EVERETT SCHOOL DISTRICT NO. 2

RESOLUTION NO. 602

A resolution of the Board of Directors (the "Board") of the Everett School District No. 2 (the "District") to purchase real property for an addition to Evergreen Middle School campus.

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

WHEREAS, the City of Everett (the "Seller") owns property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "City Property") which appears suitable for the District's use for such purposes; and

WHEREAS, representatives of the District and the City have been negotiating the potential terms of an agreement for the District to purchase the City Property for One Hundred Twenty-Five Thousand Dollars (\$125,000); and

.WHEREAS, a form of agreement, setting forth proposed terms and conditions of purchase developed in such negotiations is attached hereto as Exhibit B (the "Agreement"); and

WHEREAS, a market value appraisal of the City Property has been obtained by the City of Everett through McCauley & Associates (a professionally-designated real estate appraiser as defined by RCW 74.46.020), and based upon such appraisal, the financial terms and conditions of the Agreement are consistent with applicable law; and

WHEREAS, the Board desires to acquire the City Property, but only if it is free of hazardous and dangerous materials and wastes, the District will acquire adequate title, and the property (after investigation) is otherwise suitable for the District's use;

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

AND FURTHER RESOLVED that the District's Superintendent, Dr. Jane Hammond (or her authorized designees), be, and she hereby is, authorized and directed to execute the Agreement on behalf of the District;

AND FURTHER RESOLVED that the District should acquire the City Property for One Hundred Twenty-Five Thousand Dollars (\$125,000), subject to and in accordance with the terms of the Agreement, provided that the following conditions, at a minimum, are satisfied:

- (a) the City Property shall be professionally inspected for hazardous and dangerous materials and wastes within sixty days of the date of this Resolution, and the District shall not purchase the City Property unless the City 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 asbestos or lead typically found in older structures such as those on the City 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 City 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 City Property, and shall be insurable to meet such standard; and
- (c) the "Seller" as defined in the Agreement shall comply with the Agreement;

AND FURTHER RESOLVED that the District's Superintendent, Dr. Jane Hammond (or her authorized designees), be, and she hereby is, authorized and

directed to purchase the City 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 day of	November , 1996.
	EVERETT SCHOOL DISTRICT NO. 2 a municipal corporation in the State of Washington by
	By Suc M. Cooper, President
	ByPaul Baldwin, Vice-President
	By Roy Yates, Member
•	By <u>Paula Kelley - Clarlu</u> Paula Kelly-Clarke, Member
·	By Mark Nesse, Member
ATTEST:	
By Della 1 Steel 1	7

Dr. Jane Hammond
Secretary for the Board

EXHIBIT A

Legal Description to	Vacant Land
Purchase and Sale Agreem	ent Between Everett
School District and (City of Everett
Dated	, 1996

All that portion of the North 200 feet of the West 220 feet of the Northwest quarter of the Southwest quarter of Section 7, Township 28 North, Range 5 East, W.M., less the West thirty (30) feet for road purposes.

Situate in the County of Snohomish, State of Washington.

EXHIBIT B

The Agreement





The Purchaser, <u>Everett School District No. 2</u>, agrees to buy and Seller agrees to sell, on the following terms, the property known as the <u>76th Street and Beverly Lane Site</u>, City of <u>Everett</u>, <u>Snohomish</u> County, Washington, Zip: <u>98203</u> legally described as shown on the attached Exhibit "A".

- 1. PURCHASE PRICE. The purchase price ONE HUNDRED AND TWENTY FIVE THOUSAND & NO/100 DOLLARS & NO/100 (\$125,000.00) in U.S. currency or funds, including the earnest money.
- 2. METHOD OF PAYMENT.

 The full purchase price in U.S. currency or funds shall be paid on or before closing.
- 3. CLOSING OF SALE. This sale shall be closed on April 1, 1997 or sooner by agreement of the parties, by Chicago Title Insurance Company or such other closing agent as Seller shall designate.
- 4. FIRPTA-TAX WITHHOLDING AT CLOSING. The Closing Agent is instructed to prepare a certification (PSMLA Form 22E, or equivalent) that Seller is not a 'foreign person' within the meaning of the Foreign Investment in Real Property Tax Act. Seller agrees to sign this certification. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.
- 5. POSSESSION. Purchaser shall be entitled to possession on closing. "Closing" means the date on which all documents are recorded and the sale proceeds are available to Seller. Seller agrees to maintain the property and included fixtures in their present condition, normal wear and tear excepted, until Purchaser is entitled to possession.
- 7. CONDITION OF TITLE. Unless otherwise specified in this Agreement, title to the property shall be marketable at closing. The following shall not cause the title to be unmarketable: rights, reservations, covenants, conditions, and restrictions presently of record and general to the area; easements and encroachments not materially affecting the value of or unduly interfering with the Purchaser's intended use of the property; and reserved oil and/or mining rights. Monetary encumbrances not assumed by Purchaser shall be paid by Seller on or before closing.
- 8. TITLE INSURANCE. Seller, at Seller's expense, will supply a standard form Purchaser's policy of title insurance, with homeowner's additional protection and inflation protection endorsements if available at no additional cost. The preliminary commitment therefor, and the title policy to be issued, shall contain no exceptions other than the General Exclusions and Exceptions in said standard form, or if other exceptions are shown, they shall be deemed acceptable to Purchaser if written notice to the contrary is not given by Purchaser within 10 days of Purchaser's receipt of title commitment.

- 9. CONVEYANCING/PERFORMANCE. Title shall be conveyed by a Quit Claim Deed.
 PERFORMANCE. Time is of the essence of this Agreement.
- 10. ASSIGNMENT. Purchaser may not assign this Agreement, or Purchaser's rights hereunder, without Seller's prior written consent, unless provided otherwise herein.
- 11. CLOSING COSTS AND PRORATION. Seller and Purchaser shall each pay one-half of escrow fee. Seller shall pay real estate excise tax if such tax payment is required by the County. Taxes for the current year, rent, interest, and lienable homeowner's association dues (if any) shall be prorated as of closing. If any payments are delinquent on encumbrances which will remain after closing, Closing Agent is instructed to pay them at closing from money due, or to be paid by, Seller.
- 12. NOTICES. Unless otherwise specified, any notice required or permitted in, or related to, this Agreement must be in writing; signed by any one Purchaser (including either husband or wife) or authorized representative of Seller; and received by the other party. Any time limit in or applicable to a notice shall commence on the day following receipt of the notice by the receiving party, unless that is a Saturday, Sunday or holiday, in which event it will commence on the next following business day.
- 13. FACSIMILE TRANSMISSION. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will confirm facsimile transmitted signatures by signing an original document.
- 14. PURCHASER'S FUNDS TO CLOSE. Purchaser represents that Purchaser has submitted \$ 0 as earnest money, but has sufficient funds to close this sale in accordance with this Agreement, and is not relying on any contingent source of funds or gifts unless expressly set forth elsewhere in this Agreement.
- ADDENDUMS. In addition to any other Addendums referred to in this Agreement, the following Addendums are attached hereto: (X)None ()______
- 16. DEVELOPMENT AND/OR CONSTRUCTION FEASIBILITY AND COST ARE THE PURCHASER'S RESPONSIBILITY TO VERIFY. Purchaser should inquire at the appropriate departments of the City or County, and water, sewer or other special districts in which the property is located. Purchaser's inquiry should include, but not be limited to: any special building requirements, including setbacks, height limits or restrictions on where buildings may be constructed on the property; whether the property is affected by a flood zone, wetlands, shorelands or other environmentally sensitive area; road, school, fire and any other growth mitigation or impact fees that must be paid; the procedure and length of time necessary to obtain plat approval and/or a building permit; water, sewer and utility connection charges; and all other charges that must be paid.

INITIALS: PURCHASERSELLER

17. DEFAULT AND ATTORNEY'S FEES. If the Purchaser fails, without legal excuse (grounds) to complete the purchase of the property, the Seller shall have the option to either: 1) Retain the earnest money, which shall be considered liquidated damages and not a penalty; 2) recover any and all damages; or 3) seek specific performance of this Agreement.

If Purchaser or Seller institutes suit under this Agreement, each party shall pay its own court costs and attorney's fees. The venue of any suit shall be Snohomish County.

- 18. NO BROKERS. Purchaser and Seller warrant to one another that neither has engaged a broker in connection with this Agreement and agree to indemnify the other if a claim for a fee or commission arises in connection with this transaction as a result of such indemnifying party's activities.
- 19. CONDITION OF PROPERTY. Except that Seller agrees to remove road maintenance materials and ecology blocks prior to closing, The property is being transferred "As Is", "Where Is" and "With All Faults", and Seller expressly disclaims all warranties, express or implied, relating to the condition, zoning, habitability, quality, value, suitability for development or other characteristics of the property. Purchaser is responsible for conducting its own inspections and "Due Diligence" with respect to all physical and other aspects of the property. Purchaser shall be responsible for all costs of such inspection and studies.
- **20. SURVIVAL.** Provisions 18, 19, and 20 of this Agreement shall survive closing, shall not be merged in any deed and shall be fully enforceable thereafter.
- 21. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of Seller and Purchaser with respect to the purchase of the property. This Agreement may not be modified or amended except in a writing signed by the Seller and Purchaser.
- 22. SEVERABILITY. If any provision under this Agreement or its application to any person or circumstance is held invalid by any court of rightful jurisdiction, this invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision.
- 23. AGREEMENT TO PURCHASE AND TIME LIMIT FOR ACCEPTANCE. Purchaser offers to purchase the property on the above terms and conditions. Seller has until midnight of December 20, 1996 to accept this offer. Acceptance is not effective until a signed copy hereof is actually received by or at the office of Purchaser. If this offer is not so accepted, it shall lapse, and Seller and Purchaser shall have no further obligation hereunder.

PURCHASER Everett School District No. 2	DATE	19
PURCHASER		
By: PURCHASER'S PHONE: OFFICE	at 4	•
PURCHASER'S ADDRESS		ZIP
INITIALS: PURCHASERSELLER_		

24.	SELLER'S ACCEPTANCE. Seller agrees to sell the property on the terms and conditions herein. Seller acknowledges receipt of a copy of this Agreement, signed by both parties.
	SELLER DATE 19
	SELLER DATE 19
	SELLER'S REPRESENTATIVE Craig Fullerton or Kathryn Thompson
	OFFICE PHONE (206)259-8941 FAX (206)259-8856
	SELLER'S REPRESENTATIVE'S ADDRESS City of Everett, 3200 Cedar St., Everett WA 98201
	ATTEST
	City Clerk
	APPROVED AS TO FORM
	City Attorney
25.	PURCHASER'S RECEIPT. Purchaser acknowledges receipt of a Seller signed copy of this Agreement, on
	PURCHASER
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INITIA	LS: PURCHASERSELLER
** ** * * * * * *	. O. C.

P&S.doc

Exhibit "A"

LEGAL DESCRIPTION EXHIBIT

ALL THAT PORTION OF THE NORTH 200 FEET OF THE WEST 220 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 28 NORTH, RANGE 5 EAST, W.M., LESS THE WEST THIRTY (30) FEET FOR ROAD PURPOSES.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.