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09-11-2003 10:09am \$52.00
SNOHOMISH COUNTY, WASHINGTON

**NO EXCISE TAX
REQUIRED**

SEP 1 2003

BOB DANTINI, Snohomish County Treasurer

By BOB DANTINI

When Recorded Return To:

Douglas E. Wheeler
Lane Powell Spears Lubersky LLP
1420 Fifth Avenue, Suite 4100
Seattle, WA 98101-2338

FIRST AMERICAN

16531T-T3

EASEMENT MAINTENANCE AGREEMENT

15#33

Grantor:	Welco Lumber Company
Grantee:	Dan R. Mitzel, W.A.M. Burlington Joint Venture (consisting of Dan R. Mitzel, Oliver J. Whitfield and Carol Whitfield as Venturers), and Donald G. DeBode and Patricia J. DeBode as Trustees of the Donald G. DeBode and Patricia J. DeBode Revocable Living Trust
Abbreviated Legal Description:	Portion of Section 22, Township 31N, Range 5E, SE Quarter Additional legal descriptions attached as Exhibits B and C
Assessor's Property Tax Parcel/Account Nos.:	31052200401100, 31052200401000, 31052200401800 and 31052200402400

This Agreement is executed as of August 29, 2003, by and among **Welco Lumber Company**, a Washington corporation ("Grantor"), and **Dan R. Mitzel, W.A.M. Burlington Joint Venture** (consisting of Dan R. Mitzel, Oliver J. Whitfield and Carol Whitfield as Venturers), and **Donald G. DeBode and Patricia J. DeBode** as Trustees of the Donald G. DeBode and Patricia J. DeBode Revocable Living Trust, as successors in interest to Pacific Industrial Park General Partnership f/k/a Welco Pacific Industrial Park General Partnership ("Grantee"), with reference to the following:

Recitals

- A. Grantor is the owner of certain real property located in, Arlington, Snohomish County, Washington, legally described on attached Exhibit B ("Grantor's Property").
- B. Grantee is the owner of certain real property located in Arlington, Snohomish County, Washington, legally described on attached Exhibit C ("Grantee's Property").
- C. Pursuant to that certain Easement recorded September 12, 1989, under Snohomish County Auditor's File No. 8909120037, in Volume 2262, pages 2901 to 2906, records of Snohomish County, Washington, as amended by an Amendment to Easement recorded on September __, 2003, under Snohomish County Auditor's File No. _____, Grantor and Grantee have established mutual easements for ingress, egress, utilities and drainage for the benefit of Grantor's Property and Grantee's Property ("Easement").

D. The parties desire to provide for maintenance of the Easement area on the following terms and conditions.

Agreement

Therefore, the parties hereby agree as follows:

1. Maintenance and Repair. If and when maintenance or repair of the roadway, drainage ditch or related improvements on the Easement becomes necessary for any reason other than the negligence or intentional misconduct of a user, Grantor and Grantee, and their respective successors and assigns, shall be responsible for their proportionate share of the maintenance or repair expense. Any maintenance or repair that is required because of the negligence or intentional misconduct of a user shall be the responsibility of such user.

2. Proportionate Share. The parties' proportionate share of maintenance and repair expenses shall be determined as follows:

a. As of the date of this Agreement, Grantor and Grantee agree that parcels benefited by the Easement are the following (as indicated by the parcel sketch attached as Exhibit A):

i. Parcel 4-024, consisting of approximately 3.62 acres, owned by
Grantee;

ii. Parcel 4-010, consisting of approximately 2.95 acres, owned by
Grantor; and

iii. Parcel 4-018, consisting of approximately 9.98 acres, owned by
Grantor.

b. The proportionate share owed by the owner of a particular parcel therefore would be the percentage calculated by dividing the size of the owner's parcel(s) benefited by the Easement by the sum of the size of all parcels benefited by the Easement. For example, as of the date of this Agreement, Grantor's proportionate share would be $12.93 \text{ acres} \div 16.55 \text{ acres} = 78.1\%$; and Grantee's proportionate share would be $3.62 \text{ acres} \div 16.55 \text{ acres} = 21.9\%$

c. As of the date of this Agreement, Grantor also owns Parcel 4-011, consisting of approximately 18.06 acres, which the parties acknowledge is burdened by the Easement, but which currently is not benefited by the Easement. If in the future the owner(s) of all or any portion of Parcel 4-011 desires to use the Easement, the owner(s) will be responsible for a proportionate share of the maintenance and repair expense as determined above.

d. If in the future any owner believes that the owner or occupant of a parcel is making a disproportionate use of the Easement or causing disproportionate wear and tear on the roadway or other improvements on the Easement, the parties agree to meet and negotiate in good faith a reasonable adjustment in the proportionate shares for which the respective parties are responsible.

3. Roadway Extensions. As of the date of this Agreement, there is an asphalt roadway serving Parcels 4-010 and 4-024. If in the future the owner of any other parcel desires to extend the existing roadway, the owner of such parcel shall be responsible for the expense of extending the roadway. The parties agree to cooperate with any roadway extensions, and grant a temporary easement for the purpose of constructing the improvements to extend the roadway, provided that (i) any improvements on the property of another shall be consistent with the existing roadway and related improvements, and (ii) the party doing the improvements shall restore any damage caused by the improvements.

4. Dispute Resolution. If the parties are unable to agree on whether any particular maintenance or repair is necessary or if any other dispute arises under this Agreement, any party may submit the dispute to arbitration pursuant to the arbitration rules of the American Arbitration Association (the "AAA Rules") by an arbitrator who is mutually agreeable to the parties. If the parties are unable to agree upon an arbitrator, one arbitrator shall be selected in accordance with the AAA Rules. The determination of the arbitrator shall be binding on the parties, and whose fee and costs shall be paid by the nonprevailing party. Notwithstanding the foregoing, nothing in this Agreement shall preclude the parties from seeking injunctive or other equitable relief from a court. All parties consent to the jurisdiction and venue of the Superior Court of Snohomish County, Washington, with respect to any such controversy or claim.

5. Attorneys' Fees. In the event any suit, action or arbitration proceeding is commenced by a party under this Agreement to enforce its terms or to seek damages or equitable relief in connection with the breach of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be fixed by the court or arbitrator, including such fees and costs as may be incurred in any appellate or bankruptcy proceedings.

6. Covenants Run With the Land. The benefits and burdens of and the obligations set forth in this Agreement are intended to and shall run with the land and shall be binding upon and inure to the benefit of Grantee's Property and Grantor's Property and the present and future owners thereof and the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

7. Recording. Upon mutual execution, this Agreement shall be recorded in the real property records of Snohomish County, Washington.

8. Miscellaneous. This Agreement (including the attached exhibit): (i) represents the entire understanding of the parties with respect to the subject matter covered;

(ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) may only be amended in a writing signed by both parties; (iv) shall be executed in two or more counterparts so that each party may retain a fully executed original; (v) binds and inures to the benefit of the parties and their respective successors, assigns, agents and representatives; and (vi) shall be governed by the internal laws of the State of Washington without reference to its conflict of laws provisions.

EXECUTED as of the date first above written.

Grantor:

WELCO LUMBER COMPANY, a
Washington corporation

By: 

Name: U.P. & G. Co.

Grantee:

Dan R. Mitzel

W.A.M. BURLINGTON JOINT VENTURE

By _____

Dan R. Mitzel, Venturer

By _____

Oliver J. Whitfield, Venturer

By _____

Carol Whitfield, Venturer

THE DONALD G. DEBODE AND
PATRICIA J. DEBODE REVOCABLE
LIVING TRUST

By _____

Donald G. Debode, Trustee

By _____

Patricia J. Debode, Trustee

(ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) may only be amended in a writing signed by both parties; (iv) shall be executed in two or more counterparts so that each party may retain a fully executed original; (v) binds and inures to the benefit of the parties and their respective successors, assigns, agents and representatives; and (vi) shall be governed by the internal laws of the State of Washington without reference to its conflict of laws provisions.

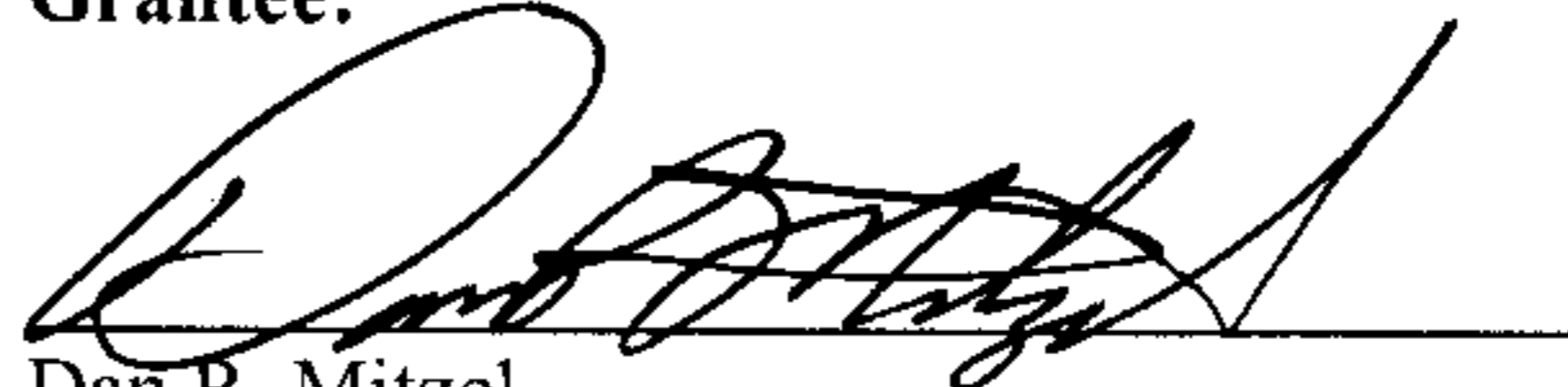
EXECUTED as of the date first above written.

Grantor:

WELCO LUMBER COMPANY, a
Washington corporation

By: _____
Name: _____

Grantee:


Dan R. Mitzel

W.A.M. BURLINGTON JOINT VENTURE


By 
Dan R. Mitzel, Venturer

By 
Oliver J. Whitfield, Venturer

By 
Carol Whitfield, Venturer

THE DONALD G. DEBODE AND
PATRICIA J. DEBODE REVOCABLE
LIVING TRUST

By 
Donald G. Debode, Trustee

By 
Patricia J. Debode, Trustee

STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that Richard Bullard is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as the Vice President / + of **Welco Lumber Company** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

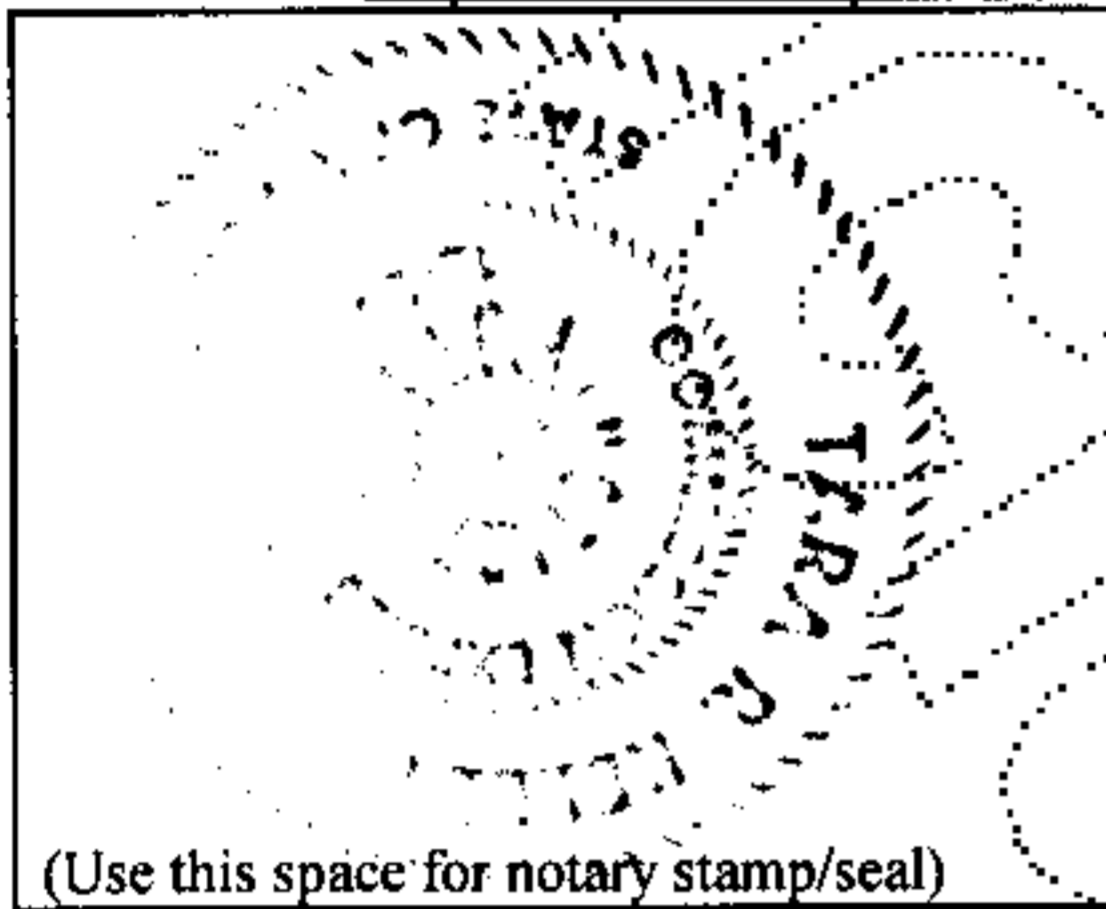
DATED: 8.29.03

Tara Kelley * General Manager

Print Name: Tara Kelley
NOTARY PUBLIC for the State of Washington, residing at

Marysville

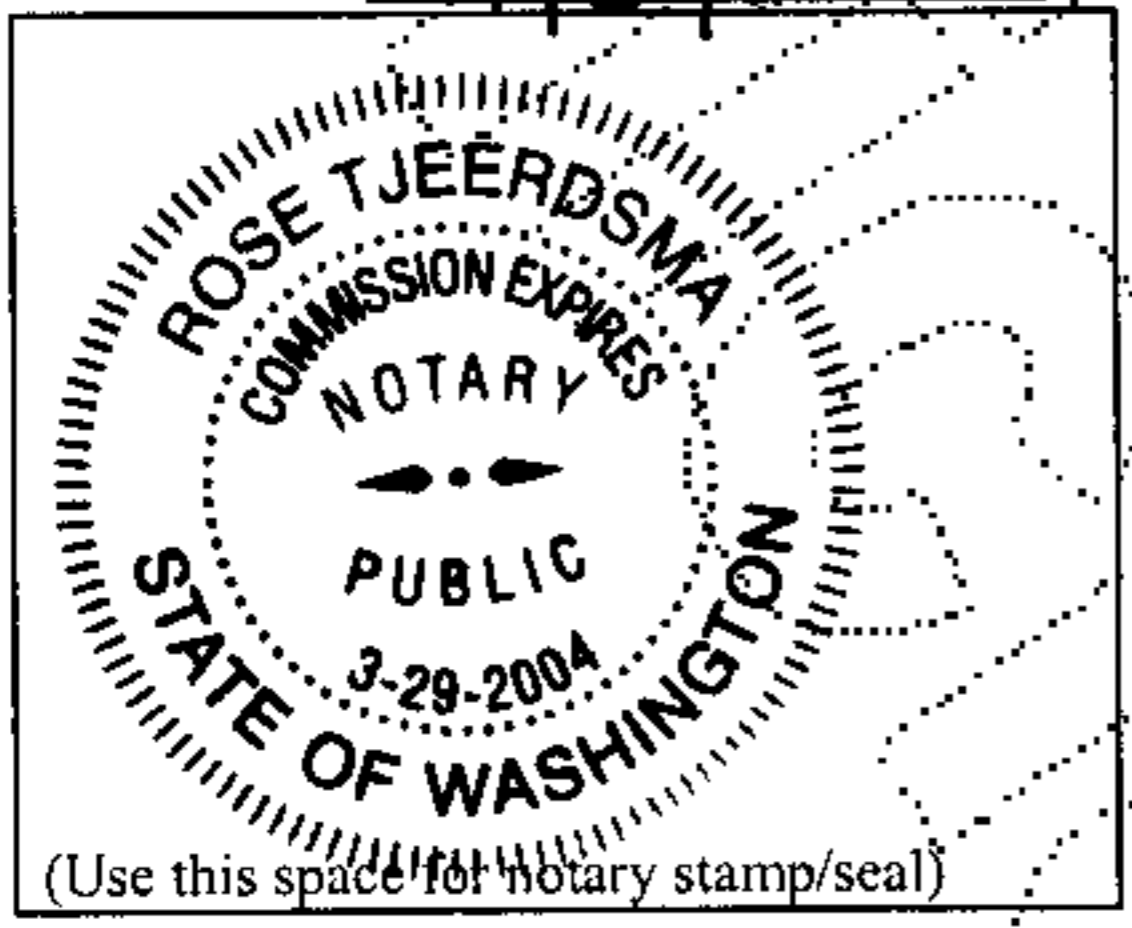
My appointment expires: 12/29/05



STATE OF WASHINGTON)
) ss.
COUNTY OF Okanog)

I certify that I know or have satisfactory evidence that **Dan R. Mitzel** is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: 9/3/03

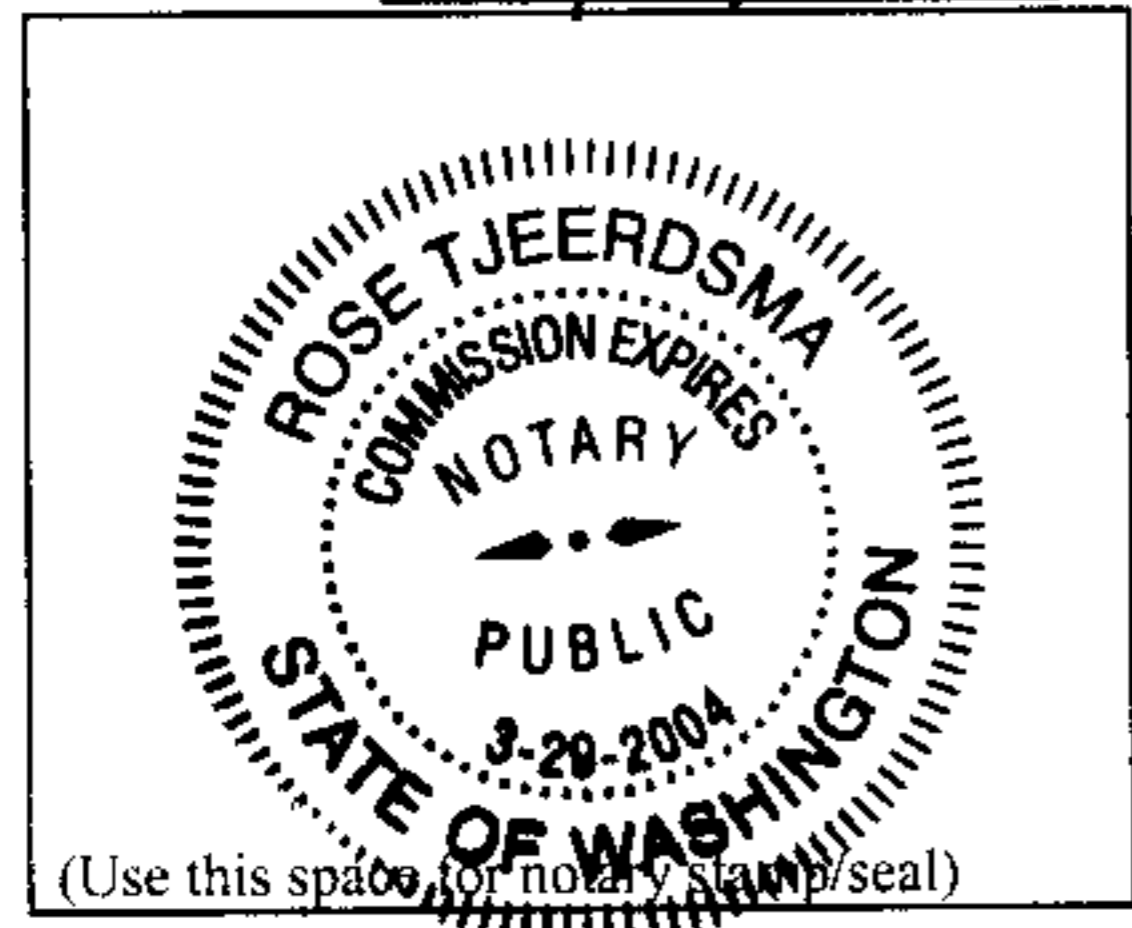


Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington
My appointment expires:
3/29/04

STATE OF WASHINGTON)
) ss.
COUNTY OF Okanog)

I certify that I know or have satisfactory evidence that **Dan R. Mitzel** is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as a **Venturer of W.A.M. Burlington Joint Venture** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: 9/3/03

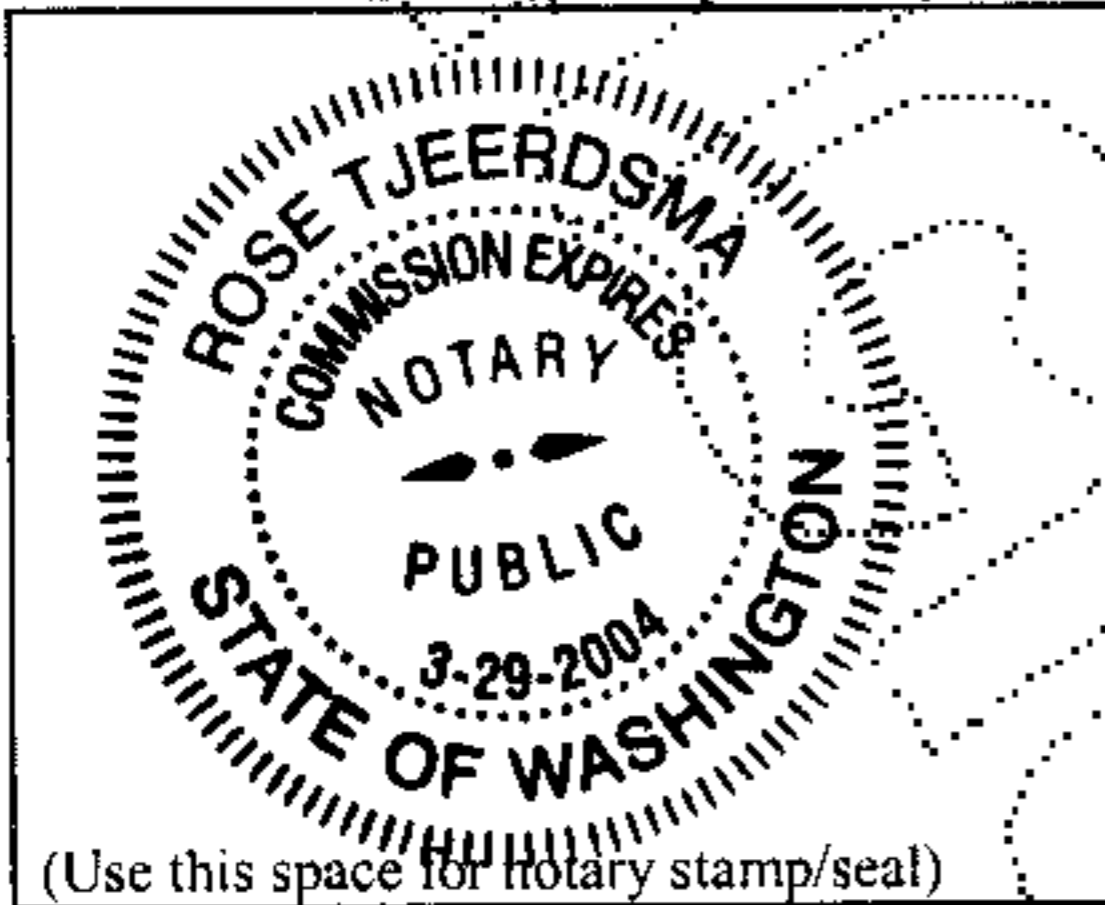


Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington
My appointment expires:
3/29/04

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that **Oliver J. Whitfield** is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as a **Venturer of W.A.M. Burlington Joint Venture** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: 9/3/03

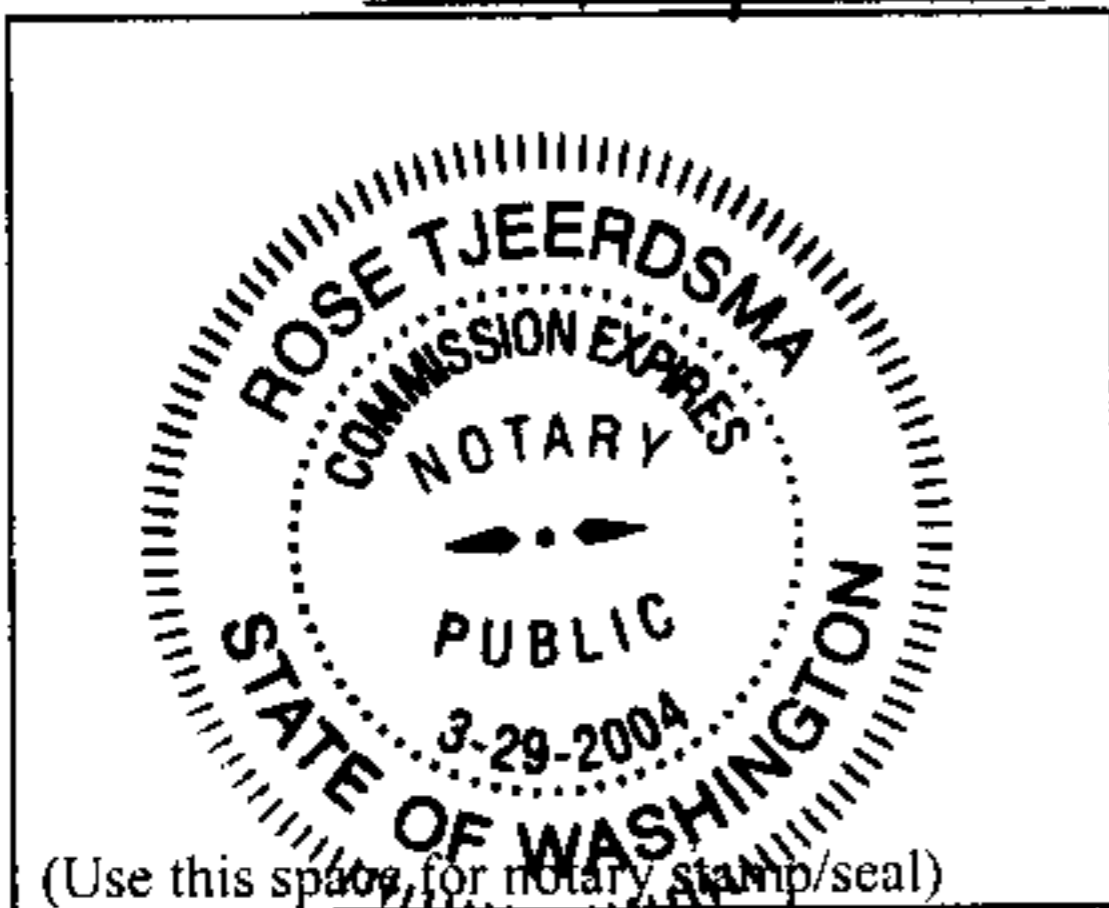


Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington
My appointment expires: 3/29/04

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that **Carol Whitfield** is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as a **Venturer of W.A.M. Burlington Joint Venture** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: 9/3/03

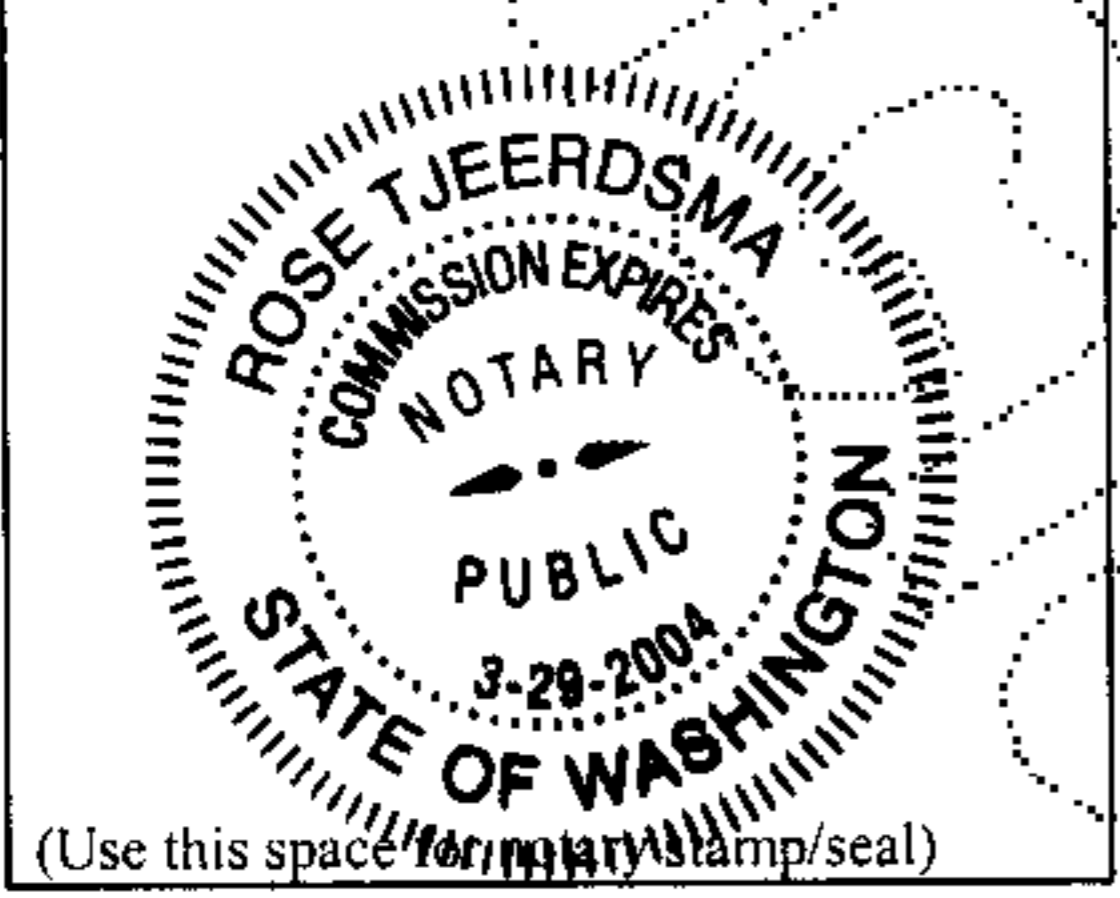


Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington
My appointment expires: 3/29/04

STATE OF WASHINGTON)
) ss.
COUNTY OF Okanit)

I certify that I know or have satisfactory evidence that **Donald G. DeBode** is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as **Trustee** of the **Donald G. DeBode and Patricia J. DeBode Revocable Living Trust** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: 9/3/03



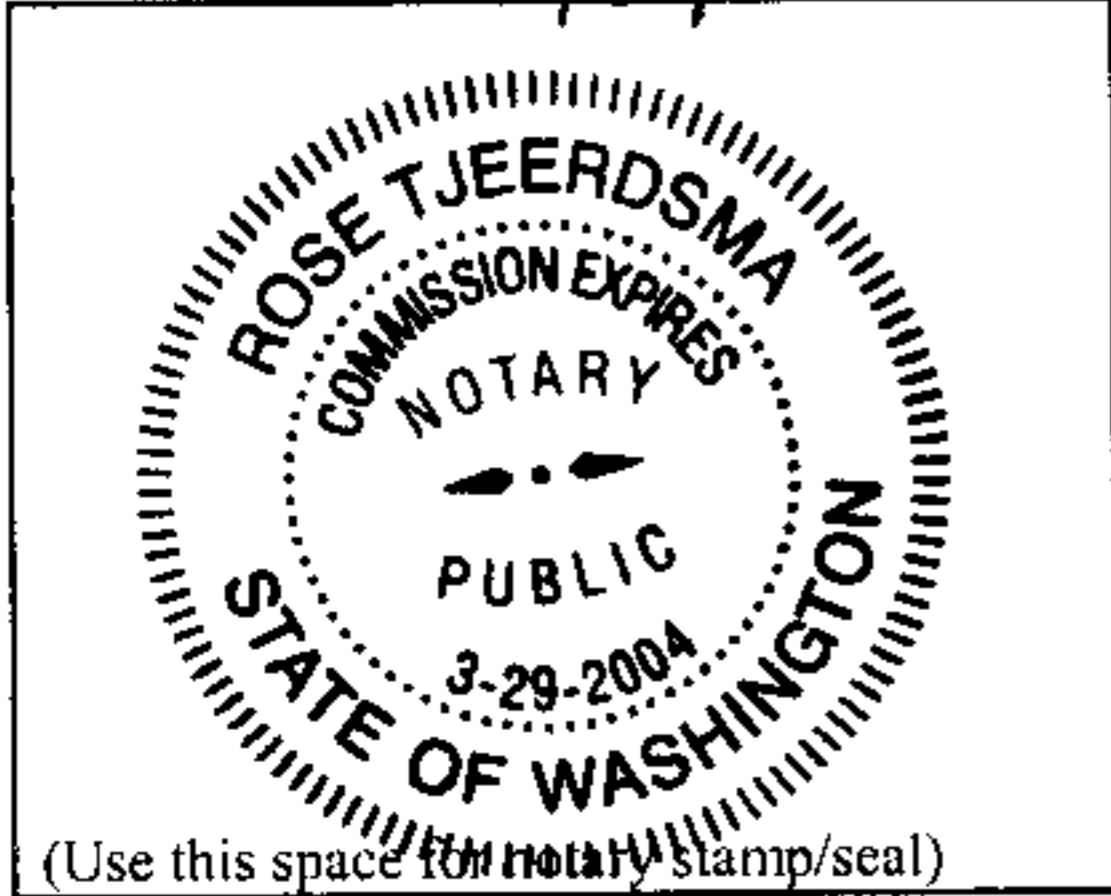
Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington

My appointment expires:
3/29/04

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that **Patricia J. DeBode** is the person who appeared before me, and said person acknowledged that he or she signed this instrument, on oath stated that he or she is authorized to execute the instrument and acknowledged it as **Trustee** of the **Donald G. DeBode and Patricia J. DeBode Revocable Living Trust** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: 9/3/03

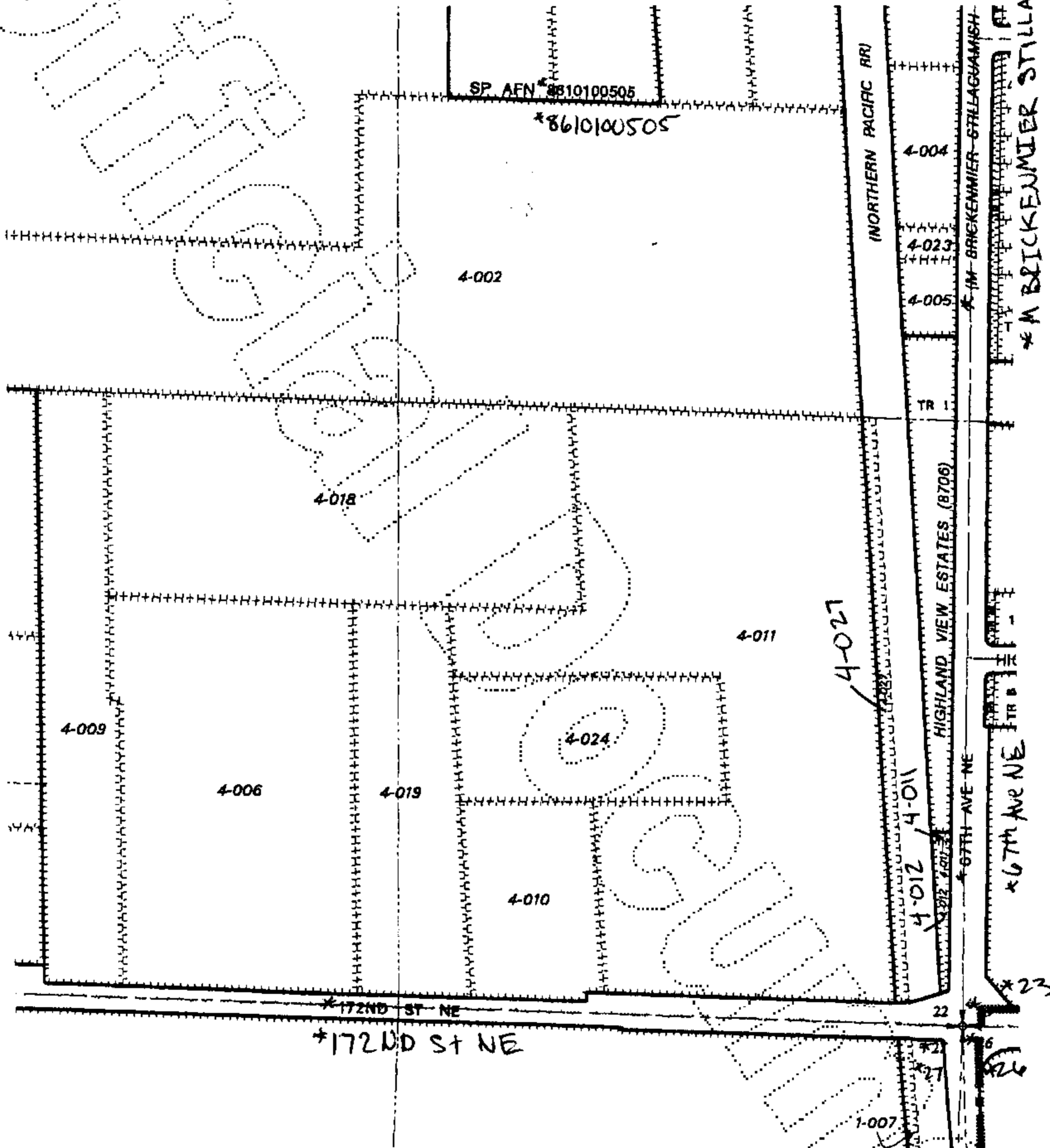


Rose Tjeerdsma
Print Name: Rose Tjeerdsma
NOTARY PUBLIC for the State of Washington, residing at
Burlington

My appointment expires:
3/29/04

Exhibit A

Parcel Map



* M BRICKENMIER STILLAGUAMISH

* 67th Ave NE

* 23

* 26

22

21

27

4-027

4-012 / 4-011

Exhibit B

Grantor's Property

PARCEL 4-011:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22;

THENCE SOUTH 87°55'30" WEST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 137.06 FEET TO A POINT ON THE WESTERLY MARGIN OF RIGHT OF WAY OF THE NORTHERN PACIFIC RAILROAD COMPANY, SAID POINT BEING 50.00 FEET WEST OF THE CENTER OF SAID RIGHT OF WAY AS MEASURED PERPENDICULAR TO SAID CENTER OF RIGHT OF WAY AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 07°01'38" WEST ALONG SAID WEST MARGIN OF RIGHT OF WAY A DISTANCE OF 1335.08 FEET TO THE NORTH LINE OF SAID SUBDIVISION;

THENCE SOUTH 87°45'48" WEST ALONG SAID NORTH LINE A DISTANCE OF 663.93 FEET TO THE WEST LINE OF THE EASTERLY 10 ACRES OF THAT PORTION OF SAID SUBDIVISION LYING WEST OF A LINE WHICH IS 330.00 FEET WEST OF AND PARALLEL WITH THE WEST MARGIN OF RIGHT OF WAY OF THE NORTHERN PACIFIC RAILROAD COMPANY;

THENCE SOUTH 07°01'38" EAST ALONG SAID WEST LINE A DISTANCE OF 442.80 FEET;

THENCE SOUTH 87°45'48" WEST PARALLEL WITH THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 245.68 FEET;

THENCE SOUTH 06°24'45" EAST A DISTANCE OF 161.81 FEET;

THENCE NORTH 83°35'14" EAST A DISTANCE OF 579.14 FEET;

THENCE SOUTH 06°24'45" EAST A DISTANCE OF 272.00 FEET;

THENCE SOUTH 83°35'15" WEST A DISTANCE OF 289.14 FEET;

THENCE SOUTH 06°24'45" EAST A DISTANCE OF 477.12 FEET TO THE SOUTH LINE OF SAID SECTION 22 AT A POINT LYING SOUTH 87°55'30" WEST ALONG SAID SOUTH LINE A DISTANCE OF 628.57 FEET FROM THE TRUE POINT OF BEGINNING;

THENCE NORTH 87°55'30" EAST ALONG SAID SOUTH SECTION LINE A DISTANCE OF 628.57 FEET TO THE TRUE POINT OF BEGINNING;

ALSO KNOWN AS PARCEL D OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NO. 8908230054.

EXCEPT THAT PORTION THEREOF CONVEYED TO SNOHOMISH COUNTY FOR ROAD BY DEED RECORDED UNDER RECORDING NO. 2407123;

ALSO EXCEPT ANY PORTION THEREOF LYING WITHIN THE RIGHT OF WAY OF 172ND STREET NORTHEAST.

PARCEL 4-010:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22;

THENCE SOUTH 87°55'30" WEST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 765.63 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 87°55'30" WEST ALONG SAID SOUTH LINE A DISTANCE OF 290.83 FEET;

THENCE NORTH 06°24'45" WEST A DISTANCE OF 455.12 FEET;

THENCE NORTH 83°35'15" EAST A DISTANCE OF 290.00 FEET;

THENCE SOUTH 06°24'45" EAST A DISTANCE OF 477.12 FEET TO THE TRUE POINT OF BEGINNING;

ALSO KNOWN AS PARCEL E OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NO. 8908230054.

EXCEPT ANY PORTION THEREOF LYING WITHIN THE RIGHT OF WAY OF 172ND STREET NORTHEAST

PARCEL 4-018:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22;

THENCE NORTH 89°00'12" WEST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 800.28 FEET;

THENCE NORTH 03°54'42" WEST A DISTANCE OF 1333.18 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22 AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH 03°54'42" EAST A DISTANCE OF 442.80 FEET;

THENCE NORTH 89°09'05" WEST A DISTANCE OF 998.27 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22;

THENCE NORTH 01°02'58" WEST ALONG SAID EAST LINE A DISTANCE OF 441.50 FEET TO THE INTERSECTION WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22;

THENCE SOUTH 89°09'15" EAST ALONG THE NORTH LINE OF THE SOUTH HALF
OF THE SOUTHEAST QUARTER OF SAID SECTION 22 A DISTANCE OF 976.15 FEET
TO THE TRUE POINT OF BEGINNING

ALL SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

Exhibit C

Grantee's Property

PARCEL A:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 31 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22;
THENCE SOUTH $87^{\circ}55'30''$ WEST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 800.28 FEET;
THENCE NORTH $7^{\circ}01'38''$ WEST PARALLEL WITH THE WEST MARGIN OF RIGHT-OF-WAY OF THE NORTHERN PACIFIC RAILROAD COMPANY WHICH LIES TO THE EAST A DISTANCE OF 890.39 FEET TO A POINT LYING SOUTH $7^{\circ}01'38''$ EAST 442.80 FEET FROM THE NORTH LINE OF SAID SUBDIVISION;
THENCE SOUTH $87^{\circ}45'48''$ WEST, PARALLEL WITH SAID NORTH LINE OF SUBDIVISION A DISTANCE OF 246.55 FEET TO A POINT LYING NORTH $6^{\circ}24'45''$ WEST A DISTANCE OF 888.98 FEET FROM THE SOUTH LINE OF SAID SECTION 22;
THENCE SOUTH $6^{\circ}24'45''$ EAST A DISTANCE OF 161.81 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH $83^{\circ}35'14''$ EAST A DISTANCE OF 579.14 FEET;
THENCE SOUTH $6^{\circ}24'45''$ EAST A DISTANCE OF 272.00 FEET;
THENCE SOUTH $83^{\circ}35'15''$ WEST A DISTANCE OF 579.14 FEET;
THENCE NORTH $6^{\circ}24'45''$ WEST A DISTANCE OF 272.00 FEET TO THE TRUE POINT OF BEGINNING;

ALSO KNOWN AS PARCEL F OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NO. 8908230054.

PARCEL B:

TOGETHER WITH AND SUBJECT TO A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22;
THENCE SOUTH $87^{\circ}55'30''$ WEST ALONG THE SOUTH LINE OF SAID SECTION 22 A DISTANCE OF 800.28 FEET;

THENCE NORTH 7°01'38" WEST PARALLEL WITH THE WEST MARGIN OF RIGHT-OF-WAY OF THE NORTHERN PACIFIC RAILROAD COMPANY WHICH LIES TO THE EAST A DISTANCE OF 890.39 FEET TO A POINT LYING SOUTH 7°01'38" EAST 442.80 FEET FROM THE NORTH LINE OF SAID SUBDIVISION;
THENCE SOUTH 87°45'48" WEST, A PARALLEL WITH SAID NORTH LINE OF SUBDIVISION A DISTANCE OF 246.55 FEET TO A POINT LYING NORTH 6°24'45" WEST A DISTANCE OF 888.98 FEET FROM THE SOUTH LINE OF SAID SECTION 22;
THENCE SOUTH 6°24'45" EAST A DISTANCE OF 161.81 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE SOUTH 6°24'45" EAST A DISTANCE OF 727.12 FEET TO THE SOUTH LINE OF SAID SECTION 22;
THENCE NORTH 87°55'30" EAST ALONG SAID SOUTH SECTION LINE A DISTANCE OF 60.17 FEET;
THENCE NORTH 6°24'45" WEST A DISTANCE OF 731.67 FEET;
THENCE SOUTH 83°35'14" WEST A DISTANCE OF 60.00 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT ANY PORTION THEREOF LYING WITHIN THE RIGHT-OF-WAY OF 172ND STREET NORTHEAST.