee Statute, Chapter 70.105A RCW, any "mini-superfund" or other statutes enacted by the Washington Legislature, including, without limitation, Chapter 70.105B RCW and any substance defined as hazardous, dangerous or toxic by any governmental authority with jurisdiction over the Premises.

Should any of the foregoing representations or warranties prove to be untrue or inaccurate, Seller hereby agrees, to the fullest extent permitted by applicable law, to release, defend, indemnify and hold harmless Purchaser (and Purchaser's officers, directors, shareholders, agents, employees, and representatives) and their successors and assigns from and against any and all claims, demands, costs, penalties, fees, expenses, harm, injury, damages or liability (including, but not limited to, attorneys' fees) arising directly or indirectly on account of or in connection with the facts and circumstances giving rise to the untruth or inaccuracy of such representations and warranties.

15. Assignment of Warranties

Seller hereby assigns to Purchaser, without recourse to Seller, all builders' and manufacturers' warranties with respect to the Premises and the improvements thereon.

16. Collection of Rent

Seller shall assign to Purchaser all of Seller's rights in the lease between Huong Huynh and Paula Brown ("Tenant"), dated January 1, 2003 ("Lease"), except Seller's right to rents due and owing under the Lease through March 30, 2004, to which such rents Seller shall be fully entitled. Seller shall deliver any deposits paid by Tenant to Seller pursuant to the Lease to Escrow Company for transfer to Purchaser upon closing. Purchaser shall refund the deposit, or any portion thereof, to Tenant upon the termination of the Lease to the extent Seller is entitled to such deposit. Purchaser shall indemnify, defend and hold harmless Seller from and against any claims, suits, damages, losses, costs and expenses, including reasonable attorneys' fees, made against or sustained by Seller arising out of the deposit made by Tenant under the Lease. Purchaser shall not be obligated to enforce any provision of the Lease for the benefit of Seller. Without limiting the generality of the foregoing, if Tenant fails to pay any rents due and owing to Seller under the Lease, Purchaser shall, upon written request by Seller, execute and deliver to Seller, without any warranty or recourse

against Purchaser, documents reasonably requested by Seller to confirm Seller's right to collect rents due, owing and unpaid under the Lease.

17. Contingencies

This sale is conditioned upon the following:

- (a) Within thirty (30) days of the date of this Agreement, the approval of the terms and conditions of this Agreement by the Board of Directors of Everett School District No. 2, in its sole discretion;
- (b) That at the time of the making and delivery of the deed conveying the Premises to Purchaser, the grantor in said deed shall be lawfully seized of an indefeasible estate in fee simple in and to the Premises therein described, and shall have good right and full power to convey the same; that the Premises shall then be free from all encumbrances, except those approved by Purchaser, that Purchaser, its successors and assigns, shall have and enjoy the quiet and peaceable possession of the Premises; and that Seller will defend the title thereto against all persons who may lawfully claim the same;
- (c) Purchaser's: (i) receipt (at Purchaser's expense) of a market value appraisal of the Premises by a professionally designated real estate appraiser (as defined in RCW 74.46.020), to be selected by Purchaser's board of directors; and (ii) determination, upon review of such appraisal, that the terms and conditions of this Agreement are consistent with applicable law; and
- (d) A professional inspection and testing of the Premises for hazardous and dangerous materials and wastes, and for the characteristics and suitability of the soils for Buyer's purposes, all in form and content satisfactory to Purchaser. Purchaser shall provide Seller with notice of the inspection and testing at least seventy-two (72) hours prior to any inspectors entering the Property. Purchaser and its agents, to their best efforts, shall minimize disruptions to Tenant's use of the Property.

18. Default

Time is of the essence of this Agreement. In the event Purchaser fails, without legal excuse, to complete the purchase of the Property, the Earnest Money shall be forfeited to Seller as the sole and exclusive remedy available to Seller for such failure. If Seller fails to perform any covenant or agreement that Seller is obligated to perform under this Agreement and such failure continues for fifteen (15) days following written notice of such failure by Purchaser, the Purchaser may elect to (a) recover damages or (b) specifically enforce this Agreement. In the event of any litigation between the parties under this Agreement (including, without limitation, litigation

concerning entitlement to the Note or earnest money), the prevailing party shall be entitled to reasonable attorneys' fees and court costs through all trial and appellate levels. The provisions of this paragraph shall survive the closing and any termination of this Agreement.

19. Nonmerger

The provisions of this Agreement shall not be deemed merged into the deed but shall survive the closing and continue in full force and effect.

20. Notices

All notices required or permitted to be given hereunder shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, addressed as set forth below:

- (a) All notices to be given to Seller shall be addressed as follows:

Huong Thi Huynh
18311 – 71st Avenue West
Lynnwood, WA 98103

- (b) All notices to be given to Purchaser shall be addressed as follows:

Everett School District No. 2
P.O. Box 2098
3715 Oakes Avenue
Everett, WA 98201
Attn: Mike Gunn
Director of Facilities and Planning

Either party hereto may by proper notice to the other designate such other address for the giving of notices as deemed necessary. All notices shall be deemed given on the day such notice is personally served or on the third day following the day such notice is mailed in accordance with this section.

21. Governing Law

This Agreement shall be construed according to the laws of the State of Washington.

22. Negotiation and Construction

This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either party.

23. Post Closing Work on Property

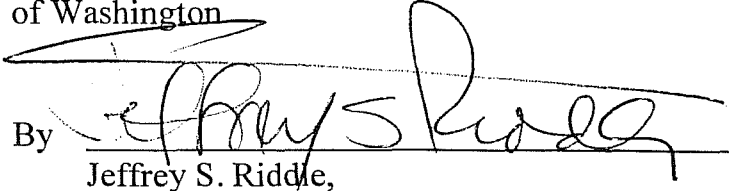
Other than inspection, testing and appraisal work to be performed prior to closing, or work necessary for Purchaser to fulfill the duties of landlord under the Lease, Purchaser shall perform no work on the Premises until the end of the current term of the Lease, or the Lease is sooner terminated.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date above set forth.

Purchaser:

EVERETT SCHOOL DISTRICT NO. 2,
a political subdivision of the State
of Washington

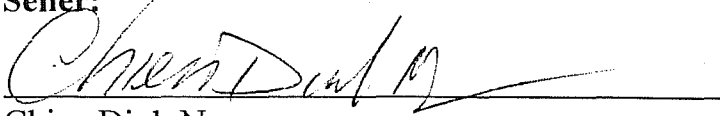
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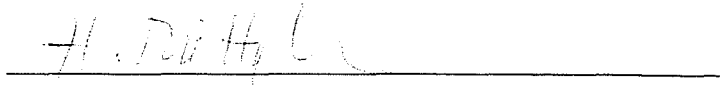

Jeffrey S. Riddle,

Associate Superintendent Finance and Operations

The undersigned Seller on this 15th day of October, 2003, hereby approves and accepts the offer set forth and agrees to carry out all terms thereof on the part of the Seller.

Seller:

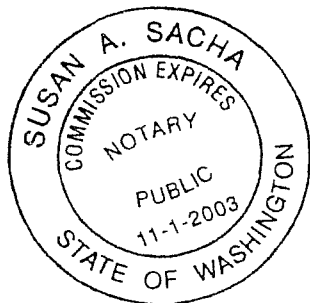

Chien Dinh Nguyen


Huong Thi Huynh

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this 15th day of October __, 2003, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JEFFREY S. RIDDLE, to me known to be the person who signed as Associate Superintendent Finance and Operations of EVERETT SCHOOL DISTRICT NO. 2, the political subdivision that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said political subdivision for the uses and purposes therein mentioned, and on oath stated that she was duly elected, qualified and acting as said officer of the political subdivision, that she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said political subdivision.

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



Susan A Sacha
(Signature of Notary)

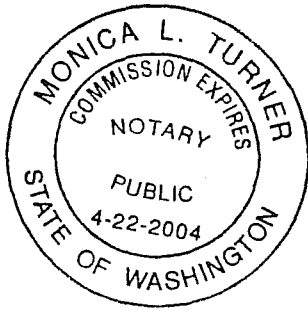
SUSAN A. SACHA
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Everett.
My appointment expires: 11/1/03.

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this 15th day of October, 2003, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared CHIEN DINH NGUYEN and HUONG THI HUYNH, to me known to be the individuals who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

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



Monica L. Turner
(Signature of Notary)

Monica L. Turner
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Everett, WA.
My appointment expires: 4-22-2004.

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Lot 7, Hillis Addition to Silver Lake, according to the plat thereof,
Recorded in Volume 30 of Plats, Page 19, Records of Snohomish
County, Washington.

EXHIBIT B

EARNEST MONEY NOTE

\$5,000.00

Everett, Washington

_____, 200__

FOR VALUE RECEIVED, the undersigned promises to pay to BayTown Escrow, Inc. for the account of Chien Dinh Nguyen and Huong Thi Huynh, husband and wife, the sum of Five-thousand and No/100 Dollars (\$5,000.00) with no interest thereon, payable as follows:

Upon demand, five (5) days after the undersigned's satisfaction with or waiver of the contingencies set forth in that certain Earnest Money Receipt and Agreement for Real Property dated October __, 2003, between Chien Dinh Nguyen and Huong Thi Huynh, husband and wife, as Seller and the undersigned as Purchaser.

This Note shall bear interest at the rate of ten percent (10%) per annum, if not paid five days after demand as above provided. If this Note shall be placed in the hands of an attorney for collection, or if suit shall be brought to collect any of the principal or interest of this Note, the undersigned promises to pay reasonable attorneys' fees incurred thereby.

EVERETT SCHOOL DISTRICT NO. 2,
a political subdivision of the
State of Washington

By _____ [Exhibit Only--Do Not Sign]
Jeffrey S. Riddle

Associate Superintendent Finance and Operations