

\$ 455,000 285379

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01-23-2004 03:41pm \$26.00
SNOHOMISH COUNTY, WASHINGTON

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn. Denise A. Pector
1850 N Central Ave, #300
Phoenix, AZ 85004
Escrow No. AD3-42958-DAP

TN-20016604 ✓

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TRANSACTION TITLE INSURANCE CO

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GERI

QUITCLAIM DEED

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (formerly Burlington Northern Railroad Company) successor in interest to Seattle, Lakeshore and Eastern Railway Company, of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10 00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **THE CITY OF ARLINGTON, WASHINGTON**, a Washington corporation, of 238 N Olympic Avenue, Arlington, Washington 98223, hereinafter called "Grantee", all its right, title and interest, if any, in real estate (exclusive of any improvements thereon), subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Snohomish, State of Washington, hereinafter called "Property", together with all after acquired title of Grantor therein, being more particularly described as follows

That portion of the Northwest Quarter of the Northeast Quarter of Section 11, Township 31 North, Range 5 East, W M , additional legal description is on page 8 in EXHIBIT "A", consisting of one (1) page, attached hereto and made a part hereof

EXCEPTING AND RESERVING, unto Grantor, its successors and assigns, all of the coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature, including sand and gravel underlying the surface of the Property herein conveyed; together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property herein conveyed, together with the right of access at all times to exercise said rights

Assessor's Property Tax Parcel Account Number Real Parcel # 00995300005000

ALSO RESERVING, unto said Grantor, its successors and assigns, a 25' wide railroad easement over that portion of the NW¼NE¼ of Section 11, Township 31 North, Range 5 East, W M, Snohomish County, Washington, said easement being more particularly described as follows, to-wit

Commencing at the North Quarter Corner of said Section 11, thence South 88° 12' 52" East along the north line of said section 78 81 feet to the northeast corner of that certain tract of land conveyed to ANT, LLC, by Quitclaim Deed recorded under Auditor's File No (AFN) 9806220814, records of said County, and the True Point of Beginning, thence South 09° 01' 00" West along the Easterly line of said tract of land 104 71 feet, thence South 88° 12' 52" East, 25 20 feet, thence North 09° 01' 00" East, 104 71 feet to the north line of said Section 11, thence North 88° 12' 52" West along said north line 25 20 feet to the True Point of Beginning,

including the right, privilege and easement to construct, maintain, repair, renew, use, operate over, replace or remove railroad tracks, trestles, bridges, drainage facilities and appurtenances ("Railroad Facilities") thereto in, along, over, upon or across the Property necessary or beneficial for the operation of Grantor's railroad, including without limitation Railroad Facilities required by Grantor, its successors or assigns to provide or reinstitute common carrier or contract rail services, and to have and to hold said easement for so long as the same is used or required for railroad purposes, provided that

A. TO THE FULLEST EXTENT PERMITTED BY LAW, GRANTEE SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS GRANTOR AND GRANTOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

(i) GRANTEE'S OCCUPATION AND USE OF THE PROPERTY, INCLUDING THE OCCUPATION AND USE OF THE PROPERTY BY ANY THIRD PARTY;

(ii) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PROPERTY CAUSED BY, AGGRAVATED BY, OR CONTRIBUTED IN WHOLE OR IN PART, BY GRANTEE; OR

(iii) ANY ACT OR OMISSION OF GRANTEE OR GRANTEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH GRANTEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

B. Upon written notice from Lessor, Lessee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this Lease for which Lessee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Lessee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments

Grantee has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, Grantee is aware of the condition of the Property and **GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY, including the physical condition of the Property and any defects thereof, the presence of any hazardous substances, wastes or contaminants in,**

on or under the Property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the Property, the condition of title to the Property, and the leases, easements or other agreements affecting the Property. Grantee is aware of the risk that hazardous substances and contaminants may be present on the Property, and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor from any and all present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, and attorney's fees, arising from or in any way related to the condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any hazardous substances or contaminants in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor's remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) losses for injury or death of any person, and (d) losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the Property.

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

Grantee shall, at its sole cost and expense, construct and maintain a 6' high, cyclone protective fence inside the boundary of the Property along the whole of the boundary between the Property and any and all adjoining land owned by Grantor.

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, its successors and assigns, forever

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 9th day of December, 2003

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

By *D P Schneider*
D P Schneider
General Director Real Estate

ATTEST:

By *Patricia Zbichorski*
Patricia Zbichorski
Assistant Secretary

Grantor's Federal Tax ID No.: 41-6034000



ACCEPTED:

THE CITY OF ARLINGTON,
WASHINGTON

By Robert Kraske
Name _____
Title _____

STATE OF WASHINGTON

§

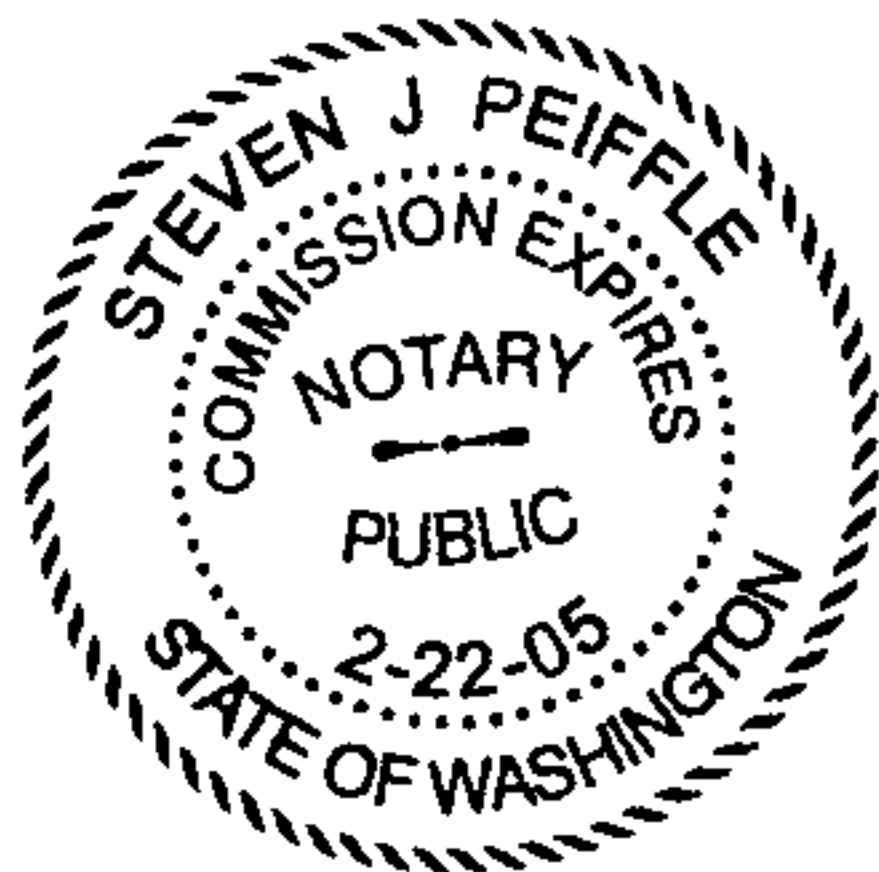
ss.

COUNTY OF SNOHOMISH

§

On this 12th day of December, 2003, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Robert Kraske, to me known to be the Mayor, of **THE CITY OF ARLINGTON, WASHINGTON**, the Washington corporation that accepted the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to accept said instrument for said corporation

Witness my hand and official seal hereto affixed the day and year first above written



[Signature]
Notary Public for the State of Washington

Residing at Arlington

My appointment expires 2/22/05

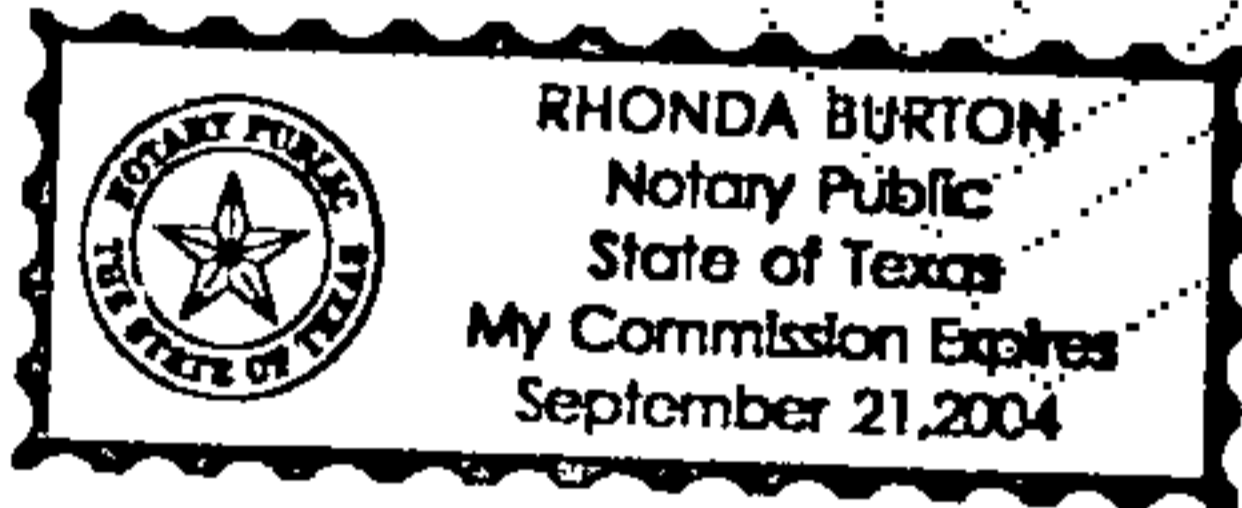
STATE OF TEXAS

§
§ ss.
§

COUNTY OF TARRANT

On this 9th day of December, 2003, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D P Schneider and Patricia Zbichorski, to me known to be the General Director Real Estate and Assistant Secretary, respectively, of **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation

Witness my hand and official seal hereto affixed the day and year first above written.



Rhonda Burton
Notary Public in and for the State of Texas
Residing at Carrollton, Texas
My appointment expires 9/21/2004

FORM APPROVED BY LAW

APPROVED LEGAL	<u>FKH</u>
APPROVED FORM	<u>Rhe</u>
APPROVED	<u>REW</u>

EXHIBIT "A"

City of Arlington Property Acquisition from Burlington Northern Santa Fe,
(Northern Pacific) Railroad

Parcel No. 1

That portion of the Northwest Quarter of the Northeast Quarter of Section 11,
Township 31 North, Range 5 East, W.M., described as follows,

Commencing at the North Quarter Corner of said Section 11; thence South
88°12'52" East along the north line of said subdivision, for a distance of 78 81
feet to the northeast corner of that certain tract of land conveyed to ANT, LLC, by
Quit Claim Deed recorded under Auditor's File No.(AFN) 9806220814, records of
Snohomish County, Washington, and the True Point of Beginning; thence
continue South 88°12'52" East along the north line of said subdivision, for a
distance of 69.75 feet to the northwest corner of that certain tract of land
conveyed to the City of Arlington by Quit Claim Deed, dated December 5th, 1996,
recorded under Auditor's File No. 9702070186, records of Snohomish County,
Washington; thence South 0°46'41" West along the west line of said AFN
9702070186, for a distance of 716 14 feet; thence continue along the west line
of said AFN 9702070186, along a curve to the right, which has a radius of
1541.23 feet, through a central angle of 1°46'28", for an arc distance of 47.73
feet, thence North 88°12'52" West parallel with the north line of said subdivision,
for a distance of 38 87 feet, thence northerly along a curve to the left from which
the radius point bears North 88°13'21" West, for a distance of 1361 86 feet,
through a central angle of 0°59'59", for an arc distance of 23 76 feet, thence
North 0°46'41" East parallel with the west line of said AFN 9702070186, for a
distance of 504 14 feet, thence North 88°12'52" West parallel with the north line
of said subdivision, for a distance of 39.23 feet to a point 25.00 feet east of the
east line of said AFN 9806220814, as measured perpendicular thereto; thence
North 9°01'00" East for a distance of 133 12 feet to the south line of the north
103 87 feet of said subdivision, thence North 88°12'52" West parallel with the
north line of said subdivision, for a distance of 25 20 feet to the east line of said
AFN 9806220814, thence North 9°01'00" East along said east line, for a
distance of 104.71 feet to the True Point of Beginning.

