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RecFee - \$91.00 Pages: 8 - ATER WYNNE LLP  
Clark County, WA 3/13/08 2:46 PM



AFTER RECORDING  
RETURN TO:

Peter H. Haller  
Ater Wynne LLP  
601 Union Street, Suite 1501  
Seattle, WA 98101

Real Estate Excise Tax  
Ch. 11 Rev. Laws 1951

EXEMPT

Affd. # 0 Date 3-16-08  
For details of tax paid see

Affd. # 0

Doug Lasher  
Clark County Treasurer

By LM  
Deputy

**EASEMENT AGREEMENT AND RESTRICTIVE COVENANT  
REGARDING ENVIRONMENTAL REMEDIATION**

GRANTOR: C.C. Land Development LLC, a Washington limited liability company, and Equishare Development LLC, a Washington limited liability company, each as to an undivided one-half (1/2) interest as tenants in common.

GRANTEE: BOC, a division of The BOC Group, Inc.

LEGAL DESCRIPTION: Section: 12 Township: 2 Range: 1 East  
(Abbreviated)

ADDITIONAL LEGAL: See attached Exhibit A

ASSESSOR'S TAX  
PARCEL NUMBER: 144527-000

CROSS REFERENCE: Clark County Recording No. 4219950 MULTI

This Easement Agreement and Restrictive Covenant is entered into between the Grantors, C.C. Land Development LLC, a Washington limited liability company, and Equishare Development LLC, a Washington limited liability company, each as to an undivided one-half (1/2) interest as tenants in common, and BOC, a division of The BOC Group, Inc., the Grantee.

WHEREAS, the Grantors are the owners of certain real property (the "Property") located in Clark County, Washington, which is legally described in Exhibit A, which is attached hereto and incorporated herein, and depicted on Exhibit B, which is also attached hereto and incorporated herein.

WHEREAS, the Grantee was a party to one or more Administrative Orders on Consent ("Orders") issued by the U.S. Environmental Protection Agency ("EPA") which required the

Grantee to perform environmental clean up and remediation at the Boomsnub/Airco Superfund Site ("Site") which Site includes the Property, and

WHEREAS, the Grantee and the EPA have entered into a judicially approved consent decree ("Consent Decree") in the United States District Court Western District of Washington (Civil Action No. C07-5163 FDB) which will also require the Grantee to perform environmental clean up and remediation activities at the Site, and

WHEREAS, the Grantee, the EPA and the Washington Department of Ecology ("Ecology") require access to the Property to perform the required environmental clean up and remediation activities, and

WHEREAS, the Grantors are willing to grant a right of access over the Property for the purposes of implementing, facilitating and monitoring the aforementioned environmental cleanup and remediation activities, and

WHEREAS, the Grantors are also willing to covenant to the Grantee, to the EPA and to Ecology that they will refrain from using the Property in any manner that would interfere with or affect the implementation, integrity or protectiveness of the environmental cleanup and remediation activities to be performed by the Grantee. The foregoing covenant is not intended to prohibit the Grantors' development of the Property in accordance with applicable Clark County codes, regulations, requirements and standards, as long as such development does not interfere with or adversely affect the Grantee's performance of environmental cleanup and remediation, and

WHEREAS, the Grantors' predecessor-in-interest previously executed that certain document entitled Easement Agreement and Restrictive Covenant Regarding Environmental Remediation which was subsequently recorded on September 11, 2006 under Clark County Recording No. 4219950 MULTI, and

WHEREAS, the Grantors and Grantee intend that this version of the Easement Agreement and Restrictive Covenant Regarding Environmental Remediation, once recorded, shall supersede, replace and terminate that Easement Agreement and Restrictive Covenant Regarding Environmental Remediation which was recorded on September 11, 2006 under Clark County Recording No. 4219950 MULTI.

NOW, THEREFORE: for adequate consideration received it is agreed as follows:

1. The Grantors on behalf of themselves and their successors, transferees and assigns hereby convey to Grantee and its representatives, successors, transferees and assigns a non-exclusive easement to enter upon the Property at reasonable times for the purposes of undertaking and completing environmental clean up and remediation activities for as long as required or as may be required by the aforementioned Orders and Consent Decree. The activities of Grantee may include but are not limited to: (a) conducting and monitoring environmental cleanup and remediation work, (b) verifying data and information related to the work, (c) conducting investigations on the Property, (d) obtaining soil and ground water samples, (e) assessing the

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need for, planning and implementing additional actions at or near the Site, (f) assessing the implementation of quality control practices, (g) inspecting or copying records related to the work, (h) determining whether the Property is being used consistent with the terms of the restrictive covenant contained in Paragraph 3 herein, and (i) installing, repairing, abandoning and removing of ground water wells, pipeline, and other remediation equipment and facilities including but not limited to relocating monitoring wells and associated extraction pipeline to support development activities. In undertaking its activities hereunder, the Grantee shall exert best efforts to avoid impacting or interfering with the Grantors' development of the Property. At the conclusion of remediation activities on the Property and as approved by the EPA, the Grantee shall remove components of the remediation system that are abandoned in place to a depth below the surrounding soil surface and shall restore surface conditions.

2. The Grantors also grant the above described rights of access for the purposes therein to the EPA and its representatives, Ecology and its representatives and other appropriate parties as designated by the EPA.

3. The Grantors on behalf of themselves and their successors, transferees and assigns, hereby covenant that they shall refrain from using the Property in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the environmental clean up and remediation activities for as long as these activities are being performed. The Grantors, on behalf of themselves and their successors, transferees and assigns further covenant that they will not install ground water well(s) nor shall they use ground water beneath the Property for potable purposes for as long as environmental cleanup and remediation activities are being performed. The Grantors agree that this covenant shall take effect upon execution and shall run with the land and be binding upon his successors, transferees and assigns and shall be enforceable by the Grantee, the United States on behalf of the EPA, Ecology or other appropriate parties designated by the EPA. The foregoing covenant is not intended to prohibit the Grantors' development of the Property in accordance with applicable Clark County codes, regulations, requirements and standards, as long as such development does not interfere with or adversely affect the Grantee's performance of environmental cleanup and remediation.

4. Grantee hereby agrees it shall place its ground water wells, pipelines and other remediation equipment and facilities only on the locations of the Property which are not occupied by buildings as of the date of this instrument. In the future, Grantee agrees to relocate such equipment and facilities upon reasonable notice by Grantors in the event that the Grantors' approved development plans provide for the construction of buildings on portions of the Property then occupied by Grantee's equipment or facilities. Grantors agree to allow such relocation to occur.

5. No right of access to the Property by the general public is granted hereunder.

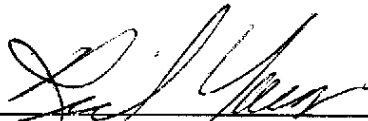
6. The interpretation and performance of this Access Easement and Restrictive Covenant shall be governed by the laws of the United States, or if there is no such applicable federal law, then by the laws of the State of Washington.

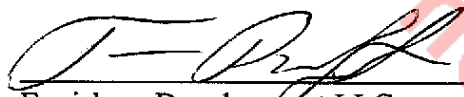
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7. If any provision of this Access Easement and Restrictive Covenant is found to be invalid or unenforceable, the remainder of its provisions shall not be affected thereby.

8. If there are two or more persons identified as Grantors herein, the obligations imposed by this document shall be joint and several.

IN WITNESS WHEREOF, the Grantors have executed this Access Easement and Restrictive Covenant on the 19<sup>th</sup> day of October, 2007.

  
\_\_\_\_\_  
CC Land Development LLC  
By: RICH YOUNG  
Its: MANAGER

  
\_\_\_\_\_  
Equishare Development LLC  
By: THOMAS PLATFOOT  
Its: MANAGER

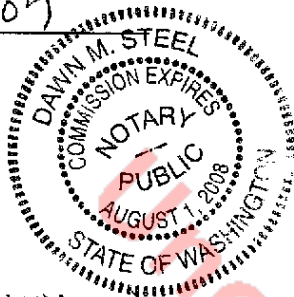
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STATE OF WASHINGTON)

COUNTY OF CLARK )

I certify that I know or have satisfactory evidence that Richard L. Young 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 Manager of CC LAND DEVELOPMENT LLC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10-19-07



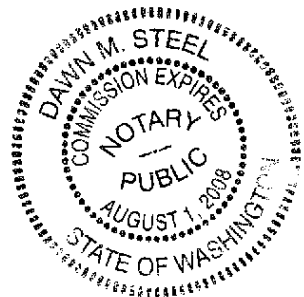
Dawn M. Steel  
Name: Dawn M. Steel  
Notary Public for the State of: Washington  
Residing at: Ridgfield  
My Commission expires: 8-1-08

STATE OF WASHINGTON)

COUNTY OF CLARK )

I certify that I know or have satisfactory evidence that Thomas Platfoot 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 Manager of EQUISHARE DEVELOPMENT LLC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10-19-07



Dawn M. Steel  
Name: Dawn M. Steel  
Notary Public for the State of: Washington  
Residing at: Ridgfield  
My Commission expires: 8-1-08

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EXHIBIT 'A'

DESCRIPTION:

A tract of land in the North half of Section 12, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington and lying within the Peter Fulkerson Donation Land Claim, said tract being more particularly described as follows:

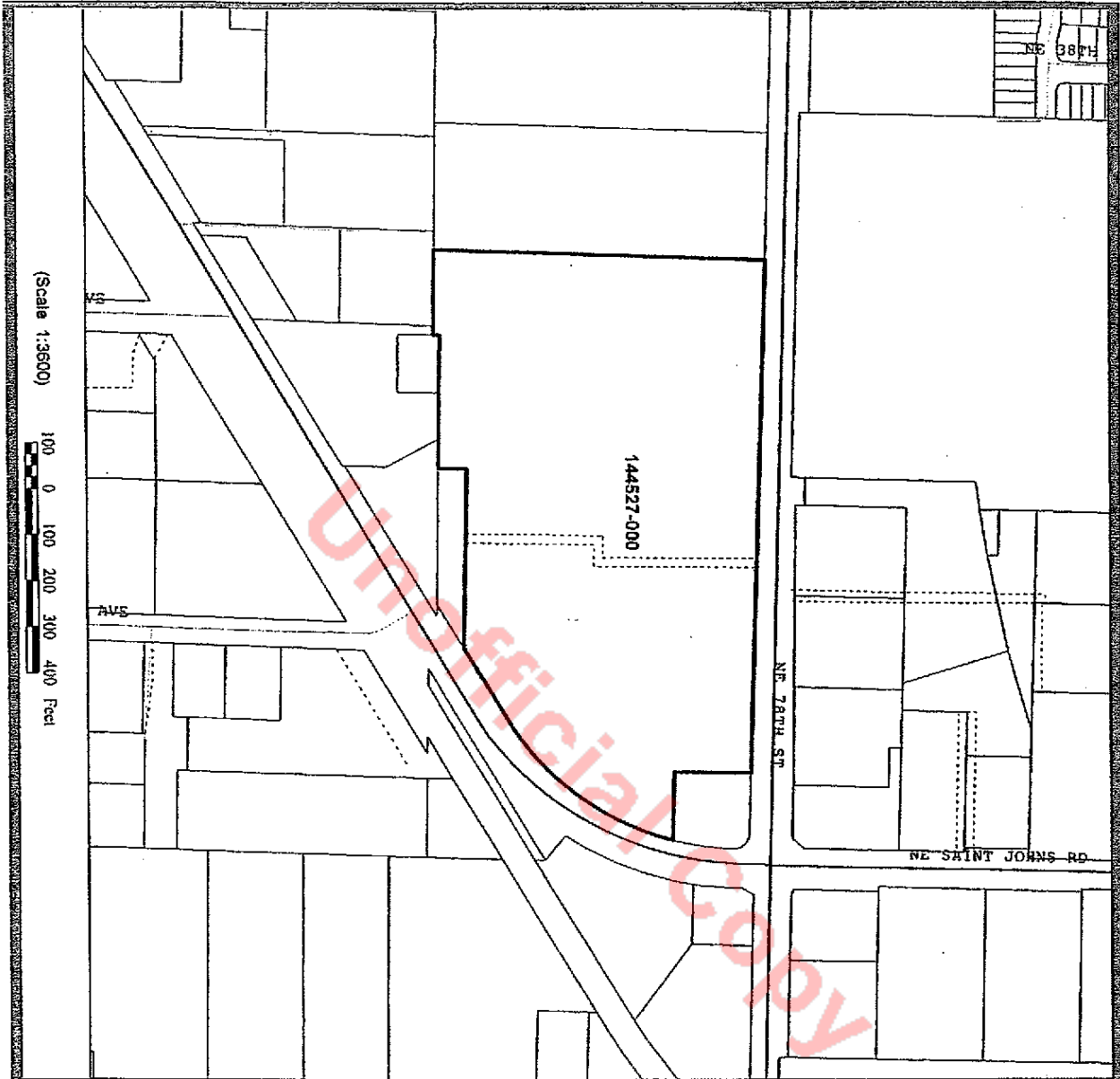
BEGINNING on the North line of said Section 12 and on the centerline of Northeast 78th Street, at a point 200 feet West from an intersection with the East line of said Fulkerson Donation Land Claim, said point being at the Northwest corner of the tract conveyed to Columbia Fire Engineering Company by deed recorded under Auditor's File No. F 95452 and the TRUE POINT OF BEGINNING hereof; thence West along the North line of said Section, 1160 feet; thence South, parallel with the East line of said Donation Land Claim, 780 feet, more or less, to the South line of said claim; thence East along said South line, 220 feet, more or less, to the West line of a tract conveyed to A. L. Miller by deed recorded in Volume 116, at page 247; thence North 13 feet to the Northwest corner of said Miller tract; thence East along the North line of said tract, 645 feet, more or less, to the Northwesterly line of Northeast St. Johns Road; thence Northwesterly and North along the line of said road, 762 feet, more or less, to the South line of said Columbia Fire Engineering Company tract; thence West 170 feet to the Southwest corner of said tract; thence North 200 feet to the TRUE POINT OF BEGINNING.

EXCEPT those portions thereof conveyed to Clark County, Washington by deeds recorded August 11, 1980 under Auditor's File Nos. 8008110058 and 8008110060.

ALSO EXCEPT that tract thereof taken by Clark County, Washington under Decree of Appropriation filed June 21, 2002, under SC 97-2-02922-1.

ALSO EXCEPT any portion thereof lying within NE 78th Street.

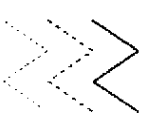
EXHIBIT #   A



Plat Date: May 2, 2007  
 Map produced by:  
 Information shown on this map was collected  
 from several sources. Neither Clark County or  
 the agency producing this document accept  
 responsibility for any inaccuracies that may  
 be present.



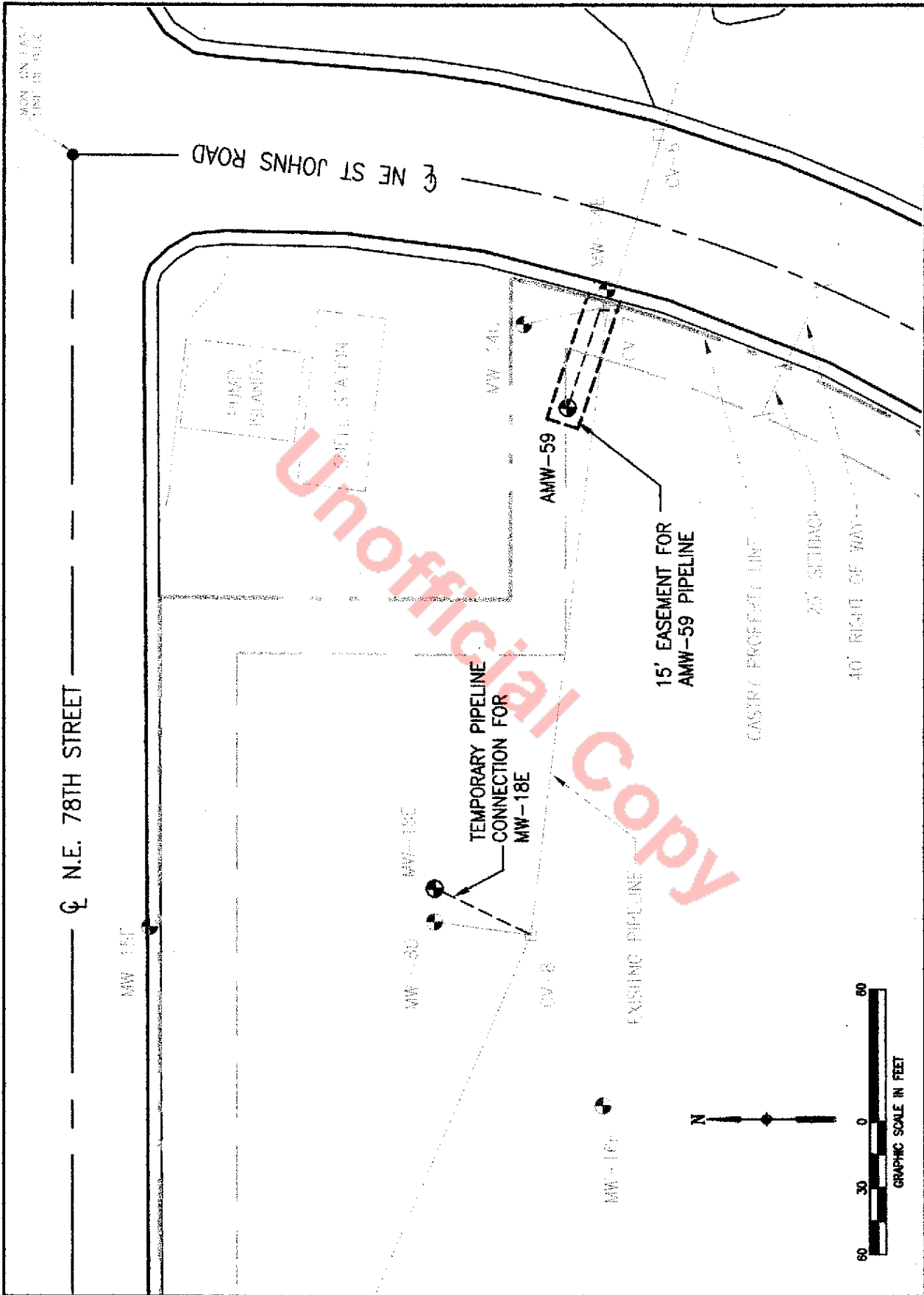
Title Dept


  
 Major Roads  
 Easements  
 Roads



NE 1/4 of Section 12 T2R1E WM

EXHIBIT # B  
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CASTRY PROPERTY