



**Patti Holmgren**  
**Interim Director, Public Information**  
601 S. 8<sup>th</sup> St., 7<sup>th</sup> FL • P.O. Box 1357  
Tacoma, WA 98401-1357  
253.571.1015 \* 253.571.1038 fax

October 22, 2009

Bob Guile  
4212 Fairwood Blvd NE  
Tacoma, WA 98422  
Email: [rcglmg@aol.com](mailto:rcglmg@aol.com)

**Public Records Request #595**

Dear Mr. Guile:

Pursuant to the Washington Public Disclosure Law, RCW 42.56, this letter is in reply to your written request dated October 15, 2009, and received the next business day, for the following:

“I am requesting a copy of the school mitigation agreement entered in to by the District and Northshore Investors. I understand the agreement was signed this past week by Kurt Miller and the developer.”

In response to your request, an agreement, **seven (7) pages**, has been located that is responsive. Per your request, a copy of the agreement is attached.

Please refer to regulation 4040R of the Tacoma School District policy manual, for additional information on records requests. This manual is posted on the Tacoma School District Web site at [www.tacomaschools.org](http://www.tacomaschools.org) or is on file in the Public Information Office.

If you have any questions or concerns regarding your request, please call Kathy Doss in the Public Information Office, 253.571.1015.

Sincerely,

Patti Holmgren  
Interim Director  
Public Information Office

PH/kd/595

Cc: Susan Schreurs  
Sam Bell  
Peter Wall

**COPY**

After Recording, Return To:

K&L Gates LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104

Attn: Denise Stiffarm

**Name of Document:** MITIGATION AGREEMENT

**Grantors:** NORTSHORE INVESTORS, L.L.C.

**Grantee:** TACOMA SCHOOL DISTRICT NO. 10

**Legal Description:**

Abbreviated form: A portion of Section 23, Township 21 N, Range 3 E, W.M., and  
Lot 2 of the Pierce County Short Plat No. 8704240392

Situate in Pierce County, State of Washington.

Additional legal description on Exhibit A of the Mitigation Agreement.

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

Tax Parcel Nos. 0321232700 and 0321236002

**Reference number(s) of related/assigned/released/document(s):**

Reference(s) to document(s) appears on page(s) \_\_\_\_\_ of document

## MITIGATION AGREEMENT

THIS MITIGATION AGREEMENT ("Agreement") is made this \_\_\_\_ day of October, 2009, between the TACOMA SCHOOL DISTRICT NO. 10, Tacoma, Washington (the "District") and NORTSHORE INVESTORS, L.L.C. (the "Developer").

### RECITALS

A. The Developer has applied for preliminary plat approval from the City of Tacoma for the development of eight hundred sixty (860) single family dwelling units (366 single family detached homes and 494 attached townhouse units) commonly known as THE POINT AT NORTSHORE, SEPA NO. SEP2007-40000089066 (the "Project"), located on property described on Exhibit A, attached hereto and incorporated herein by reference. The District and the Developer anticipate that the entire Project will be served by the District.

B. The State Environmental Policy Act, Chapter 43.21C RCW ("SEPA"), provides processes and procedures whereby major actions by state and local agencies, including, but not limited to, plat or PUD approval or the issuance of building permits, may be reviewed to determine the nature and extent of their impact on the environment. Impacts on public services, including schools, are environmental impacts for the purposes of SEPA. SEPA requires the mitigation of adverse environmental impacts.

C. If the preliminary plat is developed, the Project will generate additional students in the District.

D. The District's student population and growth projections indicate that the Project will have an impact on the District.

E. The Final Supplemental Environmental Impact Statement for the Project was issued by the City of Tacoma on August 17, 2009, and conditions the project on school mitigation.

F. RCW 82.02.020 authorizes the District to enter into a voluntary agreement with the Developer for payment to mitigate the impact of the Developer's Project.

G. The Developer has agreed to mitigate, on a voluntary basis, the adverse impact of the Project on the District.

H. The District and the Developer have, following a period of negotiations, reached an agreement as to the amount per unit that the Developer will pay to mitigate the impacts of the Project on the District.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and covenants below, the District and the Developer agree as follows:

1. The Developer and the District agree that there will be a direct impact on the District if the Project is developed and that this Agreement is reasonably necessary as a result of that impact.

2. The Developer and the District agree that in order to mitigate the direct impact of the Project on school facilities, the Developer agrees to pay the District the following sum of money: THREE THOUSAND FIFTEEN AND NO/100 DOLLARS (\$3,015.00) per single family detached dwelling unit and ONE THOUSAND FIVE HUNDRED NINETY AND NO/100 DOLLARS (\$1,590) per attached townhouse dwelling unit (the "Mitigation Payment(s)").

3. The total Mitigation Payment for the single family detached dwelling units in the Project shall be the total number of single family detached dwelling units which will be served by the District multiplied by \$3,015.00 (the "Total Single Family Unit Mitigation Payment"). Based on current plans, three hundred sixty-six (366) single family detached dwelling units will be served by the District, so that the Total Single Family Detached Unit Mitigation Payment is \$1,103,490.00. If there are changes in the number of single family detached dwelling units in the Project or the number of single family dwelling units served by the District, the per single family detached dwelling unit fee will continue to be \$3,015.00, but the Total Single Family Detached Unit Mitigation Payment will be adjusted accordingly.

4. The total Mitigation Payment for the attached townhouse attached dwelling units in the Project shall be the total number of attached townhouse dwelling units which will be served by the District multiplied by \$1,590.00 (the "Total Attached Townhouse Unit Mitigation Payment"). Based on current plans, four hundred ninety-four (494) attached townhouse dwelling units will be served by the District, so that the Total Attached Townhouse Unit Mitigation Payment is \$785,460. If there are changes in the number of attached townhouse dwelling units in the Project or the number of attached townhouse dwelling units served by the District, the per attached townhouse dwelling unit fee will continue to be \$1,590.00, but the Total Attached Townhouse Unit Mitigation Payment will be adjusted accordingly.

5. The Developer and the District agree that the \$3,015.00 per single family detached dwelling unit and the \$1,590 per attached townhouse dwelling unit will be paid to the District at the time of building permit issuance for the construction of each dwelling unit in the Project. The foregoing described incremental payment of the Mitigation Payments shall be adopted as a Condition of Approval for the preliminary and final plat

approval of the Project and shall further be a condition of issuance of a building permit for construction of a single family detached dwelling or an attached townhouse dwelling in the Project.

6. The District shall record this Agreement and send a copy of the recorded Agreement to the Developer. The recording of this Agreement shall provide the constructive notice of the obligations arising from this Agreement.

7. The District shall hold the Mitigation Payments received pursuant to this Agreement in a reserve account and such payments shall only be expended to mitigate impacts created as a direct result of the Project.

8. The Developer and the District agree that the Mitigation Payments are authorized to be used consistent with RCW 82.02.020 for capital improvement to facilities that may be affected by the Project, and/or the purchase of portable facilities, as may be necessary to serve the students generated from the Project.

9. The District has five (5) years from the payment date to spend the Mitigation Payments for the capital improvements described in paragraph number 8 above. In the event that the Mitigation Payments are not expended within those five years, the monies will be refunded with interest at the rate applied to judgments to the party(s) who paid said fees or their successor(s) in interest. However, if the Mitigation Payments are not expended within five (5) years due to delay which is attributable to the Developer, the Mitigation Payments shall be refunded without interest.

10. Except for seeking refunds required pursuant to paragraph number 9 above, the Developer waives and relinquishes its right to protest or challenge the payment of the Mitigation Payment pursuant to this Agreement and hereby covenants and undertakes that it forever refrains and desists from instituting, asserting, filing or bringing any lawsuit, litigation, claim, challenge or proceeding to challenge this Agreement, to claim any repayment or reimbursement of funds, performance or improvements provided for therein, or any of its terms and conditions, on any ground or basis whatsoever.

11. The District hereby unconditionally and irrevocably relinquishes its right to protest and/or challenge the Project with regard to the subject of the school mitigation contemplated herein, and, therefore, hereby waives any and all current or future objections to the Project as presently proposed.

12. The District and the Developer agree that the Mitigation Payment will be full and complete mitigation for the impact of the Project, as presently proposed, on the District.

13. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of both the Developer and the District.

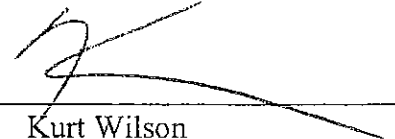
14. If an action must be brought to interpret and/or enforce the terms of this Agreement, such action shall be brought in Pierce County Superior Court. The prevailing party shall be entitled to payment of its costs and reasonable attorneys' fees, including those incurred on appeal(s).

15. In the event the City of Tacoma or another governmental agency having jurisdiction, adopts an ordinance or takes any other action following plat approval for the Project authorizing the assessment and/or collection of any school related mitigation and/or impact fees affecting the Project, the District and the Developer agree that this Agreement and the Mitigation Payment set forth herein shall control.

16. This Agreement constitutes the entire agreement between the parties and any other prior agreement either written or oral shall be null and void.

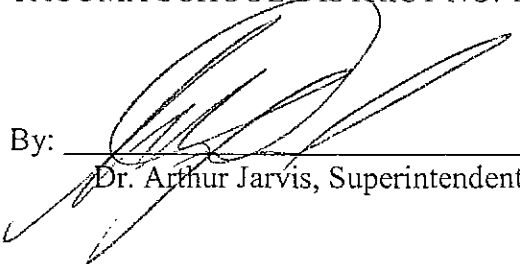
NORTHSHORE INVESTORS, L.L.C.

DATED: 10-9-09

By:   
Name: Kurt Wilson  
Its: Member

TACOMA SCHOOL DISTRICT NO. 10

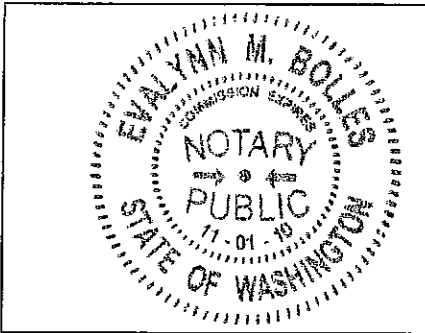
DATED: 10/12/09

By:   
Dr. Arthur Jarvis, Superintendent

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that Kurt Wilson 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 member of NORTSHORE INVESTORS, L.L.C. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10/09/2009



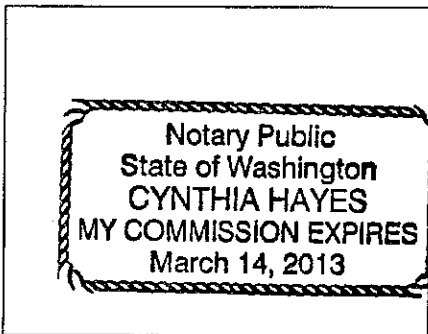
(Use this space for notarial stamp/seal)

Evelynn M. Bolles  
Notary Public  
Print Name Evelynn M. Bolles  
My commission expires 11/01/2010

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that DR. ARTHUR JARVIS 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 SUPERINTENDENT of THE TACOMA SCHOOL DISTRICT to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10/12/09



(Use this space for notarial stamp/seal)  
00398972.DOC

Cynthia Hayes  
Notary Public  
Print Name CYNTHIA HAYES  
My commission expires 3/14/13

## EXHIBIT A

### LEGAL DESCRIPTION

#### Parcel A:

That portion of Section 23, Township 21 North, Range 3 East, W.M., in Pierce County, Washington, more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the Southwest Quarter of said Section 23; thence North 01°47'01" East 30 feet along the East line of said Southwest Quarter of the Southwest Quarter to a point on the Northerly margin of 33rd Street Northeast and the true point of beginning; thence South 88°38'30" East 203.28 feet along said Northerly margin; thence North 01°21'30" East 46.37 feet; thence North 09°43'22" West 144.24 feet; thence North 70°01'17" West 149.44 feet; thence North 14°17'48" West 341.98 feet; thence North 12°25'18" West, 446.76 feet; thence North 05°15'59" West 299.83 feet; thence North 05°45'09" East 381.21 feet; thence North 05°56'49" East 296.60 feet; thence North 48°02'03" East 249.67 feet; thence North 31°03'06" East 380.68 feet; thence North 26°53'30" East 418.92 feet; thence North 51°49'18" East 244.02 feet; thence North 60°28'30" East 318.55 feet; thence North 30°03'06" East 158.39 feet; thence North 07°26'13" West 489.21 feet; thence North 51°40'00" East 274.09 feet; thence North 22°28'46" East 156.92 feet; thence North 01°52'40" East 305.16 feet; thence North 21°58'28" West 307.33 feet; thence North 14°37'15" East 118.85 feet; thence North 57°01'50" West 220.51 feet; thence North 68°11'55" West 269.26 feet; thence North 84°33'35" West 316.43 feet; thence South 83°26'35" West 437.86 feet; thence North 80°57'38" West 222.77 feet; thence South 53°54'59" West 116.88 feet; thence South 51°25'38" West 292.47 feet; thence South 45°55'31" West 134.85 feet; thence South 04°06'24" West 164.77 feet; thence South 04°11'10" East 292.21 feet; thence South 30°29'12" East 109.34 feet; thence South 06°43'59" West 725.00 feet; thence South 26°33'54" West 447.21 feet; thence South 28°52'25" West 419.87 feet to the point on the Northerly line of the Plat of North Shore Country Club Estates, Division 1, according to Plat recorded in Volume 58 of Plats, Pages 1 through 7, inclusive, in Pierce County, Washington; thence South 88°43'58" East 31.48 feet along said Northerly line; thence along said Northerly line South 71°18'36" East 154.93 feet; thence along the Easterly line of said Plat, South 18°54'24" West 36.94 feet to a point of curvature Southerly along said Easterly line 186.07 feet along the arc of a non-tangent curve to the left, having a radius of 645.00 feet, the radius point of which bears South 71°13'55" East, through a central angle of 16°31'44" to the end of said curve; thence along said Easterly line, South 02°14'23" West 1170.50 feet to a point of curvature; thence Southerly along said Easterly line 447.56 feet along the arc of a non-tangent curve to the right, having a radius of 1085.28 feet, the radius point of which bears North 87°45'06" West, through a central angle of 23°37'42", to the end of said curve; thence along said Easterly line South 51°04'10" East 104.28 feet to a point of curvature; thence Southeasterly along said Easterly line, 314.08 feet along the arc of a nontangent curve to the right, having a radius of 270.00 feet, the radius point of which bears South 44°23'49" West, through a central angle of 66°39'02", to the end of said curve; thence South 10°18'41" West 400.00 feet to a point on a Northerly margin of 33rd Street N.E.; thence along said Northerly margin South 88°30'26" East 1039.89 feet to the true point of beginning;

EXCEPT Fairwood Boulevard N.E. as conveyed to the City of Tacoma by Deeds recorded under Recording No. 8704240382, 8704240383, 8704240384 and 8704240385, Records of Pierce County;