

**AGREEMENT
TRANSFER OF SERVICE TERRITORY
between the CITY OF BROOKINGS and
SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC.**

(City of Brookings Resolution 20-048)

THIS AGREEMENT made and entered into this 23rd day of November, 2020 by and between SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE, INC., hereinafter referred to as the "Cooperative" and the MUNICIPAL UTILITY BOARD for the CITY OF BROOKINGS, 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 the facilities and assume service to all consumers in the newly annexed areas pursuant to letter proposals dated June 1, 2020 and the Cooperative is required to transfer said territory 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:

Resolution 20-048; The resolution annexing Blocks 21 & 22 of Timberline Addition, including the adjacent portions of right-of-way contained within, in the East 1,365' of the North ½ of the Northwest ¼, except Clites Addition and except the East 264' thereof in Section 34, Township 110 North, Range 50 West of the 5th P.M., in Brookings County, South Dakota

in accordance with the maps attached hereto as "Exhibit A1 ".

II.

The Cooperative hereby is required to sell and the City hereby is required to purchase the electric lines, poles, appurtenances and facilities located within and/or near the above described property and to pay for the costs of reintegrating the Cooperative's system, all in accordance with the schedule attached hereto as "Exhibit B".

III.

The purchase price for facilities being sold to the City shall be \$0.00, as the cooperative does not have any facilities in the affected area.

IV.

As and for additional consideration for the purchase of the Cooperative's facilities and the right to serve existing and all future customers within the above described territory assumed by the City, the City furthermore agrees to pay as compensation for service rights, an annual amount equal to the sum of twenty-five percent of the gross revenues received from power sales to consumers of electric power within the annexed area. The obligation of the annexing municipality to compensate the utility for service rights shall continue for eleven years from the date of the offer to purchase by the annexing municipality. During the eleven-year period, compensation for service rights to any one customer location within the annexed area shall be paid by the annexing municipality for a period of seven years or until the expiration of the eleven-year period, whichever is less. Gross revenues received shall be determined by applying the rate in effect by the municipality at the time of purchase.

V.

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.

VI.

It is understood and agreed that the Date of Possession of said territory shall be November 23, 2020. The parties agree to work together to effect a smooth transition causing the least inconvenience to electric patrons located within the City.

VII.

The Cooperative agrees to refund to its customers, as of, or prior to the Date of Possession, any refundable deposits and there shall be no assumption by the City of such refundable deposits. From and after the Date of Possession, the Cooperative agrees to indemnify, and save harmless the City against any and all claims based upon transactions occurring prior to the Date of Possession with respect to refundable deposits.

VIII.

At the time of transfer of individual consumers, the consumer meters shall be jointly read by representatives of the City and the Cooperative. This reading shall be used to determine the final bill to be issued by the Cooperative and the initial reading for use by the City. The Cooperative shall be entitled to all revenues derived from sales prior to said meter reading, and shall be responsible for collection of those revenues, except: any receivables still outstanding 60 days following the transfer date shall be purchased by the City, and further collection shall be the responsibility of the City. The Cooperative shall make diligent effort to collect its revenues within the 60 day period.

IX.

The Cooperative's cash retirement of consumers' retained capital credits shall be consistent with Cooperative policy.

X.

The Cooperative shall assign to the City all right-of-way easements of record pertaining to the facilities to be purchased by the City through this Agreement. The City shall prepare the assignment documents.

XI.

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 
President

ATTEST:


Secretary

CITY OF BROOKINGS UTILITIES BOARD

(SEAL)

By 
Chairman

ATTEST:



Secretary

Exhibit A1

Brookings Annexation 2020 (20-048)

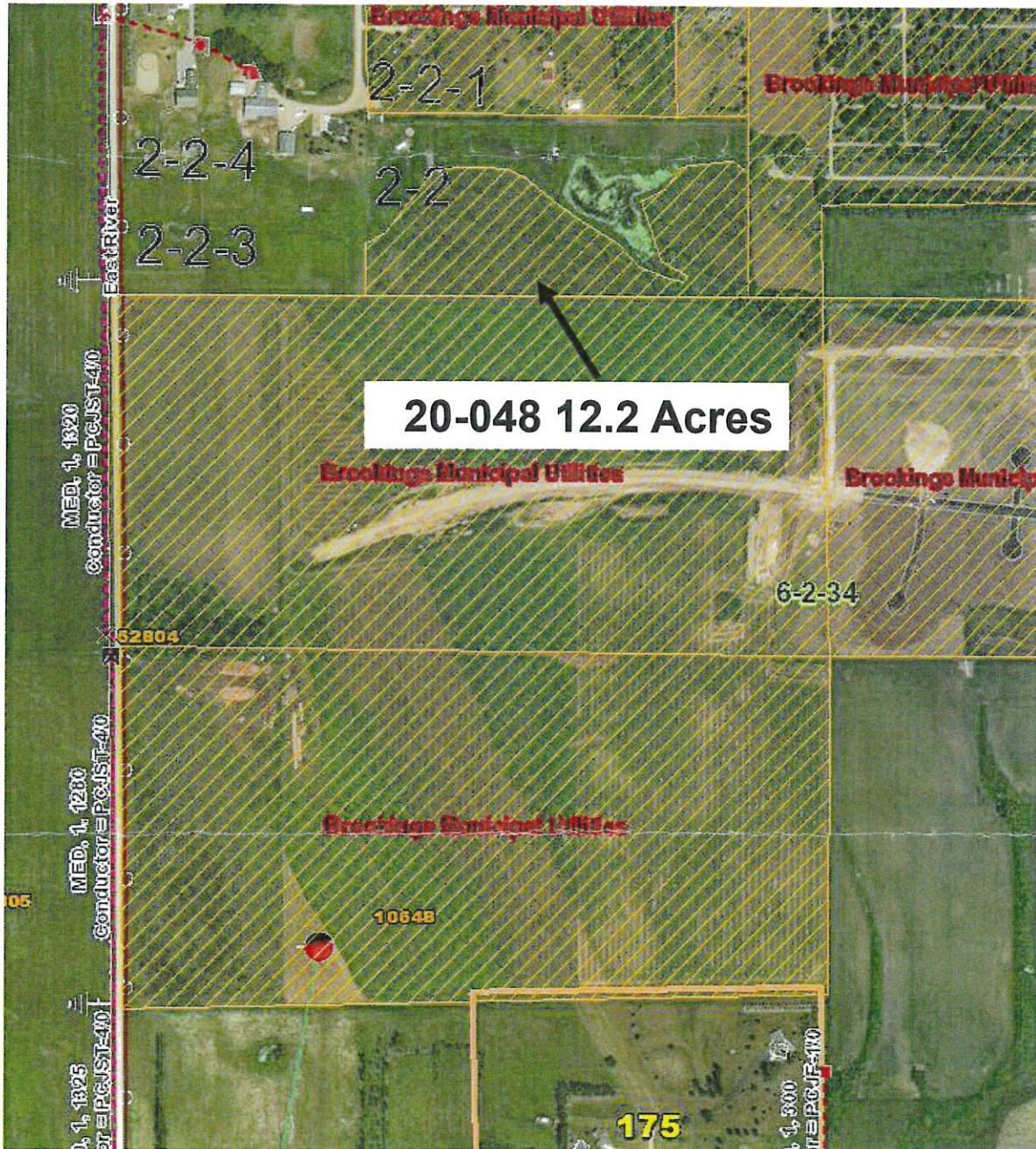


Exhibit B

The Cooperative does not have any customers in the annexed areas. There are cooperative facilities that go through the annexed areas and these are needed to continue to serve cooperative members in areas not yet annexed by the City. There are, therefore, no facilities that will be transferred to the City and no payment for existing facilities.

RESOLUTION NO. 5 - 21

RESOLUTION APPROVING AGREEMENT FOR THE TRANSFER
OF SERVICE TERRITORY WITH
SIOUX VALLEY-SOUTHWESTERN ELECTRIC COOPERATIVE

BE IT RESOLVED by the Brookings Municipal Utilities Board that:

1. Agreement for the Transfer of Service Territory Between the City of Brookings and Sioux Valley-Southwestern Electric Cooperative Inc. in the following described property be hereby approved:

Blocks 21 & 22 of Timberline Addition, including the adjacent portions of right-of-way contained within, in the East 1,365' of the North ½ of the Northwest ¼, except Clites Addition and except the East 264' thereof in Section 34, Township 110 North, Range 50 West of the 5th P.M. in Brookings County, South Dakota. (City Res. 20-048).


2. The President of the Board and/or Executive Vice President/General Manager be hereby authorized to execute the approved contract documents.

Adopted this 8th day of February, 2021.

ATTEST:



Seth Hansen, Secretary



Tim Harvey, President