

# EXHIBIT B

## REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2009, ("Effective Date") by and between the Highline School District No. 401, a municipal corporation of the State of Washington ("Buyer") and the Port of Seattle, a municipal corporation of the State of Washington ("Seller").

### RECITALS

A. Seller is the owner of real property located in the City of SeaTac, King County, Washington, legally described on Exhibit A attached hereto and incorporated herein by this reference.

B. Buyer operates the Highline School District ("District") and desires to acquire the Property from the Seller for future District-related uses.

C. Buyer and Seller are entering into this Agreement pursuant to the authority granted in Chapter 39.33 Revised Code of Washington, (Intergovernmental Disposition of Property Act) which permits a political subdivision of the State of Washington to sell real property to the state or any municipality or any political subdivision thereof on such terms and conditions as may be mutually agreed upon by the proper authority of the state and/or the subdivisions concerned.

D. Buyer and Seller have agreed upon the terms and conditions under which Seller will sell the Property to Buyer, all as set forth herein.

E. This Agreement was approved by the Highline School District Board on August 26, 2009, and is conditioned upon the Port Commission of the Port of Seattle approval.

NOW, THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### AGREEMENT

#### 1. The Property.

As used herein, the following terms shall be defined as follows:

1.1 Land. That certain real property located at the corner of 8<sup>th</sup> Avenue South and Des Moines Memorial Drive South, in the City of Burien, King County, Washington, consisting of approximately 137,650 square feet of land, a portion of King County Tax Parcel No. 2823049016, and legally described on Exhibit A ("Land").

1.2 Appurtenances. All rights, privileges and easements appurtenant to the Land to the extent owned or held by Seller, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under 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, subject to all matters of record or discoverable by physical inspection or survey (all of which are collectively referred to as the "Appurtenances").

1.3 Personal Property. The parties acknowledge that no personal property is being conveyed pursuant to this Agreement.

All of the items described in Paragraphs 1.1 and 1.2 above are herein collectively referred to as the "Property."

2. Earnest Money; Purchase Price.

2.1 Earnest Money. Within three (3) business days after mutual execution of this Agreement by Seller and Buyer, Buyer shall deliver to Chicago Title Insurance Company, Inc. ("Title Company"), as escrow agent for the closing of this transaction (in its capacity as escrow agent, the "Escrow Agent"), an earnest money deposit in the form of a promissory note in the amount of Twenty-Five Thousand Dollars (\$25,000.00) ("Earnest Money Note") in part payment for the purchase price of the Property. The Earnest Money Note will be in the form of Exhibit B attached hereto. If Buyer approves its inspection of the Property on or before the expiration of the Contingency Period (defined below), the Earnest Money Note shall be converted to cash, and shall continue to be held in escrow by Escrow Agent (such earnest money deposit, together with any interest earned thereon, is referred to herein as the "Earnest Money"). The Earnest Money will be held by Escrow Agent in an interest-bearing account for the benefit of the parties pursuant to the terms of this Agreement. Interest will accrue on the Earnest Money for the benefit of Buyer.

2.2 Purchase Price. Buyer shall pay to Seller a total purchase price of Eight Hundred and Seventy Thousand Dollars (\$870,000.00) for the Property ("Purchase Price").

3. Title.

3.1 Title Binder. Within ten (10) days after the Effective Date, Seller shall, at its sole cost, deliver or cause to be delivered to the Buyer a preliminary commitment for an ALTA owner's extended coverage title insurance policy issued by the Title Company describing the Property, showing all matters pertaining to the Property, listing the Buyer as the prospective named insured, and providing for a "legal lot" endorsement. Such preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the "Title Binder."

3.2 Title Review. During the Contingency Period (defined in Paragraph 4. 4), Buyer shall review the Title Binder and any surveys of the Property it elects to obtain and, at least

twenty (20) days before the expiration of the Contingency Period, shall notify Seller what exceptions to title, if any, are disapproved by Buyer ("Disapproved Exceptions"). All exceptions not timely disapproved by Buyer, together with pro-rated real estate taxes and assessments not due and payable, the preprinted exceptions contained in the extended form of owner's title insurance policy, rights reserved in federal patents or state deeds, building or use restrictions general to the district, and zoning regulations or provisions, shall constitute permitted exceptions ("Permitted Exceptions"). Seller will have ten (10) days after receipt of Buyer's notice of Disapproved Exceptions to give Buyer notice that (i) Seller will remove Disapproved Exceptions or (ii) Seller elects not to remove Disapproved Exceptions. If Seller fails to give Buyer notice before the expiration of the ten (10) day period, Seller will be deemed to have elected not to remove Disapproved Exceptions.

If Seller elects (or is deemed to have elected) not to remove any Disapproved Exceptions, Buyer shall have seven (7) days from receipt of Seller's notice to notify Seller of Buyer's election either to proceed with the purchase and take the Property subject to those exceptions without deduction of the Purchase Price, or to terminate this Agreement and receive a refund of the Earnest Money. If Buyer elects to terminate this Agreement under this Paragraph 3.2, the escrow will be terminated, the Earnest Money and interest accrued thereon will be returned immediately to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement.

3.3 Title Policy. At Closing, Seller shall cause the Title Company to issue an Owner's extended coverage title insurance policy (or the Title Company's irrevocable commitment to issue such title policy) for the Property ("Title Policy") to Buyer, at Seller's cost. The Title Policy shall (a) be satisfactory to the Buyer in its sole and absolute discretion, (b) be issued in the amount of the Purchase Price, (c) insure fee simple, indefeasible title to the Property in the Buyer, subject only to the Permitted Exceptions and (d) contain a "legal lot" endorsement. Any additional endorsements other than the "legal lot" endorsement as required by Buyer shall be at Buyer's sole cost. Seller shall have no obligation to cause the Title Company to issue any such endorsements other than the "legal lot" endorsement, and Seller shall not be in default hereunder (nor shall Buyer be excused from closing) if Buyer is not able to obtain endorsements it may request.

3.4 Survey. Seller shall deliver to Buyer any and all surveys of the Property in Seller's possession. Buyer may, at its cost, cause any such survey to be updated and certified to the Buyer or to the Title Company. In addition, Buyer may, during the Contingency Period, at its expense, obtain a current ALTA/ASCM survey of the Property prepared by a licensed or registered surveyor, which survey shall be satisfactory to Buyer and to the Title Company.

#### 4. Conditions to Buyer's Obligations.

4.1 Documents and Reports. Within ten (10) days after the Effective Date, Seller shall deliver to Buyer copies of all documents available to Seller relating to the ownership, operation, or development of the Property, including without limitation: utility information, plans and specifications, permits, surveys, Property studies, leases, occupancy agreements, service

agreements, licenses, easements, option agreements or other contracts, other than those previously transmitted to Buyer by Seller or contained in the Title Binder ("Documents").

4.2 Inspection of the Property. Buyer and its employees, representatives, consultants and agents shall have the right and permission during the Contingency Period and prior to Closing to enter upon the Property or any part thereof at all reasonable times and after reasonable prior notice, and from time to time, for the purpose, at Buyer's own risk, cost and expense, of making all tests and/or studies of the Property that the Buyer may wish to undertake, including, without limitation, surveys, structural studies and review of zoning, fire, safety and other compliance matters; *provided*, however, that Buyer shall defend, indemnify and hold harmless Seller from and against all liability, cost, damage and expense (including, but not limited to, attorneys' fees) in connection with all claims, suits and actions of every name, kind and description made or brought against Seller, its officers, agents or employees by any person or entity as a result of or on account of actual or alleged injuries or damages to persons, entities or property received or sustained, in any way arising out of, in connection with, or as a result of the acts or omissions of Buyer, its officers, agents or employees, in exercising its rights under the right of entry granted herein. Without limiting the generality of the foregoing, Buyer assumes all liability for actions brought by its employees. Buyer shall provide Seller with a copy of any reports or data regarding the Property that Buyer possesses or obtains before, during or after the Contingency Period, including without limitation any environmental reviews of the Property or data regarding soil or groundwater quality at, on or under the Property.

4.3 Approval of the Property. Buyer's obligation to purchase the Property shall be subject to and contingent upon Buyer's approval, in its sole and absolute discretion, of all aspects of the Property, including, without limitation, the physical condition of the Property, and all of the information delivered by Seller pursuant to this Paragraph 4 or otherwise obtained by Buyer regarding the Property. Such contingency shall be satisfied or waived on or before the expiration of the Contingency Period.

4.4 Contingency Period Defined. As used in this Agreement, the term "Contingency Period" means the period commencing on the Effective Date and ending at 5:00 p.m. on the day that is ninety (90) days after the Effective Date.

4.5 Buyer's Right to Terminate. If Buyer's conditions, set forth in Paragraph 4.4, are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement by sending written notice to Seller and to the Escrow Agent on or before expiration of the Contingency Period. If Buyer gives a termination notice to Seller under this Paragraph 4.5, this Agreement shall terminate and neither party shall have any further liability to the other under this Agreement. If Buyer does not give a termination notice to Seller on or before the expiration of the Contingency Period, Buyer shall be deemed to have satisfied or otherwise waived the condition set forth in Paragraph 4.4, the Earnest Money shall become nonrefundable to Buyer, and Buyer shall be obligated to close on the purchase of the Property pursuant to this Agreement.

5. Additional Closing Conditions.

5.1 **Buyer's Conditions.** Buyer's obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of Closing or such earlier date as specified below:

5.1.1 All representations and warranties of Seller contained herein shall be true, accurate and complete in all material respects at the time of Closing as if made again at such time;

5.1.2 Seller shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

5.1.3 Seller shall have obtained necessary approvals allowing Buyer to obtain a "legal lot endorsement" in the Title Policy issued pursuant to Paragraph 3.3; and

5.1.4 At Closing, title to the Property shall be in the condition required by this Agreement and Escrow Agent shall deliver the Title Policy, or Title Company's irrevocable commitment to issue the Title Policy, to Buyer.

If the conditions set forth in this Paragraph 5.1 are not satisfied as of Closing (or such earlier date as specified above) and Buyer does not waive the same, Buyer may terminate this Agreement by giving written notice to Seller and the Escrow Agent, the Earnest Money and interest accrued thereon shall be returned immediately to Buyer, and thereafter neither party shall have any further liability to the other under this Agreement.

5.2 **Seller's Conditions.** Seller's obligation to sell the Property shall be subject to the following conditions that must be satisfied as of Closing:

5.2.1 All representations and warranties of Buyer contained herein shall be true, accurate and complete in all material respects at the time of Closing as if made again at such time; and

5.2.2 Buyer shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance).

If the conditions set forth in this Paragraph 5.2 are not satisfied as of Closing and Seller does not waive the same, Seller may terminate this Agreement by giving written notice to Buyer and the Escrow Agent, and thereafter neither party shall have any further liability to the other under this Agreement.

6. **Seller's Covenants, Representations and Warranties.** Seller hereby makes the following covenants, representations and warranties, which covenants, representations and warranties shall be deemed made by Seller to Buyer as of the Date of Closing:

6.1 **Title.** Seller is the sole owner of the Property.

6.2 Bankruptcy. No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, or contemplated by Seller.

6.3 Taxes and Assessments. Other than any amounts disclosed by the Title Binder, to Seller's actual knowledge, no other property taxes, or general or special assessments, are levied, assessed or imposed on or against the Property.

6.4 Foreign Person. Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended ("Code") and shall deliver to Buyer on the Date of Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

6.5 Mechanics' Liens. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise.

6.6 Leases and Other Agreements. Seller represents that the Property is vacant and there are no leases, occupancy agreements, service agreements, licenses, easements, option agreements or other contracts (whether oral or written) (collectively, "Contracts") in effect with respect to the Property.

6.7 Underground Storage Tanks. To Seller's actual knowledge, there are no cisterns, wells, subterranean storage or underground storage tanks on the Property.

6.8 Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Date of Closing with respect to the Property other than (a) the Permitted Exceptions set forth in Paragraph 3.2, and (b) those obligations agreed to or assumed by Buyer in Paragraphs 9.3 and 9.4 (collectively, the "Assumed Obligations"). Other than the Assumed Obligations and other obligations expressly assumed by Buyer or any liens or other obligations with respect to the Property that result from any action or activities by or on behalf of Buyer, whether before or after the Date of Closing, Seller will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Date of Closing, and shall indemnify, defend and hold Buyer harmless there from.

6.9 Defaults. Seller is not in default and there has occurred no uncured event which, with notice, the passage of time or both would be a default by Seller, under any Contract pertaining to the Property.

6.10 Litigation. There is no litigation pending against Seller that pertains to the Property or Seller's ownership thereof. For purposes of this Paragraph 6.10, litigation includes lawsuits, actions or administrative proceedings before any tribunal having jurisdiction over the Property.

6.11 Utilities. The Property is served by water, storm and sanitary sewer, gas, electricity, and telephone supplied directly to the Property by facilities of public utilities. To Seller's actual knowledge, all such utilities are located within the boundaries of the Property or within lands dedicated to public use or within recorded easements for the same.

6.12 Due Authority. Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligation hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute the Seller's legal, valid and binding obligation enforceable against Seller in accordance with its terms. The consummation by Seller of the sale of the Property is not in violation of or in conflict with nor does it constitute a default under any of the terms of any agreement or instrument to which Seller is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

6.13 No Omissions. All representations and warranties made by Seller in this Agreement, and all information contained in any certificate furnished by Seller to Buyer in connection with this transaction, are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained herein or therein not misleading. The copies of any documents furnished by Seller to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and to the best of Seller's actual knowledge contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

7. Covenants of Seller. Seller covenants and agrees as follows:

7.1 Perform Obligations. From the date of this Agreement to the Date of Closing, Seller will perform all of its monetary and non-monetary obligations under all indebtedness (whether for borrowed money or otherwise) and the liens securing same pertaining to the Property or any portion thereof, if any.

7.2 Liens. Other than the Permitted Exceptions set forth in Paragraph 3.2, from the date of this Agreement to the Date of Closing, Seller will not grant or create any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option to purchase or other right which would affect the Property after Closing without Buyer's written consent first having been obtained.

7.3 Provide Further Information. From the date of this Agreement to the Date of Closing, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof, promptly upon learning of the occurrence of such event.

8. Covenants, Representations and Warranties of Buyer. Buyer covenants and agrees as follows:

8.1 Perform Obligations. From the date of this Agreement to the Date of Closing, Buyer will timely perform all of its monetary and non-monetary obligations required by the terms of this Agreement to be performed by Buyer.

8.2 Buyer's Representations. Buyer hereby makes the following representations and warranties, which shall be true and correct as of the Date of Closing:

8.2.1 Buyer has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Buyer and constitute Buyer's legal, valid and binding obligations, enforceable against Buyer in accordance with its terms. The consummation by Buyer of the purchase of the Property is not in violation of or in conflict with, nor does it constitute a default under any of the terms of any agreement or instrument to which Buyer is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

8.2.2 There is no litigation pending against Buyer which could prevent or impair Buyer's obligations hereunder.

9. Hazardous Substances.

9.1 Definitions of Hazardous Substances, Environmental Laws and Remedial Actions. The term "Hazardous Substances" means any substance, waste or material (including without limitation petroleum products, asbestos or asbestos-containing material, and polychlorinated biphenyls) regulated, defined or designated as dangerous, hazardous toxic or radioactive, by any federal, state or local law, statute, ordinance rule or regulation relating to the protection of human health or the environment now or hereafter in effect (collectively "Environmental Laws"). For purposes of this Paragraph 9, the term "Remedial Actions" shall have the same meaning as under the Washington Model Toxics Control Act regulations (WAC 173-340-200) for cleanup of a release of Hazardous Substances.

9.2 Environmental Documents. Seller represents and warrants that it has delivered to Buyer, and Buyer acknowledges that it has received, all documents, if any, within its possession or control pertaining to the environmental quality of the Property, which are a Phase I environmental site assessment and a wetlands study of the Property and has delivered to Seller the "Phase I Environmental Site Assessment, 3.16 Acre Site Northeast Corner of Des Moines Memorial Drive South and 8<sup>th</sup> Avenue South, Burien, Washington" prepared by Pinnacle GeoSciences and dated May 31, 2006 ("Pinnacle Report"), and the Memorandum Regarding Wetlands on the 3-Acre Parcel Near S. 188<sup>th</sup> St. Study Summary Report prepared by A.C. Kindig & Co. and dated July 24, 2006 ("Wetlands Report") (collectively, the Pinnacle Report and the Wetlands Report are referred to as the "Environmental Documents"). The Environmental



Documents represent the entirety of all documentation in the possession or control of Seller and Buyer with regard to or relating to wetlands and any Hazardous Substances on the Property or in any improvement thereon, and Seller represents and warrants to Buyer that it has no knowledge of Hazardous Substances on, under, in or migrating to the Property except as set forth in the Environmental Documents..

9.3 EXCEPT FOR THE EXPRESS COVENANTS, REPRESENTATIONS AND WARRANTIES AND INDEMNITIES OF SELLER CONTAINED IN THIS AGREEMENT, BUYER WILL BE PURCHASING THE PROPERTY IN ITS PRESENT PHYSICAL AND ENVIRONMENTAL CONDITION, "AS IS," "WHERE IS" AND WITH ALL FAULTS, KNOWN OR UNKNOWN, ON THE BASIS OF BUYER'S OWN INDEPENDENT INVESTIGATIONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT FOR THE EXPRESS COVENANTS, REPRESENTATIONS AND WARRANTIES AND INDEMNITIES CONTAINED IN THIS AGREEMENT, SELLER HAS MADE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATING TO THE ZONING, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION ANY HAZARDOUS SUBSTANCES THAT WERE IN THE PAST, ARE NOW, OR MAY IN THE FUTURE BE LOCATED ON THE PROPERTY. THE PARTIES ACKNOWLEDGE THAT THEY HAVE EXPRESSLY ALLOCATED AND ASSUMED RESPONSIBILITY FOR THE KNOWN ENVIRONMENTAL CONDITION OF THE PROPERTY AS SET FORTH IN PARAGRAPH 9 OF THIS AGREEMENT.

9.4 Survival. Notwithstanding any provision of this Agreement to the contrary, the provisions of this Paragraph 9 shall survive the Closing of the transaction contemplated herein and the delivery of the Deed.

## 10. Closing.

10.1 Time and Place. The closing of this sale ("Closing") shall take place at the offices of Escrow Agent in Seattle, Washington, on the date that is one hundred and twenty (120) days after the end of the Contingency Period, or upon an earlier date after the end of the Contingency Period if so elected by Buyer ("Date of Closing"); provided, however that either party may extend the Date of Closing for up to thirty (30) days by giving written notice of such extension to the other party at least fifteen (15) days in advance of the Date of Closing.

10.2 Seller's Obligations. At or before Closing, Seller shall deliver to Escrow Agent, for delivery to Buyer, the following:

10.2.1 Bargain and Sale Deed. A Bargain and Sale Deed in substantially the form attached hereto as Exhibit C, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except for the Permitted Exceptions ("Deed");

10.2.2 Excise Tax Affidavit. An appropriate excise tax affidavit, signed and notarized by the responsible and authorized officials of Seller; and

10.2.3 Title Policy. The Title Policy issued by the Title Company (or the Title Company's irrevocable commitment to issue the Title Policy), as referred to in Paragraph 3.3; and

10.2.4 Other Documents. Such other documents and funds as may be required to close this transaction, including a Foreign Investment in Real Property Tax Act ("FIRPTA") certificate.

10.3 Buyer's Obligations. At or before Closing, Buyer shall deliver to Escrow Agent, for delivery to Seller, the following:

10.3.1 Purchase Price. The Purchase Price (after credit for any applicable amounts pursuant to this Agreement);

10.3.2 Excise Tax Affidavit. An appropriate excise tax affidavit, signed and notarized by the responsible and authorized officials of Buyer; and

10.3.3 Other Documents. Such other documents and funds as may be required to close this transaction.

10.4 Proration. All taxes, assessments, interest and other expenses associated with the Property, shall be prorated as of Closing.

10.5 Closing Costs. Seller and Buyer shall share equally the escrow fees with respect to the sale of the Property. Seller shall pay for the cost of extended title insurance premiums as provided in Paragraph 3.3 of this Agreement, and Buyer shall pay for the cost of any title endorsements or other title coverages requested by Buyer.

11. Possession. Buyer shall be entitled to possession of the Property immediately following Closing.

12. Indemnification.

12.1 By Seller. Seller shall pay, protect, pay the defense costs of, indemnify and hold Buyer and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of Seller set forth in this Agreement; (b) the failure of Seller to perform any obligation required by this Agreement to be performed by Seller; (c) liabilities arising out of the ownership, maintenance, and/or operation of the Property by the Seller prior to Closing, or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of Seller, its agents or employees, contractor or suppliers that occurred before Closing.

12.2 By Buyer. In addition to Buyer's indemnification obligations under Paragraph 9, Buyer shall pay, protect, pay the defense costs of, indemnify and hold Seller and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of

Buyer set forth in this Agreement; (b) the failure of Buyer to perform any obligation required by this Agreement to be performed by Buyer; (c) liabilities arising out of the ownership, maintenance and/or operation of the Property by Buyer after the Closing; or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of Buyer, its agents or employees, that occurred after Closing.

12.3 Environmental Indemnification by Buyer. In addition to all other indemnities contained in this Agreement, Buyer releases and shall defend and indemnify Seller, Seller's agents, officers, and employees (collectively, "Seller's Indemnified Parties") and hold Seller's Indemnified Parties harmless from and be responsible for all claims, actions, administrative proceedings, expenses (including, without limitation, reasonable attorney's fees, consultant and expert fees), losses, penalties, fines, judgments, settlements, awards or liabilities (collectively, "Seller's Claims") that arise out of, relate to or are otherwise incurred in connection with the presence of Hazardous Substances disclosed in the Environmental Documents on, under or in the Property or the migration off of the Property of Hazardous Substances disclosed in the Environmental Documents.

13. Risk of Loss. Risk of loss of, or damage to, the Property shall be borne by Seller until Closing. Thereafter, Buyer shall bear the risk of loss to the Property.

14. Default.

14.1 By Seller. If there is an event of default under this Agreement by Seller, Buyer will be entitled (a) to seek specific performance of Seller's obligations under this Agreement or (b) to terminate this Agreement by written notice to Seller and Escrow Agent. If Buyer terminates this Agreement, the escrow will be terminated, the entire Earnest Money and interest accrued thereon shall immediately be returned to Buyer, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement.

14.2 By Buyer. In the event Buyer fails, without legal excuse, to complete the purchase of the Property, the Earnest Money deposit made by Buyer will be forfeited to Seller as the sole and exclusive remedy available to Seller for such failure.

15. Notices. All notices to be given by each party to the other pursuant to this Agreement shall be delivered in person, by facsimile or deposited in the United States mail, properly addressed, postage fully prepaid, for delivery by certified or registered mail, return receipt requested. Notices given by personal delivery or facsimile shall be deemed effective upon receipt (provided notice by facsimile is on a business day and receipt is acknowledged); notices given by mail shall be deemed effective on the third business day after deposit. Notices may be given at the following addresses and facsimile numbers, until further notice by either party:

To Buyer:

Andrea Johnson  
Highline School District #401  
Building A  
17810 Eighth Avenue South  
Burien, WA 98148-1788  
Fax: 206-433-2103

cc: Peter Folkins  
New Ventures Group  
500 Union St, Suite 900  
Seattle, WA 98101

cc: William Green  
Perkins Coie  
1201 Third Avenue, Suite 4000  
Seattle, WA 98101

To Seller:

Manager, Aviation Relocations and  
Acquisitions  
Seattle –Tacoma International Airport  
P. O. Box 68727  
Seattle, WA 98168

cc: Port of Seattle  
Legal Department  
P. O. Box 1209  
Seattle, WA 98111  
Deliveries: 2711 Alaskan Way  
Seattle, WA 98121  
Fax: 206-728-3205

16. Miscellaneous:

16.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

16.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the sale of the Property and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties.

16.3 Modification or Amendment. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto.

16.4 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

16.5 Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties. Buyer or Seller shall not assign this Agreement, or any part thereof, without the other party's prior written consent, which consent may be withheld in the other party's sole and absolute discretion.

16.6 Event Date. If any event date falls on a Saturday, Sunday or legal holiday, then the time for performance shall be extended until the next business day.

16.7 Non-Waiver. No term or condition of this Agreement will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

16.8 Exhibits. This Agreement contains the following Exhibits and Schedules which are attached and made a part of this Agreement: Exhibits A, B and C.

16.9 Brokers. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the purchase and sale contemplated by this Agreement, except New Ventures Group, Inc., who is a consultant to Buyer, and whose fee will be paid by Buyer in accordance with a separate agreement. Buyer shall indemnify, defend and hold harmless Seller from and against any and all claims, liabilities, costs or damages (including attorneys fees and costs) arising out of any agreement between Buyer and New Ventures Group related to this transaction. If any other broker or finder perfects a claim for a commission or finder's fee based on any other contract, dealings or communication, the party through whom the broker or finder makes his or her claim will be responsible for that commission or fee and shall indemnify, defend and hold harmless the other party from and against any liability, cost or damages (including attorneys' fees and costs) arising out of that claim.

16.10 Time. Time is of the essence of this Agreement.

16.11 Attorneys Fees/Litigation Expenses. Each party shall pay their respective attorneys fees with respect to this Agreement and Closing. In any controversy, claim or dispute arising out of, or relating to, this Agreement, the prevailing party shall be entitled to recover its costs and expenses of suit, including reasonable attorneys' fees.

16.12 Construction. Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it.

16.13 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

16.14 Survival. The covenants and indemnifications made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof. Except for Seller's representations and warranties under Paragraphs 6.6 and 6.8, which shall survive the Closing unimpaired and shall not merge into the Deed and recordation thereof, the representations and warranties made in this Agreement shall not merge into the Deed but shall survive the Closing unimpaired for a period one (1) year after the Closing.

16.15 Offer by Buyer; Approval by Seller. Buyer hereby offers to buy the Property on the terms and conditions contained herein, and understands that Seller can accept this offer only after obtaining approval from the Port Commission. If the Port Commission approval is not so obtained, and this Agreement is not fully signed by Seller and returned to Buyer, by October 31, 2009, Buyer may terminate this Agreement and withdraw the offer at any time thereafter. Buyer hereby withdraws the earlier offer it made for the Property pursuant to a purchase and sale agreement submitted to Seller on August 14, 2008, and such prior purchase agreement is terminated and of no further force or effect.

*Signatures Appear on Next Page*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

**HIGHLINE SCHOOL DISTRICT  
NO. 401:**

a Washington municipal corporation

By *Jeff Hildebrand*  
Its *Superintendent*

**PORT OF SEATTLE:**

a Washington municipal corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 23 NORTH, RANGE 4 EAST W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH 04°53'40" WEST ALONG THE WEST LINE OF SAID SUBDIVISION, A DISTANCE OF 413.95 FEET TO THE SOUTH LINE OF THAT CERTAIN REAL PROPERTY CONVEYED TO HIGHLINE SCHOOL DISTRICT NO. 401 UNDER RECORDING NO. 6697569 AND THE TRUE POINT OF BEGINNING.

THENCE SOUTH 88°46'23" EAST ALONG SAID SOUTH LINE A DISTANCE OF 537.23 FEET TO THE WESTERLY MARGIN OF STATE HIGHWAY SR-509, AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NO. 7203090277;

THENCE SOUTH 26°40'17" WEST ALONG SAID WESTERLY MARGIN OF SR-509, A DISTANCE OF 412.43 FEET;

THENCE SOUTH 55°02'08" WEST CONTINUING ALONG SAID WESTERLY MARGIN, A DISTANCE OF 80.46, MORE OR LESS TO A POINT ON THE NORTHEASTERLY MARGIN OF DES MOINES WAY SOUTH, SAID POINT BEING OPPOSITE HIGHWAY ENGINEER'S STATION 25+50;

THENCE NORTH 50° 11' 23" WEST ALONG SAID NORTHEASTERLY MARGIN A DISTANCE OF 300.00 FEET;

THENCE NORTH 05° 11' 23" WEST A DISTANCE OF 127.28 FEET;

THENCE NORTH 50° 11' 23" WEST A DISTANCE OF 30.00 FEET TO A POINT, SAID POINT BEING OPPOSITE HIGHWAY ENGINEER'S STATION 21+00 DISTANCE 90.00 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE NORTHEASTERLY MARGIN OF DES MOINES WAY SOUTH;

THENCE SOUTH 68° 51' 54" WEST A DISTANCE OF 4.31 FEET TO THE WEST LINE OF SAID SUBDIVISION;

THENCE NORTH 04° 53' 40" EAST ALONG SAID WEST LINE A DISTANCE OF 70.72 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT THE WEST 51 FEET THEREOF CONVEYED TO THE HIGHLINE SCHOOL DISTRICT NO. 401, BY DEED RECORDED UNDER RECORDING NO. 7910300601;



**Form of Earnest Money Note**

\$25,000.00

Seattle, Washington  
\_\_\_\_\_, 2009

FOR VALUE RECEIVED, the undersigned promises to pay in lawful money of the United States to the order of CHICAGO TITLE INSURANCE COMPANY, the amount of Twenty-Five Thousand Dollars (\$25,000.00) to be held as Earnest Money in accordance with Section 2.1 of the Agreement defined below, for the account of The Port of Seattle ("Payee").

This note shall be paid as follows:

Upon demand, after expiration of the Contingency Period, as that term is defined in Section 4.4, and otherwise pursuant to the provisions of, that certain Real Estate Purchase and Sale Agreement dated \_\_\_\_\_, 2009 ("Agreement") between the undersigned, as buyer, and Payee, as seller, with respect to certain property located in King County, Washington, unless (i) Buyer has terminated the Agreement on or before the expiration of the Contingency Period or (ii) the transaction contemplated under the Agreement has closed and Buyer has paid Payee the full purchase price as set forth in the Agreement.

This note shall bear interest at the rate of fourteen percent (14%) per annum if not paid after demand as above provided. If suit is brought on this note after any default in any payment, the undersigned promises and agrees to pay reasonable attorneys' fees incurred thereby.

This note shall be construed according to the laws of the state of Washington.

HIGHLINE SCHOOL DISTRICT NO. 401  
a Washington municipal corporation

By: John Wheeler  
Its: Superintendent

**EXHIBIT C**

**Form of Bargain and Sale Deed**

**Return Address**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<b>Document Title(s)</b> (or transactions contained therein): 1. Bargain and Sale Deed
<b>Reference Number(s)</b> of Documents assigned or released: N/A (on page ___ of documents(s))
<b>Grantor(s)</b> (Last name first, then first name and initials): 1. PORT OF SEATTLE 2. <input type="checkbox"/> Additional names on page ___ of document.
<b>Grantee(s)</b> (Last name first, then first name and initials): 1. HIGHLINE SCHOOL DISTRICT NO. 401 2. <input type="checkbox"/> Additional names on page ___ of document.
<b>Legal description</b> (abbreviated: i.e. lot, block, plat or section, township, range)  <input checked="" type="checkbox"/> Full legal is on pages ___ of document.
<b>Assessor's Property Tax Parcel/Account Number</b>  _____

**BARGAIN AND SALE DEED**

Grantor, the PORT OF SEATTLE, a municipal corporation of the State of Washington, for and in consideration of Ten Dollars (\$10) and other good and valuable consideration in hand paid, receipt and sufficiency of which are acknowledged, bargains, sells, and conveys to HIGHLINE SCHOOL DISTRICT NO. 401 (formerly known as King County School District No. 401), a municipal corporation of the State of Washington ("Grantee"), the real estate, situated in King County, Washington described on Exhibit A hereto, subject to the matters identified on Exhibit B hereto.

Grantor expressly limits the covenants of this Deed to those expressed herein and excludes all covenants arising or to arise by statutory or other implication, and does hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under Grantor and not otherwise, Grantor will forever warrant and defend the real property described herein.

DATED \_\_\_\_\_, 20\_\_.

PORT OF SEATTLE  
a Washington municipal corporation

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Insert acknowledgment and Exhibits A and B]**