

THE CITY  
OF  
MADISON

Office of the City Attorney

116 W. Center • Box 308 • Madison, South Dakota 57042

May 12, 2005

Karen Kramer  
SD Public Utilities Commission  
First Floor  
500 E. Capitol  
Pierre, South Dakota 57501

RE: Sale of Property – Transfer of Service Territory

Dear Karen:

As you may recall we briefly talked a couple weeks ago about the approval of a transfer of service area from Sioux Valley Southwest to the City of Madison.

Please find enclosed the original document I prepared for the consideration of the PUC at your next regularly scheduled meeting. Please note, attached is the agreement entered into in September 2003 by and between the City and Sioux Valley Southwestern.

In my search I was unable to find any "model" for this type of document. I hope this meets with the Commission's approval. If there are any changes you'd like me to make please advise and I will revise the same.

If this is agreeable as written I would ask that it be signed and copies of the signed document returned to me for the City's records and also for Sioux Valley. I have sent a copy of this cover letter and agreement to Sioux Valley for their information.

Thanks for your assistance and cooperation in this matter. If you have any questions or concerns please contact me.

Very truly yours,

  
Jay M. Leibel  
CITY ATTORNEY

JML/cd

RECEIVED  
MAY 16 2005  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

EL 05-019  
RECEIVED  
MAY 16 2005  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

APPROVAL FOR TRANSFER OF SERVICE TERRITORY

WHEREAS, the CITY OF MADISON, a political subdivision, of PO Box 308, Mádison, South Dakota, hereinafter referred to as "City" purchased real property located within the service territory of SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC., an electric cooperation association, of Colman, South Dakota, hereinafter referred to as "Cooperative", and

WHEREAS, the City annexed said real property, along with other real property, already located within the City's service territory pursuant to Resolution No. 2483; and

WHEREAS, the City and Cooperative entered into an Agreement dated September 29, 2003, a copy of which is attached hereto marked Exhibit "A" and incorporated herein as if fully set forth, transferring service of the territory annexed; and

WHEREAS, pursuant to the recitations set forth paragraph II of Exhibit "A" establishes the Cooperative owns nor were there are no consumers within the above described property as of dates of purchase, or annexation or any consumers at the present time; and

WHEREAS, the transfer of territory will not cause unnecessary duplication of facilities and will provide adequate electrical services to the area if and when needed, and promotes the efficient and economical use of the electrical systems of the Cooperative and the City.

THEREFORE, the South Dakota Public Utility Commission, pursuant to SDCL 49-34A-55, does hereby approve the sale of property and transfer of service territory to the real property described as:

The portions of the Northeast Quarter of Section Seventeen (17), Township One Hundred Six (T106N) North, Range Fifty-two (52), West of the 5<sup>th</sup> P.M., not Already City territory, specifically including but not limited to highway right of way and platted areas:

Berther's First Addition in the Northeast Quarter (NE1/4) of Section Seventeen (17), Township One Hundred Six (T106) North, Range Fifty two (52), West of the 5<sup>th</sup> P.M.;

Tracts One (1) and Two (2) of Berther's Second Addition in the Northeast Quarter (NE1/4) of Section Seventeen (17), Township One Hundred Six (T106N) North, Range Fifty two (52), West of the 5<sup>th</sup> P.M., Lake County, South Dakota

Further, it is directed the records of the Public Utilities Commission shall be modified to reflect the transfer in service area from the Corporation to the City for the real property hereinabove described.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

PUBLIC UTILITIES COMMISSION

By \_\_\_\_\_  
It's \_\_\_\_\_

ATTEST:

By \_\_\_\_\_  
It's \_\_\_\_\_

STATE OF SOUTH DAKOTA )  
  : SS  
COUNTY OF LAKE             )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2005, before me, the undersigned officer personally appeared \_\_\_\_\_ and \_\_\_\_\_, who acknowledged themselves to be the \_\_\_\_\_ and \_\_\_\_\_ respectively, of the Public Utilities Commission, and that they, as such \_\_\_\_\_ and \_\_\_\_\_ being so authorized to do, executed the foregoing instrument by signing the name of the Public Utilities Commission by themselves as \_\_\_\_\_ and \_\_\_\_\_ thereof.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, South Dakota  
My commission expires:

EXHIBIT "A"

AGREEMENT  
for SALE OF PROPERTY and  
TRANSFER OF SERVICE TERRITORY  
between the CITY OF Madison and  
SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC.  
A03.1  
(City of Madison Resolution 2483)

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THIS AGREEMENT made and entered into this 29<sup>th</sup> day of September, 2003 by and between SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC., hereinafter referred to as the "Cooperative" and the CITY OF MADISON, SOUTH DAKOTA, hereinafter referred to as the "City", WITNESSETH:

WHEREAS, the Cooperative and the City entered into a Territorial Agreement dated January 19, 1976, pursuant to the provisions of Chapter 49-34A, SDCL, which Agreement was approved and ratified by the Public Utilities Commission for the State of South Dakota, and

WHEREAS, thereafter the City did annex certain territories to the City, which territories were service territory of the Cooperative, and

WHEREAS, the City has proposed to purchase any Cooperative facilities and assume service to all consumers in the newly annexed areas, and the Cooperative is willing to relinquish all service rights in accordance therewith, now therefore,

FOR AND IN CONSIDERATION of the mutual promises, conditions and terms contained herein, the parties do hereby covenant, contract and agree as follows, to-wit:

I.

The Cooperative hereby relinquishes all service rights to the City in the following described territory, to-wit:

The portions of the Northeast Quarter of Section Seventeen (17), Township One Hundred Six (T106N) North, Range Fifty Two (52). West of the 5<sup>th</sup> P.m. not already City territory, specifically including but not limited to highway rig of way and platted areas:

Berther's First Addition in the Northeast Quarter (NE1/4) of Section Seventeen (17), Township One Hundred Six (T106N) North, Range Fifty Two (52), West of the 5<sup>th</sup> P.M.;

Tracts One (1) and Two (2) of Berther's Second Addition in the Northeast Quarter (NE1/4) of Section Seventeen (17), Township One Hundred Six (T106N) North, Range Fifty Two (52), West of the 5<sup>th</sup> P.M.;

in accordance with the map attached hereto as "Exhibit A".

II.

The Cooperative presently owns no facilities, and serves no consumers within the above described property.

III.

As and for consideration for the right to serve future customers within the above described territory assumed by the City, the City furthermore agrees to pay as compensation for service rights an amount each month equal to the sum of twenty-five (25%) percent of the gross revenues received from power sales to all future

customers of electric power within the assumed service territory. Said monthly payments shall continue for a period of eighty-four (84) months, commencing on May 1, 2001. Gross revenues for the purpose of this paragraph shall be determined by applying the Cooperative's electrical rates in effect on May 1, 2001.

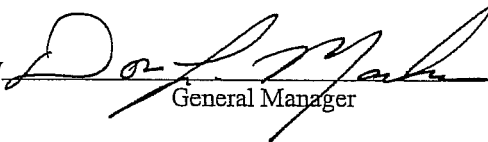
IV.

The City agrees to apply to the South Dakota Public Utilities Commission of the State of South Dakota for the transfer and assignment of the Cooperative's certified service territory to the City.

IN WITNESS WHEREOF the parties have hereunto set their hand and seal the day and date first above written.

SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC.

(SEAL)

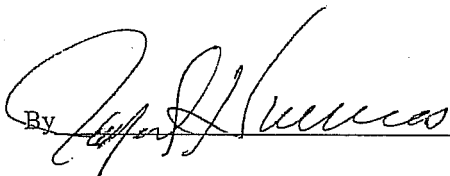
By   
General Manager

ATTEST:

  
Secretary

CITY OF MADISON

(SEAL)

By 

ATTEST:



# City of Madison

## Exhibit A

Existing City of  
Madison Service  
Territory

Area being transferred  
to the City of Madison

