

AGREEMENT FOR INSTALLATION OF ELECTRIC FACILITIES

PARTITION No. LP 61-96/CURBOW

THIS AGREEMENT FOR INSTALLATION OF ELECTRICAL FACILITIES is made and entered into this 2nd day of March, 1998 by and between MIDSTATE ELECTRIC COOPERATIVE, INC., an Oregon cooperative corporation, hereinafter referred to as "Midstate," and Kenneth S. and Marie M. Curbow, husband and wife, hereinafter referred to as "Developer."

RECITALS

WHEREAS, Developer is engaged in the development of certain property known as PARTITION No. LP 61-96/CURBOW, hereinafter "Partition" Project, which includes the improvement and sale of four residential lots located in Crescent, situated in the SE 1/4 NW 1/4 Section 25, T. 24 S., R. 8 E., W.M., Klamath County, Oregon; and

WHEREAS, Developer requires a single phase underground distribution system and related electrical facilities, hereinafter "electric system," to be installed in connection with the Partition Project as shown on Exhibit A, attached hereto and made a part hereof; and

WHEREAS, Developer desires Midstate to proceed with installation of electric facilities to and within the Partition Project in accordance with the terms and conditions herein; and

WHEREAS, the Partition Project is located within Midstate's exclusive service territory and Developer desires that Midstate construct and install electric facilities which Midstate will own and use to provide electric service to future Midstate members within the Partition Project; and

WHEREAS, Midstate is willing to install and provide electric facilities to and within the Partition Project in accordance with the terms and conditions herein.

NOW, THEREFORE, in consideration of the covenants, terms and conditions hereinafter set forth, Midstate and Developer agree as follows:

I. MEMBERSHIP

Developer shall apply for and become a member of Midstate and agrees to be bound by the rules and regulations, Articles of Incorporation, Bylaws and policies as adopted or as may be amended by the Board of Directors governing Midstate's members.

II. STATEMENT OF WORK

1. Midstate shall prepare plans and specifications for the electric system to serve the Partition Project in accordance with drawings supplied by Developer as shown in Exhibit A. Developer shall have an opportunity to review and comment on Midstate's plans and specifications prior to commencement of construction. The plans and specifications shall comply with applicable rules, regulations and/or recommendations of the Rural Utility Services (RUS), National Electric Code (NEC), The National Electric Safety Code (NESC), and Midstate's system requirements. Compliance with such requirements shall be determined by Midstate in its sole discretion.
2. Developer shall provide, at Developer's cost, all trenching, backfill, portions of conduit, compaction, repaving, and any earthwork for the installation of the conduit system shown on Exhibit A in accordance with Midstate, RUS, NEC, and NESC requirements. All excavation, backfill and earthwork for the conduit system shown on Exhibit A shall be suitable to Midstate's system and is subject to approval by Midstate. In no event shall Developer bill Midstate for work performed by Developer.
3. Midstate shall install, at Developer's cost, an electrical distribution system for the Partition Project only, pursuant to this Agreement.
4. Scheduling of work shall be accomplished by mutual agreement between Developer and Midstate.

III. PAYMENT FOR WORK

Upon execution and delivery of this Agreement to Midstate, Developer agrees to pay to Midstate an advance contribution in aid of construction against Midstate's estimated cost of construction in the amount of \$8750.00 for Partition Project. Additional phases, if any, shall be subject to a separate agreement. Payment will be made in one installment of \$8750.00. Midstate shall apply such advanced contributions in aid of construction against costs and expenses incurred by Midstate. In the event Midstate's costs and expenses exceeds Developer's payments, Developer will, upon thirty (30) days written notice from Midstate, immediately pay to Midstate such additional sums as are required to reimburse Midstate for its then estimated costs of construction and installation of the electric system. Midstate shall not pay interest on funds advanced by Developer.

IV. REFUNDS

1. At the completion of construction and installation of the electric system Midstate shall determine its actual cost of construction, including the costs of engineering and overheads, and return to Developer unused funds previously advanced to Midstate by Developer or bill Developer additional costs if required.
2. After completion of construction and installation of the electric system Midstate agrees for a period of ten (10) years to refund to Developer or Developer's assigns, the sum of \$1500.00 for each residential lot when such residential lot is connected to the electric system by a permanent resident on such lot. Refund applies only to four (4) lots not adjacent to Midstate electrical facilities existing prior to this agreement. Payment will be made within sixty (60) days after the date the member commences electrical service with Midstate and payment shall be made only once for each of the four lots covered by this Agreement. Total payment shall not exceed the amount of the Developer's contribution in aid of construction.

V. STANDBY CHARGES

Developer and Midstate recognize that residential lots may be unoccupied and Midstate will not be requested to provide electric service to such lots for an undetermined amount of time following construction and installation of the electric system. In order to defray maintenance expenses, Developer agrees to pay Midstate a standby charge of \$14.00 per month for each unoccupied residential lot. Such payment shall commence the first month following energizing the main feeder line serving the development. Standby charges will continue until such lot is occupied by a permanent resident or ten (10) years from the date of this Agreement, whichever event shall occur first.

VI. TITLE TO ELECTRIC FACILITIES AND EASEMENTS

1. Notwithstanding Developer's contributions in aid of construction, all material installed (including the developer provided and installed conduit system), facilities constructed and equipment provided by Developer in connection with construction of facilities under this Agreement and the completed facilities for the electric system shall become the sole property of Midstate when installed, and full legal and equitable title thereto shall be vested in Midstate, free and clear of any liens or encumbrances and without the requirement of a written document of transfer to Midstate or acceptance by Midstate. Developer further agrees to execute such documents as are required by Midstate counsel to evidence clear title to said facilities free and clear of all liens.
2. Developer will furnish or cause to be furnished, at no cost to Midstate, perpetual easements necessary to meet Midstate's service requirements. Developer shall provide Midstate with easements as recorded on a plat map or easement document suitable for recording. All easements, alleys and streets must be graded to within six (6) inches of final grade by Developer before construction will commence. All clearances and grading must be maintained by Developer during the construction period; and if subsequent to construction, the clearance or grade is changed in such a way as to require regrading or relocation of portions of the electric system, the cost shall be borne by Developer, its successors, or assigns.

VII. FORCE MAJEURE

Neither Developer nor Midstate shall be liable to the other for failure, default, or delay in performing any of their obligations thereunder, other than for failure, default, or delay in payment of money obligations specified herein, in case such failure, default, or delay is caused by strikes or other labor problems, by forces of nature, unavoidable accidents, fire, interference by civil authorities, passage of laws, orders of court, adoption of rules, ordinances, acts, failures to act, decisions, or orders or regulations of any governmental or military body or agency, office or commission, delay in receipt of materials, or any other cause, whether of similar or dissimilar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome. Should any of the foregoing occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligation under this Agreement.

VIII. GENERAL TERMS AND PROVISIONS

1. Ownership of Electrical Facilities. At all times all electric facilities shall be owned entirely by Midstate.
2. Notices. Any notice, demand or other communication thereunder must be in writing and may be delivered by any of the following methods:
 - (i) Telecopy to the phone number listed below, provided that the recipient has confirmed by telephone that such telecopy was received in legible form;
 - (ii) Nationally recognized overnight courier services such as UPS or Federal Express; or

VIII. GENERAL TERMS AND PROVISIONS CONTINUED

- (iii) US Mail (registered or certified mail, return receipt requested and postage prepaid) and in each case addressed to the respective parties as follows:

To Developer: Kenneth S. Curbow, and
Marie M. Curbow
PO Box 190
Crescent, Oregon 97733

To Midstate: Midstate Electric Cooperative, Inc.
PO Box 127
La Pine, Oregon 97739
Attention: Bill Kopacz

FAX Number: (541) 536-1423

Each notice given by registered mail shall be deemed delivered and effective upon the expiration of the fifth business day after the mailing.

Notice given by any other method shall be deemed given upon receipt (and in the case of telecopy delivery, confirmed in the manner specified above). Failure of or delay in delivery of any copy of a notice shall not impair the effectiveness of any notice given to any party as specified in this Agreement. Each party may change his address for notice by giving of notice thereof in the manner herein above provided.

IX. SUCCESSORS

This Agreement shall be binding upon Developer, Midstate and their respective successor and assigns. Notwithstanding the foregoing, Developer may not assign its obligations under this Agreement without the prior written consent of Midstate, which consent will not be unreasonably withheld.

X. WAIVER

No delay in exercise of any right or remedy shall constitute a waiver thereof, and no waiver by Developer or Midstate of any breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

XI. INVALIDITY

In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Agreement.

XII. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of the state of Oregon, without regard to conflicts of law principles.

XIII. HEADINGS

All titles and headings to this Agreement are solely for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the contents of the sections or other divisions hereof.

XIV. ENTIRE AGREEMENT

This Agreement, together with Exhibit A hereto, and such other documents as are contemplated thereunder, constitutes the entire agreement of the parties in respect of the subject matter hereof, and may not be changed or modified except by an agreement in writing signed by the parties.

XV. COUNTERPARTS

This Agreement may be executed in two or more counterparts, and it shall not be necessary that the signatures of all parties hereto be contained in any one counterpart hereof; each counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the date herein first above written.

MIDSTATE ELECTRIC COOPERATIVE, INC.
an Oregon Cooperative Corporation

By [Signature]

Title President

Kenneth S. Curbow and Marie M. Curbow,
husband and wife

By Kenneth S. Curbow

Title _____

By Marie M. Curbow

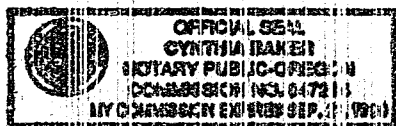
Title _____

STATE OF OREGON)

County of Klamath) ss

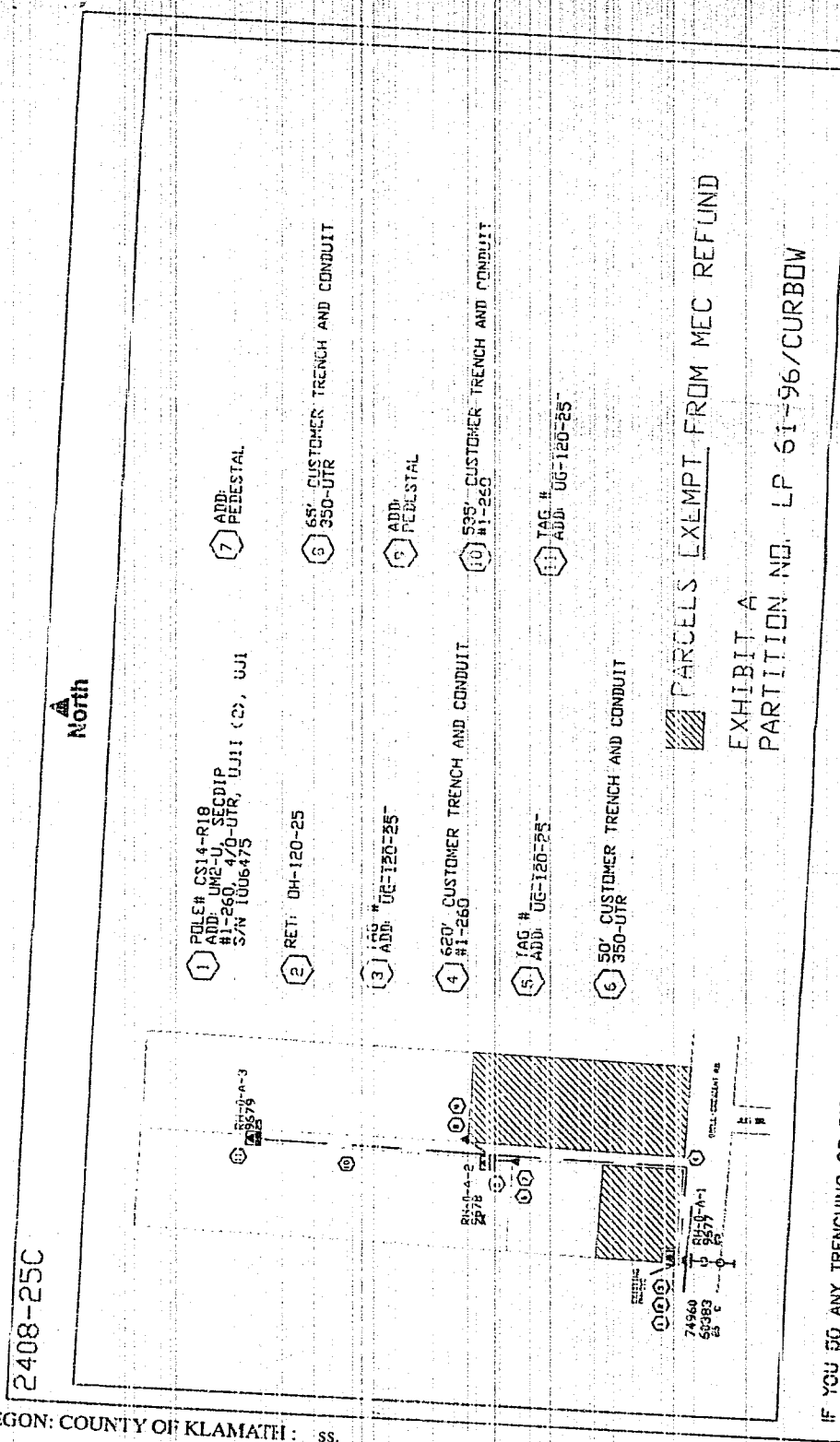
The foregoing instrument was acknowledged before me this 2nd day of March,
1998, by Kenneth S. Curbow and Marie M. Curbow

WITNESS BY HAND AND OFFICIAL SEAL



Cynthia Baker
Notary Public for Oregon

Commission Expires 9/1/1999

[illegible]

IF YOU DO ANY TRENCHING OR DIGGING IN A PUBLIC RIGHT-OF WAY, YOU
WILL NEED TO CONTACT THE COUNTY FOR PERMITS PRIOR TO CONSTRUCTION."

CALL FOR LOCATE BEFORE YOU DIG: 1-800-332-2344

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____
of _____ August _____ Midstate Electric _____
A.D., 19 98 at 11:47 o'clock _____ the 12th _____ day
of _____ Deeds _____ on Page 29635 _____
Return: Midstate Electric _____
P.O. Box 127 _____
LaPine, Or. 97739 _____
B. _____
Bernetha G. Litsch, County Clerk
