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RETURN ADDRESS

Peter H. Haller  
Ater Wynne LLP  
601 Union Street, Suite 1501  
Seattle, WA 98101-3981

Real Estate Excise Tax  
Ch. 11 Rev. Laws 1951  
EXEMPT  
Affd. # 0 Date 6/15/12  
For details of tax paid see  
Affd. # 0  
Doug Lasher  
Clark County Treasurer  
By [Signature] Deputy

Please print neatly or type information  
**Document Title(s)**

Easement Agreement and Restrictive Covenant Regarding Environmental Remediation

**Reference Number(s) of related documents:**

\_\_\_\_\_ Additional Reference #'s on page \_\_\_\_\_

**Grantor(s)** (Last name, First name and Middle Initial)

First Church of God of Vancouver Additional grantors on page \_\_\_\_\_

**Grantee(s)** (Last name, First name and Middle Initial)

Linde LLC Additional grantees on page \_\_\_\_\_

**Legal Description:** (abbreviated form: i.e. lot, block, plat or section township, range, quarter/quarter)

SW 1/4 of Section 1, T 2 North, R 1 East, W.M. Additional legal is on page \_\_\_\_\_

**Assessor's Property Tax Parcel/Account Number**

144719-000, 144715-000, 144772-000, 144770-000, 144777-000, 144778-000  
144717-000, 144779-000, 144530-000, 144491-000, 144535-000, 144536-000

144537-000, 144538-000, 144776-000, 144491-001 Additional parcel #'s on page \_\_\_\_\_

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

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording process may cover up or otherwise obscure some part of the text of the original document.

[Signature]  
Signature of Requesting Party

AFTER RECORDING  
RETURN TO:

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

GRANTOR: First Church of God of Vancouver

GRANTEE: Linde LLC

LEGAL DESCRIPTION: SW 1/4 of Section 1, T 2 North, R 1 East, W.M.  
(Abbreviated)

ADDITIONAL LEGAL: See attached Exhibit A

ASSESSOR'S TAX  
PARCEL NUMBERS: 144719-000, 144715-000, 144772-000, 144770-000,  
144777-000, 144778-000, 144717-000, 144779-000,  
144530-000, 144491-000, 144535-000, 144536-000,  
144537-000, 144538-000, 144776-000, 144491-001.

This Easement Agreement and Restrictive Covenant are entered into between the Grantor, First Church of God of Vancouver, a Washington not for profit corporation, and Linde LLC, the Grantee.

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

WHEREAS, the Grantee's predecessor, BOC, Inc. ("BOC"), was a party to one or more administrative orders on consent ("Agreed Orders") issued by the U.S. Environmental Protection Agency ("EPA") which required BOC to perform environmental clean up and remediation at the Boomsnub/Airco Superfund Site ("Site") which Site includes the Property, and

WHEREAS, BOC and the EPA entered into a judicially approved consent decree ("Consent Decree") on June 29, 2007, in the United States District Court for the Western District of Washington (Civil Action No. C07-5163-FDB) which required BOC to perform additional environmental clean up and remediation activities at the Site, and

WHEREAS, BOC changed its name to BOC LLC effective December 12, 2007, and subsequently to Linde LLC, effective March 12, 2009, and

WHEREAS, Linde LLC, as the Grantee, hereunder requires access to the Property to perform the required environmental clean up and remediation activities, and

WHEREAS, the Grantor is willing to grant a right of access over the Property for the purposes of implementing, facilitating and monitoring the environmental cleanup and remediation activities required by the Consent Decree, and

WHEREAS, the Grantor is also willing to covenant to the Grantee, to the EPA and to the Washington Department of Ecology ("Ecology") that, subject to the terms set forth below, it 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 required to be performed by the Grantee pursuant to Consent Decree.

NOW, THEREFORE: it is agreed as follows:

1 (a). The Grantor on behalf of itself, its successors, transferees and assigns hereby conveys to Grantee and its representatives, successors, transferees and assigns a non-exclusive easement to enter upon the Property at reasonable times and upon reasonable prior notice for the purposes of undertaking and completing environmental clean up and remediation activities as required, or as may be required, by the aforementioned 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 ground water samples, (e) assessing the 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, maintaining and abandoning of ground water wells, pipelines or other remediation equipment or facilities. In undertaking its activities hereunder, the Grantee shall make reasonable good faith efforts to avoid impacting the Grantor's ongoing use of the Property as well as good faith efforts to accommodate the Grantor's development of the Property, as long as such good faith efforts are not incompatible with the environmental clean up and remediation activities required by the Consent Decree.

1 (b). Prior to conducting any of the activities described above in ways materially different or more intensive than in the prior five years, Grantee will notify Grantor in writing of the proposed modified activities, will clarify the need for same, and will provide reasonable

assurances that such activities will be undertaken making reasonable efforts to avoid impacting Grantor's ongoing use of the Property.

1 (c). In the event Grantor is required to provide any governmental agency with engineering or technical data related to the activities of Grantee, Grantee shall provide at its sole costs all engineering or technical data reasonably needed and shall cooperate with Grantor to facilitate any future building projects use or expansion.

1 (d). Grantee shall relocate at its sole expense those of its facilities that may be necessary to be relocated as a result of Grantor's development of the Property if there is no feasible alternative to relocation and as long as the relocation will not interfere with the environmental clean up and remediation activities required by the Consent Decree and is acceptable to the EPA and Ecology. Grantor agrees to undertake reasonable measures to avoid the incurrence of excess costs by Grantee in doing so.

1 (e). At the conclusion of remediation activities on the Property and as approved by EPA, the Grantee will remove the components of the remediation system that are abandoned in place to a depth at least two feet below the surrounding soil surface and restore the surface conditions. If Grantee or its agents, employees, or contractors damage any portion of the property or any improvements thereto, Grantee shall promptly repair such damage at Grantee's sole expense.

2. The Grantor also grants the above described rights of access for the purposes herein to the EPA and its representatives, Ecology and its representatives and other appropriate parties as designated by the EPA, subject to the same notice provisions above.

3. The Grantor on behalf of itself, its successors, transferees and assigns covenants that it 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 required by the Consent Decree and performed by the Grantee. Specifically, the Grantor covenants not to tamper or interfere with the facilities which Grantee has installed on Grantor's property (which are depicted on Exhibit B) including such facilities as may be installed in the future. Additionally, Grantor on behalf of itself, its successors, transferees and assigns further covenants that it shall not install ground water wells nor shall it use ground water beneath the Property for as long as environmental cleanup and remediation activities are being performed. The Grantor agrees that these covenants shall run with the land and be binding upon its 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.

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

5. 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.

6. 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.


7. If there are two or more parties identified as Grantors herein, the obligations imposed by this document shall be joint and several. Any person(s) executing this Access Easement and Restrictive Covenant represent that he/she/they have the authority to do so on behalf of the Grantor.

8. Grantee, its successors, transferees, and assigns shall indemnify, defend, and hold harmless the Grantor, its owners, agents, employees, officers, and directors, and each of their successors, transferees and assigns, from and against all liabilities, damages, claims, costs, and expenses whatsoever, including reasonable attorneys' fees and court costs, arising out of or in connection with (a) access to the Property or activities on the Property by Grantee of its owners, directors, officers, agents, employees or contractors or (b) the existence of the wells on the Property. Grantee's indemnification obligations shall survive termination of this Access Easement and Restrictive Covenant; provided however, that this indemnity shall automatically expire two (2) years after the Grantor receives a copy of the EPA's written determination, pursuant to Section 51 of the Consent Decree, that the Work required of the Grantee thereunder has been completed.

9. This easement shall terminate at such time as environmental monitoring is no longer required by any agency of the State of Washington or the United States Government. Upon termination, Grantee will execute and record an instrument sufficient to clear this Access Easement and Restrictive Covenant from title to the Property.

IN WITNESS WHEREOF, the Grantor has executed this Access Easement and Restrictive Covenant on the 12<sup>th</sup> day of March, 2012.

FIRST CHURCH OF GOD OF VANCOUVER

  
\_\_\_\_\_

Its: Facility Manager

STATE OF WA )

COUNTY OF CLARK )

I certify that I know or have satisfactory evidence that STEVE OLSON 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 FACILITY MGR of FIRST CHURCH OF GOD OF VANCOUVER to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

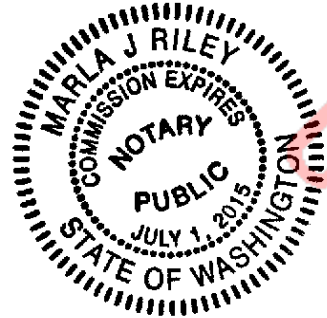
Dated: 4/23/12

Marla J. Riley  
Name: MARLA J Riley

Notary for the State of: WA

Residing at: VANCOUVER

My Commission Expires: 7/1/15



LINDE LLC

Mark D. Weller  
Its: Vice President & General Counsel

STATE OF New Jersey

COUNTY OF Union

I certify that I know or have satisfactory evidence that Mark D. Weller 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 VP & Gen. Counsel of LINDE LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 12, 2012

Joanne M. Fantazier

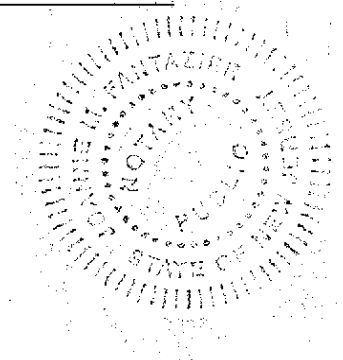
Name: Joanne M. Fantazier

Notary for the State of: New Jersey

Residing at: Colonia, NJ

My Commission Expires: Jan 24, 2013

**Joanne M. Fantazier  
Notary Public of New Jersey  
My Commission Expires January 24, 2013**



**Unofficial Copy**

CHICAGO TITLE INSURANCE COMPANY

EXHIBIT 'A'

DESCRIPTION:

ORDER NO: K153821

PARCEL I

That portion of the Southwest quarter of Section 1, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington, lying within the James Fitzgerald Donation Land Claim, described as follows:

BEGINNING at a point which is the Southeast corner of the land described as Parcel III in a deed to Foothills Development Co. recorded under Auditor's File No. G758517, records of said County, said point also being North 748 feet and East 644 feet from the Southwest corner of said Section; thence North along the East line of said Parcel III to a point of intersection with the East line of the Bonneville Power Administration right-of-way, as acquired by the United States of America by the Declaration of Taking recorded under Auditor's File No. E4185, records of said County; thence Southwesterly along said East right-of-way line to a point in the South line of said Parcel III; thence East to the Point of Beginning.

TOGETHER WITH an easement for ingress and egress for customary agricultural purposes and for laying and maintaining water pipes and for such other purposes and subject to those covenants provided in deed recorded under Auditor's File No. G06989 over, under, through and across that portion of the land described therein which is excepted from the description of Parcel III referred to hereinabove.

PARCEL II

That portion of the Southwest quarter of Section 1, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington, lying within the James Fitzgerald Donation Land Claim, described as follows:

BEGINNING at a point on the South line of Section 1 that is 291.70 feet West, as measured along said South line from the intersection of the East line of said Fitzgerald Donation Land Claim with the South line of Section 1; thence North  $3^{\circ}23'19''$  East 1537.38 feet to the North line of said donation land claim; thence North  $86^{\circ}55'42''$  West along the North line of said donation land claim 228.73 feet to a point on the Easterly line of the Bonneville Power Administration right-of-way; thence South  $25^{\circ}31'47''$  West along said Easterly line 558.46 feet; thence South  $3^{\circ}25'18''$  West 1032.04 feet to the South line of Section 1; thence South  $83^{\circ}19'54''$  East along said South line 440.00 feet to the Point of Beginning.

EXCEPT the South 30 feet thereof lying within NE 78th Street.

TOGETHER WITH an easement as described in that certain easement deed to Lester M. Holtgrieve, recorded under Auditor's File No. G6989, over the following described tract:

BEGINNING at the most Northerly Northwest corner of the above described tract; thence South 25°31'47" West along the Northwesterly line 558.46 feet to the most Westerly Northwest corner thereof; thence North 3°25'18" East 516.12 feet to a point on the North line of said Fitzgerald Donation Land Claim; thence South 86°55'42" East along said North line 209.18 feet to the Point of Beginning.

EXCEPTING THEREFROM that portion conveyed to Clark County, Washington by deeds recorded under Auditor's File Nos. G700125, 8107070009 and 9003280229.

### PARCEL III

That portion of Section 1, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington, lying within the James Fitzgerald Donation Land Claim, described as follows:

BEGINNING at the intersection of the East line of said James Fitzgerald Donation Land Claim, with the South line of said Section 1; thence North along the East line of said donation land claim, a distance of 748.0 feet; thence West, parallel with the South line of said Section 1, a distance of 291.70 feet; thence South, parallel with the East line of said James Fitzgerald Donation Land Claim, a distance of 748.0 feet to the South line of said Section 1; thence East along the South line of said Section, a distance of 291.70 feet to the Point of Beginning.

EXCEPT that portion conveyed to Clark County, Washington by deeds recorded under Auditor's File Nos. G292036, G292034, 7807100001, 7808110220, 9003280229 and 9701310098.

### PARCEL IV

That portion of the Peter Fulkerson Donation Land Claim, lying within the Southwest quarter of Section 1, Township 2 North, Range 1 East of the Willamette Meridian, Cowlitz County, Washington, described as follows:

BEGINNING at a point on the North line of N.E. 78<sup>th</sup> Street at its intersection with the West line of said Fulkerson Claim; thence North, along the West line of said Fulkerson Claim, 421.7 feet, more or less, to the Southwest corner of the tract conveyed to Howard R. Robinson by Deed recorded under Auditor's File No. F-89182 in Book 428, Page 399; thence East, along the South line of said Robinson tract, 330 feet to the Southwest corner of the tract conveyed to H.A. Calef by Deed recorded under Auditor's File No. F-35737 in Book 368, Page 257; thence North, along the West line of said Calef tract, 20 feet to the Northwest corner of the tract conveyed to John T. Condit, et al, by Deed recorded under Auditor's File No. G-75914 in Book 524, Page 088; thence East, along the North line of said Condit tract, 330 feet to the West line of the tract conveyed to Norman A. Morrison by Correction Deed recorded under Auditor's File No. G-472932; thence South, along the West line of said Morrison tract, 20 feet to the Southwest corner thereof; thence East, along the South line of said Morrison tract, 234 feet to the West line of the tract conveyed to Clark County, Washington by Deed recorded under Auditor's File No. G-594592; thence South, along the West line of said County tract, 433 feet, more or less, to the North line of said N.E. 78<sup>th</sup> Street; thence West, along said North line, 1,623 feet, more or less, to the Point of Beginning hereof.

PARCEL V

A portion of the Peter Fulkerson Donation Land Claim, lying in the Southwest quarter of Section 1, Township 2 North, Range 1 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a 2 inch brass cap at the intersection of "N.E. 82<sup>nd</sup> Street" and "N.E. St. Johns Road" as shown in book 40 of Surveys, page 104, Clark County Auditor's Records; thence North 89°05'34" West, along the centerline of "N.E. 82<sup>nd</sup> Street, also being the South line of the "Roane Five Acres Tracts" as recorded in Book 1 of Plats, page 556, Clark County Auditor's Records, for a distance of 1649.30 feet to the Northeast corner of the "Dallum tract" as described under Clark County Auditors File No. 7709060202 and as shown in Survey 40-104; thence South 01°27'15" West, along a line surveyed and monumented in Survey 40-104; thence South 01°27'15" West, along a line surveyed and monumented in Survey 40-104, for a distance of 659.41 feet to a ½" iron rod set in "2001 Hagedorn, Inc. Survey" and the TRUE Point of Beginning; thence continuing South 01°27'15" West, 415.28 feet to a 5/8" iron rod as established in Survey 40-104 on a line 50 feet North of the centerline of N.E. 78<sup>th</sup> Street; thence continuing South 01°27'15" West, for a distance of 10.00 feet to a line 40' North of the centerline of N.E. 78<sup>th</sup> Street, being the North right-of-way line of N.E. 78<sup>th</sup> Street as shown in Book 44 of Surveys, page 110, Clark County Auditor's Records; thence North 88°18'34" West, along said North right-of-way as shown in Survey 44-110, for a distance of 36.78 feet to a point on the East line of the "First Church of God tract" as described under Clark County Auditor's File No. 7812200009; thence North 03°23'26" East, along the East line of the "First Church of God tract", being coincident with the West line of the "Clark County tract" as described under Clark County Auditor's File No. G594592 for a distance of 425.16 feet to the Northeast corner of the "First Church of God tract", said point being the Southeast corner of the "Dallum tract" above described; thence South 89°05'34" East, along the Easterly extension of the South line of the "Dallum tract", 22.42 feet to the TRUE Point of Beginning.

