

MTC 72170-SH

AFTER RECORDING, PLEASE RETURN TO:

Avista Utilities
Real Estate Department
1411 East Mission, P. O. Box 3727
Spokane, Washington 99220-3727

M06-11789

Klamath County, Oregon

06/09/2006 11:11:49 AM

Pages 5 Fee: \$41.00

STORM WATER DRAINAGE EASEMENT

For Mutual Benefits, the sufficiency and receipt of which are hereby acknowledged, **AVISTA CORPORATION**, a Washington corporation, "Grantor", hereby grants, conveys and warrants to the **DOVE HOLLOW ESTATES, LLC**, "Grantee", a storm water drainage easement under, along and across the real property located in the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of Section 36, Township 38 South, Range 9 East, Willamette Meridian, Klamath County, State of Oregon, described in the attached Exhibit "A" and as shown on the attached Exhibit "B", and by this reference made a part hereof.

1. **PURPOSE.** Grantee shall have the right to construct, reconstruct, operate, maintain, repair, and replace a storm water drain as identified on said Exhibits "A" and "B", together with all necessary fixtures and appurtenances, "Facilities". Subject to the terms of this Easement as set forth herein: this Easement shall be used for storm water drainage, together with the right of reasonable ingress and egress over and on the Property for purposes of Grantee's use of this Easement.
2. **ACCESS AND DAMAGE.** Grantee shall have access over and across the "Easement Area", as shown on Exhibit "B", for the purpose of the installation, repair and maintenance of said Facilities, provided the Grantee repairs damages or compensates the Grantor for any damage to said properties as a result of such access and repair and maintenance.
3. **RIGHT OF WAY CLEARING AND MAINTENANCE.** Grantee shall have the right to cut, trim and remove any and all brush, branches and trees, including danger trees, on the Easement Area that, in the opinion of the Grantee, could interfere with the safe and reliable operation of Grantee's Facilities as described herein.
4. **GRANTOR'S USE OF THE PROPERTY.** Grantors use of the herein described property is for a High Pressure Natural Gas Pipeline. Except for such Storm Water Facilities, Grantee shall not erect any buildings or other permanent structures within the Easement Area that interfere with Grantor's use and enjoyment of the property. Grantee's use shall not interfere with Grantor's use of its pipeline and facilities. Specifically:
 - A. If Grantee's use of the Easement Area should at any time become a hazard to the presently installed Natural Gas facilities of Grantor or facilities added or constructed in the future, or should such use interfere with the construction, operation, inspection, maintenance or repair of the same or with Grantor's access along such Easement Area, the Grantee will be required to correct such hazard or interference, at Grantee's expense.

41.00

- B. Any filling and/or grading within said Easement Area shall be accomplished in such manner as to not reduce vertical distance between the ground surface and Grantor's natural gas facilities or jeopardize the integrity of any of Grantor's facilities. Grantee must pay for any and all costs related to changing the Grantor's facilities in any way as a result of their uses.
- C. Any damage to Grantor's facilities caused by or resulting from Grantee's use of the Easement Area will be repaired by Grantor and the actual cost of such repair shall be charged against and paid by the Grantee. All repairs, corrections, alterations and modifications to Grantor's pipeline and facilities will be done by the Grantor.
- D. At no time will the Easement Area be used for any other purpose than for said Facilities of Grantee as described in Paragraph 1, above.
- E. At no time shall Grantor's access to its natural gas pipeline and associated facilities along the Easement Area be permanently blocked off or unduly restricted. Notwithstanding the Facilities as described in Paragraph 1, above, no fences shall be constructed within the Easement Area, landscaping must be restored to the before construction condition, no materials, structure or equipment shall be stored on the Easement Area, and any construction within the Easement Area must be consistent with all applicable laws and codes.
- F. Natural gas pipelines and associated facilities have been or will be constructed, operated, and maintained within the Easement Area. Said facilities may require tree and brush cutting within and adjacent to the Easement Area. Grantor retains the right to cut, trim, remove and dispose of any and all brush, trees, and other vegetation upon the Easement Area. Grantor shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees and other vegetation upon the Easement Area.
- G. The Grantee must notify Grantor's Klamath Falls Construction Office at (541) 880-1640 at least 48 hours prior to the commencement of any and all construction activities related to such uses and to coordinate the protection of the gas pipeline and associated facilities. A representative of the Grantor must be present at any time the Grantor's pipeline or facilities are exposed or any excavation occurs in the Easement Area during the construction, repair, removal or maintenance of the Grantee's Facilities.
5. **INDEMNITY.** The Grantee agrees to indemnify and hold harmless the Grantor from any and all claims for damages suffered by Grantor including Grantor's agents, guests and employees which may be caused by Grantee's negligence in the exercise of the rights herein granted, provided, that the Grantee shall not be responsible to Grantor or Grantor's agents, guests or employees for any damages or injury to any person or property caused by acts or omissions of Grantor, including Grantor's agents, guests or invitees.
6. **SUCCESSORS AND ASSIGNS.** This Easement shall run with the land as to all properties burdened by this Easement, including any division or partition of Grantor's property. The rights and obligations of the parties shall be for the benefit of and be binding upon their respective successors, heirs and assigns.

DATED this 5th day of June, 2006

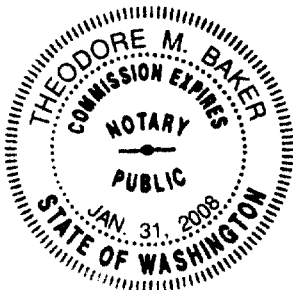
GRANTOR
AVISTA CORPORATION

Donald J. Malisani
By Donald J. Malisani, Manager, Real Estate Department

STATE OF WASHINGTON)
) ss.
COUNTY OF SPOKANE)

On this day personally appeared before me Donald J. Malisani, known to me to be Manager, Real Estate Department of the Corporation who executed the within and foregoing instrument, and acknowledged to me that such Corporation executed the same as a free and voluntary act and deed for the purposes therein mentioned.

GIVEN under my hand and official seal this 5th day of June, 2006.



Theodore M. Baker
Signature
THEODORE M. BAKER
Print Name

Notary Public for the State of WASHINGTON

Residing at MEAD

My Commission Expires 1/31/08

EXHIBIT 'A'

STORM DRAINAGE EASEMENT DESCRIPTION

A 16 foot wide storm drainage easement over a parcel of land situated in the SE1/4 NW1/4 of Section 36, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said easement lying within a 60 foot strip of land conveyed to Avista Corporation, formerly The Washington Water Power Company (doing business as WP Natural Gas), by deed dated September 30, 1991, recorded at Volume M91, page 19751;

said easement being more particularly described as follows:

Beginning at a point on the east right-of-way line of Foothills Boulevard, said point being S.89°09'06"E., 1352.12 feet and N.00°50'48"E., 25.00 feet from the 1/4 Corner common to Sections 35 and 36, Township 38 South, Range 9 East of the Willamette Meridian; thence S.89°05'05"E., 380.03 feet, along a line parallel with and 25.00 feet northerly of the south line of said property conveyed by deed volume M91, page 19751; thence N.00°54'55"E., 16.00 feet; thence N.89°05'05"W., 380.05 feet to the east right-of-way line of Foothills Boulevard; thence S.00°50'48"W., 16.00 feet to the Point of Beginning. Basis of Bearings is Grid North, based upon the Oregon Coordinate System of 1983, South Zone.

Page 5 of 5, Avista Corporation Document No. A-295