

**INTERLOCAL AGREEMENT BETWEEN KITTITAS COUNTY AND SNOQUALMIE
PASS UTILITY DISTRICT
REGARDING CONSTRUCTION OF JOINT MAINTENANCE SHOP**

THIS AGREEMENT ("Agreement") is made and entered into this 17th day of April 2012, by and between KITTITAS COUNTY ("County") and SNOQUALMIE PASS UTILITY DISTRICT ("District"), both Washington municipal corporations (individually a "Party" and collectively "Parties").

RECITALS

A. The District currently owns the real property comprised of two tax parcels, Parcel A and Parcel B, legally described on **Exhibit A** to this Agreement and depicted on **Exhibit B** to this Agreement, incorporated herein by reference.

B. The County and District have independently explored the possibility of constructing separate and new maintenance shops, and further have jointly explored the advantages and disadvantages of constructing and occupying a new joint maintenance shop.

C. The County and District have determined that the most cost effective and operationally efficient option is to jointly construct and occupy one maintenance shop, with both common and separate components, as depicted on **Exhibit C** to this Agreement, incorporated herein by reference (the "Facility").

D. The Parties plan to construct the Facility upon Parcel B currently owned by the District. Parcel B will be reconfigured through a boundary line adjustment, as depicted on **Exhibit D** to this Agreement, incorporated herein by reference. The reconfigured Parcel B will be as legally described on **Exhibit E** to this Agreement, incorporated herein by reference ("Facility Property").

E. The County will then be conveyed a one-half interest in the Facility Property, as tenant in common with the District, and the Facility will be constructed on the Facility Property, and thereafter the Parties will create a condominium for the Facility Property.

F. The Parties are authorized by Chapter 39.34 RCW to enter into an interlocal agreement to carry out the goals and purposes stated above.

AGREEMENT

Now, therefore, in consideration of the following terms and conditions, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions

under which the Facility and related improvements (“Project”) will be designed, financed and constructed, as well as owned, operated and maintained.

2. Lead Agency. The County shall be the lead agency for the Project. As the lead agency, the County shall supervise and implement construction of the Project, which shall include but not be limited to design, preparation of plans and specifications, construction, SEPA review, permitting, inspection, contract administration and other matters pertinent to the Project; provided, that the Boards of Commissioners of both Parties shall approve the following:

- a. Award of the Project contract;
- b. Approval of changes orders (equitable adjustments) to the Project contract that substantially change the nature of the Project;
- c. Acceptance of the Project; and
- d. Commencement or settlement of any litigation related to the Project, including the resolution of any claims through ADR procedures prior to litigation.

A committee, known as the Project Committee (“Committee”), shall assist the County in supervising and implementing construction of the Project. The Committee shall be comprised of the Manager of the District and the Public Works Superintendent of the County and any other members invited by the Committee to participate on the Committee. The Committee shall approve construction bid documents prior to advertisement and shall approve all change orders (equitable adjustments) (“Change Orders”) that do not substantially change the nature of the Project. The Committee shall have other specific powers that are stated in this Agreement and that are conferred on it by the Boards of Commissioners of both Parties. Each member on the Committee shall have a vote on matters coming before the Committee, and any action taken by the Committee shall be by unanimous vote. Any matter not approved by unanimous vote shall be referred to the Boards of Commissioners of the Parties for final action or determination.

3. Preliminary Estimate; Spending Authority. The County has provided to the District a preliminary estimate for the cost of the Project, which estimate is attached hereto as **Exhibit F** and incorporated herein by reference (“Estimate”). The Parties agree to proceed with construction of the Project based upon the Estimate and the County shall bid the Project based upon the Estimate. After award of the Project contract to the lowest responsible bidder, the Estimate shall be modified to conform to the actual bid amounts for the Project (“Bid Amount”). If the District’s actual cost share of the Project based on the Bid Amount exceeds the District’s preliminary cost share amount as referenced on **Exhibit F** by more than ten percent (10%), the District reserves the right to elect not to proceed with the Project. The Committee shall have authority to approve aggregate Change Orders of up to ten percent (10%) over the Bid Amount. The Boards of Commissioners of both Parties shall approve aggregate Change Orders of ten percent (10%) or more over the Bid Amount.

4. Bidding and Contract Award. The County shall prepare or have prepared the plans, specifications, drawings and bid documents for the Project, and shall advertise the Project in a legal publication of general circulation in Kittitas County, Washington. After opening the bids, the County shall provide to the District a copy of the bid tabulations. Subject to approval by the Board of Commissioners of the District, the County shall award the contract to the lowest responsible bidder in accordance with applicable laws and regulations.

5. Payment. Each Party shall pay for one-half of all costs of construction of the Facility. The “cost of construction” shall include, but is not limited to, reports and surveys such as site surveys, traffic studies, soils reports and noise reports; engineering consultant assistance; design and preparation of bidding and contract documents; handling of bid evaluation and contract award; contract administration, including review and certification of progress payments; construction inspection, testing and certification of completion; preparation of as-constructed plans; and all other contract costs for constructing the Project in accordance with the contract plans, specifications and documents, including approved change orders and all related sales tax; costs of the procurement and purchase of lands, rights-of-ways or easements necessary to construct the Project, if any, excepting the District property necessary to construct the Cul-de-sac discussed further herein; permits fees and costs; costs expended for materials and any other necessary or related costs approved by the Parties. Legal fees and costs associated with the Project shall not be included within the definition of “cost of construction” and, except as specifically provided in this Agreement or as later mutually agreed to, each Party shall bear its own legal fees and costs relating to document review, interpretation and disputes relating to the Project.

The County shall send invoices to the District, and the District shall pay for such invoices, in accordance with terms and conditions determined by the Committee. If the District fails or refuses to pay its share of the cost of construction when due, it shall be deemed in default and the County may elect to pay the District’s share of the construction costs. In such case, the District shall be liable to the County for the amount paid by the County, plus interest on the unpaid amount at the rate of five percent (5%) per annum from the date due until payment in full is made, plus attorneys’ fees and costs incurred to recover the sums owed.

6. Boundary Line Adjustment. The District shall obtain a boundary line adjustment for the purpose of moving the boundary between the two parcels currently owned by the District. The Parties shall share equally the expenses of obtaining the boundary line adjustment. The location of the new boundary line shall be in conformance with **Exhibit D** and **Exhibit E**. To the extent necessary, the County shall cooperate in obtaining the boundary line adjustment.

7. Appraisal. Within thirty days of approval of the boundary line adjustment, the Parties, through the Committee, shall mutually agree upon a real estate appraiser to appraise the fair market value of the Facility Property at its highest and best use (the “Appraised Value”).

8. Ownership of Improved Parcel and Shared Parcel. Within 30 days of the appraisal, the District shall transfer a fifty percent (50%) interest in the Facility Property to the County by quit claim deed, upon payment by the County of fifty percent (50%) of the Appraised Value of the Facility Property to the District. Upon the transfer, the Parties shall be tenants in common of the Facility Property and shall each have an undivided one-half interest in the Facility Property, subject to the provisions of this Agreement.

9. Ownership and Maintenance of Facility. Upon substantial completion of the Project, the Parties shall provide for the preparation, filing and recording of a condominium declaration (and related documents) for the Facility, the terms and conditions of which shall be agreed to by the Parties at the time of such preparation, consistent with this paragraph. The District's counsel shall perform all work necessary to form the condominium and incorporate its owner's association as a non-profit corporation and the Parties shall split all such legal fees and costs by one-half. The County shall pay for and reimburse to the District its share of such legal fees and costs upon invoice from the District. The County shall solely bear its own costs for legal review of the formation of condominium by its legal counsel. The condominium shall create separate units for each Party, comprised of two bays, a storage area, and shop for each Party, together with a common or shared area, as depicted on **Exhibit C**. After filing and recording of the condominium declaration (and related documents), each Party shall execute and record a quit claim deed that conveys its respective interest in the other Party's unit of the Facility to the other Party, which will leave each Party as the sole owner of its respective unit. The condominium declaration shall also provide that each Party has an equal ownership interest in the common area created by the condominium declaration. To manage and operate both the individual and shared portions of the condominium, the Parties shall create and incorporate as a non-profit corporation an owners' association, of which each Party shall be a member. The owner's association shall be governed by a two-person board, with each Party appointing one board member. Matters before the Board shall be resolved by unanimous vote. If the board members are unable to agree upon the resolution of a particular matter, the matter upon the written request of either board member shall be submitted to mediation for resolution and, if not resolved by mediation, to arbitration in accordance with procedures set forth in the declaration of condominium.

10. Construction of Cul-de-sac. Separate from the Project, but for the mutual benefit of the Parties, the County will construct a cul-de-sac on Hyak Drive East, as depicted on **Exhibit D** to this Agreement (the "Cul-de-sac"). The County shall bear the sole cost of the planning and construction of the Cul-de-sac. In exchange, the District shall dedicate the real property necessary to construct the Cul-de-sac, legally described on **Exhibit G** to this Agreement and incorporated herein by reference, as County right-of-way at no cost to the County.

11. Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or mailed with postage prepaid:

11.1 If to the County, to:

Kittitas County
205 W 5th Ave
Ellensburg, WA 98926-2887
Attention: Public Works Superintendent

or to such other person or place as the County shall furnish to the District in writing.

11.2 If to the District, to:

Snoqualmie Pass Utility District
P.O. Box 131
Snoqualmie Pass, WA 98068
Attention: General Manager

or to such other person or place as the District shall furnish to the County in writing, with a copy to:

John W. Milne
Inslee, Best, Doezie & Ryder, P.S.
777 - 108th Avenue NE, Suite 1900
Bellevue, WA 98009-9016

Notices shall be deemed given upon personal delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

12. Duration/Termination. This Agreement shall become effective upon the date above, and shall remain in effect until completion and acceptance of the Project, the payment of all fees, charges and costs owing by each Party to the other Party, and the filing and recording of all real property documents necessary for final ownership, operation and maintenance of the Facility, including a declaration of condominium and creation of the owner's association and related non-profit corporation.

13. Indemnification and Hold Harmless. The District shall indemnify, defend and hold harmless the County from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including without limitation reasonable attorney's fees, arising out of or in any way connected with the District's agents', employees' or officers' performance under this Agreement, except to the extent that such damage or injury is caused by or the result of the County's negligence or intentional malfeasance.

The County shall indemnify, defend and hold harmless the District from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or

judgments, including without limitation reasonable attorney's fees, arising out of or in any way connected with the County's agents', employees' or officers' performance under this Agreement, except to the extent that such damage or injury is caused by or the result of the District's negligence or intentional malfeasance.

14. Enforceability/Specific Performance. The rights granted herein and the indemnifications, covenants, agreements, obligations and reservations made or referenced in this Agreement are of a special and unique kind and character and, if there is a breach by either Party of the rights granted or the indemnifications, covenants, agreements, obligations and reservations made hereunder, the other Party shall be entitled to enforce such rights by specific performance and such other legal or equitable relief as provided under the laws of the State of Washington.

15. Waiver. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval of the non-breaching Party, which shall be attached to this Agreement.

16. Entire Agreement. This Agreement contains the entire written agreement of the Parties and supersedes all prior discussions. This Agreement may be amended only in writing, signed by both Parties.

17. Further Acts. Each Party shall execute, acknowledge and deliver upon demand by the other any document or take such other reasonable actions which the other Party reasonably deems necessary or desirable to evidence or effectuate the rights herein conferred or to implement or consummate the purposes and intents of the Parties, so long as such imposes no greater burden upon such Party than is imposed hereunder.

18. Attorneys' Fees and Costs. If any litigation or other proceeding is commenced by either Party to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to receive, in addition to all other sums and relief, its reasonable costs and attorneys' fees incurred both at and in preparation for such trial or other proceeding and any appeal therefrom or review thereof.

19. Governing Law and Venue. This Agreement has been executed under and shall be construed and enforced in accordance with the laws of the State of Washington. If there is any litigation or other proceeding to enforce or interpret any provisions within this Agreement, jurisdiction shall be in the courts of the State of Washington and venue shall be in Kittitas County.

20. Successors and Assigns. All of the provisions, conditions, regulations and requirements contained in this Agreement shall be binding upon the successors and assigns of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives on the date first above written.

KITTITAS COUNTY

By *[Signature]*
Its Bocc Chair

SNOQUALMIE PASS UTILITY DISTRICT

By *[Signature]*
Its *[Signature]*

EXHIBIT A

Legal Description of Parcel A and Parcel B

Parcel A

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 22 NORTH, RANGE 11 EAST, KITTITAS COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER SECTION CORNER OF SAID SECTION 15; THENCE NORTH 89° 18' 35" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 15 DISTANCE OF 272.49 FEET;
THENCE, NORTH 14° 42' 21" WEST PARALLEL WITH THE CHICAGO-MILWAUKEE-ST. PAUL AND PACIFIC RAILROAD LINE RIGHT OF WAY A DISTANCE OF 684.57 FEET;
THENCE, SOUTH 89° 18' 35" EAST, 342.28 FEET TO A POINT WHICH LIES 60.00 FEET DISTANCE AS MEASURED AT RIGHT ANGLES TO THE SOUTHWESTERLY RIGHT OF WAY OF SAID RAILROAD;
THENCE, SOUTH 14° 42' 21" EAST ALONG SAID PARALLEL LINE 684.32 FEET TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION;
THENCE, NORTH 89° 30' 25" WEST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 69.72 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH THAT PORTION OF HYAK DRIVE EAST AS SHOWN ON SHEET 2 OF 2 OF THE PLAT OF HYAK ESTATES NO. 4, RECORDED IN VOLUME 4 OF PLATS ON PAGE 36 AND 37, RECORDS OF KITTITAS COUNTY, WASHINGTON, VACATED AS RECORDED IN VOLUME "R", PAGE 190, COMMISSIONER'S JOURNAL AND VOLUME 12, PAGE 169, COMMISSIONER'S MISCELLANEOUS RECORDS OF KITTITAS COUNTY, WASHINGTON.

EXCEPT THAT PORTION THEREOF DEDICATED AS COUNTY ROAD RIGHT-OF-WAY UNDER AUDITOR'S FILE NO. 462834, RECORDS OF KITTITAS COUNTY, WASHINGTON.

EXHIBIT A (Continued)

Parcel B

THAT PORTION OF THE CHICAGO-MILWAUKEE-ST. PAUL AND PACIFIC RAILROAD RIGHT-OF-WAY LYING WITHIN SECTION 15, TOWNSHIP 22 NORTH, RANGE 11 EAST, W.M. DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE AND THE SOUTH LINE OF SAID SECTION 15, SAID WESTERLY RIGHT-OF-WAY LINE BEING 150.00 FEET MEASURED AT RIGHT ANGLE AND PARALLEL WITH THE CENTERLINE OF SAID RAILROAD;
THENCE, SOUTH 89° 30' 46" EAST, ALONG THE SOUTH LINE OF SAID SECTION 15, 155.43 FEET TO THE CENTERLINE OF SAID RAILROAD;

THENCE, NORTH 14° 42' 21" WEST ALONG SAID CENTERLINE 735.00 FEET;

THENCE, SOUTH 75° 17' 39" WEST 150.00 FEET TO SAID WESTERLY RIGHT-OF-WAY LINE;

THENCE, SOUTH 14° 42' 21" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE 694.27 FEET TO THE POINT OF BEGINNING.

EXCEPT THE EASTERLY 25 FEET THEREOF.

EXHIBIT B

Depiction of Parcel A and Parcel B as Currently Configured

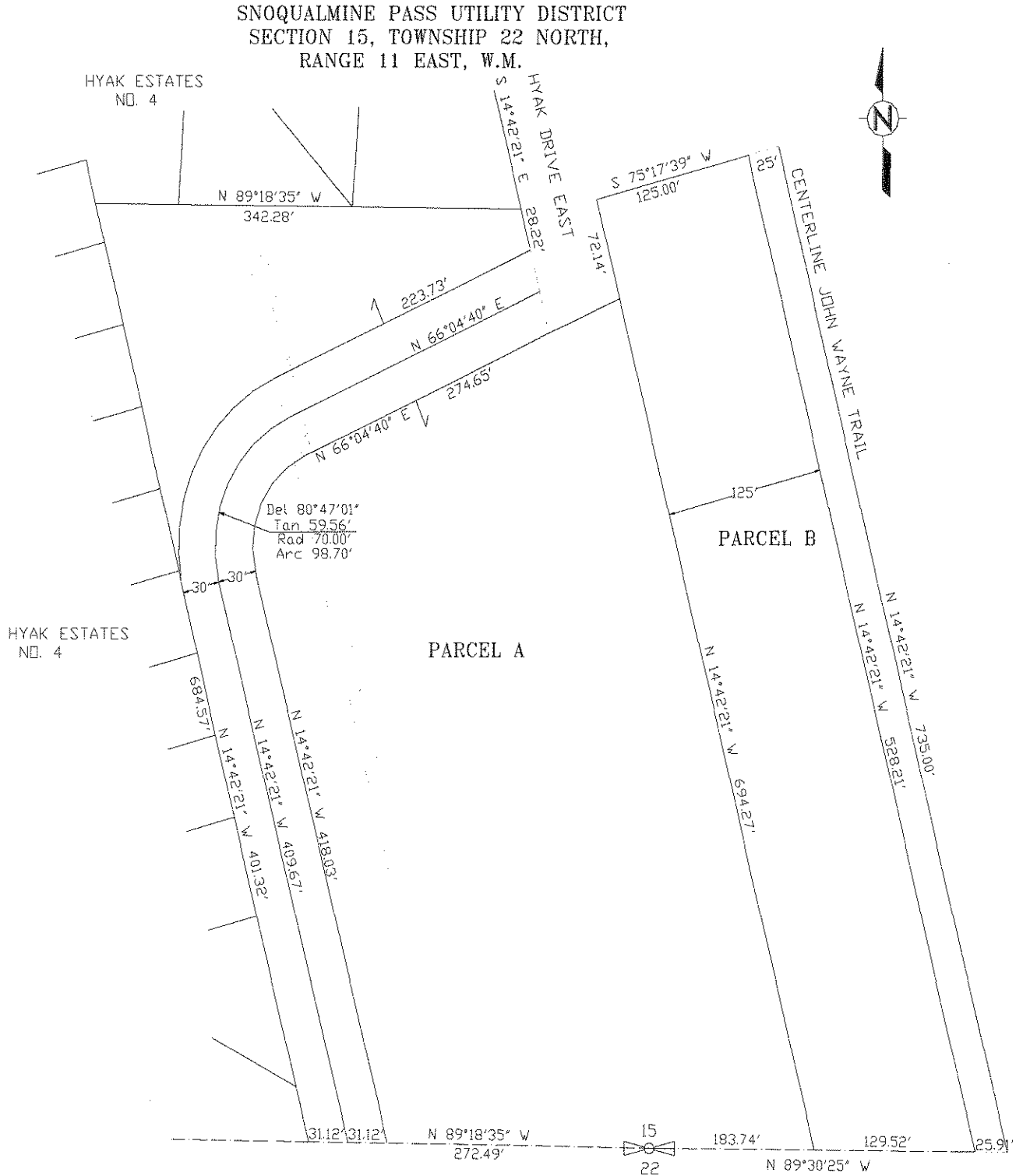


EXHIBIT C - HYAK Maintenance Shop Floor Plan

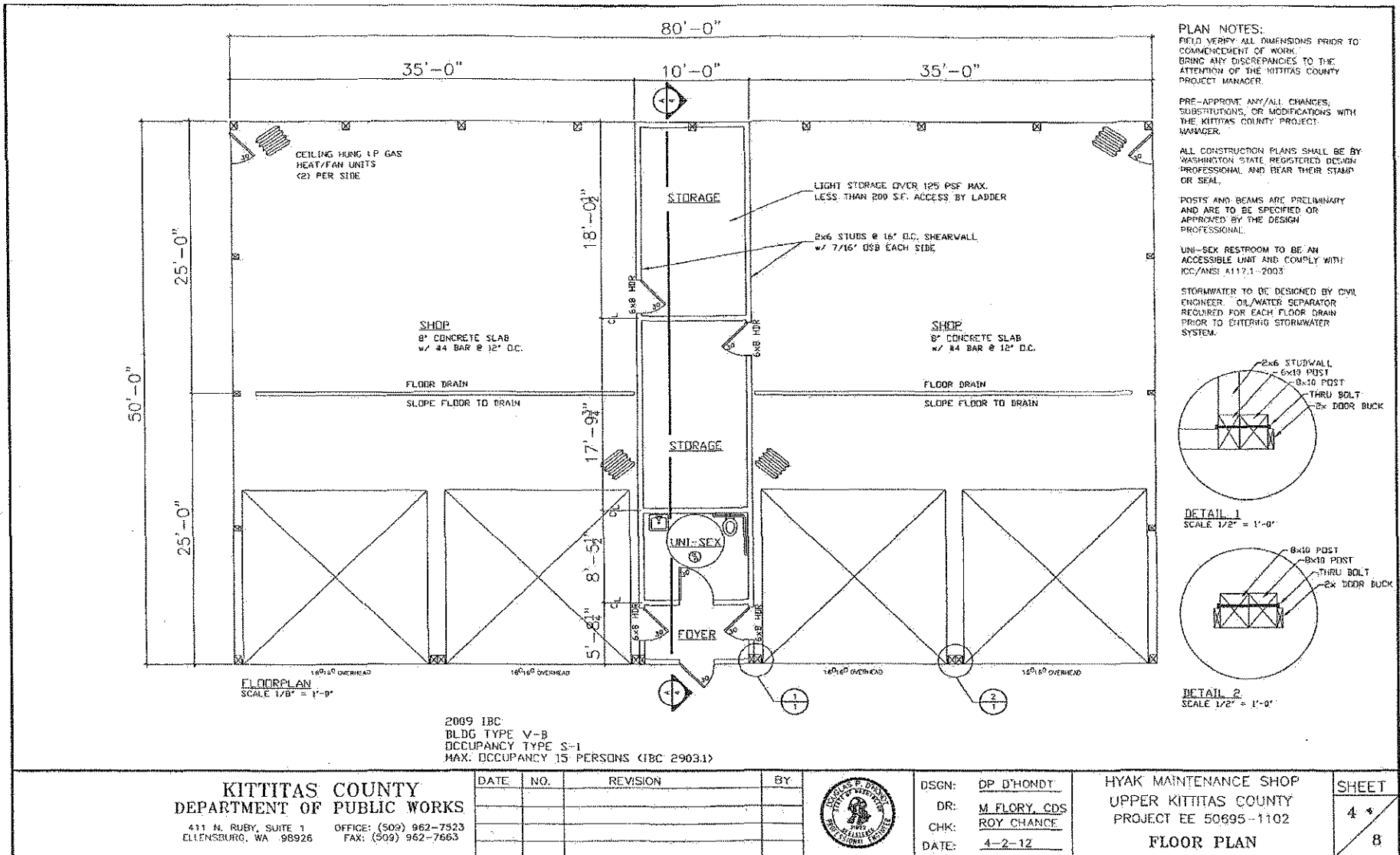


EXHIBIT D

Depiction of Parcel A and Parcel B after Boundary Line Adjustment

SNOQUALMINE PASS UTILITY DISTRICT
SECTION 15, TOWNSHIP 22 NORTH,
RANGE 11 EAST, W.M.

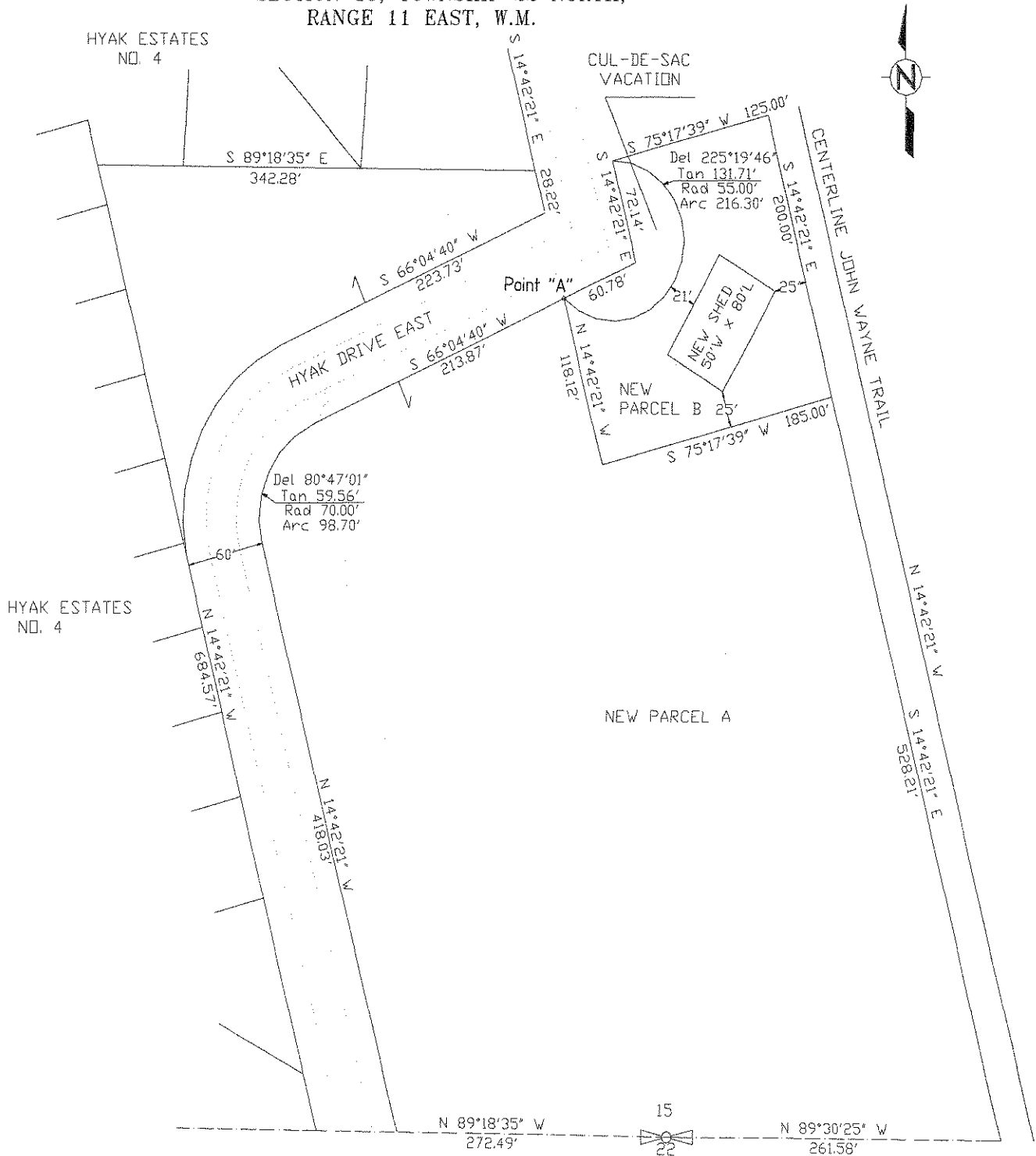


EXHIBIT E

Legal Description of Parcel B after Boundary Line Adjustment

That portion of Section 15, Township 22 North, Range 11 East, W.M., County of Kittitas State of Washington, more particularly described as follows;

Beginning being the South Quarter Section Corner of said Section 15, Township 20 North, Range 11 East, W.M., said corner monument described on Survey recorded 11/25/1992 in Book 19, Page 12, receiving #554868 Kittitas County Records;

Thence, **South 89° 30' 25" East, 261.58** feet along the south line of said Section 15, Township 20 North, Range 11 East, W.M., to a point on the Southwesterly right-of-way of the John Wayne Trail;

Thence, **North 14° 42' 21" West, 528.21** feet along Southwesterly right-of-way line of the John Wayne Trail to the **True Point of Beginning**;

- 1) Thence, **South 75° 17' 39" West, 185.00** feet perpendicular to the John Wayne Trail right-of-way;
- 2) Thence, **North 14° 42' 21" West, 118.12** feet parallel with the Southwesterly right-of-way line of the John Wayne Trail to a point on the southerly right-of-way of Hyak Drive East;
- 3) Thence, **North 66° 04' 40" East, 60.78** feet along the existing Hyak Drive East right-of-way;
- 4) Thence, **North 14° 42' 21" West, 72.14** feet along the existing Hyak Drive East right-of-way;
- 5) Thence, **North 75° 17' 39" East, 125.00** feet to a point on the southwesterly right-of-way of the John Wayne Trail;
- 6) Thence, **South 14° 42' 21" East, 200.00** feet along the southwesterly right-of-way line of the John Wayne Trail to the **True Point of Beginning**;

EXHIBIT F

Preliminary Estimate for Cost of Project

ITEM #	Item	Unit	Quantity	Unit Cost	Total
1	Building Structure and Foundation	LS	1	\$ 200,000.00	\$ 200,000.00
2	Site Prep. & Final Grade	LS	1	\$ 8,000.00	\$ 8,000.00
3	CSBC	TN	414	\$ 20.00	\$ 8,280.00
4	Asphalt for Cul-de-sac	TN	84	\$ 150.00	\$ 12,600.00
5	Asphalt for Parking Lot & Aprons	TN	34	\$ 150.00	\$ 5,100.00
6	Sod or Hydroseed	SY	500	\$ 3.00	\$ 1,500.00
7	Water Utility Install	LS	1	\$ 6,500.00	\$ 6,500.00
8	Sewer Utility Install	LS	1	\$ 6,000.00	\$ 6,000.00
9	Primary Power Install	LS	1	\$ 8,500.00	\$ 8,500.00
10	Interior Electrical (Inc. Phone)	LS	1	\$ 6,500.00	\$ 6,500.00
11	Plumbing	LS	1	\$ 4,500.00	\$ 4,500.00
12	Sheetrock & Paint	LS	1	\$ 4,700.00	\$ 4,700.00
13	Miscellaneous Accessories & Trim	LS	1	\$ 3,200.00	\$ 3,200.00
14	Garage Door Openers	EA	4	\$ 650.00	\$ 2,600.00
15	Stormwater Plan & Management	LS	1	\$ 6,000.00	\$ 6,000.00
16	500 Gallon Propane Tank	EA	1	\$ 7,500.00	\$ 7,500.00
17	2,000 Gallon Propane Tank	EA	1	\$ 14,000.00	\$ 14,000.00
18	Propane Heaters	EA	4	\$ 550.00	\$ 2,200.00
19	Oil/Water Separator	EA	1	\$ 3,500.00	\$ 3,500.00
20	Bollards	EA	6	\$ 150.00	\$ 900.00
21	Permit Costs	LS	1	\$ 3,679.00	\$ 3,679.00
22	Boundary Line Adjustment Costs	LS	1	\$ 555.00	\$ 555.00
23	Tax				\$ 24,966.40
	ESTIMATED PROJECT TOTAL COST				\$ 341,280.40
	Kittitas County Project Cost Share				\$ 176,940.20
	Snoqualmie Pass Utility District Cost Share				\$ 164,340.20

EXHIBIT G

Legal Description of Property to be Dedicated for Construction of Cul-de-sac

That portion of Section 15, Township 22 North, Range 11 East, W.M., County of Kittitas State of Washington, more particularly described as follows;

Beginning being the South Quarter Section Corner of said Section 15, Township 20 North, Range 11 East, W.M., said corner monument described on Survey recorded 11/25/1992 in Book 19, Page 12, receiving #554868 Kittitas County Records;

Thence, **South 89° 30' 25" East, 261.58** feet along the south line of said Section 15, Township 20 North, Range 11 East, W.M., to a point on the Southwesterly right-of-way of the John Wayne Trail;

Thence, **North 14° 42' 21" West, 528.21** feet along Southwesterly right-of-way line of the John Wayne Trail to the **True Point of Beginning**;

- 1) Thence, **South 75° 17' 39" West, 185.00** feet perpendicular to the John Wayne Trail right-of-way;
- 2) Thence, **North 14° 42' 21" West, 118.12** feet parallel with the Southwesterly right-of-way line of the John Wayne Trail to a point on the southerly right-of-way of Hyak Drive East, said point hereinafter referred to as Point "A";
- 3) Thence, **North 66° 04' 40" East, 60.78** feet along the existing Hyak Drive East right-of-way;
- 4) Thence, **North 14° 42' 21" West, 72.14** feet along the existing Hyak Drive East right-of-way;
- 5) Thence, **North 75° 17' 39" East, 125.00** feet to a point on the southwesterly right-of-way of the John Wayne Trail;
- 6) Thence, **South 14° 42' 21" East, 200.00** feet along the southwesterly right-of-way line of the John Wayne Trail to the **True Point of Beginning**;

EXCEPTING THEREFROM an area adjoining Hyak Drive East for a cul-de-sac more particularly described as follows:

Beginning at the above described Point "A"

Thence, along a **Non-Tangent Curve** to the left, having a chord bearing North 21° 31' 44" West, chord distance of 101.51, tangent 131.71 feet, radius 55.00 feet, delta angle 225° 19' 46" and an arc length of 216.30 feet to a point on the existing Parcel B, point being South 75° 17' 39" West, and 125.00 feet perpendicular to the southwesterly right-of-way of the John Wayne Trail;

Thence, **South 14° 42' 21" East, 72.14** feet along the existing Hyak Drive East right-of-way;

Thence, **South 66° 04' 40" West, 60.78** feet along the existing Hyak Drive East right-of-way to Point "A".