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May 26, 2004

JUSTIN BOOSE
Direct (503) 294-9637
jrboose@stoel.com

VIA OVERNIGHT DELIVERY

Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

**Re: Application of Northwest Natural Gas Company For Determination Under
Chapter 480-143 WAC In Connection With Sale of Vacant Real Property; Docket
No. __-04__**

Dear Ms. Washburn:

Pursuant to RCW 80.12.020 and WAC 480-143-180, enclosed please find an original and twelve copies of the above-referenced application. An electronic copy of this filing is being sent via electronic mail to the Commission's records center.

Please feel free to contact me if you have any questions regarding this filing.

Very truly yours,



Justin Boose

JRB:hhs
Enclosure

Portlnd3-1482311.1 0055570-00001

Oregon
Washington
California
Utah
Idaho

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Application of

NORTHWEST NATURAL GAS
COMPANY

For Determination Under Chapter 480-143
WAC In Connection With the Sale of
Vacant Real Property

Docket No. ___-04___

APPLICATION

Pursuant to RCW 80.12.020 and WAC 480-143-180, Northwest Natural Gas Company (“the Company” or “NWN”) hereby requests an order from the Washington Utilities and Transportation Commission (the “Commission”) declaring that certain real property described herein (the “Property”) is not necessary or useful. In the alternative, NWN requests an order authorizing the sale of the Property pursuant to WAC 480-143-120 and finding the sale to be consistent with the public interest pursuant to WAC 480-143-170. In support of its Application the Company states as follows:

A. Address

The Company’s exact name and business address are:

Northwest Natural Gas Company
220 NW Second Avenue
Portland, Oregon 97209

B. Communications and Notices

All notices and communications with respect to this application should be addressed to:

APPLICATION - 1

PortInd3-1481560.1 0055570-00001

C. Alex Miller
Manager, Rates & Regulatory Affairs
Northwest Natural Gas Company
220 NW Second Avenue
Portland, Oregon 97209
Phone: (503) 721-2487
Fax:
E-mail: c2m@nwnatural.com

James M. Van Nostrand
Justin R. Boose
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101
Phone: (206) 386-7665
Fax: (206) 386-7500
E-mail: jmvannostrand@stoel.com

C. Description of the Property and the Proposed Transaction

The Property consists of a 9.42 acre vacant parcel of land located on NE 117th Avenue in Vancouver Washington, as described more fully in Exhibit A hereto. NWN acquired the property in 1992 to serve as the site for a contemplated development consisting of an office building and service center. A copy of the agreement under which NWN purchased the Property is attached hereto as Attachment A.

Following the purchase, the surrounding area experienced significant retail and commercial development and accompanying traffic and congestion issues that made the site no longer suitable for NWN's contemplated development. NWN acquired another parcel of land to serve as the site for its contemplated office/service center development.

NWN listed the Property for sale approximately three years ago. In November 2003, NWN identified a potential purchaser for the property and entered in to a Vacant Land Purchase and Sale Agreement regarding the same (the "Sale Agreement"). A copy of the Sale Agreement, as amended, is attached hereto as Attachment B.

Under the Sale Agreement, the buyer may reject the sale on or before July 9, 2004 if it deems the property unsuitable for its intended use. Alternately, the buyer has options to extend this deadline for three successive 30 day periods. The Sale Agreement is set to close on or before August 8, 2004, unless extended in connection with the above-described options of the buyer.

D. Accounting Issues

The Property has been accounted for as utility property held for future use and has not been included in rate base. The Company is seeking only the Commission's authorization to transfer the property as surplus property, and is making no proposal with respect to the ratemaking treatment of any proceeds from the sale of the property, which would be addressed, if at all, in a future ratemaking proceeding.

E. Financial Statements and Transfer Instruments

WAC 480-143-120 requires that the Application include NWN's current financial statements and copies of all transfer instruments. As discussed above, the transfer instruments are included as Attachment B hereto. NWN's current financial statements are on file with the Commission in Docket No. UG-031885, the Company's pending general rate proceeding, and are incorporated herein by this reference.

F. Legal Bases In Support of Application

Commission approval is required in connection with the sale or transfer of necessary or useful utility property. WAC 480-143-120. Necessary or useful property generally includes all utility property except items:

“(1) Are substituted with or replaced by items of equal or greater value or usefulness;

“(2) Are surplus and unneeded assets for which full value is received;

“(3) Are obsolete; or

“(4) Are excluded from the public service company's rate base by commission order, or otherwise.” WAC 480-143-180.

Although Commission approval is not required for the sale or transfer of such items, a determination by the commission as to necessity or usefulness is required if the property to be

sold or transferred exceeds certain value thresholds.

1. The Property Is Not Necessary or Useful

NWN is entitled to a determination that the Property is not necessary or useful on two separate grounds. First, consistent with item four above, the Property is *per se* not necessary or useful because it is and has been excluded from NWN's rate base. Given the exclusion from rate base, the regulations support a finding that the property is not necessary or useful.

Second, consistent with item two above, the Property is appropriately characterized as "surplus and unneeded assets for which full value is received." The Property is a vacant parcel of land for which the Company has no development plans. The Company abandoned its development plans for the Property in favor of a more suitable parcel. Full value was received in that NWN is to receive a purchase price that reflects its current market value.

For the above reasons, NWN respectfully seeks an order of the Commission pursuant to WAC 480-143-180 determining that the Property is not necessary or useful.

2. In any Event, The Proposed Sale is In the Public Interest

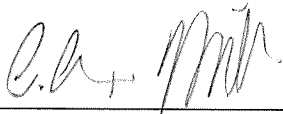
Even if the Commission were to conclude that the Property is necessary or useful, it should nonetheless approve the proposed sale as consistent with the public interest. *See* WAC 480-143-170. The proposed sale is consistent with the public interest because it will allow the Company to dispose of vacant real estate for which it has no development plans. No regulatory concerns should arise, because the Property does not include any supply or distribution assets or other attributes that impact the nature of the service provided by NWN.

G. Conclusion

For the above reasons, NWN respectfully requests an order determining that the Property is not necessary or useful or, in the alternative, that the proposed sale or the Property is in the public interest.


DATED: May 24, 2004.

NORTHWEST NATURAL GAS COMPANY

By 
C. Alex Miller
Manager, Rates & Regulatory Affairs
Northwest Natural Gas Company
220 NW Second Avenue
Portland, OR 97209
(503) 721-2487

VERIFICATION

I, C. Alex Miller, Manager, Rates & Regulatory Affairs for Northwest Natural Gas Company, hereby certify in accordance with WAC 480-143-140 that the information included in this Application is true and correct to the best of my information and belief, under penalty of perjury as set forth in RCW 9A.72.085.


C. Alex Miller

ATTACHMENT A

9207210092

WARRANTY DEED (STATUTORY FORM)

92-2120
27390
JC

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The Grantor M & J Investment Company, an Oregon partnership

residing at P. O. Box 3167, Portland, OR 97208

for and in consideration of the sum of Seven Hundred Ninety-nine Thousand Eight Hundred Thirteen Dollars and Eighty-seven Cents Dollars (\$799,813.87xxxxxx),

in hand paid, CONVEY S and WARRANTS to Northwest Natural Gas Company, the Grantee, the following described real estate:

see Exhibit A attached hereto and by this reference incorporated herein, subject to the matters set forth on Exhibit B attached hereto and by this reference incorporated herein,

Real Estate License Tax Ch. 11 Rev. Laws 1951

\$12237.15 has been paid
Recpt. # 338790 Date 7/21/92

situated in the County of Clark, State of Washington.

Sec. 61, see Reg. 4b.
Doug Lasher
Clark County Treasurer

Dated this 30th day of June, 1992.

M & J INVESTMENT By [Signature] an Oregon partnership
By: Platt Electric Supply, Inc., general partner
By: PES Properties, Inc., a general partner

STATE OF WASHINGTON,

County of _____ } ss. (Individual Acknowledgment)

I, _____, Notary Public in and for the State of Washington, do hereby certify that on this _____ day of _____, 19____, personally appeared before me _____ to me known to be the individual described in and who executed the within instrument and acknowledged that _____ signed the same as _____ free and voluntary act and deed for the uses and purposes herein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 19____.

Notary Public in and for the State of Washington, residing at _____ in said County.

Notary Public in and for the state of _____
My appointment expires: _____

STATE OF ~~WASHINGTON~~ OREGON

County of _____ } ss. (Corporate Acknowledgment)

On this 30th day of June, 1992, before me personally appeared Harvey J. Platt

to me known to be the president of Platt Electric Supply, Inc. and PES Properties, Inc. of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the same.

EXHIBIT "A"

No.: A-27390

That portion of the John Bird Donation Land Claim No. 61 in the Northwest quarter of Section 10, Township 2 North, Range 2 East, Willamette Meridian, Clark County, Washington, and being more particularly described as follows:

Beginning at a point in the center of the County Road (now known as N.E. 117th Avenue and also called out as being S. R. 503) at the Northwest corner of said Bird D.L.C.; thence Easterly along the Northerly line of said claim line South $88^{\circ}36'42''$ East 879.97 feet to a 1/2-inch iron rod located at the Northeast corner of lot No. 4 of said Bird D.L.C.; thence along the East line of said lot No. 4 and described as being parallel with the West line of said D.L.C. South $01^{\circ}40'45''$ West 494.49 feet to the TRUE POINT OF BEGINNING; thence from the TRUE POINT OF BEGINNING and continuing along the said East line South $01^{\circ}40'45''$ West 495.13 feet to a 1/2-inch iron rod located at the Southeast corner of said Lot 4 of the Bird D.L.C.; thence along the Southerly line of said Lot 4 and also being parallel with the Northerly line of said Bird D.L.C. North $88^{\circ}36'42''$ West 827.89 feet to the intersection of the Easterly line of said S. R. 503 (said intersection point being 50.00 feet from the centerline); thence along the Easterly line of said S.R. 503 North $01^{\circ}33'30''$ East 495.13 feet; thence leaving said Easterly line and along a line that is parallel with the Northerly line of said Bird D.L.C. South $88^{\circ}36'42''$ East 828.93 feet to the TRUE POINT OF BEGINNING.

1. Any taxes, assessments or charges that may be due Burnt Bridge Creek Drainage Utility District by reason of the land being situated in said District or by reason of services received from said District.

NOTE: 1992 amount: \$15.00 has been paid in full
District No. 021451
Affects: Covers additional property

2. EASEMENT, AND THE TERMS AND CONDITIONS THEREOF:

Grantee: PUBLIC UTILITY DISTRICT NO. 1 OF CLARK COUNTY
Recorded: December 15, 1952
Auditor's File No.: G 116295 in Book 562, Page 438
Purpose: Transmission of electric energy, including communication facilities
Affects: The description is insufficient to properly locate said easement

3. EASEMENT DISCLOSED BY INSTRUMENT AND CONDITIONS CONTAINED THEREIN:

In Favor Of: ADJOINING PROPERTY
For: Water Line
Recorded: November 30, 1962
Auditor's File No.: G 346004
Affects: The description is insufficient to properly locate said easement

4. EASEMENT DISCLOSED BY INSTRUMENT AND CONDITIONS CONTAINED THEREIN:

In Favor Of: ADJOINING PROPERTY
For: Underground communication lines
Recorded: November 1, 1971
Auditor's File No.: G 588030
Affects: The West 10 feet

5. REIMBURSEMENT CONTRACT PROVIDING FOR "LATECOMER FEES", AND THE TERMS AND CONDITIONS THEREOF:

Executed By: H. L. RASMUSSEN
And Between: The City of Vancouver
Dated: December 4, 1978
Recorded: December 13, 1978
Auditor's File No.: 7812130078

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6. EASEMENT, AND THE TERMS AND CONDITIONS THEREOF:

Grantee: CITY OF VANCOUVER, a municipal corporation
 Recorded: May 5, 1978
 Auditor's File No.: 7805050009
 Purpose: Constructing, installing, reconstructing, repairing, operating and maintaining a sanitary sewer
 Affects: The East 10 feet

7. Terms and provisions of an instrument entitled Covenant Running with the Land, Regarding Zoning;

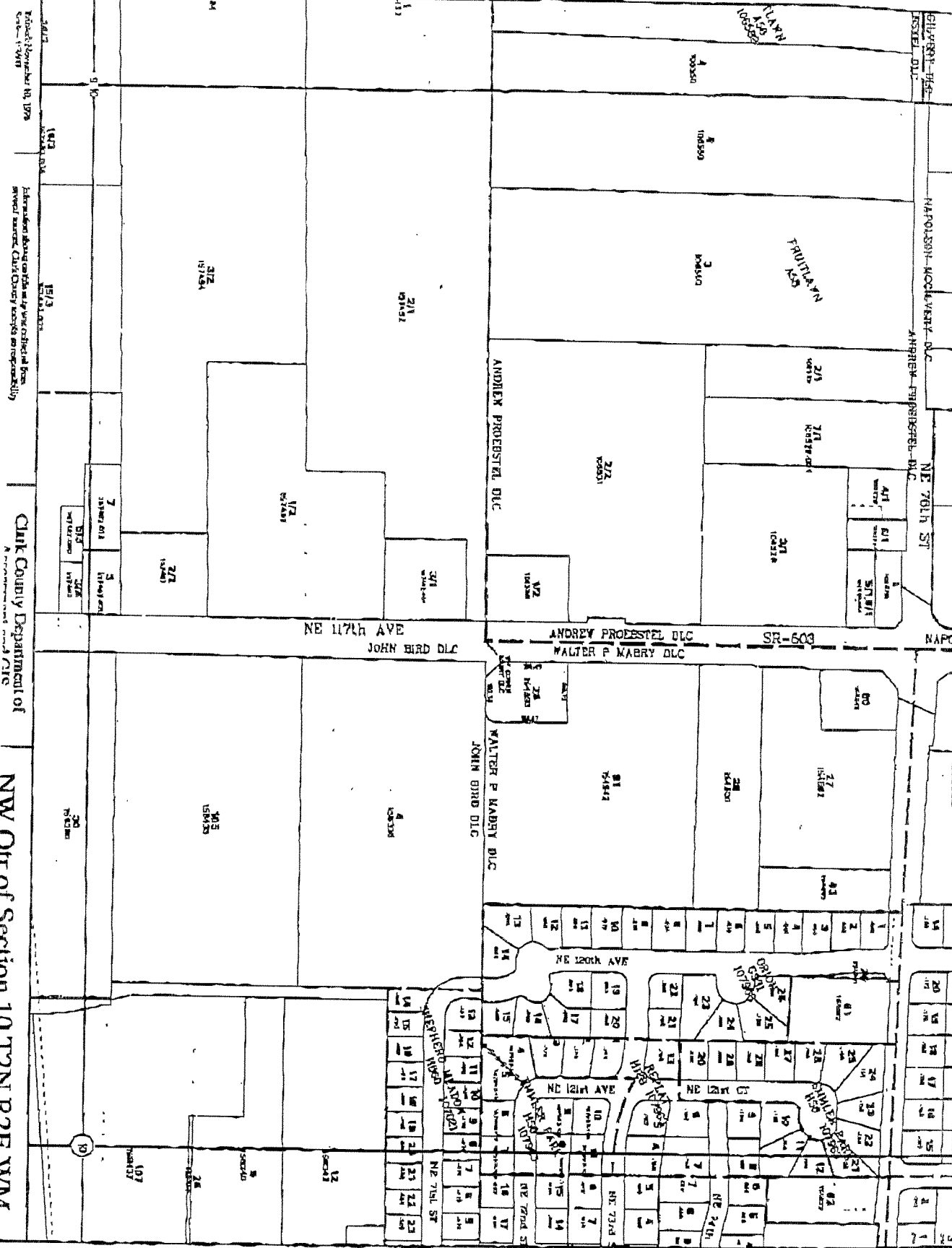
Dated: November 13, 1979
 Recorded: November 14, 1979
 Auditor's File No.: 7911140105

AMENDMENT AND/OR MODIFICATION OF SAID COVENANTS:

Recorded: January 18, 1980
 Auditor's File No.: 8001180041

FILED FOR RECORD
 CLARK CO. WASH.
 FIRST AMERICAN TITLE CO.
 JUL 21 11 15 AM '82

AUDITOR
 ELIZABETH A. LUCE



Information about certain parcels is derived from several sources. Clark County accepts no responsibility for the accuracy of this information.

Clark County Department of Planning and Development

NW 1/4 of Section 10 T2N R2E WM

Plat Map

ATTACHMENT B

VACANT LAND PURCHASE AND SALE AGREEMENT

1. **PARTIES.** This VACANT LAND PURCHASE AND SALE AGREEMENT ("Agreement") is made between JM INVESTMENTS, LLC AND OR ASSIGNS as the "Buyer", and NORTHWEST NATURAL GAS COMPANY, as the "Seller". Buyer agrees to purchase Seller's property on the following terms and conditions:

2. **PROPERTY.**

Assr_sn : 158435-000
Owner : Northwest Natural Gas Company
SiteAddr : Vancouver, WA NE 117th Avenue
OwnerAddr : 220 NW 2nd Ave, Portland, Oregon 97209
Legal : #105 John Bird DLC 9.42 Acres
Mailname : Northwest Natural Gas Company
PropType : Vacant Land

Upon the full execution and delivery of this Agreement, Seller shall order a preliminary title report (the "Preliminary Title Report") from Fidelity National Title. If the legal description for the property that is subject to this Agreement is not attached hereto, Buyer shall have Ten (10) business days after receiving the Preliminary Title Report to approve the legal description contained therein as accurately reflecting the Property that the parties intend to be the subject of this Agreement. Failure to give written disapproval shall be deemed to be approval.

3. **PURCHASE PRICE/FINANCING.** The Purchase Price shall be One Million Six Hundred and Eighty-two Thousand Four Hundred Fifty-five Dollars (\$1,682,455).

4. **EARNEST MONEY.** Buyer shall deposit the amount of twenty-five thousand dollars and no/100 (\$25,000.00) in the form of a promissory note which will be converted to cash within SIXTY (60) days of mutual acceptance. Such converted promissory note shall be deposited into an interest bearing account with Fidelity National Title, Attn: Cheryl Flack, who will issue the title insurance policy and act as the escrow agent. In the event Buyer terminates this Agreement, in accordance with Section 5 below, due to Seller's unwillingness or inability to remove any title exceptions or to any liens or encumbrances affecting the Property to which Buyer objects or Buyer's inability to obtain all necessary entitlements, permits and approvals as described in Section 5 below, Buyer shall be entitled to the return of the earnest money promissory note or the earnest money deposit together with interest accrued thereon, notwithstanding the provisions of this Agreement stating the same to be nonrefundable. Selling Agent acknowledges receipt of earnest money from Buyer in the form of a promissory note for twenty-five thousand dollars (\$25,000) due as stated above.

5. **FEASIBILITY CONTINGENCY.** Buyer shall have not later than thirty (30) days after receipt of the Preliminary Title Commitment, along with legible copies of all documents shown therein as exceptions to title, within which to give notice in writing to Seller of any objection to such title or to any liens or encumbrances affecting the Property. In the event Buyer fails to raise any such objection to an exception to title within such thirty (30) day period, all conditions and exceptions to title set forth in such Preliminary Commitment shall be "Permitted Exceptions." In the event Buyer objects to an exception to title, Seller shall be obligated to notify Buyer within thirty (30) days after notice of such objection whether Seller is

willing and able to remove such exception. If Seller is willing and able to remove such exception, Seller shall do so at or prior to closing. If Seller is not willing and able to remove the objected-to exception, Buyer may, by written notice to Seller within thirty (30) days after notice of Seller's unwillingness or inability to remove such exception, terminate this Agreement and Buyer's earnest money shall be returned to Buyer, or Buyer may elect to acquire the Property subject to such exception. All exceptions described in the Preliminary Commitment and not removed or to be removed pursuant to this paragraph shall be "Permitted Exceptions." Buyer shall have one hundred twenty (120) days from the date of full execution and mutual acceptance of the purchase and sale agreement to obtain (for Buyer's desired uses of the subject property) all necessary entitlements, permits and approvals in a form acceptable to Buyer in its reasonable discretion, that include, but are not limited to, appropriate zoning assurances from the Clark County Community Development for Buyer's intended development of the subject property (HOWEVER, NOT INCLUDING A ZONE CHANGE), the availability of adequate utilities, acceptable soils tests, acceptable topographical survey including any wetlands delineation, adequate ingress and egress, availability of traffic trips to meet City of Vancouver/Clark County Traffic Concurrency requirements and acceptable signage placement. Buyer shall use all reasonable dispatch in order to obtain its necessary entitlements, permits and approvals. Buyer or an authorized agent of Buyer shall have the right, at reasonable times, to enter upon the subject Property for the purpose of conducting this feasibility study; provided, that Buyer shall cause no liens to be recorded against the title to the Property by Buyer or any of Buyer's agents, contractors or invitees and Buyer agrees to indemnify and hold Seller harmless from any and all losses or damages which Seller may incur due to Buyer's or Buyer's agents, contractors or invitees presence on the Property. Buyer will provide an insurance binder protecting Seller from such liabilities that may arise from Buyer's, its engineers or invitees actions while conducting Buyer's feasibility study upon the subject property. Seller shall cooperate with Buyer and provide copies of any and all soils reports, rental agreements/leases, surveys, plats, environmental (Level I), traffic studies, concurrency information, title policies and or any other studies or reports in Seller's possession which may aid Buyer in determining the suitability of the subject property for Buyer's intended use within five (5) business days of mutual execution and acceptance of this Purchase and Sale Agreement. At the end of the one hundred twenty (120) day period, closing shall occur within thirty (30) days unless such closing is extended by Buyer paying to Seller Twelve Thousand Five Hundred Dollars (\$12,500) to extend the closing by a thirty (30) day period. After such closing extension period, Buyer may extend the closing for two additional thirty (30) day periods by paying to Seller Twelve Thousand Five Hundred Dollars (\$12,500) per thirty (30) day period. All extension payments made to Seller shall be applicable to the purchase price, however, these monies are deemed non-refundable once provided to Seller.

6. **CONVEYANCE OF TITLE.** Conveyance of fee title shall be by Statutory Warranty Deed. Buyer and Seller understand that the form of the deed may affect significant legal rights as to which a real estate licensee if not licensed to give advice. If this Agreement provides for the sale and transfer of the vendee's interest under an existing real estate contract, Seller shall convey Seller's interest by an assignment of contract and deed sufficient in form to convey after acquired title.
7. **CLOSING.** Closing shall be within one hundred fifty (150) days of mutual agreement and acceptance of the offer unless closing is extended as described above under Paragraph No. 5. Closing shall mean the date on which all documents are recorded and the net sales proceeds are available for disbursement to Seller. Buyer and Seller shall deposit, when notified and without delay, in escrow with the closing agent all instruments, monies, and other documents reasonably required to complete the closing of the transaction in accordance with the terms of this Agreement.
8. **POSSESSION.** Buyer shall take physical possession of the Property on closing.
9. **ESCROW/CLOSING COSTS.** Closing shall occur at Fidelity National Title, (Cheryl Flack, Escrow Officer) who shall act as the escrow/closing agent unless the parties agree in writing otherwise. Unless limited by law or modified by the terms of this Agreement, Buyer and Seller shall pay at closing all customary and usual closing costs and fees, including but not limited to the following: Seller shall pay Seller's excise tax, the cost of the owner's standard form of title insurance, and Seller's half share of recording and escrow

fees; Buyer shall pay all costs and fees associated with the financing, any other costs agreed to under the terms of this Agreement, and Buyer's half share of the recording and escrow fees (unless prohibited by government regulation). Taxes for the current year, rents, interest, association or homeowner's fees, if any, shall be pro-rated as of the date of closing. All utility charges shall be paid and/or pro-rated outside escrow directly between Buyer and Seller.

10. SELLER'S REPRESENTATIONS.

- (a) **Property Maintenance:** Seller will perform ordinary maintenance on the Property as presently exists until the earlier of closing or as otherwise agreed. Seller will remove all of Seller's personal property, trash, debris, and all articles not agreed to be left at closing.
- (b) **Boundaries/Square Footage:** Seller makes no representations regarding the locations or length of the boundary lines or size of lot. Buyer has personally observed the Property and has reached Buyer's own conclusions as to the adequacy and acceptability of the Property based upon such personal inspection.

11 TITLE.

- (a) **Title Insurance to be issued by Fidelity National Title:** Title Insurance provided at closing shall be Standard Title Insurance. Seller will pay the cost of Standard Title Insurance. If Buyer requires Extended Title Insurance, Buyer agrees to pay all costs in excess of those charged for the standard form including, without limitation, increased premiums and survey costs. If a survey is required, Buyer shall order the survey within three (3) business days of receiving notice from the title company that a survey is required and Buyer shall pay the estimated cost of the survey prior to performance of any survey work or Buyer can waive requirement for an extended policy and accept standard title insurance.
- (b) **Title Insurance Commitment:** Seller authorizes the Closing Agent, at Seller's expense, to apply for a preliminary commitment ("commitment") for an ALTA form Owner's policy of Title Insurance (Policy") as described in subparagraph (a) above, with inflation protection endorsement, if available at no additional charge to be issued by the above title company. Seller shall pay title insurance cancellation fees.
- (c) **Extended Title Insurance:** Buyer acknowledges that the coverage afforded by a standard form policy of title insurance provides limited or no coverage for loss by reason of conflicts in boundary lines, shortage in area, encroachments, or any other matters which an accurate survey would disclose. More extensive coverage through an extended policy of title insurance may be available for an additional charge and subject to additional requirements imposed by the title company including a survey.
- (d) **Title Insurance Exceptions and Exclusions:** The title policy shall contain no exceptions to or exclusions from coverage other than those provided in the specified title policy form and those that are Permitted Exceptions pursuant to paragraph 5, above. If title cannot be made so insurable by closing, this Agreement shall terminate at Buyer's option and Buyer shall be entitled to the return of the Earnest Money, which termination and return of the Earnest Money shall be Buyer's sole remedy.
- (e) **Condition of Title:** Unless otherwise specified in this Agreement, title to the Property at closing shall be subject to the Permitted Exceptions only. Encumbrances to be discharged by Seller shall be paid from Seller's funds at closing.
- (f) **Mineral rights are included.**

12. **ASSIGNMENT.** Buyer may assign Buyer's interest in this Purchase and Sale Agreement to its holding/development company without Seller's prior written consent. Buyer shall remain liable for its obligations under this Agreement following any assignment.

13. **DEFAULT/TERMINATION.** If this Agreement is terminated for any reason, any costs authorized under this Agreement to be advanced from the earnest money deposit shall be deducted before the remaining earnest money is refunded to Buyer or forfeited to Seller. If a dispute should arise regarding the disbursement of any earnest money, the party holding the earnest money may interplead the funds into court and that party shall recover all costs and attorney fees associated with the interpleader action from the earnest money before any other disbursements are made. In the event Buyer fails, without legal excuse, to complete the purchase of the property, the earnest money deposit made by Buyer shall be

forfeited to Seller as the sole and exclusive remedy available to Seller for such failure. Furthermore, if the earnest money and extension payments deposited exceeds five percent (5%) of the sale price, Seller may retain as liquidated damages and as Seller's sole remedy earnest money and extension payments equaling only five percent (5%) of the purchase price; any additional earnest money shall be refunded to Buyer.

If Seller defaults, without legal excuse, Buyer may seek specific performance. Buyer's right to specific performance is subject to the condition that (a) Buyer has fully performed all of its obligations under this Agreement (including, without limitation, delivery of the purchase price to Fidelity National Title), and (b) Seller refuses to execute and deliver to Fidelity National Title the closing documents required by this Agreement for five (5) days after Seller's receipt of a written demand from Buyer for specific performance and notice that Buyer has delivered the purchase price to Fidelity National Title. If Buyer is entitled to, and elects to seek specific performance, such election must be made by filing suit in a court of competent jurisdiction within six (6) months after Seller's default. If Buyer elects to seek specific performance as permitted in this Agreement, such remedy shall be Buyer's exclusive remedy for Seller's default, Buyer thereby waiving all other claims against Seller for default, except claims for attorney fees and court costs to the extent permitted by law. **Washington statutory Provision:** In the event the purchaser (i.e. Buyer) fails, without legal excuse, to complete the purchase of the property (i.e. the Property), the earnest money deposit made by the purchaser shall be forfeited to the seller (i.e. Seller) as the sole and exclusive remedy available to the seller for such failure. In the event of any conflict between the foregoing Statutory Provision and the other provisions of this Paragraph 13, the Statutory Provision shall control.

14. ATTORNEY'S FEES/COSTS AND MEDIATION. If Buyer, Seller, or any real estate licensee or broker involved in this transaction is involved in any dispute relating to this transaction, any prevailing party shall recover reasonable attorneys' fees and costs (including those for appeals) which relate to the dispute. In the event of a dispute, it is recommended (but not required) THAT the parties engage in mediation in an effort to resolve the dispute without the need for a lawsuit. The Washington Association of REALTORS® does offer a mediation service. For information, call 1-800-280-4770.

15. FIRPTA COMPLIANCE. The Closing Agent is instructed to prepare a certification that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. Seller agrees to sign this certification. If Seller is a foreign person and this transaction is not otherwise exempt from FIRPTA, the Closing Agent is instructed to withhold from Seller's funds and pay to the Internal Revenue service the appropriate amount under FIRPTA.

16. CASUALTY/LOSS. If, prior to closing, the Property is destroyed or materially damaged by fire or other casualty, Buyer may elect to terminate this Agreement, and the remaining earnest money shall be refunded to Buyer.

17. COMPUTATION OF TIME. Unless specified otherwise herein, any periods of time referenced in this Agreement shall expire at 9:00 p.m. (Pacific Time Zone) of the last calendar day of the specified time period, unless the last day is a Saturday, Sunday, or legal holiday as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 9:00p.m. (Pacific Time Zone) on the next business day. Any specified period of three (3) days or less shall include business days only.

18. PROFESSIONAL ADVICE. Buyer and Seller each acknowledge that it is advisable to have the terms and conditions of this Agreement reviewed by independent legal counsel and/or a tax advisor, as the terms and conditions affect the parties' rights and may have tax implications. Each party is specifically aware that issues such as form of deed used for conveyance, agency representation, financing documents, liquidated damages, title insurance and seller representations are complicated and that the parties may require advice that a real estate licensee is not licensed to give and for which parties should contact their own attorney or accountant. Furthermore, Buyer and Seller agree that: (a) they are not relying on any representations or advice by the real estate licensees involved in this transaction; and, (b) they have satisfied themselves as to the terms and conditions of this sale.

19. **AGENCY DISCLOSURE:** At the signing of this Agreement, the Selling Agent Gordon Lewis, Coldwell Banker Commercial Bob Bernhardt Associates represented Buyer and the Listing Agents Craig Reinhart and David Reinhart, CRESA Partners, represented Seller. Buyer and Seller both confirm that prior oral and/or written disclosure of agency was provided to each of them in this transaction. If Selling Agent and Listing Agent are different licensees affiliated with the same broker, then both parties consent to that broker acting as a dual agent. If Selling Agent and Listing Agent are the same person representing other parties, then both parties confirm their consent to that agent and his/her broker acting as a dual agent. Both parties acknowledge receipt of a copy of the pamphlet entitled "The Law of Real Estate Agency".

20. **GENERAL PROVISIONS.**

Notices: Unless otherwise specified in this Agreement, any notice required or given under the terms of this Agreement must be written. Receipt of any notice shall be defined as the earlier of: three (3) business days following the postmark date; or the date the notice is actually received by the party.

Faxes and counterparts: Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original. At the request of either party, or the closing agent, the parties will confirm facsimile transmitted signatures by signing an original document. This Agreement may be signed in counterparts.

Integration: There are no verbal agreements or understandings which modify this Agreement. This Agreement constitutes the full understanding between Buyer and Seller.

Time is of the Essence: Time is of the essence as to all terms and conditions of this Agreement.

Backup Offers: Buyer is aware that during the term of this Agreement, Seller may continue to market the property and solicit and accept backup offers.

Venue/Applicable Law: This Agreement shall be interpreted and construed according the laws of the State of Washington; venue shall be in the county in which the Property is located.


Survival: All terms of this Agreement, which are not satisfied or waived prior to closing, shall survive closing for a period of one (1) year. These terms shall include, but not be limited to, representations and warranties, attorney's fees and costs, disclaimers, repairs, rents and utilities, etc.

Buyer and Seller may only amend this Agreement by mutual written consent.

21. **AGREEMENT TO PURCHASE.** Buyer offers to purchase the Property on the above terms and conditions. Buyer here acknowledges receipt of a copy of this Agreement. Seller shall have until Wednesday, November 26, 2003 to accept this offer unless sooner withdrawn by delivering a signed copy to Buyer or to Seller. Acceptance shall not be effective until a signed copy hereof is actually received by Buyer.

22. **REAL ESTATE/BROKERAGE FEES.** Seller shall be responsible to pay at closing any and all Real Estate Brokerage fees.

BUYER: JM INVESTMENTS, LLC

 November 21, 2003
Joseph M. Melo, Member Date

2131 SE 12th Avenue
Camas, WA 98607-2281
360-921-7410 cell
360-834-5794 home
360-883-5990 fax
360-883-2777 office

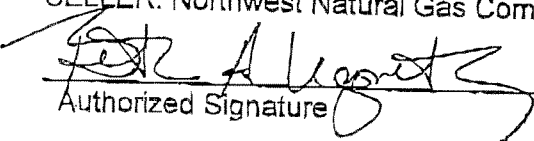
23. **SELLER'S ACCEPTANCE.** Subject to Seller's counter offer or modifications, if any, Seller agrees to sell the Property on the terms and conditions specified herein and pay a fee in accordance with the Listing Agreement to CRESA PARTNERS to be split on a 50/50 basis with Coldwell Banker Commercial. Upon

Buyer's and Seller's mutual acceptance of terms, Seller acknowledges receipt of a copy of this Purchase and Sale Agreement, signed by both parties. o Seller's Counter Offer or modifications are made a part of this Agreement. Buyer shall have until _____ a.m. / p.m., _____, 20____, unless sooner withdrawn within which to accept same. Acceptance shall not be effective until a signed copy hereof is actually received by Seller.

24. **ADDENDUMS; EXHIBITS.** Exhibit A is attached to this Agreement and incorporated within this Agreement.

25. **SELLER'S DISCLAIMER.** Seller disclaims the making of any representations or warranties, express or implied, regarding the Property or matters affecting the Property, including, without limitation, the physical condition of the Property, title to or boundaries of the Property, pest control matters, soil condition, hazardous waste, toxic substances or other environmental matters, compliance with building, health, safety, land use and zoning laws, regulations and orders, structural and other engineering characteristics, traffic patterns, and all other information pertaining to the Property. Buyer, moreover, acknowledges (i) that Buyer is a sophisticated party, knowledgeable and experienced in the financial and business risks attendant to an investment in real property and capable of evaluating the merits and risks of purchasing the Property, (ii) that Buyer is purchasing the Property with the intention of making and relying upon its own (or its experts') investigation of the physical, environmental, economic and legal condition of the Property, including, without limitation, the compliance of the Property with laws and governmental regulations, and (iii) that Buyer is not relying upon any representations and warranties made by Seller or anyone acting or claiming to act on Seller's behalf concerning the Property. Buyer further acknowledges that it has not received from Seller any accounting, tax, legal, architectural, engineering, property management or other advice with respect to its purchase of the Property and is relying upon the advice of its own accounting, tax, legal, architectural, engineering, property management and other advisors. Buyer is purchasing the Property in its "AS IS" condition and assumes the risk that adverse physical, environmental, economic, or other legal conditions may not have been revealed by its investigations. It is the express intent of the parties to transfer to Buyer, as between Seller and Buyer, any liability that may now or in the future exist under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") 42 U.S.C. § 9601 *et seq.*, the Resource Conservation and Recovery Act of 1976 ("RCRA") 42 U.S.C. § 6901 *et seq.*, the Washington State Model Toxics Control Act, RCW Ch. 70.150D; the Washington State Hazardous Waste Management Act, RCW Ch. 70.105; the Washington Water Pollution Control Act, RCW Ch. 90.48; the Washington Clear Air Act, RCW Ch. 70.94; the Washington Industrial Safety and Health Act, RCW Ch. 49.17; the Washington State Environmental Policy Act, RCW Ch. 43.21C; rules and regulations of the Environmental Protection Agency and the Washington Department of Ecology, or other similar environmental laws, for known or unknown environmental conditions on, under or relating to the Property. Buyer acknowledges that the purchase price reflects an adjustment to account for this transfer of liability. Seller shall have no liability for any subsequently discovered defects, whether latent or patent. BUYER, BY ITS EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT IS PURCHASING THE PROPERTY "AS IS," "WITH ALL FAULTS" AND WITH A FULL AND COMPLETE ASSUMPTION OF ANY AND ALL RISKS AND LIABILITIES ARISING OUT OF THE ACQUISITION AND OWNERSHIP OF THE PROPERTY WITH NO RECOURSE WHATSOEVER AGAINST SELLER.

SELLER: Northwest Natural Gas Company.

 (print name Beth Ugoretz Date 11-24-03
Authorized Signature

Sellers Address:

220 NW 2nd Ave, Portland, Oregon 97209

BUYER'S RECEIPT. A true copy of the foregoing signed by Seller, is hereby received.

BUYER

BUYER

Date

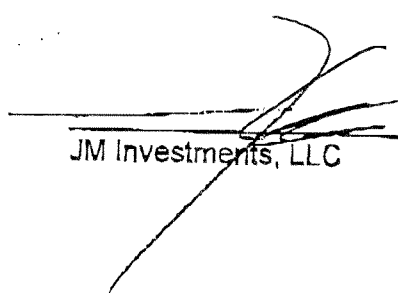
Date

Exhibit A

EARNEST MONEY PROMISSORY NOTE

For Value Received, the undersigned Purchaser agrees to pay to the order of Fidelity National Title, Vancouver, Washington, the sum of Twenty Five Thousand and no/100 Dollars (\$25,000) due within sixty (60) days of mutual acceptance. This promissory note is given as Earnest Money pursuant and subject to the Vacant Land Purchase and Sale Agreement dated 11-21-03, 2003, attached, between JM Investments, LLC (Buyer) and Northwest Natural Gas Company (Seller).

After maturity, or on default, this note shall bear interest at the rate of Eight Percent (8%) per annum, until paid. If this note shall be placed in the hands of an attorney for collection, or if suit shall be brought to collect any of the balance due on this note, Buyer promises to pay reasonable attorney's fees as fixed by the Court, and all court and collection costs. This note is unsecured.


JM Investments, LLC

November 21, 2003

Date

COPY

AMENDMENT TO AGREEMENT

Pursuant to that certain Agreement dated November 23, 2003 ("Agreement") between **JM INVESTMENTS AND OR ASSIGNS** as the "Buyer", and **NORTHWEST NATURAL GAS COMPANY** as the "Seller", Seller agreed to sell to Buyer a parcel of land identified as #105 John Bird DLC 9.42 Acres (Tax Parcel Number 158435-000) in the city of Vancouver, County of Clark, State of Washington. Seller and Buyer desire to amend the Agreement, subject to certain terms and conditions.

NOW THEREFORE for value received and in consideration of the mutual promises set forth in the Amendment, the parties agree as follows:

Paragraph 5, FEASIBILITY CONTINGENCY, shall be amended as follows:

Buyer acknowledges that it received and has approved in all respects the Preliminary Title Commitment for the Property, along with legible copies of all documents shown therein as exceptions to title, and that all conditions and exceptions to title set forth in such Preliminary Commitment are and shall be deemed "Permitted Exceptions" and that Buyer, should it proceed to purchase the Property, shall acquire the Property subject to the "Permitted Exceptions." Buyer shall have until Friday, July 9, 2004 to obtain (for Buyer's desired uses of the subject property) all necessary entitlements, permits and approvals in a form acceptable to Buyer in its reasonable discretion, that include, but are not limited to, appropriate zoning assurances from the Clark County Community Development for Buyer's intended development of the subject property (HOWEVER, NOT INCLUDING A ZONE CHANGE), the availability of adequate utilities, acceptable soils tests, acceptable topographical survey including any wetlands delineation, adequate ingress and egress, availability of traffic trips to meet City of Vancouver/Clark County Traffic Concurrency requirements and acceptable signage placement. Buyer shall use all reasonable dispatch in order to obtain its necessary entitlements, permits and approvals. Buyer or an authorized agent of Buyer shall have the right, at reasonable times, to enter upon the subject Property for the purpose of conducting this feasibility study; provided, that Buyer shall cause no liens to be recorded against the title to the Property by Buyer or any of Buyer's agents, contractors or invitees and Buyer agrees to indemnify and hold Seller harmless from any and all losses or damages which Seller may incur due to Buyer's or Buyer's agents, contractors or invitees presence on the Property. Buyer will provide an insurance binder protecting Seller from such liabilities that may arise from Buyer's, its engineers or invitees actions while conducting Buyer's feasibility study upon the subject property. Seller shall cooperate with Buyer and provide copies of any and all soils reports, rental agreements/leases, surveys, plats, environmental (Level I), traffic studies, concurrency information, title policies and or any other studies or reports in Seller's possession which may aid Buyer in determining the suitability of the subject property for Buyer's intended use within five (5) business days of mutual execution and acceptance of this Purchase and Sale Agreement. If Buyer has provided Seller a written notice stating that Buyer is satisfied with the Property on or before Friday, July 9, 2004, then the \$25,000 earnest money shall become nonrefundable and closing shall occur within thirty (30) days unless such closing is extended by Buyer paying directly to Seller prior to the expiration of the 30 day period Twelve Thousand Five Hundred

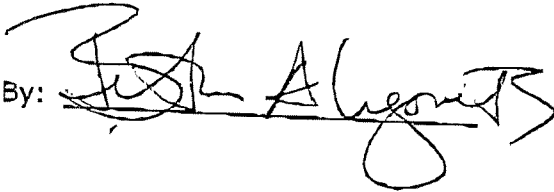
Dollars (\$12,500) to extend the closing by a thirty (30) day period. After such closing extension period, Buyer may extend the closing for two additional thirty (30) day periods by paying directly to Seller prior to the expiration of the applicable 30 day extension period Twelve Thousand Five Hundred Dollars (\$12,500) per thirty (30) day period. All extension payments made to Seller shall be applicable to the purchase price, however, these monies are deemed non-refundable once provided to Seller. If Buyer does not provide Seller a written notice on or before Friday, July 9, 2004 that Buyer is satisfied with the Property, then this Agreement shall terminate and Buyer shall be entitled to a return of its earnest money.

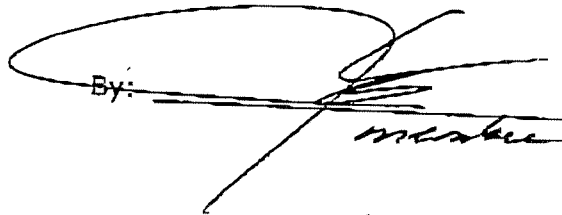
Paragraph 7, Closing, first sentence, shall be amended as follows: Closing shall be on or before August 8, 2004 unless closing is extended as described above under Paragraph No. 5.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of March 19, 2004.

SELLER:
NORTHWEST NATURAL GAS COMPANY

PURCHASER:
JM INVESTMENTS AND OR ASSIGNS

By: 

By: 

Date: 3-19-04

Date: March 19, 2004