

August 13, 2012

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Subject: Spokane River Hydroelectric Project, FERC Project No. 2545
Submission of the Nine Mile Falls and Lake Spokane Recreation and Land Use
Management Lease Agreement**

Dear Secretary Bose:

Avista Corporation (Avista) owns and operates a multitude of recreation areas associated with its Nine Mile and Long Lake Hydroelectric Developments. In an effort to more effectively manage the recreation areas, Avista has entered into the attached Nine Mile Falls and Lake Spokane Recreation and Land Use Management Lease Agreement (Agreement) with the Washington State Parks and Recreation Commission (State Parks).

Avista entered into the Agreement with State Parks for a number of reasons. First and foremost is the professional manner in which State Parks manages Riverside State Park, a 10,000 acre state park, which is also located adjacent to both HED's reservoirs. Of importance, Avista's Nine Mile Recreation Area, Avista's largest recreation site on Lake Spokane, is already managed by State Parks as a component of Riverside State Park. Second, State Parks will become the primary recreation site manager around both reservoirs, including State Parks lands and recreation areas, the Washington Department of Natural Resources' Lake Spokane Campground, which Avista has been subsidizing for years, and Avista's recreation areas and lands. All three entities believe this arrangement will provide consistency in management actions, visitor expectations, fees, etc. for both reservoirs and all adjacent lands. Avista also believes this arrangement will allow it to continue to provide the public reasonable access to its Project lands and recreation areas at a reasonable cost.

Both Avista and State Parks recognize and have entered into the Agreement with the understanding that FERC has ultimate authority over all Project lands and Project recreation areas, and that FERC reserves the right to approve and/or modify the Agreement as it deems necessary. This condition has been clearly stated in the Agreement and is based on FERC staff's input as we developed the Agreement.

Ms. Kimberly D. Bose, Secretary

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With this, we are filing the attached Agreement for FERC's approval. Please feel free to contact either me or Rene' Wiley if you have any questions or wish to discuss the Agreement. I can be reached at (509) 495-4998 and Rene' can be reached at (509) 495-2919.

Sincerely,



Elvin "Speed" Fitzhugh

Spokane River License Manager

Enclosure: Nine Mile Falls and Lake Spokane Recreation and Land Use Management Lease Agreement

cc: Jon Cofrancesco – FERC DHAC
Chris Guidotti – Washington State Parks
Tom Ernsberger – Washington State Parks

**Nine Mile Falls and Lake Spokane
Recreation and Land Use Management
Lease Agreement**

This Recreation and Land Use Management Lease Agreement ("Agreement") is entered into between Avista Corporation, a Washington corporation ("Avista") and the Washington State Parks and Recreation Commission ("State Parks"), also individually, a "Party" and collectively, the "Parties."

Background and Purpose: Avista desires to retain the services of qualified professionals to operate and maintain Avista's Nine Mile Falls and Lake Spokane Recreation Areas as recreation sites for the benefit of the general public in accordance with Avista's Recreation and Land Use Management Plan and FERC License No. 2545 and as specifically defined in the attached Scope of Services (the "Services"). State Parks believes that the area covered by this Agreement would make a logical addition to Riverside State Park. The purpose of this Agreement is to set forth the scope and terms for the performance of the Services and the obligations of the Parties. **Therefore the Parties agree:**

1. **Scope of Services:** Avista hereby grants and State Parks accepts a leasehold interest in the area legally described and mapped in Exhibit A (the "Premises") and State Parks agrees to operate and maintain the Premises, which consists of the Avista properties and South Shore Trailheads located at Avista's Nine Mile Falls and Lake Spokane Recreation Areas as part of Riverside State Park. State Parks agrees to perform the Year-Round Services and the Seasonal Services defined in the attached Scope of Services. Such Services will be performed in accordance with the conditions set forth in this Agreement, and as requested by Avista's Representative identified in Section 9 below. Avista may request additional services or modifications to the Services. Such additions or changes will be performed in accordance with additional written Work Authorizations or Change Orders, as mutually agreed and signed by the Parties. All Work Authorizations and Change Orders are incorporated into this Agreement by reference.
2. **Compensation:**
 - 2.1 In return for the satisfactory performance of the Services, Avista shall pay State Parks \$60,000.00 annually, subject to adjustments as detailed in the Scope of Services. The annual payment amount will be adjusted beginning on the first anniversary date and each anniversary date thereafter during the term of this Agreement according to Consumer Price Index, All Urban Consumers, U.S. Western Cities, All Items ("CPI"). The annual payment includes and cancels any amount paid by Avista to State Parks under separate arrangements with respect to annual operations and maintenance of Avista's Properties.
 - 2.2 State Parks shall invoice Avista on or about June 30th of each year for Services to be rendered during the following year, or as otherwise agreed to by the Parties. State Parks shall place Avista's Contract Number assigned to this Agreement on all of its invoices and submit such invoices to Avista Corp, PO Box 3727, Spokane, WA 99220-3727, Attn: René Wiley. Payment for all undisputed invoices will be due and payable 30 days after receipt.
 - 2.3 All amounts payable by Avista are inclusive of all taxes and overhead arising out of State Parks' performance of the Services, including sales, use, and value-added taxes, and in no event will Avista be liable for any taxes based on State Parks' income.
3. **Term and Termination:** This Agreement will become effective when executed by both Parties and remain in effect for five (5) consecutive years thereafter (the "Term") provided that this Agreement may be terminated for any or no reason upon one (1) year's prior written notice by one Party to the other Party.
4. **Independence:** State Parks shall at all times be an independent contractor and not an agent or representative of Avista with regard to performance of the Services. State Parks shall not represent that

it is, or hold itself out as an agent or representative of Avista. In no event is State Parks authorized to enter into any agreement or undertaking for or on behalf of Avista. State Parks acknowledges that it is not an employee of Avista and, as such, State Parks is not entitled to any benefits or compensation to which employees of Avista are entitled. Avista will not be responsible for the payment of withholding taxes, unemployment insurance, worker's compensation, social security, pensions, licenses or other fees in connection with the performance of the Services, and such costs are solely the responsibility of State Parks.

5. **Means and Methods:** Subject to compliance with this Agreement, State Parks shall be free of any control by Avista in selecting the means, methods, techniques and procedures used in the performance of the Services, provided that all or part of the Premises are within, or adjoining the boundaries of the Spokane River Hydroelectric Project (the "Project") licensed under the Federal Power Act. State Parks understands and agrees that it takes possession of the Premises subject to the provisions of the Federal Power Act and that this Agreement may be subject to approval by the Federal Energy Regulatory Commission. Avista retains the continuing responsibility to supervise and control the use and occupancies of the Premises and the Project, to monitor the use of, and ensure the interest conveyed is in compliance with and consistent with Project purposes and that it protects and enhances the scenic, recreational, and environmental values associated with the Project. **Notwithstanding any provision contained herein, Lessor, its successors, and assigns, shall have the right at all times to perform any and all acts required by an order of the Federal Energy Regulatory Commission or its successors affecting the leased Premises without prior approval of the Lessee.**
6. **Right of Entry.** Avista reserves the right to have unrestricted use and access to the Premises without a Discover Pass, Day Use Permit or any other State Parks fees for its officers, employees, agents, licensees and permittees for the purposes of the operation and maintenance of the Project, including the responsibility to supervise, control and monitor the use and compliance of this Agreement, constructing and maintaining utilities, other business or operational purposes, flowage and flooding, wildlife, fisheries or habitat management, recreation and any other activities related to obligations, rights and interests reserved by Avista.
7. **Standard of Performance:** State Parks shall provide the Services in a good and professional manner in accordance with all applicable laws and the standard of care and skill ordinarily recognized under similar circumstances to be used by a provider of like services at the time the Services are provided.
8. **Readiness:** State Parks represents that it is properly licensed, equipped, organized and financed to perform the Services in accordance with this Agreement.
9. **Avista's Representative:** Avista's Representative has the authority to bind Avista in all matters in connection with State Parks' performance under this Agreement requiring Avista's approval, acceptance, authorization or notice. Avista's Representative for the purposes of this Agreement is René Wiley, rene.wiley@avistacorp.com, (509) 495-2919, unless notified in writing that a different person has assumed this responsibility.
10. **Defects, Errors and Omissions:** State Parks shall remedy, at no cost to Avista, any defect in the Services caused by the act or omission of State Parks or by any failure on the part of the State Parks to carry out the Services in accordance with the provisions of this Agreement.
11. **Indemnity:** To the extent permitted by law, State Parks shall indemnify Avista from all actions, proceedings, claims, demands, losses, costs, damages and expenses, including attorney's fees, which may be brought against or suffered by Avista or which Avista may incur to the extent arising out of or in connection with any negligent act or omission of State Parks' performance under this Agreement. This indemnity shall not extend to damages arising out of the sole negligent acts or omissions of Avista.

Further Avista shall indemnify State Parks for any liabilities incurred by State Parks to the extent arising from the condition of the land that existed prior to the effective date of this Agreement. Nothing in this Agreement or the provision of Services shall create or impose any liability on Avista or Parks for the acts of the other.

12. **Insurance:** State Parks certifies that it is adequately insured for the protection of itself, its employees, agents and Avista while carrying out its responsibilities under this Agreement.
13. **Conflict of Interest:** State Parks declares that: (i) it is not aware of the existence of any relationship, family, business, contractual or otherwise, between themselves, their principals, officers or employees and Avista, its directors, officers or employees, that could be construed as a conflict of interest, and (ii) it will not perform any work for or enter into any contract with others that may conflict with its contractual, professional, equitable or other obligations to Avista during the term of this Agreement, without first obtaining the written approval of Avista.
14. **Headings:** Section headings are for convenience only and will not be given effect in interpretation of this Agreement.
15. **Benefit:** This Agreement shall inure to the benefit of and be binding upon Parties and their respective successors and permitted assigns.
16. **Governing Law.** This Agreement will be interpreted and enforced in all respects in accordance with the laws of the State of Washington without giving effect to its principles of conflicts of law.
17. **Park Regulations.** Avista acknowledges that the general public users shall be subject to the statutory and regulatory restriction applicable to State Parks once State Parks takes over management of the area as part of Riverside State Park.
18. **Signs.** State Parks may install signs informing the public that this area is now part of Riverside State Park and subject to the Discover Pass, Day Use Permit and other State Parks fee requirements and other rules and regulations relating to State Parks. This effort will be coordinated with Avista.
19. **Entire Agreement:** This Agreement contains the entire understanding between the Parties on its subject matter. Any representation, promise, modification or amendment to this Agreement (or any incorporated documents), except as provided for in this Agreement, will not be binding upon either Party unless reduced to writing and signed by each Party's authorized representative. The invalidity or unenforceability of any provision under this Agreement will not affect the other provisions, and this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted. The failure of either Party to insist upon or enforce strict performance of any of the provisions of this Agreement, or to exercise any rights available to it under this Agreement, will not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same will be and remain in full force and effect.
20. **Recording/Memorandum:** Avista shall record a Memorandum of Lease ("Exhibit C") at such time as when the legal description of the real property comprising the Premises is completed in Stevens, Lincoln and Spokane Counties.

This Agreement has been signed by each Party's authorized representative on the date(s) set forth below.

Avista Corporation

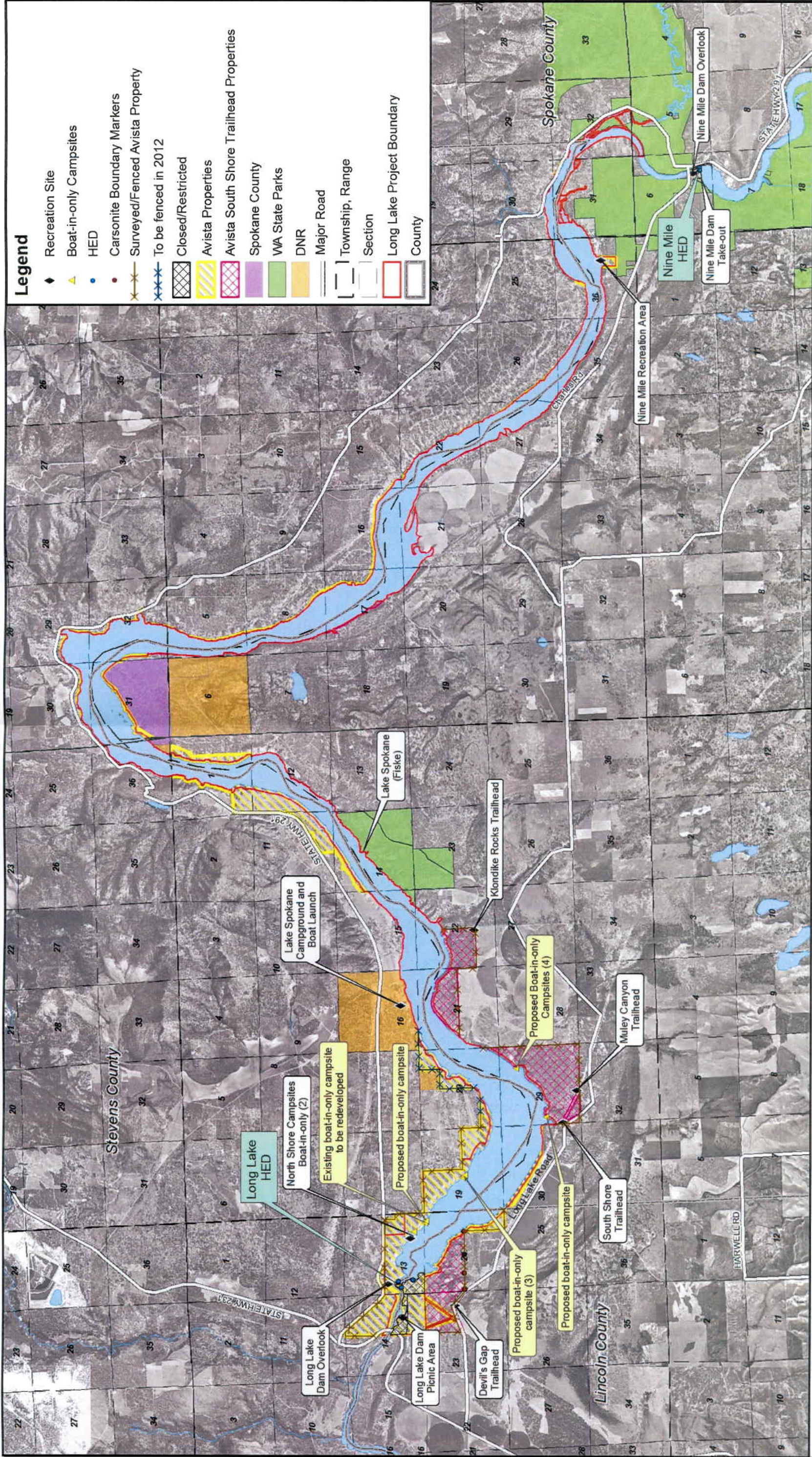
Bruce F Howard
(Signature)
BRUCE F HOWARD
(Printed Name)
DIRECTOR, ENV. AFFAIRS
(Title)
7-18-2012
(Date)

**Washington State Parks and
Recreation Commission**

Larry Fairleigh
(Signature)
Larry Fairleigh
(Printed Name)
ASSISTANT DIRECTOR, Parks Development
(Title)
7-13-2012
(Date)

**Exhibit A
Map and Legal Description**

Map to be inserted at such time as a legal description is drafted describing the lands shown on the attached map, which map the Parties agree constitutes the "Premises" in the interim.



Legend

- ◆ Recreation Site
- ▲ Boat-in-only Campsites
- HED
- Carsonite Boundary Markers
- ✂ Surveyed/Fenced Avista Property
- ✂ To be fenced in 2012
- ▨ Closed/Restricted
- ▨ Avista Properties
- ▨ Avista South Shore Trailhead Properties
- ▨ Spokane County
- ▨ WA State Parks
- ▨ DNR
- ▨ Major Road
- ▨ Township, Range
- ▨ Section
- ▨ Long Lake Project Boundary
- ▨ County



Map Projection:
 NAD 1983 HARN StatePlane Washington
 South FIPS 4602 Feet



This GIS Data is derived relative but provided "as is" without warranty of accuracy, timeliness, reliability or completeness. These map documents do not represent a legal survey of the land and are for graphical purposes only. Use of this Data for any purpose should be with acknowledgment of the limitations of the Data, including the fact that the Data dynamic and is a constant state of maintenance, correction, and update.

**Exhibit B
Scope of Services**

**Nine Mile Falls and Lake Spokane Recreation
and Land Use Management Agreement**

A. In accordance with the above referenced Agreement, **State Parks will provide the following Services** in accordance with Avista's Recreation and Land Use Management Plan and FERC License No. 2545:

1. **Avista Properties – Year-Round Services.** State Parks will operate and maintain the public recreation areas and overlooks at the Nine Mile Falls and Lake Spokane Recreation areas at Avista's Nine Mile and Long Lake Hydroelectric Developments on a year-round basis (Year-Round Services), as further described in Exhibit A, attached to this Scope of Services. These include but are not limited to:

- o Carry-in-only boat take-out above Nine Mile Dam and carry-in-only put-in below Long Lake Dam;
- o 10 boat-in-only campsites on Lake Spokane;
- o The Nine Mile Recreation Area and Long Lake Dam Day-Use Area;
- o Avista lands associated with these areas and other recreational improvements on Lake Spokane.

Together, the "Avista Properties", which includes all recreation areas, overlooks, and trailheads unless otherwise specified.

2. **South Shore Trailheads – Seasonal Services.** State Parks will operate and maintain four Lake Spokane trailheads and associated property at Avista's Long Lake Hydroelectric Developments as further described in Exhibit A. These include:

- o Klondike Rocks, Muley Canyon, South Shore, and Devils Gap Trailheads.

Together, the "South Shore Trailheads".

State Parks will manage the South Shore Trailheads and associated parking lots and trails during the non-hunting time of year (Seasonal Services) and will coordinate this season with Avista on an annual basis. Avista and Washington Department of Fish and Wildlife have previously entered into an agreement to allow general public hunting opportunities at the South Shore Trailheads and associated properties during the State of Washington's legal hunting seasons. The South Shore Trailheads and associated properties are identified in the Map included in Exhibit A.

3. **DNR Properties.** DNR Properties include the Lake Spokane Campground and are separate from but adjacent to Avista Properties. If State Parks is successful in negotiating a management agreement with DNR to operate and maintain the DNR Lake Spokane Campground, Avista will contribute an additional \$25,000 annually towards maintaining and operating the DNR Lake Spokane Campground and the associated boating facilities, for a total of \$85,000 annually, for any years during the Term when State Parks manages the DNR Lake Spokane Campground in addition to the Avista Properties. In addition, upon successful negotiation of a DNR management agreement, Avista will contribute up to \$140,000.00 for construction and expansion of the DNR Lake Spokane Campground. Construction and expansion plans must be approved in advance and in writing by Avista prior to any development or construction. Once completed in accordance

with approved plans, Avista will increase the annual payment to State Parks by an additional \$5,000.00, for a total of \$90,000 annually for the remainder of the Term of the Agreement.

4. **Services.** State Parks' operational and maintenance responsibilities include, but are not limited to:
- a. Operating and maintaining the Avista Properties and South Shore Trailheads as public recreation areas and keeping them in safe, clean and presentable condition according to current State Parks standards and applicable laws, codes, and regulations, as amended;
 - b. Operating and maintaining all recreational facilities on the Avista Properties and South Shore Trailheads including, but not limited to, buildings, restrooms, parking areas, roads lighting, landscaping, docks and ramps, sidewalks, trails, fences, picnic shelters, campsites, tables, BBQ grills, directional and interpretive signs, ditches, and gates ("Improvements") in safe, good working condition according to current State Parks standards. Maintenance activities include, but are not limited to routine painting, repairing, and replacing of Improvements when required. For clarification, Avista is responsible for Capital Improvements on Avista Properties and South Shore Trailheads and State Parks is responsible for operation and maintenance. No Improvements, other than those existing at the time this Scope of Services is executed, may be placed upon or constructed on the Avista Properties and South Shore Trailheads without prior written approval of Avista.
 - c. Operating and Maintaining the Avista Properties and South Shore Trailheads in a manner that will preserve the shoreline and not cause erosion or lakeshore damage;
 - d. Enforcing rules and regulations, patrolling and monitoring of the Avista Properties and South Shore Trailheads and making reasonable efforts to maintain order and protect the public, natural and cultural resources on the Avista Properties, by enforcing public use rules as agreed to with Avista and posted by State Parks;
 - e. Taking all reasonable precautions to prevent forest fires on the Avista Properties and South Shore Trailheads, including, but not limited to, designated campsites, trailheads and picnic areas;
 - f. Identifying, reporting and removing hazard trees that are likely to pose a threat to the public or Improvements on the Avista Properties and South Shore Trailheads and adjacent properties. State Parks will consult with Avista prior to cutting or removing any vegetation on the Avista Properties and South Shore Trailheads;
 - g. Preventing waste or damage to the Avista Properties, and not authorizing or permitting waste or damage to occur on the Avista Properties and South Shore Trailheads by others;
 - h. Operating a litter control program for the Avista Properties and South Shore Trailheads, including but not limited to trash removal; and
 - i. Providing to Avista an annual written report detailing the Services provided during the preceding year, attendance numbers, enforcement incidents, and other significant activities performed by State Parks and/or occurring on Avista Properties and South Shore Trailheads. State Parks will provide Avista an updated inventory of all existing Improvements and of all planned future Improvements upon request.

State Parks may charge for and enforce the Discover Pass, Day Use Permits or other State Parks fees for the general public on the Avista Properties and South Shore Trailheads and will use the revenues generated from the Discover Pass, Day Use Permits or other State Parks fees as needed to defray the cost of to construct, operate and maintain the Avista Properties and South Shore Trailheads, provided that such activities do not negatively affect Avista's limited liability under Washington's recreational use statutes.

B. Avista Responsibilities. Avista will perform the following:

1. Overall forest health management measures, noxious weed control, and capital projects related to Avista Properties and South Shore Trailheads;
2. Irrigation and mowing at Long Lake Dam picnic area; and
3. Requesting and using reasonable efforts to acquire a used four wheel drive vehicle from Avista's fleet management department to be donated to State Parks for operations and maintenance of the Avista Properties and South Shore Trailheads.

Exhibit C
RECORD THIS DOCUMENT.

MEMORANDUM OF LEASE

Between AVISTA CORPORATION and
WASHINGTON STATE PARKS AND RECREATION COMMISSION

WHEREAS, Avista Corporation, hereinafter referred to as "Grantor", is the owner of certain lands in Spokane, Lincoln, and Stevens Counties, as described in EXHIBIT A, attached hereto, and commonly known as the Avista Properties and South Shore Trailheads, and,

WHEREAS, the WASHINGTON STATE PARKS AND RECREATION COMMISSION, hereinafter referred to as "Grantee", desires to lease and use portions of said lands for recreational facilities at Riverside State Park, and,

WHEREAS, Grantor recognizes that Grantee has the authority and capability for administering this land for general public recreational use, subject to Grantor's requirements under the Spokane River Hydroelectric Project license authorized by the Federal Energy Regulatory Commission under the Federal Power Act (the "Project"), reserving to Grantor the authority to enforce the terms of such Project license, and,

WHEREAS, Grantor and Grantee have entered into a Lease Agreement dated _____, for the above mention lands for a term of five (5) years, the legal description for which is set forth herein;

NOW THEREFORE, the parties desire to have notice of said Lease Agreement recorded by the Spokane, Lincoln, and Stevens County Auditors' Offices.

EXECUTED this 18 day of July, 2012.

AVISTA CORPORATION

By [Signature]

DATE 7/18/12

WASHINGTON STATE PARKS AND
RECREATION COMMISSION

By [Signature]

Larry Fairleigh

By Delegation

DATE 7/13/12

APPROVED AS TO FORM:

By /s/ Joseph Shorin III

Assistant Attorney General