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CITY OF KLAMATH FALLS
AND
FIRST ADDITION TO MOYINA IMPROVEMENT DISTRICT
AGREEMENT

This agreement is entered into this 5th day of March, 2002, by and between the First Addition to the Moyina Improvement District, hereinafter referred to as "District" and the City of Klamath Falls, Oregon, hereinafter referred to as "City".

RECITALS

A. District was incorporated on or about October 18, 1962 by agreement of twenty-two homeowners. The District operates pursuant to Chapter 554 of the Oregon Revised Statutes.

B. City is an Oregon Municipal Corporation.

C. District was created for the purpose of establishing an administrative body to oversee and administer the delivery of water to District homes from a privately drilled fresh water well. Infrastructure for the delivery of water to residents was installed by the District. Water is now distributed to 38 District homes.

D. The District's water supply reportedly contains nitrate bacteria. The source of the coliform bacteria cannot be determined by the District. District chooses to decommission the well and acquire water supplied by the City of Klamath Falls for domestic and residential irrigation purposes.

E. On or about July 18, 2000 the City and District entered into an agreement whereby the City would supply water to District for domestic purposes and normal residential irrigation. A copy of said agreement is attached hereto as Exhibit 1 and by this reference incorporated herein.

State of Oregon, County of Klamath
Recorded 03/25/2002 2:14p m.
Vol M02, Pg 17272-88
Linda Smith, County Clerk
Fee \$ 101⁰⁰ # of Pgs 17

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1/10/02

101' Rr: Mel Terjuma

F. Since the expiration of said agreement referenced in paragraph E above and attached as Exhibit 1, City has voluntarily continued to supply water to District on the same terms and conditions.

G. The parties now desire to enter into a long term agreement whereby the City will continue to provide water to the District, District will repair parts of the current infrastructure for water delivery and the City will, at the conclusion of this agreement, assume responsibility for the entire water delivery system.

H. District by this agreement intends to dissolve itself upon the assignment of its water delivery system to City.

WHEREFORE the parties agree as follows:

1. TERM. The term of this agreement shall be for three (3) years commencing on the date signed by all parties to the agreement.
2. OPERATION AND MANAGEMENT OF SYSTEM. District will continue to operate and manage the water delivery system (infrastructure) during the period of this agreement including maintaining and making all repairs to the system and being financially responsible for said maintenance and repairs; provided, however, that City will be responsible for repairing or replacing at City's option, any meters that are faulty which are installed by City as provided in paragraph 9 of this agreement.

District may contact City concerning other repairs needed to the system and if contacted, City has the option of performing those repairs. Except as otherwise provided herein, District shall pay City for any repairs completed. As long as repair work completed by City for District (excepting repair or replacement of meters installed by City) is completed to industry standards District shall hold City harmless with respect to any subsequent problem with the water delivery

system that may develop as a result of the City's repair.

3. NOTICE. During the period of this agreement District is required to advise City in writing of all problems encountered with the system and all repairs made. Said Notice shall be provided within 30 days of any problem encountered. Notice shall be personally delivered or deposited with the United States Postal Service with postage prepaid and addressed as follows:

City Manager
City of Klamath Falls
500 Klamath Avenue
Klamath Falls, Oregon 97601

4. ASSIGNMENT OF OWNERSHIP. At the conclusion of this agreement District may elect to assign ownership of the water delivery system in its then existing condition, including but not limited to all mainlines, service lines and meters to City; provided however, that such system is then operable. District shall be deemed to have elected to assign ownership to City unless District provides City not less than six (6) months' written notice of its intention to revoke said assignment. An agreement to revoke the District's assignment and rescind District's dissolution shall be approved by a 2/3 vote of all District members. At the time assignment is made of the infrastructure of the water delivery system to City by District, District shall have no further responsibility to repair the water delivery system, shall have no further financial responsibility for the repair of the water delivery system, and shall have no further operational or management responsibility for the system. Upon assignment of the infrastructure of the water delivery system to City, the District is dissolved.

5. WATER DELIVERY. Subject to City Code provisions and City water distribution policies and procedures, City shall continue to provide District with potable water from its wells via current service lines and any later repairs or modifications to said service lines.

6. FEES AND ASSESSMENTS. District will pay City for water supplied District residents based upon the adopted city wide water rate structure for residential service. City reserves the right to adjust the rate structure as provided in the City code. A single monthly billing will be made by City to District. This billing shall be delivered to District by depositing the same with the U. S. Postal Service, postage prepaid or personally delivered to the following address:

President, First Addition to Moyina Improvement District
c/o Georgia Bollinger
Romig and Associates
4509 South Sixth Street, Suite 101
Klamath Falls, Oregon 97603

District shall notify City in writing of any change in address for mailing or delivery of billings. District agrees to timely pay all bills when due. District will be responsible for apportioning said billing among its customers and collecting the apportioned amounts from its customers. Subject to having all customers separately metered, City does agree to bill District customers separately for water consumption when City assumes responsibility for the entire water delivery system.

7. SYSTEMS DEVELOPMENT CHARGES. District has paid City a one time systems development charge of \$12,010. City shall not impose any other systems development charges on District residents at such time as District residents convert to individual water meters or when the City assumes ownership and responsibility for the District system.

8. OFFSETS. City has already removed a pressure reducing valve previously installed by City for District's water delivery system and has installed a three inch (3") meter in order to measure water delivery to District. City has credited to District, as an offset to the systems development charge, one-half of the cost of the pressure reducing valve when it was installed. City will also credit District one-half of the actual cost of the three inch (3") meter,

when the City assumes responsibility for the water delivery system. The meter credit will offset any sums owed by District to City at that time.

9. INDIVIDUAL METERS. As scheduling permits, but in as timely a fashion as possible, City will install individual water services, including the water meter (hereinafter collectively referred to as "water service") for District residents on the following fee schedule:

5/8 inch meter	\$450.00
1 inch meter	\$500.00
1 ½ inch meter	\$750.00
2 inch meter	\$1,000.00

These installations are subject to the following additional restrictions:

- a. District agrees to pay the fee and be responsible for seeking repayment from individual homeowners.
- b. This fee schedule is good through May 1, 2002 and is subject to adjustment thereafter.
- c. Each water meter will be placed at a location mutually acceptable to the homeowner and City. In the event City and homeowner cannot agree on a location, City shall determine the location. Homeowner shall be responsible for the connection between the house and the newly installed meter. If City determines the meter location, City shall consider costs to the homeowner and use its best efforts to minimize those costs.
- d. If the District or any District homeowner elects to have a water service installed by someone other than the City, all installations shall fully conform with City standards and specifications, including City approved plans and City required testing. District further agrees that all residences within District shall be individually metered prior to City assuming ownership and responsibility for the system.

10. PATTERSON STREET SERVICE LINES. District will be responsible for installing new private service lines for the following District addresses:

1129 Patterson
1111 Patterson
1043 Patterson
1143 Patterson
1215 Patterson

It is understood by City that these homes will be provided water service from the Carlson Street service line to the rear of these homes within existing public utility easements. A map of said easements is attached hereto as Exhibit 2 and by this reference incorporated herein.

Homeowners of the aforesaid District addresses shall be responsible for the maintenance and replacement of said service lines. Water service will therefore, be required to be installed in the Carlson Drive right-of-way. District agrees to obtain and record all necessary private easements to accomplish these installations and agrees to place the meters in accordance with paragraph 9.c. above.

11. FIRE HYDRANT. District will move the fire hydrant at the intersection of McClellan Drive and Thomas Drive to another location acceptable to the City at District's expense, prior to the City assuming responsibility for the system.

12. WELL DECOMMISSIONING. District agrees to decommission its current water well, storage tank and appendages thereto and pay all costs associated therewith.

13. ARBITRATION. The parties may agree to settle by arbitration any controversy or claim relating to this agreement. Any controversy or claim which is subject to arbitration shall be settled in accordance with the then current rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

14. ATTORNEY FEES. If suit or action is instituted to enforce any provision of this agreement, or in connection with any claim or controversy arising out of this agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorney fees at trial and on any appeal of the suit or action. If arbitration is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may be awarded by the arbitrator(s) as they may decide, and if so awarded shall be part of the arbitrator(s)' decision on which judgment may be rendered.

15. SEVERABILITY. The invalidity or illegality of any provision of this agreement shall not affect the remainder of the agreement.

This agreement was approved by a not less than 2/3 of the lot owners (one vote per lot) of the First Addition to the Moyina Improvement District.

This agreement was approved the 4th day of March, 2002 by the Klamath Falls City Council.

CITY OF KLAMATH FALLS

By: Todd Kellstrom
Todd Kellstrom, Mayor

3/5/02
Date

Attest: Elisa D. Olson
Elisa D. Olson, City Recorder

3/5/02
Date

FIRST ADDITION TO MOYINA
IMPROVEMENT DISTRICT

By: Harold M. Palms
President

2-11-02
Date

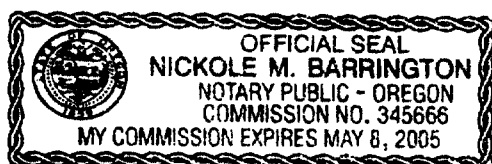
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STATE OF OREGON)
) ss
 County of Klamath)

On the 5th day of March, 2002, personally appeared Todd Kellstrom and Elisa D. Olson, who each being first duly sworn did say that the former is the Mayor and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation; and that the instrument was signed on behalf of said municipal corporation and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

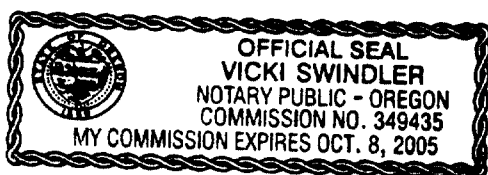


Nickole M. Barrington
 Notary Public - State of Oregon
 My commission expires: 5-8-2005

STATE OF OREGON)
) ss
 County of Klamath)

Personally appeared Howard M. Palms, who after being first duly sworn, did say that he is the President of the First Addition to Moyina Improvement District, and the instrument was signed on behalf of the First Addition to Moyina Improvement District; said instrument being his voluntary act and deed.

Before me this 11 day of February, 2002.



Vicki Swindler
 Notary Public - State of Oregon
 My commission expires: 10-8-05

AGREEMENT

THIS AGREEMENT, made and entered into in duplicate this 18 day of July, 2000, effective as of March 7, 2000, by and between the First Addition to Moyina Improvement District, an ORS Chapter 554 corporation, hereinafter called the "District", and the City of Klamath Falls, a municipal corporation of the State of Oregon, hereinafter called the "City", WITNESSETH:

WHEREAS, the City has surplus waters available in its municipal water system, and

WHEREAS, the District has installed a water distribution system for supply of water to persons residing in an area near to the City's distribution system and desires to again temporarily purchase surplus water from the City's municipal water system as it did last Fall, Now Therefore, the parties hereto hereby agree to and with each other as follows:

1.

The City agrees to permit connection of the District water system with the water system of the City at a point near the intersection of Eberlien and Carlson and **subject to the prior and superior rights of the City of Klamath Falls to the water**, to furnish at the point of connection as good and full a supply of the surplus potable waters of the City as is possible.

2.

District shall use its best efforts to assure that none of its members wastefully use water provided hereunder. In the event City becomes aware of such wasteful practice and District is unable to correct the problem within 24 hours of written notice from City, City may immediately terminate service hereunder.

3.

The District shall pay to the City for all water purchased from the City at the standard rates for non-City residential customers in effect at the particular time. The amount of water "consumed" by District shall be determined by District's average water consumption for the same months (or prorated portions thereof) for the years 1997, 1998, and 1999 (attached as Exhibits A, B, and C respectively). Payment will be made by District within 15 days of receipt of City's monthly billing.

4.

The District may supply City water from its transmission facilities only to those District properties shown on attached Exhibit "D". This agreement contemplates that once necessary upgrades and repairs of the District's water distribution system have been completed in accordance with Section 7, District residents will be supplied water for domestic uses by the City subject to the connection

standards and requirements generally applicable to new customers including SDC's and hook-up costs. The parties anticipate further defining the terms of connection by subsequent agreement.

5.

The area to be served by District is described and shown in Exhibit D, which is attached and made a part of this Agreement.

6.

The District agrees to indemnify the City of Klamath Falls, its officers, agents and employees, and to hold the same harmless from any claim, liability or obligation it may incur or become liable for to District's customers or third persons and arising out of its performance of this Agreement. The City of Klamath Falls agrees to indemnify the District, its officers, agents, employees and customers, and to hold the same harmless from any claim, liability or obligation they may incur or become liable for to others arising out of the City's performance of this Agreement. The City shall not be required to service or repair the District's distribution system during the term of this Agreement.

7.

This contract shall be effective as of March 7, 2000 and shall run through December 31, 2000. The District shall make no assignment of the rights or interest herein granted without written permission from the City. The District shall exercise its best efforts to complete engineering studies requested by the City and complete any required upgrades and repairs of its water distribution system.

8.

It is further understood and agreed by and between the parties hereto that this Agreement is conditioned upon faithful performance by the District of all of the terms and provisions hereof, and should the District breach any of the terms of this Agreement, the City shall notify the District of such alleged breach, and if the District fails to correct such breach within ten (10) days from the date of written notice by the City, the City shall have the right to discontinue furnishing water and, at its option, terminate this Agreement.

It is also understood that the City may be forced to limit the amount of water provided and that District customers may be required to limit outside water usage during the duration of this Agreement.

9.

In the event any suit, action or other proceeding is brought with regard to this Agreement or to enforce any of the provisions hereof, the prevailing party in any such suit, action or other proceeding, or any appeal therefrom, shall be entitled to reasonable attorney's fees.

IN WITNESS THEREOF, the First Addition to Moyina Improvement District has caused this Agreement to be executed in duplicate by its duly authorized officers and City of Klamath Falls, acting by and through its City Council, has caused the same to be executed in duplicate by the Mayor, all on the day and year first above written.

CITY OF KLAMATH FALLS

By: [Signature]
Mayor

ATTEST:

By: [Signature]
City Recorder

Approved as to form:

By: [Signature]
City Attorney

MOYINA IMPROVEMENT DISTRICT

By: [Signature]
Chairman

By: _____
Secretary

[Signature]
Ray Kitzel



1997

USER-ID

997

Oregon Water Resources Department
October 1996 through September 1997
Annual Water Use - Monthly Quantities Form



Facility POD-ID				
October - 1996	1,100,973			
November - 1996	309,222			
December - 1996	354,855			
January - 1997	310,821			
February - 1997	364,941			
March - 1997	227,304			
April - 1997	512,664			
May - 1997	1,054,110			
June - 1997	1,526,430			
July - 1997	2,916,822			
August - 1997	3,411,897			
September - 1997	1,721,877			
TOTAL *	13,811,916			

* Describe the units of measure as (gallons) KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)
Describe method of measuring the water used: GALLONS PER FLOW METER AT PUMP

I certify this information is true and accurate to the best of my knowledge. If use is irrigation, total number acres irrigated N/A

Sal L. Munn CO President First Addition to

Signature Title

Mayoria Improvement 12/16/97

Reporting Entity Date

Please complete and mail to: Water Resources Department; Water Use Reporting Program; 158 12th Street NE; Salem, OR 97310-0210



199

Oregon Water Resources Department
October 1997 through September 1998
Annual Water Use - Monthly Quantities FormUSER-ID 1001
998

Facility POD-ID	First Area	TO MOUNTAIN	Land Area
October - 1997	11006		
November - 1997	421,521	Oct. - 1998	511,065
December - 1997	337,881	Nov. - 1998	364,572
January - 1998	302,826	Dec. - 1998	545,136
February - 1998	357,192		
March - 1998	295,815		
April - 1998	336,897		
May - 1998	698,517		
June - 1998	466,908		
July - 1998	2,563,197		
August - 1998	3,367,863		
September - 1998	2,909,811		
TOTAL *	1,102,080		
	13,160,508		

* Describe the units of measure: G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)
Describe method of measuring the water used: GALLONS PER SECOND METER AT PUMP

I certify this information is true and accurate to the best of my knowledge.
If use is irrigation, total number acres irrigated N/A

Galen L. Munn Signature
CO-PRESIDENT Title
FIRST ADDITION TO MOUNTAIN EMP. Reporting Entity
12/24/98 Date

Please complete and mail to: Water Resources Department; Water Use Reporting Program;
158 12th Street NE; Salem, OR 97310-0210



1998

USER-ID 1001



Oregon Water Resources Department
October 1998 through September 1999
Annual Water Use - Monthly Quantities Form

17285

Facility POD-ID	FIRST ADDITION TO MORENA IMP. DIST.											
October - 1998	11006											
November - 1998	511,065											
December - 1998	364,572											
January - 1999	545,136											
February - 1999	287,328											
March - 1999	390,156											
April - 1999	600,363											
May - 1999	884,739											
June - 1999	2,592,840											
July - 1999	3,025,554											
August - 1999	2,342,781											
September - 1999	2,034,912											
TOTAL *	1,558,287											
	5,137,733											

* Describe the units of measure as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)
GALLONS PER FLOW METER AT PUMP
Describe method of measuring the water used:

If use is irrigation, total number acres irrigated N/A

I certify this information is true and accurate to the best of my knowledge.

Alan L. Munin CD - PRES.

Signature

Title

FIRST ADDITION TO

MOYENA IMP DISTRICT 10/21/99

Reporting Entity

Date

ALAN L. MUNIN

Name - Please Print

Please complete and mail to: Water Resources Department; Water Use Reporting Program;
158 12th Street NE; Salem, OR 97310-0210

FIRST ADDITION TO
MOYINA IMPROVEMENT DISTRICT ADDRESSES

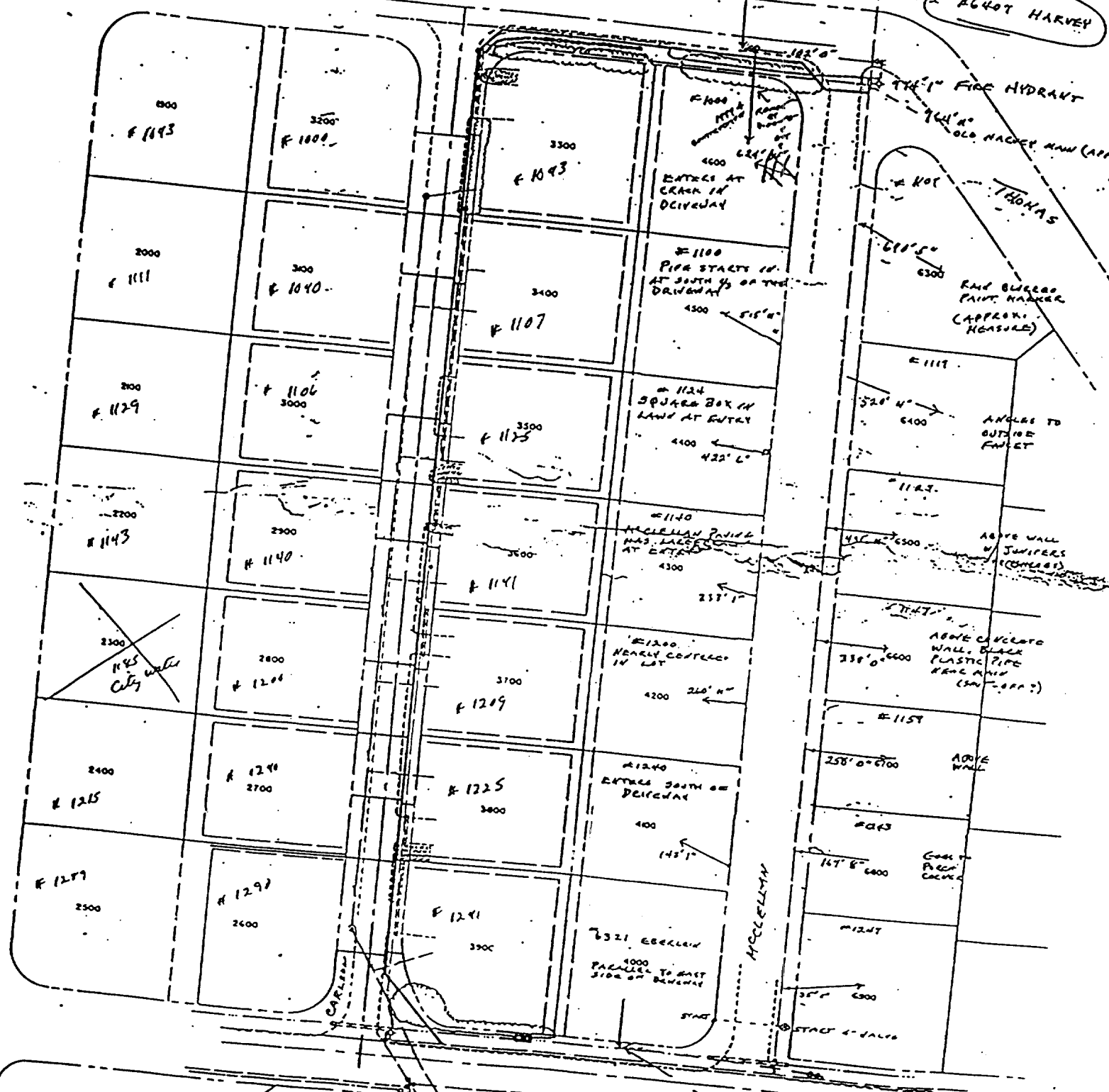
1290 Carlson Drive
1107 Carlson Drive
1124 McClellan Drive
1247 McClellan Drive
1129 Patterson Street
1209 Carlson Drive
1225 Carlson Drive
1100 McClellan Drive
1200 McClellan Drive
6321 Eberlein Avenue
1215 Patterson
6321 Harvey Drive
1043 Patterson Street
1040 Carlson Drive
6407 Harvey Drive
924 McClellan Drive
1159 McClellan Drive
1289 Patterson Street
1107 McClellan Drive
1241 Carlson Drive
1117 McClellan Drive
1140 Carlson Drive
1111 Patterson Street
1106 Carlson Drive
1140 McClellan Drive
1240 Carlson Drive
1143 Patterson Street
1240 McClellan Drive
1000 McClellan Drive
1127 McClellan Drive
1043 Carlson Drive
1125 Carlson Drive
927 McClellan Drive
1200 Carlson Drive
1243 McClellan Drive
1147 McClellan Drive
1000 Carlson Drive
1141 Carlson Drive

EXHIBIT D

EXHIBIT 1
PAGE 7 OF 8PAGE 1 OF 2

17287

MCCLAN
967'6"
934' MCCLAN
6321 HARVEY
HOUSE VAL
H₂O SOURCE
823'2" #6407 HARVEY
968'0" TOWARD OTHER
BREAK IN DRIVE
744'1" FIRE HYDRANT
744'0" OLD NACKET HAW (APPROX.)
THOMAS
688'5" 6300
RAMP BUREAU
PAINT MARKER
(APPROX. MEASURE)
E 1119
320' 4" 6400
ANGLES TO
OUTSIDE
FANET
E 1123
436' 4" 6500
ABOVE WALL
OF JEWELERS
(REMARKS)
E 1127
338' 0" 6600
ABOVE CYCLOPE
WALL, BLACK
PLASTIC PIPE
HANGING
(SAY - 3' 0" ?)
E 1157
258' 0" 6700
ABOVE
WALL
E 1243
167' 8" 6800
GARDEN
FENCE
CORKER
E 1247
357' 0" 6900
START 4" VALVE



CITY WATER
REMOVED

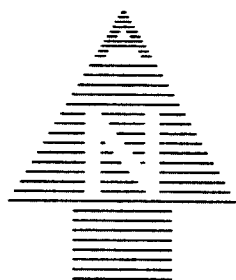
Exhibit D

USE REMOVED
156' 8"
FOR BURN-OFF
VALVE 9)

EXHIBIT
PAGE 8 OF 8

FIRST ADDITION TO
MOYINA IMPROVEMENT
DISTRICT
LOCATED IN THE NE
1/4, SW 1/4, SEC. 36,
T.38S., R09E., W.M.

LOCATION OF CITY WATER
SERVICES



SCALE: 1" = 100'
1328-02

LEGEND

CITY METER □

CITY MAIN LINE (AFTER 3 YEARS) ———

CITY SERVICE LINE - - - - -

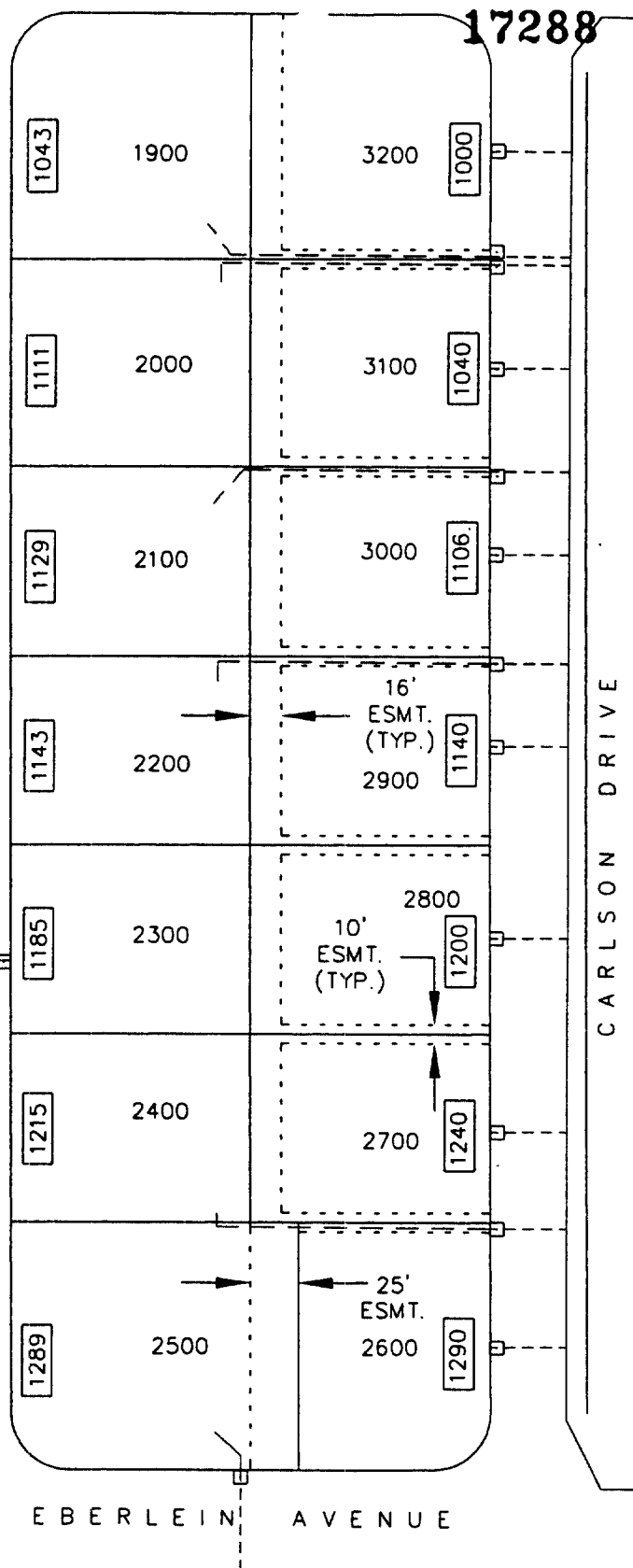
CUSTOMER SERVICE LINE - - - - -

EASEMENTS PER "FIRST
ADDITION TO MOYINA" PLAT - - - - -

INDICATES STREET ADDRESS 1289

TAX LOT NUMBER
3809-036CA- 2500

PATTERSON STREET



ADKINS

CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

2950 Shasta Way · Klamath Falls, Oregon 97603

(541) 884-4666 · FAX (541) 884-5335

Klamath Falls, OR · Medford, OR · Alturas, CA

EXHIBIT 2