

UNDERGROUND DISTRIBUTION AGREEMENT

AGREEMENT Made this _____ day of _____, 2023, between
The City of Shakopee's Public Utilities, hereinafter called Shakopee Public Utilities and

hereinafter called Developer/Customer,

WHEREAS, Shakopee Public Utilities has been requested to provide an underground electric distribution system to serve certain properties hereinafter called

_____, located on the following described real estate, situated in the City of Shakopee, County of Scott, State of Minnesota, to wit:

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained to be kept and performed, the parties hereto agree as follows:

I. General:

1. Subject to all the terms and conditions hereinafter contained Shakopee Public Utilities shall install, own, operate and maintain all facilities necessary to provide an underground electric distribution system to serve the plat attached hereto as Exhibit "A", or the above described real estate. The input end of the underground service connection shall be deemed the terminus of the customer's wiring.

2. Shakopee Public Utilities shall endeavor to coordinate the installation of said underground system with the activities of the Developer/Customer in the area to be served: provided, however, Shakopee Public Utilities shall not be required to install said underground system in segments smaller or larger than considered economically feasible. Shakopee Public Utilities shall not be responsible for any damages resulting from delay in completing the installation of the underground system contemplated herein, whether such delay is due to casualty, labor dispute, weather or other similar or dissimilar cause beyond the reasonable control of Shakopee Public Utilities.

3. Prior to the installation of said system, owner of the property shall at no cost or expense to Shakopee Public Utilities, grant such easement rights as Shakopee Public Utilities may require for the installation, operation, and maintenance of said system.

4. Prior to the time the installation of any segment of said underground system is commenced by Shakopee Public Utilities, Developer/Customer shall establish grades in the easement strip which shall not be above, or more than 6 inches below, the finished grade. Before trenching operations are started by Shakopee Public Utilities:

- (a) The route of said underground system shall be accessible to Shakopee Public Utilities equipment, and
- (b) All obstructions shall be removed from such route by Developer/Customer at no cost or expense to Shakopee Public Utilities, and
- (c) Marker stakes at lot corners shall be placed by Developer/Customer at intervals designated by Shakopee Public Utilities, and
- (d) No street lights shall be installed until streets are to grade and staked, and curb work is complete.

5. Shakopee Public Utilities will make final connections of its facilities to the terminus (as defined in Paragraph 1 hereof) of each customer's wiring.

6. In consideration of Shakopee Public Utilities installing and owning the underground system as described in Paragraph 1, Developer/Customer agrees to pay to Shakopee Public Utilities, on or before the completion of said installation, at such time as the actual cost can be determined, in cash, a sum equal to 75% of the total materials cost (this percentage figure represents the Utilities' estimated cost differential between the cost of an overhead distribution system as opposed to the cost of an underground distribution system), plus any and all permit fees associated with said installation of utilities within public right of way and easements.

(a) Should completion of said installation occur following the approval and adoption of the new calendar year utility construction rate(s) and/or fee(s) by Shakopee Public Utilities Commission, the Developer/Customer shall be charged the new rate(s) and/or fee(s) as adopted for the new calendar year, regardless of the rate(s) and/or fee(s) in effect upon entering 'AGREEMENT made this _____ day of _____ , 20____' as defined herein.

(b) Prior to the Shakopee Public Utilities entering in to a contract for the installation of such underground distribution system, the Developer/Customer will deposit cash with Shakopee Public Utilities in the amount of 75% of the total materials cost, as estimated, to assure performance.

(c) At such time as the final cost is determined, adjustments shall be made so that the cost to the Developer/Customer will be 75% of the total materials cost. Hence upon receipt of a bill documenting final costs, the Developer/Customer shall pay Shakopee Public Utilities such amount by which 75% of actual materials cost exceeds the Developer's/Customer's deposit(s), plus such additional amount to cover any unpaid costs described in Section I, Paragraphs 7, 8, 9 and 10 below. Should the amount of the bill documenting final costs for the total of 75% of actual material costs plus any costs described in Section I, Paragraphs 7, 8, 9 and 10 below be less than the amount that the Developer/Customer deposited, Shakopee Public Utilities will refund to the Developer/Customer the deposited funds in excess of the bill final costs amount. No interest will be paid on any such deposit(s).

7. Street lighting shall be installed in type and number as defined per the current Shakopee Public Utilities Street Lighting Specifications and as defined per the current City of Shakopee Street Lighting Policy in effect at the time of installation. The approximate cost will be as listed below, per light, to cover costs of purchasing, installation, operation, and maintenance of such installed street lighting.

@	\$1,530.00	On Local Streets
@	\$3,200.00	On Collector Streets without Group Control
@	\$3,850.00 / \$4,980.00	On Collector Streets with Group Control / with Breakaway Pole & Base

Developer/Customer shall deposit \$_____ with Shakopee Public Utilities to assure performance.

8. Developer/Customer shall be subject to additional winter construction charges herein defined by Shakopee Public Utilities as: an additional cost of up to \$6.00 per trench foot for underground facilities installed between October 15 and April 15 and as: all additional fees and/or costs assessed to Shakopee Public Utilities by the Joint-Trenching Contractor(s) for underground facilities, should the use of a joint trenching contractor be mandated by the City of Shakopee, according to said contractor's assessment of winter construction charges. The mandatory use of said Joint-Trenching Contractor(s) does not negate, nor include, the additional winter construction charge to be paid to Shakopee Public Utilities at the rate of up to \$6.00 per trench foot.

(a) A Joint-Trenching Contractor's monetary determination of additional winter construction costs, whether assessed to the Developer/Customer either directly via said contractor or indirectly through Shakopee Public Utilities, is not defined nor controlled nor influenced by Shakopee Public Utilities. Said additional costs are the sole determination of said Joint-Trenching Contractor. If said costs are assessed to the Developer/Customer through Shakopee Public Utilities, said costs are invoiced, without adjustment, to the Developer/Customer by Shakopee Public Utilities.

(b) Developer/Customer shall deposit with Shakopee Public Utilities an amount to cover such winter construction charge based on the estimated frost that exists for the installation site. Final determination of whether sufficient frost exists, and to what extent it affects the cost of installation up to the amount defined in Section I, Paragraph 8, will be made by the Shakopee Public Utilities Electric Superintendent.

9. Developer/Customer shall pay all additional installation costs incurred by Shakopee Public Utilities because of, but not limited to, the following reasons: (a) delays caused by Developer/Customer, (b) soil conditions that impair the installation of underground facilities, such as rock formations, (c) paving of streets, alleys, parking lots, or other areas prior to the installation of the underground facilities, or (d) unique characteristics, as defined by Shakopee Public Utilities, that cause the installation costs to exceed an amount justified by the expected load.

10. Developer/Customer shall pay the cost of any subsequent relocations or rearrangement of any portion of Shakopee Public Utilities underground facilities made to (a) accommodate the Developer/Customer needs or (b) because Developer/Customer alters the final grade or because the grade was found to be inaccurate or incorrect.

11. This agreement shall be in lieu of any other provision of Shakopee Public Utilities which may pertain to the payment of excess costs associated with the installation of underground service.

12. Developer/Customer shall not assign this agreement without written consent of the Shakopee Public Utilities Commission.

13. All wiring beyond the service connection shall be the responsibility of the Developer/Customer.

II Underground Distribution, Residential Not Including Apartment Buildings:

1. All of the terms of Section I (General) shall apply, with the exception that the underground fee shall be \$764.00 per lot in single-family and twin home developments and \$438.00 per living unit in multi-family developments, not including apartment buildings, in lieu of the underground fee of 75% of material cost, as detailed in Section I, Paragraph 6.

2. The service connection shall be located at a point on the property line designated by Shakopee Public Utilities.

III Underground Distribution, Non-Residential Including Apartment Buildings:

1. All of the terms of Section I (General) shall apply, with the exception that the Developer's responsibilities shall extend only as far as described in Section III, Paragraph 2, and that the Customer's, or Owner of a particular piece of property, responsibility shall be for that portion as described in Section III, Paragraph 3.

2. The responsibility of the Developer starts at the first point at which the new underground distribution system connects to the existing distribution system (overhead or underground), extends through the point on the property line at which the Shakopee Public Utilities determines to make the service entry point to each particular piece of property, and ends at the second point at which the new underground distribution system connects to the existing distribution system (overhead or underground). This responsibility includes all equipment up to, and including, any pad mount switch, termination cabinet, and necessary connecting modules to which terminations are connected.

3. The responsibility of the Customer, or Owner of each particular piece of property, starts with the point on the property line at which the Shakopee Public Utilities determines to make the service entry point to that particular piece of property, extends through the underground service connection which shall be deemed to be the secondary terminals of the transformer, and ends at the point on the property line at which Shakopee Public Utilities determines to make the service exit point. This responsibility includes all terminations, protective devices, and other equipment installed for said Customer's service.

4. For single parcels with large KW demand loads, the Customer may be required to enter into a separate minimum monthly demand purchase agreement. The term 'large' is defined herein to be by Shakopee Public Utilities as either:

(a) those KW demand loads requiring a single transformer larger than 1,500 KVA capacity, **OR**

(b) those KW demand loads requiring multiple transformers with a combined capacity larger than 1,500 KVA, **and** those KW demand loads with either a secondary voltage service at 480 volts, three phase, or with a primary voltage service at 13.8 KV or 12.47 KV, three phase

The terms of said separate minimum monthly demand purchase agreement shall include:

(i) A minimum monthly demand charge equal to 50% of the transformer nameplate KVA capacity, or equivalent for primary service, multiplied by the minimum required power factor of 90%, multiplied by Shakopee Public Utilities' current demand rate in \$/KW i.e. $(0.50 \times \text{transformer nameplate KVA} \times 0.90 \times \text{\$/KW})$. The minimum monthly demand charge shall be billed and paid each month such that the Customer's normal billing demand, based on usage, is less than the calculated minimum monthly demand charge for a minimum period of time, typically to be 60 months.

(ii) Customer provided financial security to assure payment of the charges described in (i), which shall be in the form of a cash deposit, a certified bond, or an irrevocable letter of credit, equal in value to an amount determined to be 'the minimum monthly demand charge', as calculated in (i) and multiplied by a factor of twelve months.

(iii) The financial security described in (ii) shall remain in force and on deposit with the Shakopee Public Utilities for the duration of said agreement.

The following are provided **EXAMPLES** of “Minimum Monthly Demand Charge Purchase Agreement” for ‘Large KW Demand Loads’ as defined in Section III, Paragraph 4.

2 examples using 2023 demand rate of <u>\$9.70/KW</u>	2,500 KVA capacity <u>x 0.50</u> 1,250 KVA <u>x 0.90</u> 1,125 KW <u>x \$10.10/KW</u>	2,000 KVA capacity <u>x 0.50</u> 1,000 KVA <u>x 0.90</u> 900 KW <u>x \$10.00/KW</u>
Example Minimum monthly demand charges	\$11,362.50	\$9,090.00
Example Required Financial Security Amounts	\$11,362.50 <u>x 12</u> \$136,350.00	\$9,090.00 <u>x 12</u> \$109,080.00

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

WITNESSED

By _____
Signature

Print Name of Witness

CITY OF SHAKOPEE PUBLIC
UTILITIES COMMISSION

By _____
Signature

GENERAL MANAGER

Date

Name of Developer/Customer

Address

City State Zip

WITNESSED

By _____
Signature

Print Name of Witness

By _____
Signature

Print Name and Title

Date

THIS INSTRUMENT WAS DRAFTED BY:
Shakopee Public Utilities
255 Sarazin Street, P.O. BOX 470
Shakopee, MN 55379
(952) 445-1988