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Skagit County Auditor

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When recorded return to:  
Skagit County Farmland Legacy Program  
County Administration Building  
700 South Second Street, Rm. 202  
Mount Vernon, WA 98273

109899-PE  
LAND TITLE OF SKAGIT COUNTY

### GRANT DEED OF CONSERVATION EASEMENT

Grantor: DANIEL H. MILLER and CAROL J. MILLER, husband and wife; STERLING HILL, L.L.C.,  
a Washington limited liability company

Grantee: SKAGIT COUNTY

Legal Description: See legal at Exhibit A.

Assessor's Tax Parcel Numbers: P38059, P38057, P38056, P37979, P37978, P37977, P37976, P37022,  
P37021, P37016, P36989, P36987, P36984, P36969, P36967

East 1/2 20-35-4  
SW 1/4

THIS GRANT DEED OF CONSERVATION EASEMENT ("Easement") is made this 14<sup>th</sup> day of June, 2004, by Daniel H. Miller and Carol J. Miller, husband and wife, and Sterling Hill, LLC, a Washington Limited Liability Corporation, having an address at 16573 Green Lane, Burlington, WA 98233, (hereinafter collectively referred to as "Grantor"), in favor of Skagit County, a political subdivision of the State of Washington, having an address at Skagit County Conservation Futures Program, c/o Skagit County Board of Commissioners, County Administration Building, 700 South Second Street, Room 202, Mount Vernon, WA 98273 (hereinafter referred to as "Grantee").

### I. RECITALS

A. Grantor is the sole owner in fee simple of that certain real property (the "Protected Property") in Skagit County, Washington, more particularly described in Exhibit A (Legal Description) and shown on Exhibit B (Site Plan & Baseline Documentation), which are attached and incorporated into this Easement by this reference. The Protected Property is approximately 410.31 acres in size and is predominantly open farmland.

B. The Protected Property is of significant agricultural and natural value to Grantor, the people of Skagit County and the people of the State of Washington (collectively, "Conservation Values"). The Conservation Values include protection of agricultural productivity, and prime and important agricultural soils.

C. The Protected Property is zoned Agricultural Natural Resource Land under the Skagit County Zoning Ordinance. Skagit County Zoning Ordinance 14.16.400 states that the goal of the Agricultural Natural Resource Land zone is to "provide land for continued farming activities, conserve agricultural land, and reaffirm Agricultural use, activities and operations as the primary use of the district."

D. The Protected Property is primarily open farmland that has been classified as "prime farmland" of local importance by the Natural Resources Conservation Service, U.S. Department of Agriculture, because of the fertility of its Sumas silt loam, Skagit silt loam, Mount Vernon very fine sandy loam, and Field silt loam soils.

E. The specific Conservation Values and characteristics of the Protected Property are further documented in an inventory of relevant features of the Protected Property, dated January 16, 2004, on file at the offices of Grantee and incorporated into this Easement by this reference ("Baseline Documentation"). The Baseline Documentation consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. Grantor and Grantee have copies of the Baseline Documentation, and hereby acknowledge that the Baseline Document is accurate as of the date of execution. Exhibit B, included as part of the Baseline Documentation, is a scaled site map delineating the location of the existing developed area and photographs of key features and improvements on the site at the time of this grant.

F. Grantor, as owner of the Protected Property, has the right to protect and preserve the Conservation Values of the Protected Property, and desires to transfer such rights to Grantee in perpetuity.

G. The purpose of the Farm and Ranch Lands Protection Program's (16 U.S.C. 3838 h and i) is to purchase conservation easements to protect prime, unique, and other productive soils from conversion to nonagricultural uses. Grantor and Grantee acknowledge that, under the authority of the Farm and Ranch Lands Protection Program, the Natural Resources Conservation Service (hereinafter referred to as "NRCS" or the "United States") has contributed \$355,000 to purchase this conservation easement and thus entitles the United States to the rights identified herein.

H. The foregoing recitals are incorporated into this Easement by this reference.

## II. CONVEYANCE AND CONSIDERATION

A. For the reasons stated above, in consideration of the mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of \$775,000.00 by Grantee to Grantor, the receipt of which is acknowledged, Grantor hereby grants, conveys and warrants to Grantee a conservation easement in perpetuity over the Protected Property, consisting of certain rights in the Protected Property, as defined in this Easement, subject only to the restrictions contained in this Easement.



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B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

C. Grantor expressly intends that this Easement run with the land and that this Easement shall be binding upon Grantor's personal representatives, heirs, successors, and assigns.

### III. PURPOSE

It is the purpose of this Easement to assure that the Protected Property will be retained forever for agricultural productivity and use, to ensure no net loss of agricultural lands and to protect prime, unique, and important agricultural soils, and to prevent any use of, or activity on, the Protected Property that will impair or interfere with the Conservation Values of the Protected Property (the "Purpose"). Grantor intends that this Easement will confine the use of, or activity on, the Protected Property to such uses and activities that are consistent with this Purpose. This Easement shall not be construed as affording to the general public physical access to the Protected Property.

### IV. RIGHTS CONVEYED TO GRANTEE

To accomplish the Purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

A. **Protection.** To preserve and protect in perpetuity and to enhance by mutual agreement the Conservation Values of the Protected Property.

B. **Access for Monitoring and Enforcement.**

1. To enter the Protected Property annually, upon prior written notice to Grantor, for the purpose of making a general inspection to monitor compliance with this Easement.
2. To enter the Protected Property at such other times as are necessary if Grantee has a reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Easement. Such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property.

C. **Injunction and Restoration.** To enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Easement, including trespasses by members of the public, and to require or undertake the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Easement, all in accordance with Section X.

D. **Enforcement.** To enforce the terms of this Easement, consistent with Section X.

E. **Assignment.** To assign, convey or otherwise transfer Grantee's interest in the Protected Property in accordance with Section XV.



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## V. PROHIBITED USES AND ACTIVITIES

**A. General.** Any use of, or activity on, the Protected Property inconsistent with the Purpose of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of this subsection, the following uses of, or activities on, the Protected Property, though not an exhaustive list, are inconsistent with the Purpose of this Easement and shall be prohibited; except as expressly permitted in Section VI.

**B. Subdivision and Development Rights.** The legal division, subdivision, or partitioning of the Protected Property is prohibited, even if that portion of the Protected Property constitutes a separate legal parcel. This restriction does not prohibit minor boundary line adjustments with adjoining agricultural land, provided that such boundary line adjustments do not result in any net loss of acreage to the Protected Property, that no new parcel may be created by such boundary line adjustments, and that such boundary line adjustments do not affect over two (2) acres in total for the entire Protected Property. Any new land gained through a boundary line adjustment shall be subject to the terms of this Easement. Grantor shall not exercise its development rights in the Protected Property, transfer such development rights to any other portion of the Protected Property as it is now or hereafter may be bounded or described or to any other property adjacent to the Protected Property or otherwise, nor use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of the Protected Property or adjacent property.

**C. Construction.** The placement or construction of any residential buildings, structures, or other residential improvements of any kind is prohibited, except as expressly permitted in Subsection VI.B, and the placement or construction of any commercial or industrial buildings, structures, or other improvements of any kind is prohibited, except those which minimize impacts to the prime and important soils, are clustered near existing buildings or structures, do not exceed the 5% impervious surface requirements set forth in Subsection V.D, and are otherwise consistent with the terms of this Easement.

**D. Impervious surface.** The total area covered by structures of any kind and impervious surfaces such as rooftops, gravel, asphalt, or concrete shall be limited to no more than five percent (5%) of the area of the Protected Property.

**E. Recreation.** The following forms of recreation are prohibited on the Protected Property: golf courses; commercial use of motorized or mechanized recreational vehicles such as motorcycles, snowmobiles and dune buggies; commercial overnight camping; athletic fields; use of the property for any commercial public recreation; and other developed recreational uses of the Protected Property which require special buildings, structures, or facilities. Undeveloped recreational uses, and the leasing of such uses for economic gain, may be permitted insofar as they are consistent with the Purpose and terms of this Easement.

**F. Erosion or Water Pollution.** Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited, including the use of manure lagoons or disposal of wastewater in manners inconsistent with the terms of this Easement.

**G. Waste Disposal.** Except as expressly permitted in Section VI, the disposal or storage of rubbish, garbage, debris, vehicles, abandoned equipment, parts thereof, or other unsightly, offensive, or hazardous



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waste or material on the Protected Property is prohibited. Spreading of sludge and wastewater on agricultural land is prohibited.

**H. Commercial Signs.** The placement of commercial signs, billboards, or other advertising material on the Protected Property is prohibited; except in connection with the on-site sale of agricultural products, sale or lease of the Protected Property, or to state the conditions of access to the Protected Property.

**I. Mining.** The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Protected Property is prohibited. The extraction of rock, dirt, sand, and gravel shall be permitted only if removal of such material is necessary to carry out other permitted activities on the Protected Property, is limited to no more than one acre total of the Protected Property, and will not interfere with the Conservation Values of the Protected Property. Grantor shall use all practical means to mitigate any adverse effect on the Conservation Values of the Protected Property in carrying out any permitted extractive activities, and upon completion of said permitted extractive activities, Grantor shall promptly restore any portion of the Protected Property affected thereby as nearly as possible to its condition existing prior to commencement thereof.

**J. Kennels.** Kennels as defined in the Skagit County Zoning Ordinance are prohibited.

**K. Farm Worker Housing.** Construction or placement of farm worker housing is prohibited.

## **VI. PERMITTED USES AND ACTIVITIES**

**A. General.** Grantor reserves for itself and its personal representatives, heirs, successors and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of the Easement and that is not prohibited by this Easement. Without limiting the generality of this subsection, Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities.

**B. Agricultural Use.** Grantor may maintain and practice agricultural activities and may construct agricultural buildings, structures and improvements on the Protected Property subject to the surface coverage limitation set forth in Subsection V.D; provided that such activities and construction are carried out in compliance with federal, state, and local regulations, any new buildings, structures and improvements are sited to minimize the impact to prime, unique, and important soils, and are otherwise consistent with the terms of this Easement. Agricultural uses include: Agronomy, farming, dairying, pasturage, apiculture, horticulture, floriculture, animal and poultry husbandry, and the cultivation, management and harvest of forest crops. Prior to initiating any new construction, alteration or improvement which requires a development permit or approval from Skagit County, Grantor must submit a plan to Grantee for review. The plan must indicate the desired location and size of the improvements and the amount of impervious surfaces associated with the improvement.

**C. Roads.** Grantor may maintain, renovate, expand or replace existing roads or construct new roads necessary to serve agricultural uses and activities on the Protected Property subject to the surface coverage limitation set forth in Subsection V.D. The design and location of any such construction,

  
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renovation, expansion, or replacement shall be subject to the prior written notice of Grantee, and maintenance of the roads may not adversely impact the Conservation Values of the Protected Property.

**D. Agriculture-Related Commercial Activities.** Grantor may process, store and sell agricultural products produced principally on-site, provided such activities occur within the designated farmstead complex.

**E. Fences.** Grantor may construct and maintain fences on the Protected Property.

**F. Composting, Use and Storage of Agricultural Wastes.** Grantor may compost, use and store agricultural waste and by products on the Protected Property that are produced on the Protected Property, consistent with the Purpose of this Easement; provided that any such wastes that are stored are stored temporarily in appropriate containment for removal at reasonable intervals and in compliance with applicable federal, state, and local laws, and provided that such composting, use, and storage shall not be located in the critical areas shown in Exhibit B.

**G. Drainage structures.** Grantor may construct and maintain drainage structures, including ditches, tubes, pipes, pumps, gates or other facilities and appurtenances for enhancement of drainage systems.

**H. Paving and Grading.** Grantor may grade and/or pave portions of the Protected Property consistent with the Purpose of this Easement and subject to the surface coverage limitations set forth in Subsection V.D; provided that such grading and paving shall be limited to that necessary to serve agricultural uses and other permitted uses on the site. Prior to initiating any grading activities requiring a permit from Skagit County or any paving activities, the Grantor must provide written notice to the Grantee.

**I. Creation of Mortgage Liens.** Grantor may create consensual liens, whether by mortgage, deed of trust, or otherwise, for the purpose of indebtedness of Grantor, so long as such liens remain subordinate to the Easement.

**J. Emergencies.** Grantor may undertake other activities necessary to protect public health or safety on the Protected Property, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible.

**K. Utilities.** Grantor may maintain, renovate, expand existing utilities or install new utilities to serve permitted uses on the Protected Property, provided that their installation will not conflict with the Purpose of this Easement, and the impact to prime, unique, and important soils is minimized.

## VII. CONSERVATION PLAN

As required by Section 1238I of the Food Security Act of 1985, as amended, Grantor, and its heirs, successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Skagit County Conservation District. This conservation plan shall be developed using standards and specifications of the Part 12 that are in effect on the date



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this Easement is executed. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Protected Property, with advance notice to Grantor, in order to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve (12) months, to take corrective action. If Grantor does not comply with the conservation plan, NRCS will inform Grantee of Grantor's noncompliance. Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (1) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of execution of this Easement based on an Act of Congress, NRCS will work cooperatively with Grantor to develop and implement a revised conservation plan. The provisions of this Section apply to the highly erodible land conservation requirements of the Farm and Ranchland Protection Program and are not intended to affect other natural resources conservation requirements to which Grantor may be or become subject.

## VIII. NOTICE

### A. Notice.

1. Grantor. The following permitted uses and activities require Grantor to notify Grantee in writing prior to undertaking the use or activity:

- a) construction of any buildings, structures or improvements requiring a permit from Skagit County (and Subsection VI.B);
- b) road construction (and Subsection VI.C);
- c) grading activities requiring a permit from Skagit County (and Subsection VI.H); and
- d) paving (and Subsection VI.H).

The purpose of requiring Grantor to notify Grantee prior to undertaking these permitted uses and activities is to afford Grantee an adequate opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the Purpose and terms of this Easement. Whenever such notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the use or activity in question. Grantor may notify Grantee at the time of permit application, for concurrent review, or may provide notice and initiate review prior to permit application, at the Grantor's discretion. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose of this Easement.

B. Optional Consultation. If Grantor is unsure whether a proposed use or activity is prohibited by this Easement, Grantor may consult Grantee by providing Grantee a written notice describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in



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sufficient detail to permit Grantee to make an informed judgment as to the consistency with the Purpose of this Easement and to provide comments thereon to Grantor for the purposes of this Easement only.

C. **Addresses.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class certified mail, postage prepaid, addressed as follows:

To Grantor: Daniel H. Miller and Carol J. Miller  
16573 Green Lane  
Burlington, WA 98233

Daniel H. Miller for Sterling Hill, LLC  
16573 Green Lane  
Burlington, WA 98233

To Grantee: Farmland Legacy Program  
700 South Second St., Rm. 202  
Mount Vernon, WA 98273

To NRCS: State Conservationist: Gus Highbanks  
USDA - Natural Resources Conservation Service  
316 W. Boone Ave., Suite 450  
Spokane, WA 99201-2348

or to such other address as either party designates by written notice to the other.

## IX. DISPUTE RESOLUTION: GRANTEE'S REMEDIES

A. **Preventive Discussions.** Grantor and Grantee will promptly give the other notice of problems or concerns arising in connection with the parties' actions under this Easement or the use of or activities or conditions on the Protected Property, and will meet as needed, but no later than 15 days after receipt of a written request for a meeting, to minimize the same.

B. **Optional Alternative Dispute Resolution.** If a dispute is not resolved through preventive discussions under subsection A, Grantor and Grantee may by mutual agreement submit the matter to mediation or arbitration upon such rules of mediation or arbitration as Grantor and Grantee may agree.

## X. GRANTEE'S REMEDIES

A. **Notice of Violation, Corrective Action.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.





**B. Grantor's Failure to Respond.** Grantee may bring an action as provided in subsection C if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or
2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

**C. Grantee's Action.**

1. **Injunctive Relief.** Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:
  - a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
  - b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.
2. **Damages.** Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of Conservation Values. Without limiting Grantor's liability in any way, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected Property.

**D. Emergency Enforcement.** If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

**E. Scope of Relief.** Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

**F. Costs of Enforcement.** In the event Grantee must enforce the terms of this Easement, the costs of restoration necessitated by acts or omissions of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Easement and Grantee's reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. In the event that Grantee secures

ing or completing a judicial



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proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor and those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity.

**G. Grantee's Discretion.** Grantee acknowledges its commitment to protect the Purpose of the Easement. Enforcement of the terms of the Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term or any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver of such term or any of Grantee's rights under this Easement. No grant by Grantee in its governmental or regulatory capacity of any building permit, grading permit, land use approval or other development approval shall be deemed or construed to be a waiver of any term or any of Grantee's rights under this Easement.

**H. Waiver of Certain Defenses.** Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

**I. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

**J. Estoppel Certificates.** Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

## **XI. ACCESS BY PUBLIC NOT REQUIRED**

This Easement does not provide and shall not be construed as providing, the general public access to any portion of the Protected Property.



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## **XII. COSTS, LIABILITIES AND INSURANCE, TAXES, ENVIRONMENTAL COMPLIANCE, AND INDEMNIFICATION**

**A. Costs, Legal Requirements, Liabilities and Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall prevent the perfection of any liens against the Protected Property arising out of any work performed for, material furnished to, or obligations incurred by Grantor.

**B. Taxes.** Grantor shall pay all taxes levied against the Protected Property by government authority as they become due, and shall furnish Grantee with satisfactory evidence of payment upon request. If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

**C. Representations and Warranties.** Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:

1. Grantor and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use;
2. There has been no release, dumping, burying, abandonment or migration from off-site on the Protected Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful in violation of any federal, state or local law, regulation, statute, or ordinance;
3. Neither Grantor nor Grantor's predecessors in interest have disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal Superfund (42 U.S.C. § 9601 et seq.) or state Model Toxics Control Act (RCW 70.105D.010 et seq.) ("MTCA") sites; and
4. There is no pending or threatened litigation affecting the Protected Property or any portion of the Protected Property that will materially impair the Conservation Values of any portion of the Protected Property. No civil or criminal proceedings have been instigated or are pending against Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and Grantor has not received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.



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**D. Remediation.** If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic or dangerous to the air, water or soil, or in any way harmful or threatening to human health or environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee should be responsible for remediation.

**E. Control.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee or the United States to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operation with respect to the Protected Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA"), and MTCA.

**F. Indemnification.** Grantor hereby agrees to release and hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the personal representatives, heirs, successors, and assigns of each of them together with the United States (collectively "Indemnified Parties") 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 from or in any way connected with:

1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; and
2. The obligations, covenants, representations and warranties in subsections A, B, C, and D of this section.

### **XIII. EXTINGUISHMENT, CONDEMNATION AND SUBSEQUENT TRANSFER**

**A. Extinguishment.** If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction and only upon a finding and declaration to that effect. The amount of the proceeds to which Grantee and the United States shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Washington law at the time, in accordance with Section XIII.B, Valuation, of this Easement.

**B. Valuation.** In the event of an extinguishment pursuant to Subsection A, or the taking of all or part of the Protected Property by the exercise of the power of eminent domain, then Grantee and the United States, through the Department of Agriculture, are entitled to their proportional share each of gross sale proceeds or condemnation award representing an amount equal to the ratio of the appraised value of this Easement to the unrestricted fair market value of the Property as these values are determined on the date of this Deed. The proportional shares of the Grantee and the United States, through the Department of Agriculture, are 50% and 50% respectively, representing the proportion each party contributed to the purchase.



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**C. Condemnation.** If all or any of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to extinguish this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interest in the Protected Property subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as provided by applicable law, Grantor and Grantee agree that Grantee's share of the balance of the amount recovered shall be determined by the method described in Subsection B, with the remainder due to the Grantor. Due to its interest in this Easement, the United States must consent prior to the commencement of any condemnation action.

**D. Application of Proceeds.** Grantee shall return any proceeds received under the circumstances described in this Section XIII to Skagit County's Conservation Futures Fund (or successor fund) for use in purchasing conservation easements or development rights on other eligible sites under the program (or successor program.)

**E. Subsequent Transfers.** Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest;
2. Describe this Easement in and append it to any executory contract for the transfer of any interest in the Protected Property;
3. Obtain a certificate from the purchaser, leaseholder or other party gaining an interest in all or part of the Protected Property and any financier, acknowledging their awareness of this Easement and their intent to comply with it. Such certificate shall be appended to and recorded with any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Protected Property; and
4. Give written notice to Grantee of the transfer of any interest in all or a portion of the Protected Property no later than forty-five (45) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of Grantor to perform any act required by this subsection shall not impair the validity of this Easement or limit its enforceability in any way.

**F. Contingent Right in the United States of America.** In the event that Skagit County, Washington, fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Skagit County, Washington attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this Easement without the prior consent of the Secret



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consideration to the United States, then, at the option of such Secretary, all right, title, and interest in this Easement shall become vested in the UNITED STATES OF AMERICA.

#### XIV. AMENDMENT

This Easement may be amended by the execution and delivery of an amended Easement deed, but only with the written consent of Grantor, Grantee and the United States. The Grantee's consent shall not be given without prior consultation with the authorized representative of the United States Secretary of Agriculture. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will diminish the effectiveness of this Easement in carrying out the Purpose of the Easement in any way and that only those amendments which strengthen the effectiveness of the Easement in carrying out the Purpose of the Easement shall be permitted. Any such amendment shall not affect the perpetual duration of the Easement and shall be recorded in the official records of Skagit County, Washington, and any other jurisdiction in which such recording is required.

#### XV. ASSIGNMENT

This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to the Grantee's judicially appointed successor, and must obtain prior approval of the assignment from the United States. As a condition of such transfer, Grantee shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Easement. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

#### XVI. RECORDING

Grantee shall record this instrument in a timely fashion in the official records of Skagit County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

#### XVII. GENERAL PROVISIONS

A. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington, except with respect to the requirements of the United States Farm and Ranchland Protection Program which shall be governed by the laws of the United States.

B. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. **Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid



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provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

**D. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section XIV.

**E. No Forfeiture.** Nothing contained in this Easement will result in a forfeiture or reversion of Grantor's title in any respect.

**F. "Grantor" - "Grantee".** The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include, respectively the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Grantee, its personal representatives, successors and assigns.

**G. Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

**H. Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**I. Joint and Several.** The obligations imposed by this Easement upon Grantor shall be joint and several.

**J. Counterparts.** The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

#### **XVIII. SCHEDULE OF EXHIBITS**

- A.** Legal Description of Property Subject to Easement.
- B.** Site Plan and Baseline Documentation.



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TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 25 day of June, 2004.

Sterling Hill L.L.C.

By: Norm W. Nelson, Jr., Member

By: James N. Nelson, Member

Daniel H. Miller  
Daniel H. Miller

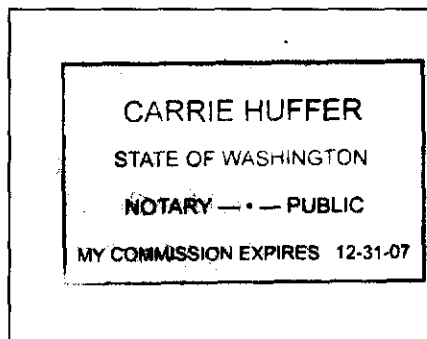
Carol J. Miller  
Carol J. Miller

Daniel H. Miller  
Daniel H. Miller for Sterling Hill, LLC  
Member

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that Daniel H. Miller, James N. Nelson & Norm W. Nelson, Jr. is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Members of Sterling Hill L.L.C. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 25, 2004



(Use this space for notarial stamp/seal)

Carrie Huffer  
Notary Public  
Print Name Carrie Huffer  
My commission expires 12/31/2007

3249  
SKAGIT COUNTY WASHINGTON  
Real Estate Excise Tax  
PAID

JUN 25 2004

Amount Paid \$ 13,795.00  
Skagit County Treasurer  
By: Deputy



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## ACKNOWLEDGMENT

ATTACHED TO and made a part  
of Grant Deed of Conservation Easement

STATE OF Washington }  
County of Skagit } SS:

I certify that I know or have satisfactory evidence that Daniel H. Miller and Carol J. Miller is the person s who appeared before me, and said person s acknowledged that they signed this instrument and acknowledged it to be they free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: June <sup>25<sup>th</sup></sup> 2004

  
Carrie Huffer  
Notary Public in and for the State of Washington  
Residing at Burlington  
My appointment expires: 12/31/2007

CARRIE HUFFER  
STATE OF WASHINGTON  
NOTARY — • — PUBLIC  
MY COMMISSION EXPIRES 12-31-07



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The BOARD OF COUNTY COMMISSIONERS does hereby accept the above Grant Deed of Conservation Easement.

**Dated:**

Dated: June 14, 2004

SKAGIT COUNTY, WASHINGTON

  
Ted W. Anderson, Chairman

Ted W. Anderson, Chairman

Don Murb

**Don Munks, Commissioner**

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

THIS EASEMENT HAS PREVIOUSLY BEEN APPROVED AS TO FORM BY THE SKAGIT COUNTY PROSECUTING ATTORNEY.

STATE OF WASHINGTON )

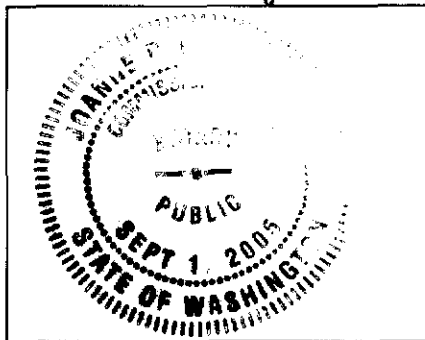
SS.

COUNTY OF SKAGIT )

I certify that I know or have satisfactory evidence that the Skagit County Commissioners are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

Dated: June 14, 2004



(Use this space for notarial stamp/seal)

June P. Casbreel

**Notary Public**

Print Name JOANNE P. GIESBRECHT

My commission expires 09/01/05



Skagit County Auditor

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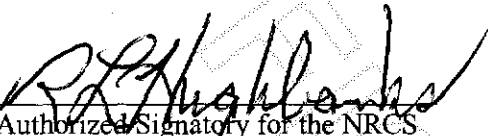
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ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES CONSERVATION SERVICE

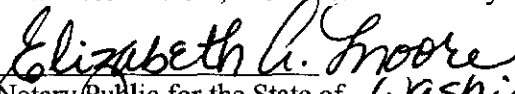
The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed therein, on behalf of the United States of America.

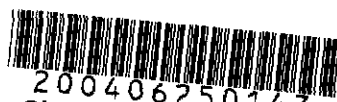
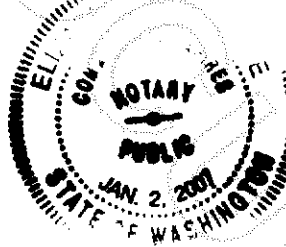
  
Authorized Signatory for the NRCS

State of Washington  
County of Spokane

On this 1<sup>st</sup> day of June, 2004, before me, the undersigned, a Notary Public in and for the State, personally appeared R.L. Highbanks known or proved to me to be the person whose signature appears above, and who being duly sworn by me, did say that s/he is the State Conservationist of the Natural Resources Conservation Service, United States Department of Agriculture, is authorized to sign on behalf of the agency, and acknowledged and accepted the rights conveyed by the deed to be her/his voluntary act and deed.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

  
Notary Public for the State of Washington  
Residing at Spokane, WA  
My Commission Expires Jan 2, 2007



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## EXHIBIT A

### Legal Description

#### Parcel "A"

That portion of the East  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of Section 20, Township 35 North, Range 4 East, W.M., described as follows:

Beginning at the Northeast corner of said subdivision;  
thence North  $89^{\circ}35'45''$  West along the North line of said subdivision, a distance of 283.35 feet;  
thence South  $0^{\circ}23'40''$  East, parallel with the East line of said subdivision, a distance of 25.00 feet to the South right of way line of the Cook Road and the true point of beginning;  
thence South  $0^{\circ}23'40''$  East, a distance of 2,632.09 feet to the South line of the Southwest  $\frac{1}{4}$  of Section 20;  
thence North  $89^{\circ}15'20''$  West along the South line of said Southwest  $\frac{1}{4}$ , a distance of 1,043.92 feet to the Southwest corner of said East  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of Section 20;  
thence North  $0^{\circ}23'35''$  West along the West line of said subdivision, a distance of 332.58 feet to the center of the Olympic Marsh Drainage Ditch;  
thence South  $89^{\circ}15'20''$  East along the centerline of said ditch 241.05 feet to the beginning of a curve to the left having a radius of 80 feet;  
thence along said curve through a central angle of  $89^{\circ}55'40''$ , an arc distance of 125.56 feet;  
thence North  $0^{\circ}49'$  East along the centerline of said ditch, a distance of 913.78 feet to the South line of the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 20;  
thence North  $89^{\circ}25'32''$  West along the South line of said subdivision, a distance of 4.86 feet to a point on the West line of the East 990 feet of said Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 20;  
thence North  $0^{\circ}23'40''$  East along the West line of said East 990 feet, a distance of 1,301.44 feet to the South right of way line of the Cook Road;  
thence South  $89^{\circ}34'45''$  East along said road, a distance of 706.75 feet to the true point of beginning,

EXCEPT the right of way for the County road known as the Cook Road along the North line thereof, which right of way includes property conveyed to Skagit County by Auditor's File No. 770212,

ALSO EXCEPT that portion conveyed to Skagit County for road by Deed recorded December 21, 1999, under Auditor's File No. 199912210013.

Situate in the County of Skagit, State of Washington.

#### Parcel "B":

The West  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Section 20, Township 35 North, Range 4 East, W.M., EXCEPT the East 855 feet thereof, AND EXCEPT the North 25 feet thereof conveyed to Skagit County for road purposes by Deeds recorded April 25, 1894, under Auditor's File No. 19199, in Volume 28 of Deeds, page 549, and recorded June 27, 1972, under Auditor's File No. 770212, records of Skagit County, Washington, ALSO EXCEPT that portion conveyed to Skagit County for road recorded December 21, 1999, under Auditor's File No. 199912210015.

Situate in the County of



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**Parcel "C":**

The East 283.32 feet of the Southwest  $\frac{1}{4}$  of Section 20, Township 35 North, Range 4 East, W.M. (as measured at right angles to the East line thereof), EXCEPT the North 25 feet thereof conveyed to Skagit County for road purposes by deeds recorded April 25, 1894, under Auditor's File No. 19199, in Volume 28 of Deeds, page 549, and recorded June 27, 1972, under Auditor's File No. 770212, records of Skagit County, Washington, ALSO EXCEPT that portion conveyed to Skagit County for road by Deed recorded December 21, 1999, under Auditor's File No. 199912210014.

Situate in the County of Skagit, State of Washington.

**Parcel "D":**

The East 855 feet of the West  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Section 20, Township 35 North, Range 4 East, W.M., EXCEPT the three following described tracts:

1. The East 24.75 feet thereof;
2. The North 20 feet thereof as conveyed to Skagit County for road purposes by deed dated November 16, 1893, and recorded April 25, 1894, under Auditor's File No. 19199;
3. Beginning at the Northeast corner of the Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 20, said point being 1,319.42 feet from the East  $\frac{1}{4}$  corner of said Section 20;  
thence North  $89^{\circ}35'45''$  West, along the North line of said subdivision, 492.14 feet;  
thence South  $1^{\circ}24'45''$  East, along an existing fence line, 396.15 feet;  
thence South  $89^{\circ}35'45''$  East parallel with said North line of said subdivision, 486.12 feet to the East line of said Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 20;  
thence North  $0^{\circ}32'30''$  West, along said East line, 396.00 feet to the true point of beginning.
4. The North 31 feet of the remainder as conveyed to Skagit County by Deed recorded November 19, 1999, as Auditor's File No. 199911190065.

Situate in the County of Skagit, State of Washington.

**Parcel "E":**

The South  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 21, Township 35 North, Range 4 East, W.M., EXCEPT the East 20 feet conveyed to Skagit County for road purposes by Deed dated April 14, 1910, and recorded May 3, 1910, under Auditor's File No. 79227, in Volume 81 of Deeds, page 53, being a portion of Tract "B" of Revised Short Plat No. 86-78, approved October 26, 1978, and recorded October 27, 1978, under Auditor's File No. 890223.

Situate in the County of Skagit, State of Washington.

**Parcel "F":**

The Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 28, Township 35 North, Range 4 East, W.M., EXCEPT the East 20 feet thereof conveyed to Skagit County for road purposes by Deed dated April 14, 1910, and recorded May 3, 1910, in Volume 81 of Deeds, page 53, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.



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**Parcel "G":**

The West ½ of the Southwest ¼ of Section 21, Township 35 North, Range 4 East, W.M., EXCEPT the South ½ of the Southwest ¼ of the Southwest of said Section, AND EXCEPT the North 25 feet thereof conveyed to Skagit County for road purposes by Deeds recorded under Auditor's File No. 19199, in Volume 28 of Deeds, page 549, and Auditor's File No. 770324, records of Skagit County, Washington, AND EXCEPT the East 20 feet thereof conveyed to Skagit County for road purposes by deed recorded under Auditor's File No. 79227, in Volume 81 of Deeds, page 53, records of Skagit County, Washington, AND EXCEPT that portion thereof lying within the North 30 feet of the East 125 feet of the West 1,166.01 feet of said subdivision, as conveyed to Skagit County for road purposes by Deed recorded under Auditor's File No. 890414, records of Skagit County, Washington, AND ALSO EXCEPT that portion thereof lying within the boundaries of the following described tract:

Tract "A" of Short Plat No. 86-78, approved October 26, 1978, and recorded October 27, 1978, under Auditor's File No. 890223, in Volume 3 of Short Plats, page 35, records of Skagit County, Washington; being a portion of the Northwest ¼ of the Southwest ¼ of Section 21, Township 35 North, Range 4 East, W.M., ALSO EXCEPT that portion conveyed to Skagit County for road by Deed recorded September 15, 1999, under Auditor's File No. 199909150102.

Situate in the County of Skagit, State of Washington.

**Parcel "H":**

The Southwest ¼ of the Northwest ¼ of Section 28, Township 35 North, Range 4 East, W.M., EXCEPT the East 30 feet thereof conveyed to Skagit County for road purposes by Deeds dated April 27, 1911, and April 20, 1911, and recorded May 8, 1911, in Volume 85 of Deeds, pages 319 and 321, records of Skagit County, Washington, ALSO EXCEPT the following described tract:

The South 500.00 feet of the East 730.00 feet of the Southwest ¼ of the Northwest ¼ of Section 28, Township 35 North, Range 4 East, W.M., EXCEPT the East 30 feet thereof conveyed to Skagit County for road purposes by Deeds dated April 27, 1911, and April 20, 1911, in Volume 85 of Deeds, pages 319 and 321, records of Skagit County, Washington.

ALSO TOGETHER WITH the Southeast ¼ of the Northeast ¼ of Section 29, Township 35 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington.

**Parcel "I":**

The South 500.00 feet of the East 730.00 feet of the Southwest ¼ of the Northwest ¼ of Section 28, Township 35 North, Range 4 East, W.M., EXCEPT the East 30 feet thereof conveyed to Skagit County for road purposes by Deeds dated April 27, 1911, and April 20, 1911, in Volume 85 of Deeds, pages 319 and 321, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.

**Parcel "J":**

The North ½ of the Northeast ¼ of Section 29, Township 35 North, Range 4 East, W.M.



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TOGETHER WITH a non-exclusive easement for ingress and egress, over and across the West 20 feet of the East 24.75 feet of the West ½ of the Southeast ¼ of Section 20, Township 35 North, Range 4 East, W.M., EXCEPT the North 20 feet thereof conveyed to Skagit County for road purposes.

Situate in the County of Skagit, State of Washington.



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**EXHIBIT B**

**Site Plan & Baseline Documentation**

See Attached Photographs and Baseline Documentation Acknowledgement



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**BASELINE DOCUMENTATION ACKNOWLEDGMENT**

This letter between Skagit County's Farmland Legacy Program (hereafter "FLP") and the following named Landowner(s) (hereafter "Landowner"), acknowledges that the attached baseline documentation, consisting of site and aerial photograph(s) provided by Skagit County's GIS/Mapping Services, truly and accurately represents the subject property identified in this easement document. This letter further acknowledges that the appraisal conducted by Timmers Appraisal Services on January 16, 2004, accurately represents property conditions at the time of easement encumbrance:

Name: Mr. Daniel Miller

Address: P.O. Box 3022

Burlington, WA 98233

Executed this 28th day of April, 2004.

Landowner(s): Dan H Miller

on behalf of Daniel Miller,

Carol Miller, and

Sterling Hill, LLC

Farmland Legacy Program [Signature]



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Description of photographs and aerial photos attached:

1. 2001 Aerial Photograph identifying subject property
2. Looking South along Gardner Road. Subject property (dairy) to the right (courtesy Timmers Appraisal Services photograph, January 16, 2004).
3. Looking Northwest; subject property potato storage facility on Gardner Road (courtesy Timmers Appraisal Services photograph, January 16, 2004).
4. Looking East along Cook Road. Subject property to the right (courtesy Timmers Appraisal Services photograph, January 16, 2004).
5. Irrigation lagoon and pump house near subject property's West boundary (courtesy Timmers Appraisal Services photograph, January 16, 2004).
6. Looking North along subject property's West boundary from location North of lagoon (courtesy Timmers Appraisal Services photograph, January 16, 2004).
7. Looking Northeast across subject property from location North of lagoon (courtesy Timmers Appraisal Services photograph, January 16, 2004).
8. Looking Northwest across subject property from location at Gardner Road (courtesy Timmers Appraisal Services photograph, January 16, 2004).
9. Looking Southwest across subject property at Burlington Hill from location at Gardner Road (courtesy Timmers Appraisal Services photograph, January 16, 2004).

See Appraisal Dated January 16, 2004, conducted by Timmers Appraisal Services.



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FLP AD

Date 4-28-04

Landowner *DW*

## 2001 Aerial Photograph – Su

B-4

**Timmers Appraisal Services**  
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

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## Subject Property Photograph



Looking south along Gardner Road. Subject dairy is to the right.

Landowner DAK

Date 4-28-04

FLP

AD

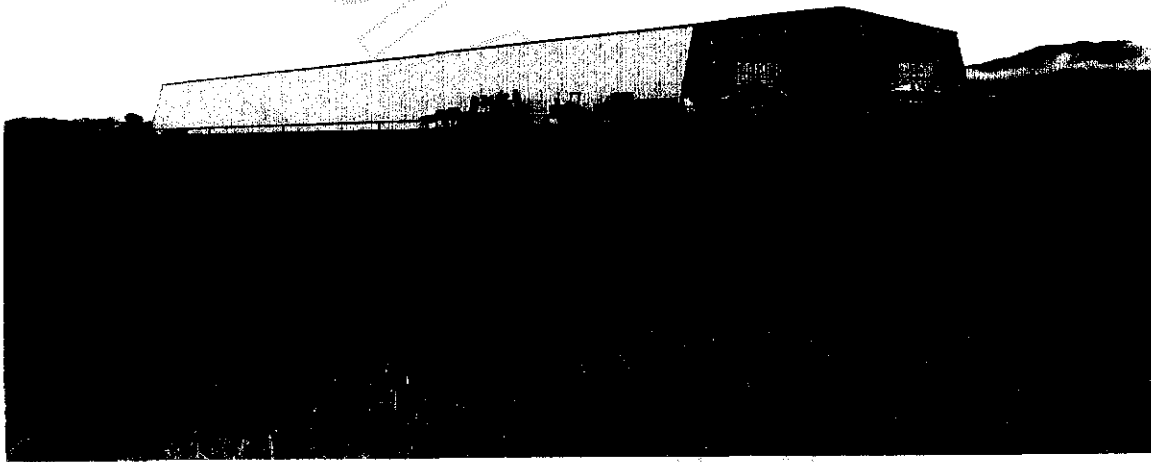
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**Subject Property Photograph**



Subject potato storage facility on Gardner Road.

Landowner

*[Signature]*

Date

4-28-04

FLP

*AD*

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3:58PM

**Timmers Appraisal Services**

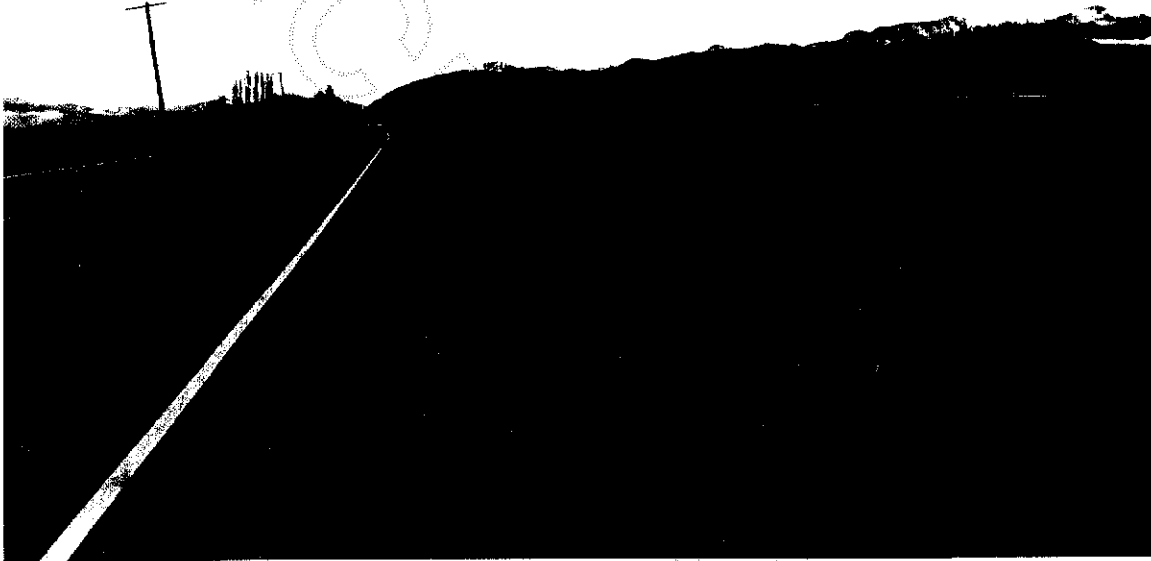
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

SKAGIT COUNTY  
Contract # C20040253

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## Subject Property Photograph



Looking east along Cook Road. Subject property is to the right.

Landowner DAH

Date 4-28-04

FLP AD

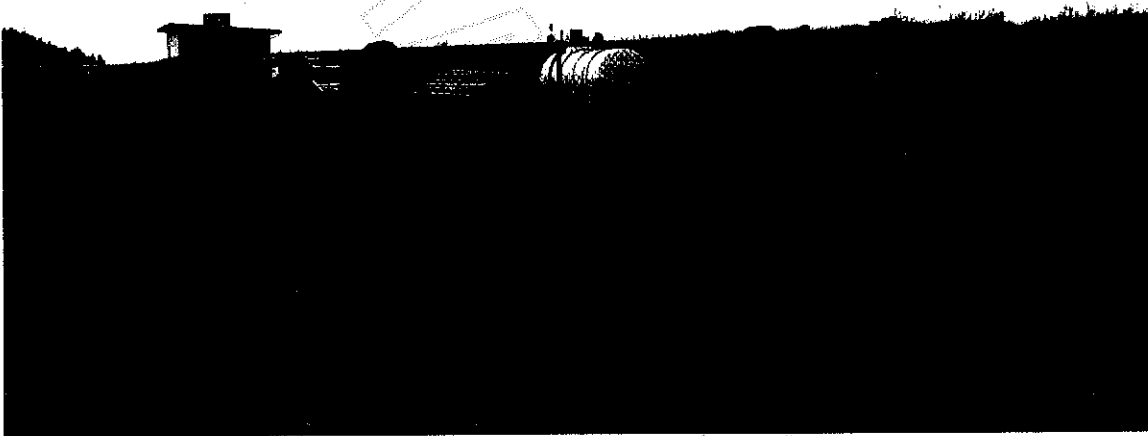
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## Subject Property Photograph



Irrigation lagoon and pump house near property's west boundary.

Landowner DAW

Date 4-28-04

FLP AD

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**Timmers Appraisal Services**  
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

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## Subject Property Photograph



Looking north along property's west boundary from location north of lagoon.

Landowner *Debra M*

Date 4-28-04

FLP AD

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**Timmers Appraisal Services**  
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

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## Subject Property Photograph



Looking northeast across subject land from location north of lagoon.

Landowner *[Signature]*

Date 4-28-04

FLP AD

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**Timmers Appraisal Services**  
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

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**Subject Property Photograph**



Looking northwest across subject land from location at Gardner Road.

Landowner DJM

Date 4-28-04

FLP AD

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**Timmers Appraisal Services**  
Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

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## Subject Property Photograph



Looking southwest across subject land at Burlington Hill from location at Gardner Road.

Landowner

DB/GM

Date

4-28-04

FLP

AD

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**Timmers Appraisal Services**

Conservation easement on Miller property - 410± acres  
Cook and Gardner Roads, Skagit County, Washington

SKAGIT COUNTY  
Contract # C20040253

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## EXHIBIT C

When recorded return to:

Skagit County Farmland Legacy Program  
County Administration Building  
700 South Second Street, Rm. 202  
Mount Vernon, WA 98273

Grantor: DANIEL H. MILLER and CAROL J. MILLER, husband and wife; and STERLING HILL, LLC, a  
Washington limited liability company  
Grantee: SKAGIT COUNTY

### Legal Description

Abbreviated form: See legal at Exhibit A.

Assessor's Tax Parcel Number: P38059, P38057, P38056, P37979, P37978, P37977, P37976, P37022, P37021,  
P37016, P36989, P37987, P36987, P36984, P36969, P36967

Reference number(s) of related/assigned/released documents: \_\_\_\_\_  
Reference(s) to document(s) appears on page(s) \_\_\_\_\_

## SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. Northwest Farm Credit Services, FLCA ("Subordinator") is the owner and holder of a mortgage dated April 23, 1992, which was recorded under Auditor's File No. 9204290066, on April 29, 1992, records of Skagit County;
2. Skagit County ("Grantee") is the holder of a conservation easement dated June 14, 2004, executed by Grantor (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;
3. Daniel H. Miller and Carol J. Miller, husband and wife, and Sterling Hill, LLC, a Washington limited liability company ("Grantor"), are the owners of all the real property described in the conservation easement identified above in Paragraph 2.
4. In consideration of benefits to Subordinator from Owner, receipt and sufficiency of which is hereby acknowledged, and as required by Treasury Regulation § 170A-14(g)(2) for any conservation easement transaction with anticipated federal income, gift or estate tax benefits to

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the property owner, the Subordinator does hereby unconditionally subordinate the lien of the mortgage identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2; provided, however, that such subordination does not preclude Subordinator from exercising its foreclosure rights against the entire subject property.

5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage first above mentioned to the conservation easement in favor of Easement Holder above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage to be thereafter executed.
6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

Executed this 14th day of May, 2004.

SUBORDINATOR

[Signature]  
(Name)

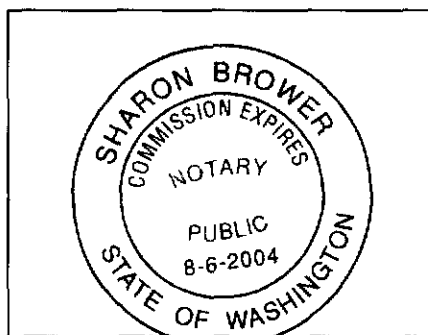
SUBORDINATOR

\_\_\_\_\_  
(Name)

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Dennis L. Jones 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 Authorized Agent of Northwest Farm Credit Services, FLCA to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: May 14, 2004



(Use this space for notarial stamp/seal)

Sharon Brower  
Notary Public  
Print Name Sharon Brower  
My commission expires 8/6/04

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## EXHIBIT C

When recorded return to:

Skagit County Farmland Legacy Program  
County Administration Building  
700 South Second Street, Rm. 202  
Mount Vernon, WA 98273

Grantor: DANIEL H. MILLER and CAROL J. MILLER, husband and wife; and STERLING HILL, LLC, a Washington limited liability company

Grantee: SKAGIT COUNTY

### Legal Description

Abbreviated form: See legal at Exhibit A.

Assessor's Tax Parcel Number: P38059, P38057, P38056, P37979, P37978, P37977, P37976, P37022, P37021, P37016, P36989, P37987, P36987, P36984, P36969, P36967

Reference number(s) of related/assigned/released documents: \_\_\_\_\_

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


## SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. Skagit State Bank ("Subordinator") is the owner and holder of deed of trusts and assignment of rents dated December 6, 2001 & May 28, 2003, which was recorded under Auditor's File No's 200112310130, 200112310131, 200306060214, 200306060215, on December 31, 2001 & June 6, 2003, records of Skagit County;
2. Skagit County ("Grantee") is the holder of a conservation easement dated June 14, 2004, executed by Grantor (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;
3. Daniel H. Miller and Carol J. Miller, husband and wife, and Sterling Hill, LLC, a Washington limited liability company ("Grantor"), are the owners of all the real property described in the conservation easement identified above in Paragraph 2.

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4. In consideration of benefits to Subordinator from Owner, receipt and sufficiency of which is hereby acknowledged, and as required by Treasury Regulation § 170A-14(g)(2) for any conservation easement transaction with anticipated federal income, gift or estate tax benefits to

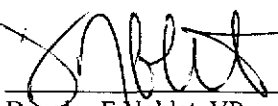


the property owner, the Subordinator does hereby unconditionally subordinate the lien of the mortgage identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2; provided, however, that such subordination does not preclude Subordinator from exercising its foreclosure rights against the entire subject property.

5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage first above mentioned to the conservation easement in favor of Easement Holder above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage to be thereafter executed.
6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

Executed this 25th day of June, 2004.

SUBORDINATOR

  
\_\_\_\_\_  
Douglas E Noblet, VP  
Skagit State Bank

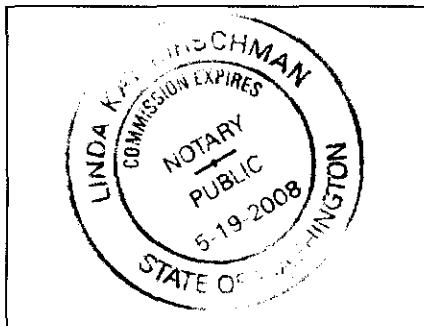
SUBORDINATOR

\_\_\_\_\_  
(Name)

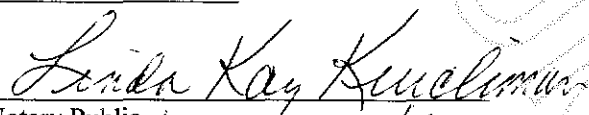
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Douglas E Noblet 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 Vice President of Skagit State Bank to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.


Dated: June 25, 2004



(Use this space for notarial stamp/seal)

  
Notary Public  
Print Name Linda Kay Kirschman  
My commission expires 5/19/08

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Skagit County Auditor  
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