

WHEN RECORDED RETURN TO:



Skagit County Auditor
12/9/2014 Page

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\$84.00

Chicago Title Insurance Company

425 Commercial Street, Mount Vernon, Washington 98273

620022766

DOCUMENT TITLE(s)

CONSENT AGREEMENT

GRANTOR(s):

1. **BANK OF THE WEST**
- 2.

GRANTEE(s):

1. **NEWSTAR BUSINESS CREDIT**
2. **SKAGIT RESPE LLC**
- 3.

☐ Additional names on page _____ of the document

ABBREVIATED LEGAL DESCRIPTION:

PTN NW 32-34-4

☐ Complete legal description is on page 10 of the document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(s):

For APN/Parcel ID(s): P29541 / 340432-2-026-0004, P29385 / 340432-0-034-0008, P29545 / 340432-2-029-0001, P29539 / 340432-2-025-0005, P29527 / 340432-2-017-0005, P29524 / 340432-2-015-0007, P29522 / 340432-2-014-0008, P106106 / 340432-2-011-0400, P106105 / 340432-2-011-0300, P21493 / 340312-0-002-0001, P21495 / 340312-0-004-0009 and P21740 / 340313-0-058-0003

☐ (sign only if applicable) I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature _____

This cover sheet is for the County Recorder's indexing purposes only.

The Recorder will rely on the information provided on the form and will not read the document to verify the accuracy or completeness of the indexing information provided herein.

CONSENT AGREEMENT

THIS CONSENT AGREEMENT (this "Consent") is entered into as of December 4, 2014, by BANK OF THE WEST, a California chartered bank ("Bank of the West"), for the benefit of NEWSTAR BUSINESS CREDIT, as administrative agent (in such capacity, together with its successors and assigns in such capacity, "NewStar") and SKAGIT RESPE LLC, a Washington limited liability company ("Skagit RESPE").

RECITALS

A. Skagit RESPE and Skagit Real Estate Holdings, LLC, a Washington limited liability company ("Skagit REH"), and Bank of the West are party to a Credit Agreement (Term Loan) dated as of June 30, 2008 (together with all amendments, supplements, exhibits, and modifications thereto, the "Bank of the West Credit Agreement").

B. In connection with and as a condition to the obligation of Bank of the West to make the first extension of credit under the Bank of the West Credit Agreement, Skagit RESPE entered into that certain Deed of Trust (Non-Construction) Security Agreement and Fixture Filing With Assignment of Rents dated as of June 30, 2008 (together with all amendments, supplements, exhibits, and modifications thereto, the "Bank of the West Deed of Trust"), which was recorded on July 1, 2008 in the records of Skagit County, Washington under Auditor's No. 200807010070, encumbering certain real and personal property as therein described (collectively, the "Subject Property"), including the land described in Exhibit A which is attached hereto and made a part hereof.

C. Skagit Gardens, Inc., a Washington corporation, Skagit TPPSPE LLC, a Washington limited liability company, Skagit RESPE, Skagit REH, NewStar and NewStar Business Credit, LLC, as lender, and the other lenders from time to time party thereto are entering into the certain Loan and Security Agreement dated as of December 4, 2014 (together with all amendments, supplements, exhibits, and modifications thereto, the "NewStar Credit Agreement"). Pursuant to the NewStar Credit Agreement, Skagit RESPE, Skagit REH and Skagit Gardens, Inc. ("Skagit Gardens") each shall grant to NewStar a continuing security interest and lien in and to all of its personal property now owned and hereafter acquired, including without limitation, accounts, inventory, farm products ("Farm Products"), equipment and other goods, instruments, promissory notes, chattel paper, letters of credit, documents and documents of title and other personal property of any kind, all books and records, and all accessions to, substitutions for and replacements, products and proceeds of any of the foregoing (collectively, the "NewStar Personal Property Collateral").

D. In connection with and as a condition to the obligation of the lenders under the NewStar Credit Agreement to make extensions of credit thereunder, Skagit RESPE is entering into the certain Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated as of December 4, 2014 (together with all amendments, supplements, exhibits, and modifications thereto, the "NewStar Deed of Trust") encumbering the Subject Property.

E. It is a further condition to the obligation of the lenders under the NewStar Credit Agreement to make the first extension of credit thereunder that Bank of the West shall have executed and delivered this Agreement to NewStar.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration receipt of which is hereby acknowledged, Bank of the West hereby agrees as follows:



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AGREEMENT

1. Consent.

(a) Notwithstanding any contrary provision contained in the Bank of the West Credit Agreement, the Bank of the West Deed of Trust, or any other document, instrument or agreement, whether now or hereafter existing, evidencing, documenting, securing or otherwise relating to the Bank of the West Credit Agreement (the "Bank of the West Loan Documents") or the term loan evidenced thereby (the "Bank of the West Loan"), Bank of the West hereby consents to (a) Skagit RESPE executing and entering into the NewStar Deed of Trust and the recording of same in the records of Skagit County, Washington and (b) the lien and encumbrance of the Subject Property created by the NewStar Deed of Trust.

(b) NewStar acknowledges that in the event of a default under the Bank of the West Loan Documents, Bank of the West shall have the right to exercise one or more of the default remedies available to it under the Bank of the West Loan Documents and applicable law in any order it elects, and has the right to forbear from exercising any such remedy or to waive any default, at its sole discretion. NewStar waives any right to require marshalling of assets by Bank of the West.

(c) Bank of the West acknowledges that in the event of a default under the NewStar Credit Agreement, NewStar shall have the right to exercise one or more of the default remedies available to it under the NewStar Credit Agreement and applicable law in any order it elects, and has the right to forbear from exercising any such remedy or to waive any default, at its sole discretion. Bank of the West waives any right to require marshalling of assets by NewStar.

2. Priorities. NewStar acknowledges and agrees that the lien on the Subject Property, including all fixtures and appurtenances (excluding Farm Products) thereto and the rents and profits derived from any lease of the Subject Property, evidenced by the Bank of the West Deed of Trust is and shall remain prior and superior to the lien on the Subject Property evidenced by the NewStar Deed of Trust. Bank of the West acknowledges and agrees that NewStar's security interest and lien on the NewStar Personal Property Collateral (including without limitation Farm Products, but excluding any other NewStar Personal Property Collateral, if any, that constitutes fixtures attached to any improvements located on the Subject Property or any appurtenances thereto or rents and profits derived from any lease of the Subject Property) evidenced by the NewStar Credit Agreement is and shall remain prior and superior to any security interest or lien now or hereafter claimed by Bank of the West in any property included in the NewStar Personal Property Collateral, whether evidenced by the Bank of the West Deed of Trust or otherwise, and until all obligations owing to NewStar or the lenders under the NewStar Credit Agreement have been paid in full and all comments to extend credit thereunder have been terminated, Bank of the West agrees that it will not take any action to foreclose, repossess or otherwise exercise remedies against or in respect of any NewStar Personal Property Collateral.

3. Notice and Opportunity to Cure. Without limiting Section 2, concurrently with or promptly after sending to Skagit RESPE any notice of default or event of default or any notice of foreclosure or other notice of the exercise or intended exercise of any remedies under the Bank of the West Deed of Trust, Bank of the West agrees to deliver to NewStar a copy of any such notice and further agrees that NewStar shall have an opportunity to cure any default or event of default identified in any such notice for up to 30 days after NewStar's receipt of such copy.



4. Access and Use. Bank of the West agrees that NewStar or its representatives or contractors may enter upon the Subject Property at any time (but after NewStar's receipt of a Remedies Notice, subject to Section 4) without any interference by Bank of the West to inspect, repossess, remove or otherwise deal with any NewStar Personal Property Collateral. Without limiting the foregoing, NewStar may advertise and conduct public auctions or private sales of any NewStar Personal Property Collateral, or sever, harvest and remove any Farm Products, at or on the Subject Property, in each case, without hindrance or interference by Bank of the West. NewStar shall promptly repair, at NewStar's expense, any physical damage to the Subject Property (ordinary wear and tear excluded) actually caused by NewStar or its representatives, contractors or invitees in taking any such action. NewStar shall not be liable for any diminution in value of the Subject Property caused by the absence of any NewStar Personal Property Collateral from the Subject Property. Notwithstanding anything herein to the contrary, NewStar shall have no duty or obligation to remove or dispose of any NewStar Personal Property Collateral.

5. Agent's Right to Occupy the Subject Property. If, within ten (10) days after NewStar's receipt from Bank of the West of a Remedies Notice, NewStar notifies Bank of the West of NewStar's election to have continued access to the Subject Property for the purposes described in Section 4, NewStar may enter, occupy and remain on the Subject Property for such purposes for the period from the date of such notification by NewStar through the earlier of (a) any date specified in writing by NewStar to Bank of the West and (b) the later of (i) 90 days after NewStar's receipt of such Remedies Notice or (ii) the date that is 90 days after the last date that any growing crops that are NewStar Personal Property Collateral are customarily harvested in the region in which such crops are located (such period, as applicable, the "Access Period").

6. Obligations During Access Period. In consideration of NewStar's access to the Subject Property during the Access Period as provided by Section 5, NewStar agrees to pay to Bank of the West an amount equal to current scheduled payments (pro-rated on a daily basis, based upon a year of 360 days, for any period of less than one calendar month) of principal and accrued interest payable solely during the Access Period by Skagit RESPE to Bank of the West under the Bank of the West Credit Agreement as in effect on the date of this Agreement, to the extent such amount is not paid by Skagit RESPE, any such amount to be payable by NewStar to Bank of the West (a) in arrears on the first day of each calendar month during the Access Period, for the portion of the Access Period from the first day thereof during the preceding calendar month through the last day of such calendar month, and (b) within 15 days after expiration of the Access Period, for the portion of the Access Period from the last day of the preceding calendar month through the date of such expiration. NewStar shall provide maintain liability and property insurance coverage with respect to the Subject Property during the Access Period. NewStar's obligations with respect to its access to the Subject Property during the Access Period are limited as provided herein, and NewStar shall have no obligation with respect to any payments to Bank of the West except as expressly provided herein.

7. Representations and Warranties. Bank of the West represents and warrants to NewStar that it has not previously assigned any interest in the Bank of the West Loan or any of the Bank of the West Loan Documents and that no other person or entity owns any interest in the Bank of the West Loan any of the Bank of the West Loan Documents.

8. Severability of Provisions. If any provision of this Consent shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Consent.



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9. Counterparts. This Consent may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Consent.

10. Successors, Assigns, Transferees. This Consent shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transferees.

11. Governing Law. This Consent shall be governed by and construed in accordance with the laws of the State of Washington.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

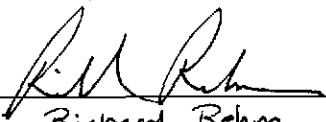
[SIGNATURE PAGE FOLLOWS]



201412090087

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be executed as of the day and year first written above.

BANK OF THE WEST

By: 
Name: Richard Rehm
Title: Vice President

Acknowledged and agreed:

NEWSTAR BUSINESS CREDIT, LLC,
as administrative agent

By: _____
Name: Greg Gentry
Title: Portfolio Manager



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[Signature Page to Consent Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be executed as of the day and year first written above.

BANK OF THE WEST

By: _____
Name: _____
Title: _____

Acknowledged and agreed:

NEWSTAR BUSINESS CREDIT, LLC,
as administrative agent

By: *Greg Gentry*
Name: Greg Gentry
Title: Portfolio Manager



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[Signature Page to Consent Agreement]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Riverside

On 12-3-2014 before me,

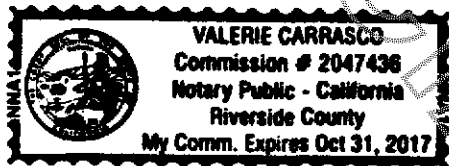
Valerie Carrasco, Notary Public

personally appeared

Richard Behm

Here Insert Name and Title of the Officer

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Valerie Carrasco

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Consent Agreement

Document Date:

12-4-2014

Number of Pages:

9

Signer(s) Other Than Named Above:

N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Richard Behm

☐ Individual

☒ Corporate Officer — Title(s):

Vice President

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
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RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



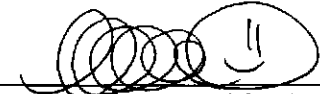
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STATE OF TEXAS

COUNTY OF Dallas

§
§
§

This instrument was acknowledged before me on December 4, 2014, by Greg Gentry, personally known to me or proven on the basis of satisfactory evidence to be the Portfolio Manager of NewStar Business Credit, LLC, a Delaware limited liability company, which executed the foregoing document, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the said limited liability company.


Notary Public in and for the State of Texas

Melanie Lee
Printed Name of Notary

My Commission Expires: 04/05/16



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[Signature Page to Consent Agreement]

EXHIBIT A
(Description of Property)

The land referred to in this Exhibit A is situated in the State of Washington, County of Skagit, and is described as follows:

PARCEL A:

The North 165 feet of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT roads;

AND EXCEPT the South 45 feet of the West 120 feet thereof lying East of the former U.S. Highway 99;

AND ALSO EXCEPT all that portion thereof lying East of a line 295 feet West of Drainage Ditch No. 17.

PARCELS B and C:

That portion of the North 165 feet of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, lying East of the drainage ditch of Drainage District No. 17;

Also the East 60 feet of that portion of the North 165 feet of the Southwest Quarter of the Northwest Quarter of said Section 32, lying West of aforesaid drainage ditch;

AND EXCEPT that portion of said premises conveyed to the State of Washington for Primary State Highway No. 1, by deed recorded February 17, 1972, under Auditor's File No. 764259, records of Skagit County, Washington.

TOGETHER WITH a non-exclusive easement for ingress and egress over and across the North 16.5 feet of said Southwest Quarter of the Northwest Quarter lying West of a point 60 feet West of aforesaid drainage ditch and East of Old Highway 99.

PARCEL D:

That portion of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at the intersection of the North line of said subdivision with a point 60 feet West of the West line of the drainage ditch of Drainage District No. 17;

Thence South 165 feet;

Thence West 235 feet;

Thence North 165 feet;

Thence East 235 feet to the point of beginning.

PARCEL E:

That portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter, 30 feet East of the Southwest corner thereof, said point being the East line of the State Highway "99" right of way, as said highway existed on January 7, 1954;



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Thence East along the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter, 188 feet;

Thence North parallel with the West line of said subdivision 200 feet;

Thence West 188 feet to the East line of said State Highway right of way;

Thence South along the East line of said highway right of way, 200 feet to the point of beginning;

TOGETHER WITH that portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning a point on the South line of said North Half of the South Half of said Northwest Quarter of the Northwest Quarter, 30 feet East of the Southwest corner thereof, said point being on the East line of the State Highway 99 right of way, as said highway existed on January 7, 1954;

Thence North along the East line of said State Highway right of way, 200 feet;

Thence East 144 feet to the true point of beginning;

Thence continue East 44 feet;

Thence North parallel to the West line of said Northwest Quarter, 8.0 feet;

Thence West 44 feet;

Thence South 8.0 feet to the true point of beginning;

EXCEPT the North 6.13 feet thereof;

AND ALSO TOGETHER WITH the following described parcel:

The South 1.87 feet of the West 144.00 feet of that portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the East line of the State Highway, 200 feet North of the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter of said Section 32; Thence East 144 feet;

Thence North parallel to the West line of said Northwest Quarter of the Northwest Quarter, 8 feet;

Thence East 44 feet, more or less, to a line which is distant 218 feet East of and parallel to the West line of said Northwest Quarter of the Northwest Quarter;

Thence North along said parallel line 122 feet, more or less, to the North line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter;

Thence West along said North line 188 feet, more or less, to the East line of said State Highway;

Thence South along said East line 130 feet to the point of beginning.

PARCEL F:

The North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT the West 218 feet thereof;

AND EXCEPT that portion thereof conveyed to the State of Washington for highway purposes by deed dated January 29, 1953 and recorded March 12, 1953, under Auditor's File No. 485836, records of Skagit County, Washington and deed recorded December 21, 1971, under Auditor's File No. 762101, records of Skagit County, Washington;



PARCEL G:

The South half of the South half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

AND EXCEPT Old State Highway 99 along the West line thereof;

AND ALSO EXCEPT that portion conveyed to the State of Washington for Primary State Highway No. 1 along the East line thereof, by deed dated February 3, 1953, recorded March 12, 1953, under Auditor's File No. 485839, records of Skagit County, Washington;

AND ALSO EXCEPT that portion thereof condemned by the State of Washington for highway purposes in Skagit County Superior Court Cause No. 33040.

PARCEL H:

Lot 2 of SKAGIT COUNTY SHORT PLAT NO. 94-033, approved September 26, 1944 and recorded September 30, 1997, in Volume 11 of Short Plats, pages 121 and 122, under Auditor's File No. 9409300084, records of Skagit County, Washington; being a portion of the North Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL I:

Lot 3 of SKAGIT COUNTY SHORT PLAT NO. 94-033, approved September 26, 1944 and recorded September 30, 1997, in Volume 11 of Short Plats, pages 121 and 122, under Auditor's File No. 9409300084, records of Skagit County, Washington; being a portion of the North Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL J and L:

Government Lot 7 of Section 12, Township 34 North, Range 3 East of the Willamette Meridian, and a tract of land in the Northeast Quarter of the Northeast Quarter of Section 13, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at the Northeast corner of said Section 13;

Thence South 83°31' West along the North line of said Section 13, a distance of 1,273.6 feet, more or less, to the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 13;

Thence South along the West line of said Northeast Quarter of the Northeast Quarter, a distance of 160.6 feet;

Thence South 89°33' East, a distance of 1,275 feet, more or less, to the East line of said Section 13;

Thence North along the East line of said Section, a distance of 314.8 feet, more or less, to the point of beginning;

EXCEPT the East 40 feet of that portion of the subject property lying within Government Lot 7 in Section 12, Township 34 North, Range 3 East of the Willamette Meridian and as conveyed to Skagit County for road purposes by deed recorded April 5, 1911, in Volume 83 of Deeds, page 526;

AND EXCEPT the East 40 feet of that portion of the subject property lying within Section 13, Township 34 North, Range 3 East of the Willamette Meridian, as conveyed to John Krangness by deed recorded April 4, 1924, in Volume 132 of Deeds, page 576;

ALSO EXCEPT rights-of-way appropriated for Skagit County Diking District No. 17.



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AND ALSO EXCEPT right-of-way for County Road commonly known as the Riverbend Road. AND ALSO EXCEPT the North 2 acres of the West 10 acres of the remainder.

PARCEL K:

That portion of Government Lot 6, Section 12, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said Lot;

Thence North $83^{\circ}40'02''$ East 1,193.75 feet along the South line of said Section 12, to a point that is South $83^{\circ}40'02''$ West 1,285.18 feet from the Southeast corner of said Section 12 said point being the true point of beginning;

Thence North $0^{\circ}19'30''$ West 204.05 feet;

Thence South $88^{\circ}38'19''$ East 48.51 feet to the East line of said Lot;

Thence South $0^{\circ}33'18''$ West 197.86 feet along said East line to the Southeast corner thereof;

Thence South $83^{\circ}40'02''$ West 45.71 feet along said South line to the true point of beginning;

Being a portion of Lot 2, Short Plat No. 79-80, recorded in Volume 5 of Short Plats, page 125, under Skagit County Auditor's File No. 8109110008, records of Skagit County, Washington.



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