

AGREEMENT REGARDING PAYMENT IN LIEU OF TAXES

This Agreement (the "Agreement") is made this ____ day of _____, 2021 by and between the CITY OF SHAKOPEE, a Minnesota municipal corporation ("City") and the SHAKOPEE PUBLIC UTILITIES COMMISSION, a municipal utility commission organized under Minnesota law ("SPU"), each a "Party" and collectively, the "Parties."

RECITALS

- A. Minnesota Statutes, Section 412.361, subdivision 5 and Shakopee City Code Section 32.22, Paragraph H grant authority to the City and SPU to enter into agreements with each other for, among other things, payments by SPU to the City in lieu of taxes ("PILOT").
- B. The City and SPU desire to enter into this agreement establishing the method by which PILOT will be calculated.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. SPU will pay PILOT to the City in an amount equal to 5.5% of SPU's annual gross defined sales for electric and water utilities, as defined herein. Gross defined sales shall mean SPU's gross water and electric sales of residential, commercial, industrial usage, Power Cost Adjustment (PCA), fixed charges, and security light revenue less bad debt expenses. Gross Defined sales excludes revenues due to underground electric relocation, conservation, electric power used by the water division for pumping, water reconstruction, hydrant sales, and penalties ("Gross Defined Sales").
2. SPU will pay PILOT to the City to support economic development in SPU's assigned electric service territory in an amount equal to .5% of SPU's Gross Defined Sales for water and electric utilities.
3. SPU shall make payments to the City on a monthly basis as budgeted. The Parties will annually true-up any differences between the amounts projected for Gross Defined Sales and the actual Gross Defined Sales amounts, making any adjustments by March 31 for overpayment or underpayment during the preceding year.
4. Although this Agreement does not address any in-kind services that one Party may perform for the other Party, the Parties recognize and commend their staff for working cooperatively on a variety of issues for the benefit of the community, and they encourage this on-going cooperation. The Parties also recognize that SPU provides energy for the City's street light system at no cost to the City.
5. The term of this Agreement begins January 1, 2022 and ends on December 31, 2042. The Parties agree to begin good faith discussions of PILOT at least twelve months before the end of

the term.

6. In the event that a dispute arises between the Parties as to the interpretation or performance of this Agreement, then upon written request of either Party, representatives with settlement authority for each Party shall meet in person and confer in good faith to resolve the dispute. If the Parties are unable to resolve the dispute, they shall make every effort to settle the dispute through mediation or other alternative dispute resolution methods facilitated by a neutral.

7. The Parties do hereby each unconditionally release and waive any and all claims, known or unknown, which they may now have or have in the future arising from any action or omission of the Parties or any fact or circumstance first occurring prior to the date hereof, whether or not continuing in nature, which relate to or arise from PILOT or SPU's transfer of funds to the City.

8. Any and all previous agreements between the City and SPU pertaining to PILOT by SPU to either the City or the EDA and any and all resolutions adopted by SPU or the City pertaining to PILOT by SPU to either the City or the EDA are rescinded and superseded by this agreement.

9. This Agreement may be amended, modified, or waived only in writing, approved by each governing body, and signed by both of the Parties.

10. The laws of the state of Minnesota shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Parties hereto.

11. This Agreement may be executed in counterpart copies by the Parties and each counterpart, when taken together with the other, shall be deemed one and the same executed Agreement.

CITY OF SHAKOPEE

By _____
Its Mayor

By _____
Its City Administrator

SHAKOPEE PUBLIC UTILITIES
COMMISSION

By *h a Moeel*
Its President

By *Gregory 2 Prent*
Its General Manager