

**DRAFT AGREEMENT
GCA 4542**

THIS AGREEMENT is made and entered into this 12th day of July, 2006, between the STATE OF WASHINGTON, Department of Transportation, hereinafter the "STATE," 1043 Goldenrod Road, Suite 101, Burlington, WA 98233-3415, and Skagit Transit, a municipal corporation, 600 County Shop Lane, Burlington, WA 98233-9772, hereinafter "SKAT."

WHEREAS, SKAT and the STATE are planning the construction of a 300-stall park and ride lot that will contain a bus island to be used by the regional bus system, hereinafter called "PROJECT," and

WHEREAS, a sufficiently sized parcel is needed for development of the PROJECT, and

WHEREAS, Revised New Parcel A, a portion of WSDOT parcel 1-22325, in the NE ¼ of the NE ¼ and in the North ½ of the South ½ of the NE ¼, all in Section 31, T. 35 N., R. 4 E., WM in Skagit County, Washington as shown on a record of survey which was recorded in Skagit County on August 25, 2005, and referred to as Exhibit A, attached hereto and by this reference made a part of this AGREEMENT, hereinafter "PARCEL A," is consistent with the needs of the PROJECT, and

WHEREAS, the 2005 Legislature has directed the STATE to acquire the property for the PROJECT pursuant to, ESSB 6091, by partially funding up to \$3,000,000 for the PROJECT's right of way costs and up to \$1,000,000 for the PROJECT's design and preliminary engineering cost, for a total amount of Four Million Dollars (\$4,000,000.00), and

WHEREAS, SKAT has received funding for and is otherwise authorized to contribute to the right-of-way (ROW) acquisition for the PROJECT,

NOW, THEREFORE, pursuant to chapter 39.34, the Interlocal Cooperation Act, and in consideration of the provisions, covenants, terms, conditions and performances contained herein or attached and incorporated and made part hereof, the PARTIES MUTUALLY AGREE AS FOLLOWS:

1. GENERAL

1. Appropriations

- 1.1 The STATE has been allocated Three Million Dollars (\$3,000,000.00) for ROW acquisition of the PROJECT.

- 1.2 SKAT has appropriated funds to contribute to ROW acquisition, per subsection 2.2 of this AGREEMENT.
- 1.3 SKAT agrees to appropriate all additional funds needed to complete construction of the PROJECT and to operate and maintain the facility after completion of the PROJECT. The PARTIES agree to enter into a separate construction and funding agreement to complete the PROJECT. The PARTIES further agree that they will enter into an operation and maintenance agreement for the park and ride facility at the same time as the construction and funding agreement.

2. **Right-of-Way and Payment**

- 2.1 The STATE shall acquire fee title to PARCEL A pursuant to the provisions of chapter 8.26 RCW. Title shall vest in the STATE. If the STATE proposes to administratively acquire the parcel at a cost higher than the STATE's appraisal and appropriated funding, the STATE shall consult with SKAT to determine a jointly approved acquisition amount. The STATE shall attempt to acquire the property prior to June 30, 2007.
- 2.2 SKAT agrees to pay the STATE's actual direct and indirect acquisition costs that exceed \$3,000,000.00 up to but not to exceed Eight Hundred Fifty Thousand Dollars (\$850,000.00). If it becomes necessary for the STATE to acquire the property through eminent domain, the PARTIES agree to amend this AGREEMENT to provide for the payment of just compensation, interest, litigation costs, including but not limited to reasonable attorneys fees and expert fees, and other costs that might be awarded pursuant to statute.
- 2.3 STATE shall invoice SKAT for the amount as agreed upon pursuant to Section 2.1. SKAT agrees to make payment of this amount to the STATE immediately upon receipt of the STATE's invoice.

3. **Termination**

- 3.1 This AGREEMENT may be terminated by the STATE if the STATE cancels the PROJECT prior to acquisition of ROW.
- 3.2 This AGREEMENT may terminate upon mutual agreement in writing by both PARTIES.

4. **Disputes:**

In the event that a dispute arises under this AGREEMENT, it shall be resolved as follows: SKAT and the STATE shall each appoint a member to a disputes board, these two members shall select a third member not affiliated with either Agency. The decision made by this board shall be final and binding on the PARTIES to this AGREEMENT. Costs associated with the third member shall be shared equally at the STATE's and SKAT's expense.

5. **General Provisions**

5.1 **Modification**

No modification of this AGREEMENT is valid unless evidenced in writing by amendment to this AGREEMENT and signed by both PARTIES. No verbal agreement may supersede, replace or amend this section.

5.2 **Assignment**

Neither PARTY to this AGREEMENT shall transfer or assign any right or obligation hereunder without the prior written consent of the other PARTY.

5.3 **Severability**

Should any section, term or provision of this AGREEMENT be determined to be invalid, the remainder of this AGREEMENT shall not be affected and the same shall continue in full force and effect.

6. **Venue:**

In the event that a PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the PARTIES hereto agree that any such action or proceedings shall be brought in the superior court situated in Thurston County, Washington.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the day and year last below written.

SKAGIT TRANSIT

**STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION**

Dale O'Brien

By (print)

Dale S. O'Brien

Signature

Executive Director

Title

6-23-06

Date

Todd L. Harrison, P.E.

By (print)

Todd L. Harrison

Signature

Assistant Regional Administrator Mount Baker Area

Title

7/12/06

Date

Approved As To Form:

Approved As To Form:

Richard J. Langabeer

By (print)

Richard J. Langabeer

Signature

Legal Counsel for SKAT

Title

6-27-06

Date

Ann E. Salay

By (print)

Ann E. Salay

Signature

Assistant Attorney General

Title

6-16-06

Date

DESCRIPTIONS

PROPOSED DESCRIPTIONS

REVISED NEW PARCEL A

"NEW PARCEL A" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, AND IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, ALL IN SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., EXCEPT THAT PORTION THEREOF LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID "NEW PARCEL A"; THENCE SOUTH 89°09'19" EAST 987.96 FEET ALONG THE SOUTH LINE OF SAID "NEW PARCEL A" TO A POINT THAT IS NORTH 89°09'19" WEST 180.06 FEET FROM THE WEST LINE OF NORTH GARL STREET (NOW BURLINGTON BLVD.); SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 02°22'25" EAST 529.99 FEET PARALLEL WITH SAID WEST LINE OF NORTH GARL STREET TO THE NORTH LINE OF SAID "NEW PARCEL A" AND THE TERMINUS OF SAID LINE.

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, ROADWAY AND UTILITIES AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN A PORTION OF SAID "NEW PARCEL A" AND "NEW PARCEL C" AS DELINEATED ON SAID RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

PARCEL F

"NEW PARCEL A" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, AND IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, ALL IN SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., EXCEPT THAT PORTION THEREOF LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHWEST CORNER OF SAID "NEW PARCEL A"; THENCE SOUTH 89°09'19" EAST 987.96 FEET ALONG THE SOUTH LINE OF SAID "NEW PARCEL A" TO A POINT THAT IS NORTH 89°09'19" WEST 180.06 FEET FROM THE WEST LINE OF NORTH GARL STREET (NOW BURLINGTON BLVD.); SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 02°22'25" EAST 529.99 FEET PARALLEL WITH SAID WEST LINE OF NORTH GARL STREET TO THE NORTH LINE OF SAID "NEW PARCEL A" AND THE TERMINUS OF SAID LINE.

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, ROADWAY AND UTILITIES AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN A PORTION OF SAID "NEW PARCEL A" AND "NEW PARCEL C" AS DELINEATED ON SAID RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

PARCEL "E"

A PORTION OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., LYING EAST OF PRIMARY STATE HIGHWAY NO. 1 (NOW INTERSTATE NO. 5), AS CONVEYED TO THE STATE OF WASHINGTON BY DEED DATED AUGUST 3, 1955 AND RECORDED SEPTEMBER 22, 1955, IN VOLUME 273 OF DEEDS, PAGE 548, UNDER AUDITOR'S FILE NO. 524515, RECORDS OF SKAGIT COUNTY, WASHINGTON.

EXCEPT OLD HIGHWAY 99 ALONG THE EAST LINE THEREOF, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH A DISTANCE OF 330 FEET ALONG THE WEST LINE OF NORTH GARL STREET (NOW BURLINGTON BLVD.); THENCE WEST PARALLEL WITH THE SOUTH LINE 132 FEET; THENCE SOUTH PARALLEL WITH NORTH GARL STREET 330 FEET; THENCE EAST 132 FEET ALONG THE SOUTH LINE TO THE POINT OF BEGINNING.

AND ALSO "REVISED NEW PARCEL C" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, OF SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M.,

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, ROADWAY AND UTILITIES AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN A PORTION OF "NEW PARCEL A" AND "NEW PARCEL C" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

EXISTING DESCRIPTION

P30141

"NEW PARCEL A" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, AND IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, ALL IN SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M.,

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, ROADWAY AND UTILITIES AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN A PORTION OF SAID "NEW PARCEL A" AND "NEW PARCEL C" AS DELINEATED ON SAID RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

P30151

"REVISED NEW PARCEL C" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4, OF SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M.,

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS, ROADWAY AND UTILITIES AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON, IN A PORTION OF "NEW PARCEL A" AND "NEW PARCEL C" AS DELINEATED ON RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200401070083, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

P102507

A PORTION OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., LYING EAST OF PRIMARY STATE HIGHWAY NO. 1 (NOW INTERSTATE NO. 5), AS CONVEYED TO THE STATE OF WASHINGTON BY DEED DATED AUGUST 3, 1955 AND RECORDED SEPTEMBER 22, 1955, IN VOLUME 273 OF DEEDS, PAGE 548, UNDER AUDITOR'S FILE NO. 524515, RECORDS OF SKAGIT COUNTY, WASHINGTON.

EXCEPT OLD HIGHWAY 99 ALONG THE EAST LINE THEREOF, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH A DISTANCE OF 330 FEET ALONG THE WEST LINE OF NORTH GARL STREET (NOW BURLINGTON BLVD.); THENCE WEST PARALLEL WITH THE SOUTH LINE 132 FEET; THENCE SOUTH PARALLEL WITH NORTH GARL STREET 330 FEET; THENCE EAST 132 FEET ALONG THE SOUTH LINE TO THE POINT OF BEGINNING.

SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

AUDITOR'S CERTIFICATE



200508250052
Skagit County Auditor

8/26/2005 Page 1 of 2 11:30AM

AT THE REQUEST OF SEMRAU ENGINEERING & SURVEYING P.L.L.C.

N. Bummert

SKAGIT COUNTY AUDITOR

Jane Fraser
DEPUTY

EXHIBIT A
Sheet 1 of 2
GCA 4542

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF EINER KNUTZEN TRUST

J. B. Semrau
JOHN B. SEMRAU, P.E., P.L.S., CERTIFICATE NO 28626
SEMRAU ENGINEERING & SURVEYING, P.L.L.C.
2118 RIVERSIDE DRIVE SUITE 208
MOUNT VERNON, WA 98273
PHONE 360-424-9566

8-24-05
DATE



APPROVED

REVIEWED AND APPROVED IN ACCORDANCE WITH BURLINGTON MUNICIPAL CODE

CITY OF BURLINGTON, WASHINGTON.

BY: *Margaret St. Patrick*
TITLE: *Planning Director*

DATE: 8/24/05

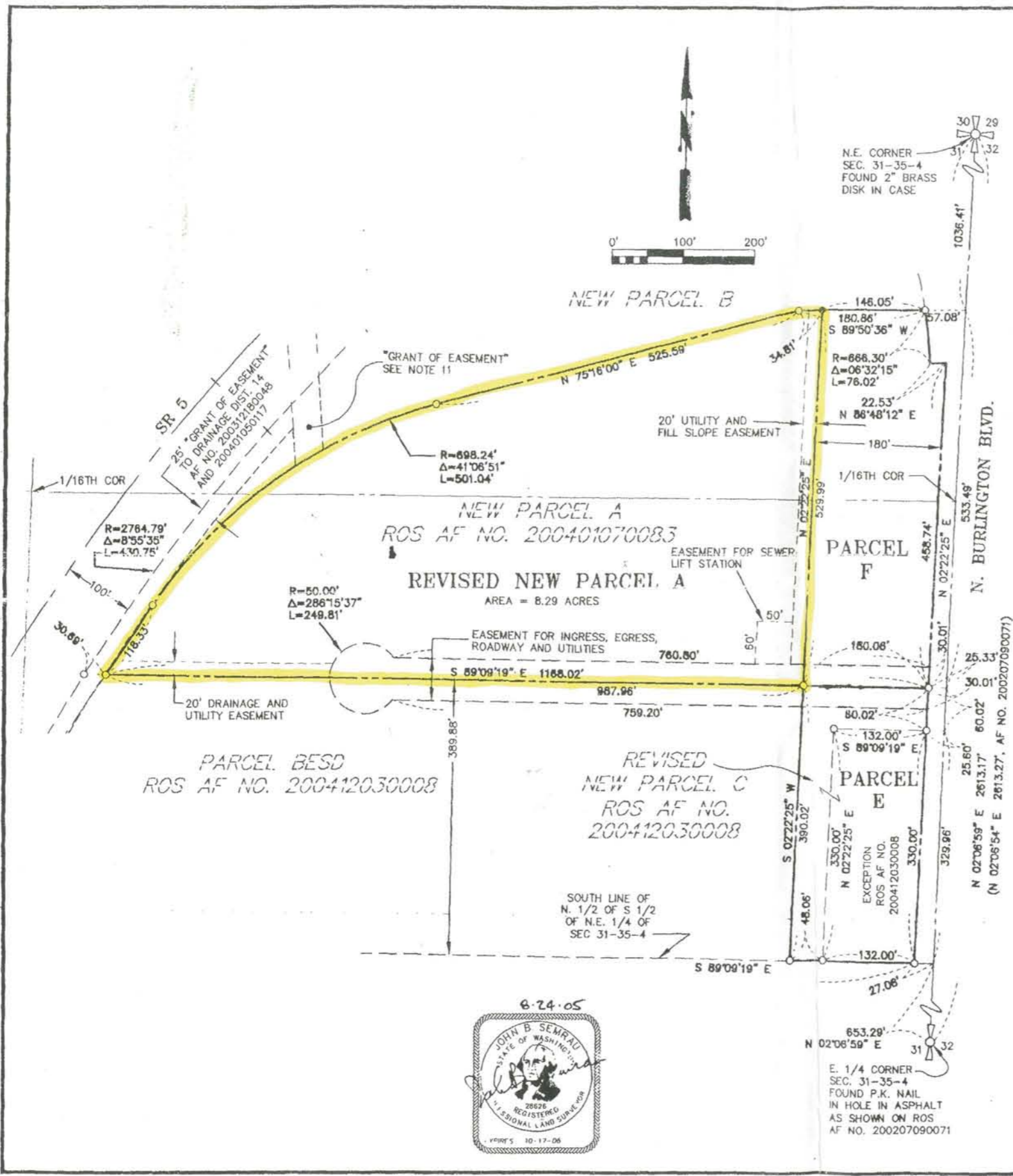
SHEET 1 OF 2

BOUNDARY LINE ADJUSTMENT
SURVEY IN THE N.E. 1/4
SKAGIT COUNTY, WASHINGTON
SECTION 31, T. 35 N., R. 4 E., W.M.
FOR: EINER KNUTZEN TRUST

FB. LL. PG. 24-26	SEMRAU ENGINEERING & SURVEYING SURVEYING • ENGINEERING • PLANNING MOUNT VERNON, WA 98273 360-424-9566	SCALE: 1" = 100' JOB NO. 4252
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DRAWING FILE: 4252BLA-2.DWG 8/02/05

EXHIBIT A
 Sheet 2 of 2
 GCA 4542



NOTES

- - INDICATES IRON REBAR SET WITH YELLOW CAP - SURVEY NUMBER SEMRAU 28626
- - INDICATES EXISTING REBAR OR IRON PIPE FOUND.
- THE DESCRIPTIONS FOR THIS SURVEY ARE FROM RECORD OF SURVEY RECORDED UNDER AUDITOR'S FILE NO. 200412030008, RECORDS OF SKAGIT COUNTY, WASHINGTON.
- BASIS OF BEARINGS: EAST LINE OF N.E. 1/4 OF SECTION 31-35-4. BEARING = N 02°06'59" E.
- ALL DISTANCES ARE SHOWN IN FEET.
- INSTRUMENTATION: LEICA TCA 1105 THEODOLITE DISTANCE METER, LEICA SR 520 GPS GEODETIC RECEIVERS, NIKON AE-5 OPTICAL LEVEL.
- SURVEY PROCEDURE: STANDARD FIELD TRAVERSE AND RTK GPS.
- THIS SURVEY WAS REQUESTED BY RONALD KNUTZEN, FOR EINER C. KNUTZEN TESTAMENTARY TRUST.
- THIS SURVEY MAY SHOW OCCUPATIONAL INDICATORS AS PER W.A.C. CHAPTER 332.130. LINES OF OCCUPATION MAY INDICATE AREAS FOR POTENTIAL CLAIMS OF UNWRITTEN OWNERSHIP. THIS BOUNDARY SURVEY HAS ONLY SHOWN THE RELATIONSHIP OF LINES OF OCCUPATION TO THE DECEDED LINES OF RECORD. NO RESOLUTION OF OWNERSHIP BASED ON UNWRITTEN RIGHTS HAS BEEN MADE OR IMPLIED BY THIS SURVEY.
- EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS SURVEY MAP, THIS SURVEY DOES NOT PURPORT TO REFLECT ALL OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, BUILDING SETBACKS LINES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, ZONING OR OTHER LAND-USE REGULATIONS AND ANY OTHER FACTS.
- THIS PROPERTY IS SUBJECT TO TERMS AND CONDITIONS OF VARIOUS INSTRUMENTS, AGREEMENTS, LEASES, COVENANTS, RESTRICTIONS, AND EASEMENTS INCLUDING BUT NOT LIMITED TO THOSE INSTRUMENTS RECORDED AS AUDITOR'S FILE NUMBERS 199200, 456951, 503130, 523966, 524515, 827953, 780181, B10862, SUPERIOR COURT CAUSE NOS 24859 AND 25266, AS DISCLOSED IN STEWART TITLE GUARANTY COMPANY ORDER NO. T-80041, DATED AUGUST 20, 1996.
- "GRANT OF EASEMENT" TO DRAINAGE DIST. 14 AF NO. 200312180048 AND 200401050117. THIS IS A PORTION OF AN EASEMENT TO DRAINAGE DIST. 14 AS DESCRIBED IN INSTRUMENT RECORDED UNDER AF NO. 456951. SAID EASEMENT WAS RELEASED THROUGH NEW PARCELS A AND C BY "RELINQUISHED OF EASEMENT" RECORDED AS AF NO. 200312180047.



SHEET 2 OF 2

**BOUNDARY LINE ADJUSTMENT
 SURVEY IN THE N.E. 1/4
 SKAGIT COUNTY, WASHINGTON
 SECTION 31, T. 35 N., R. 4 E., W.M.
 FOR: EINER KNUTZEN TRUST**

FB. LL	PG. 24-26	SEMRAU ENGINEERING & SURVEYING SURVEYING • ENGINEERING • PLANNING MOUNT VERNON, WA 98273 360-421-9586	SCALE: 1" = 100' JOB NO. 4252
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DRAWING FILE: 4252BLA-2.DWG 8/12/06