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Fidelity National Title of Oregon

	Recording Instrument #201808451 Recorded By: Clatsop County Clerk # of Pages: 12 Fee: 142.00 Transaction date: 10/30/2018 14:11:24 Deputy: Stethem-Norris
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After Recording, Return to:

Bateman Seidel Miner Blomgren Chellis & Gram, P.C.
888 SW Fifth Avenue, Suite 1250
Portland, Oregon 97204
Attention: Chresten J. Gram

STORMWATER EASEMENT AGREEMENT

This Stormwater Easement Agreement (“Easement Agreement”) is made by and between Northwest Natural Gas Company, an Oregon corporation (“NW Natural”) and Warrenton Fiber Company, an Oregon corporation and Nygaard Land LLC (collectively “WFC”) as of October 30, 2018 (the “Effective Date”).

RECITALS:

WHEREAS, contemporaneous with the execution of this Easement Agreement, NW Natural has purchased the real property described in Exhibit A (the “Property”); and

WHEREAS, Warrenton Fiber Company owns the real property described in Exhibit B (the “Fiber Property”) and Nygaard Land LLC owns the real property described in Exhibit B-1 (the “Land Property” and together with the Fiber Property, collectively, the “Benefitted Property”), and

WHEREAS, subject to the terms of this Easement Agreement, NW Natural has agreed to grant WFC a stormwater easement for the conveyance of stormwater over and across the south twenty (20) feet of the Property (the “Easement Area”) for the benefit of the Benefitted Property.

NOW THEREFORE, it is agreed:

AGREEMENT

1. **Recitals.** The Recitals set forth above are hereby incorporated by reference and made a part hereof.
2. **Stormwater Easement.** NW Natural grants WFC a stormwater easement (the “Stormwater Easement”) to convey stormwater from the Benefitted Property over and across the Easement Area by means of one (i) underground stormwater pipe (the “Stormwater Pipe”). The Stormwater Pipe shall not exceed twenty-four inches (24”) in diameter. The Stormwater Easement shall include the right of ingress and egress to, from and across the Easement Area (but no other portion of the Property). The Stormwater Easement is for the sole purpose of the installation, repair, and replacement of the Stormwater Pipe. No other easement or access rights are granted herein.

3. **Term.** This Easement Agreement shall be perpetual, and except as provided under Section 12 below may not be terminated, and shall run with the land and shall be binding on and inure to the parties and their successors and assigns.

4. **Construction and Maintenance of Stormwater Pipe.** WFC shall comply with all applicable laws, rules, statutes, ordinances and permits in connection with its use of the Easement Area and the installation, repair, replacement and removal of the Stormwater Pipe. Prior to installation, replacement, major repair or removal of the Stormwater Pipe, WFC shall provide NW Natural a copy of its construction plan and permit(s) necessary for such work for NW Natural's approval, which approval NW Natural shall not unreasonably withhold, condition or delay. WFC shall maintain the Stormwater Pipe in good condition and repair. If WFC fails to do so, without prejudice to any other remedies NW Natural may have, NW Natural shall have the right to perform the required maintenance or repairs and WFC shall promptly reimburse NW Natural for the same. WFC shall not incur or suffer any construction lien on the Easement Area.

5. **Notice Prior to Entry.** WFC shall give NW Natural prior written notice before entering the Easement Area except in the case of emergency. WFC shall restore and repair any damages to the Property caused by WFC.

6. **Easement Non-Exclusive.** The Stormwater Easement is non-exclusive. NW Natural shall have the right to use the Easement Area (and grant other rights to use the Easement Area) for any purpose except to the extent that such use would unreasonably interfere with the Stormwater Pipe.

7. **Indemnification.** WFC and their successors and assigns hereby assume the responsibility and liability for any and all damage, harm or injury of any kind or nature whatsoever (including death resulting therefrom) to all persons, government agencies, the environment, and to all property, caused by, resulting from, arising out of, or occurring in connection with its use of the Easement Area, and shall and hereby do indemnify and save harmless NW Natural and its successors and assigns from any and all claims, demands, suits, actions, damages, recoveries, judgments, environmental response costs, attorneys, consultant and expert fees, costs or expenses (collectively, "Damages") arising or growing out of or in connection with any such harm, death, loss, damage or destruction aforesaid. WFC and its successors and assigns do further agree to appear and defend in the name of the NW Natural in any suits or actions at law brought against it on account of any such personal injuries, harm, death or damage described above, and to pay and satisfy any final judgment that may be rendered against NW Natural, its successors and assigns, in any such suit or action to the extent of WFC's duties hereunder. The liability and duties assumed by WFC, its successors and assigns shall not include any Damages to the extent caused by, resulting from, arising out of, or occurring in connection with the sole negligence of NW Natural.

8. **Covenants Running With The Land.** The terms, covenants and conditions of this Easement Agreement shall be considered covenants running with the land and shall inure to the benefit of, and shall be binding upon, the parties hereto and their successors and assigns as to each of the properties subject of this Easement Agreement (that is the Property, the Land Property and the Fiber Property).

9. **Effect of Invalidation**. If any provision of this Easement Agreement is held to be invalid or unenforceable for any reason, the validity of the remaining provisions of this Easement Agreement shall not be affected thereby.
10. **Condemnation**. In the event that the Easement Area or any part thereof is taken by power of eminent domain, the proceeds from any such condemnation shall belong exclusively to the fee title owner of the property so taken.
11. **Attorneys' Fees**. In the event suit or action is instituted to interpret or enforce the terms of this Easement Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on appeal of such suit or action, and on any petition for review, in addition to all other sums provided by law.
12. **Enforcement**. Upon default of any party in the performance of their obligations under this Easement Agreement, other parties to this Easement Agreement may seek specific performance pursuant to the terms of this Easement Agreement, damages, termination, or any other remedy allowed by law.
13. **Entire Agreement**. This Easement Agreement constitutes the entire agreement between the parties hereto and neither of the parties shall be bound by any promises, representations or agreements except as are herein set forth or as otherwise memorialized in writing.
14. **Applicable Law**. This Easement Agreement shall be interpreted according to the laws of the State of Oregon.
15. **Waiver**. Failure of either party at any time to require performance of the provisions of this Easement Agreement shall not limit the other party's right to enforce the provision, nor shall any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.
16. **Captions or Headings**. The captions or headings of the paragraphs of this Easement Agreement are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of this Easement Agreement.
17. **Joint and Several Liability**. Should the ownership of the Benefitted Property be in more than one party (as is the case on the Effective Date), such parties shall be jointly and severally liable for the performance of this Easement Agreement.
18. **Binding Effect**. The parties further agree that this Easement Agreement shall be binding on each and all of the parties hereto, and their respective heirs, successors, assigns, devisees, or real estate contract vendees of the properties to which said easement is appurtenant.
19. **Amendment**. This Easement Agreement may only be amended or rescinded in writing executed by all of the parties, and such written amendment shall be recorded in the deed records of Clatsop County, Oregon.

20. **Counterparts.** This Easement Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

21 **WFC Representations and Warranties.** WFC represents and warrants to NW Natural that as of the Effective Date, WFC has not received any notice of the presence or suspected presence on the Benefitted Property of any flammable substances, explosives, radioactive materials, medical wastes, hazardous materials, hazardous waste, toxic substances, pollutants, pollution or related materials, substances that are considered dangerous to persons, property or the environmental and any other material identified as being hazardous under federal, state, or local laws, statutes, rules or regulations governing or pertaining to the environment or human health.

22. **Notices.** Any notice provided for or permitted to be given hereunder must be in writing and may be given by (i) depositing same in the United States Mail, postage prepaid, registered or certified, with return receipt requested, addressed as set forth in this Section or (ii) delivering the same to the party to be notified. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee, as evidenced by the executed postal receipt or other receipt for delivery. For purposes of notice the addresses of the parties hereto shall, until changed, be as follows:

Warrenton Fiber Company

Warrenton Fiber Company
389 NW 13th Street
Warrenton, OR 97146
Attn: David A. Nygaard

Nygaard Land LLC

Nygaard Land LLC
389 NW 13th Street
Warrenton, OR 97146
Attn: David A. Nygaard

NW Natural:

NW Natural
220 NW Second Avenue
Portland, Oregon 97209
Attention: Risk and Land Department

With a copy to:

NW Natural
220 NW Second Avenue
Portland, Oregon 97209
Attention: General Counsel

The parties hereto shall have the right from time to time to change their respective addresses for purposes of notice hereunder to any other location within the United States by giving a notice to such effect in accordance with the provisions of this Section.

23. **Insurance.** From the Start of Installation until the Completion Date (as such terms are defined below), WFC shall maintain a commercial general liability insurance policy, including contractual liability, with limits of not less than \$2,000,000 aggregate and \$1,000,000 per occurrence in connection with this Easement Agreement. Such policy shall: (i) name NW Natural as an additional insured and (ii) be primary and noncontributing to any insurance maintained by NW Natural (the "Insurance Requirements"). As used above: "Completion Date" means the date that WFC has completed the installation of the Stormwater Pipe, and (ii) "Start of Installation" means 30 days after WFC has provided notice to NW Natural of WFC's intent to install the Stormwater Pipe but in no event later than the actual start of installation. Notwithstanding Section 17 above, provided that Warrenton Fiber Company is the sole party that constructs and/or installs the Stormwater Pipe, then only Warrenton Fiber Company shall be obligated to satisfy the Insurance Requirements.

[this space left blank intentionally – signature and notary pages follow]

IN WITNESS WHEREOF, NW Natural and WFC enter into this Easement Agreement as of the date first written above.

WARRENTON FIBER COMPANY, an Oregon corporation	NORTHWEST NATURAL GAS COMPANY, an Oregon corporation
By: <u>DL Nygaard</u>	By: _____
Print Name: <u>David Nygaard</u>	David H. Anderson, President and CEO
Print Title: <u>Pres.</u>	
NYGAARD LAND LLC, an Oregon limited liability company	
By: <u>DL Nygaard</u>	
Print Name: <u>David Nygaard</u>	
Print Title: <u>member owner</u>	

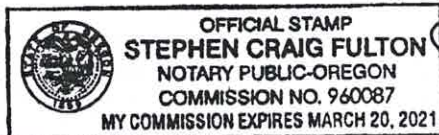
STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by David H. Anderson, as President and CEO of Northwest Natural Gas Company, an Oregon corporation.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of CLATSOP)

The foregoing instrument was acknowledged before me this 22 day of OCTOBER, 2018, by DAVID NYGAARD, as PRESIDENT of Warrenton Fiber Company, an Oregon corporation.



[Signature]
Notary Public for Oregon
My commission expires: MARCH 20, 21

STATE OF OREGON)
) ss.
County of CLATSOP)

The foregoing instrument was acknowledged before me this 22 day of OCTOBER, 2018, by DAVID NYGAARD, as MEMBER OWNER of Nygaard Land LLC, an Oregon limited liability company.



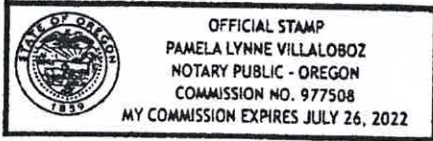
[Signature]
Notary Public for Oregon
My commission expires: MARCH 20, 21

IN WITNESS WHEREOF, NW Natural and WFC enter into this Easement Agreement as of the date first written above.

WARRENTON FIBER COMPANY, an Oregon corporation	NORTHWEST NATURAL GAS COMPANY, an Oregon corporation
By: _____	By: 
Print Name: _____	David H. Anderson, President and CEO
Print Title: _____	
NYGAARD LAND LLC, an Oregon limited liability company	
By: _____	
Print Name: _____	
Print Title: _____	

STATE OF OREGON)
County of Multnomah) ss.

The foregoing instrument was acknowledged before me this 25th day of October, 2018, by David H. Anderson, as President and CEO of Northwest Natural Gas Company, an Oregon corporation.



Pamela Lynne Villalobos
Notary Public for Oregon
My commission expires: July 26, 2022

STATE OF OREGON)
County of _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, as _____ of Warrenton Fiber Company, an Oregon corporation.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
County of _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, as _____ of Nygaard Land LLC, an Oregon limited liability company.

Notary Public for Oregon
My commission expires: _____

Exhibit A

[LEGAL DESCRIPTION OF BURDENED PROPERTY]

Tract 12 and the South one-half of Tract 13, RODNEY ACRES, County of Clatsop, State of Oregon.

SAVE AND EXCEPTING THEREFROM that portion conveyed to Falcon Community Ventures I, LP, recorded February 22, 2002, as Instrument No. 200202076, Records of Clatsop County, Oregon.

Exhibit B

**[LEGAL DESCRIPTION OF BENEFITED PROPERTY
OWNED BY WARRENTON FIBER COMPANY]**

Tracts G & H Forest Rim, City of Warrenton, recorded January 4, 2008, as Instrument No 20080052, records of Clatsop County, Oregon.

Clatsop County Assessor Nos. 32808, 56976

Exhibit B-1

**[LEGAL DESCRIPTION OF BENEFITED PROPERTY
OWNED BY NYGAARD LAND LLC]**

South one-half of Tract 22, Tract 23 & 24, RODNEY ACRES, County of Clatsop, State of Oregon.

Clatsop County Assessor No. 32855