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VICTOR S. SCOTT (1966-2005)

March 4, 2009

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

RE: *Joint Application for Approval of Written Territorial Agreement between City of  
Waynesville, Missouri and Laclede Electric Cooperative*

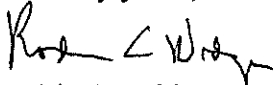
Dear Mr. Roberts:

Transmitted with this letter please find Joint Application for approval of a Territorial Agreement submitted by the City of Waynesville, Missouri and Laclede Electric Cooperative.

The filing fee check in the amount of \$514.00 made payable to Director of Revenue and a larger version of the area map will be mailed separately.

Thank you for your consideration.

Sincerely yours,

  
Rodric A. Widger

RAW/dw  
Enclosures

cc: Ralph Muxlow, City Attorney for Waynesville  
Ken Miller, Laclede Electric Cooperative  
Office of General Counsel, PSC  
Office of Public Counsel

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application	)	
Of Laclede Electric Cooperative	)	
And the City of Waynesville, Missouri for	)	
Approval of a Written Territorial Agreement	)	Case No.
Designating the Boundaries of each	)	
Electric Service Supplier within a portion of	)	
the City of Waynesville, Pulaski County, Missouri.	)	

**JOINT APPLICATION**

COME NOW Laclede Electric Cooperative ("Laclede") and the City of Waynesville, Missouri ("Waynesville"), hereinafter referred to collectively as "Applicants," by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission ("Commission"), pursuant to 4 CSR 240-2.060(1) and (13), 4 CSR 240-21.010, and Sections 394.312 and 416.041 RSMo. (2000), for an order approving Applicants' Territorial Agreement, respectfully state as follows:

1.     **The Applicants** – Laclede is a Chapter 394 Cooperative corporation organized and existing under the laws of Missouri and has its principal office located in Lebanon, Missouri. It is engaged in the sale and distribution of electricity in portions of Missouri, including in and around the City of Waynesville in Pulaski County. Laclede has no pending or final judgments or decisions against it from any state or federal agency or court which involve customer service or rates within the three years immediately preceding the filing of this Joint Application.

2.     Waynesville is a political subdivision of the 3<sup>rd</sup> Class organized and existing under the laws of Missouri and has its principal office 601 Historic 66 West, Waynesville, Missouri, 65583. It owns, operates and maintains an electric distribution system within its corporate limits to serve the residents and inhabitants of the city.

3. **Correspondence and Communication** - Correspondence, communications, and orders in regard to this Application should be directed to

For Waynesville:  
Mr. Ralph W. Muxlow, II  
Attorney at Law  
205 South Pine Street  
P.O. Box 37  
Richland, MO 65556  
573-765-4451  
573-765-4351 (fax)

For Laclede:  
Mr. Rodric A. Widger  
Andereck, Evans, Milne,  
Widger & Johnson, L.L.C.  
3816 S. Greystone Court, Suite B  
Springfield, MO 65804  
417-864-6401  
417-864-4967 (fax)  
rwidger@lawofficemo.com

Mr. Bruce Harrill  
City Administrator  
601 Historic 66 West  
Waynesville, MO 65583  
573-774-6171  
573-774-5647 (fax)

Mr. Ken Miller  
Manager  
Laclede Cooperative  
1400 E. Route 66, P.O. Box M  
Lebanon, MO 65536  
kmiller@lacledeelectric.com

4. **The Territorial Agreement** - Subject to the terms and conditions of an Agreement, known as the "Territorial Agreement" between Laclede and Waynesville, Applicants have specifically designated the boundaries of the exclusive electric service area of Laclede for service to new structures in the described tract, which is more particularly described in the Agreement. Applicants have attached a copy of the Agreement to this Application as **Appendix A**, which is incorporated by reference into this Application and made a part hereof for all purposes. A metes and bounds description of the exclusive service area is part of the Agreement and is incorporated by reference into this Application and made part hereof for all purposes. The Territorial Agreement only establishes an exclusive service territory for Laclede in the described tract. It does not require transfer of any facilities or customers between the Applicants, so no list of all persons whose utility service would be changed by the agreement, as required by 4 CSR 240-2.060(13) is included.

5. **Articles of Incorporation** – A certified copy of Cooperative's Articles of Incorporation and Certificate of Incorporation from the Secretary of State have been supplied in

Case No. EO-2005-0391 and are incorporated by reference and made a part hereof for all purposes. The City of Waynesville, Missouri, is a political subdivision of the State of Missouri incorporated in 1931.

6. **Authority to Serve in Proposed Areas** - Laclede has statutory franchise authority in the areas it proposes to serve.

7. **Other Electric Suppliers** – To Applicants' knowledge and belief there are no other electric suppliers serving in the immediate area covered by this Territorial Agreement.

8. **Agreement is in the Public Interest** - The Territorial Agreement is in the public interest because it establishes exclusive service obligations for new structures as between the Joint Applicants in the described area. The establishment of this exclusive service territory for Laclede within the corporate limits of Waynesville will prevent future duplication of electric service facilities and will also allow electric service customers within the area to know with certainty the supplier of their electric service. It makes most effective use of past investment in substation and distribution facilities by Laclede while avoiding the necessity of duplicate investment by Waynesville. Neither party is subject to the jurisdiction of the Commission for purposes of certificate authority or for rate regulation.

9. **Scope of Agreement** - Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Agreement.

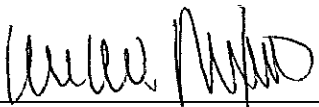
10. **Application Fee** - The Commission's fee required by 4 CSR 240-21.010 is submitted herewith.

WHEREFORE, Applicants respectfully request that the Public Service Commission of Missouri issue its order:

(a) Finding that the designation of electric service area is not detrimental to the public interest and approving the Applicants' Territorial Agreement;

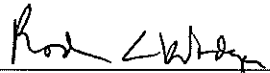
(b) Authorizing Applicants to perform in accordance with the terms and conditions of the Agreement, Appendix A to the Joint Application.

CITY ATTORNEY

By  Mo Bar # 32664  
Mr. Ralph W. Muxlow, II  
Attorney at Law  
205 South Pine Street  
P.O. Box 37  
Richland, MO 65556  
573-765-4451  
573-765-4351 (fax)

ATTORNEY FOR THE CITY OF  
WAYNESVILLE, MISSOURI

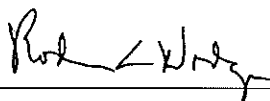
Respectfully submitted,  
ANDERECK, EVANS, MILNE, WIDGER  
& JOHNSON, LLC

By  Mo Bar # 31458  
Mr. Rodric A. Widger  
Andereck, Evans, Milne,  
Widger & Johnson, L.L.C.  
3816 S. Greystone Court, Suite B  
Springfield, MO 65804  
417-864-6401  
417-864-4967 (fax)  
rwidger@lawofficemo.com

ATTORNEYS FOR LACLEDE  
ELECTRIC COOPERATIVE

Certificate of Service

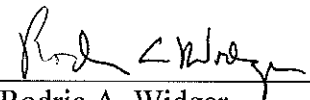
The undersigned certifies that a true and correct copy of the foregoing application was served by <sup>mail</sup> hand delivery this 4 day of MARCH, 2009, upon the Office of the Public Counsel and the Office of the General Counsel.



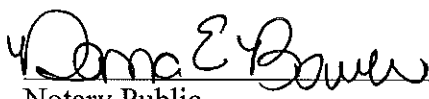
VERIFICATION

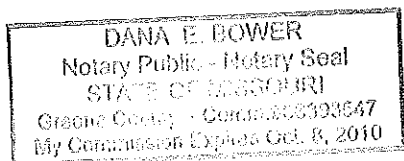
STATE OF MISSOURI     )  
                                  ) SS  
COUNTY OF GREENE     )

On the 4th day of March, 2009, before me appeared Rodric A. Widger, to me personally known, who being by me first duly sworn, states that he is the attorney for Laclede Cooperative and is authorized to file this application with the Missouri Public Service Commission and to execute the Application and this Verification on Laclede Electric Cooperative's behalf, and acknowledged that he has read the Joint Application of the City of Waynesville, Missouri and Laclede Electric Cooperative for Approval of a Territorial Agreement and that the facts stated therein are true and correct to the best of his knowledge, information and belief.

  
Rodric A. Widger

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

  
Notary Public



## TERRITORIAL AGREEMENT

THIS AGREEMENT is made and entered into as of this 19<sup>th</sup> day of Feb., 2009,  
by and between the CITY OF WAYNESVILLE, MISSOURI, a political subdivision of the 3<sup>rd</sup>  
Class organized and existing under the laws of Missouri with its principal office located at ~~401~~  
Historic 66 W  
~~North St.~~, Waynesville, Missouri ("Waynesville") and LACLEDE ELECTRIC COOPERATIVE,  
a Missouri rural electric cooperative organized and existing pursuant to Chapter 394, RSMo.  
with its office located at 1400 E. Route 66, Lebanon, Missouri ("Laclede").

### WITNESSETH:

WHEREAS, Waynesville and Laclede are authorized by law to provide electric service  
within certain areas of Missouri, including portions of Pulaski County; and

WHEREAS, Sections 394.312 and 416.041 RSMo. 2000, provides that competition to  
provide retail electrical service as between rural electric cooperatives such as Laclede and  
electrical suppliers such as Waynesville may be displaced by written territorial agreements;

WHEREAS, Waynesville and Laclede desire 1) to promote the orderly development of  
retail electrical service within a portion of Waynesville, Pulaski County, Missouri, 2) to avoid  
unnecessary duplication of electrical facilities therein, and 3) to most effectively avail  
themselves of prior investment and planning for serving the public; and

WHEREAS, this Territorial Agreement does not require any customer of either  
Waynesville or Laclede to change its supplier;

NOW, THEREFORE, Waynesville and Laclede, in consideration of the mutual  
covenants and agreements herein contained, the adequacy and sufficiency of which are hereby  
acknowledged, agree as follows:

I. Description of Territory Affected.

A. This Agreement pertains to one parcel of land in the City of Waynesville, Missouri and to certain tracts of unincorporated land in Pulaski County, Missouri. The legal description of the incorporated tract is, in its entirety, as follows:

In Section 3 Township 35 North, Range 12 West. All of Section 3 that lies North of the South Right-of-way of Interstate 44. Except that which lies West of State Highway 17 and North of Royal Leaf Lane, also

In Section 4 Township 35 North, Range 12 West. All of the E  $\frac{1}{2}$  of Lot 1 NE  $\frac{1}{4}$ , and E  $\frac{1}{2}$  of Lot 2 NE  $\frac{1}{4}$  lying southeasterly of Royal Leaf Lane, and the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  North of the South Right-of-way of Interstate 44, also

In Section 33 Township 36 North, Range 12 West. All of the E  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ , also

In Section 34 Township 36 North, Range 12 West. The E  $\frac{1}{2}$  of the SW  $\frac{1}{4}$ , and the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ , and the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  except the West 845.85 feet, also

All that part of the SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section, 34 Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the center of said Section 34; thence North 0° 43' West 424.92 feet along the East line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  to the Northeast corner of parcel described in Pulaski county Deed Records at Document # 1997 502; thence North 84° 11' 20" West 208.22 feet along the North line of said parcel described in instrument recorded in Document #1997 502 to the true point of beginning of the tract herein described; thence continuing North 84° 11' 20" West 269.63 feet along said North line to the Easterly right-of-way of Missouri Highway 17; thence South 23° 49' 20" West 93.71 feet along said Easterly right-of-way; thence South 61° 48' 20" East 204.64 feet; thence North 39° 01' 50" East 199.68 feet to the true point of beginning of the tract herein described. Description per survey R-8572 made by Elgin Surveying & Engineering, Inc. under date of December 10, 1998, also

All that part of the SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying East of Missouri Highway #17 (formerly known as U.S. Highway #66 and as City route #66) described as follows: Beginning at the Southeast corner of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence North 0° 43' West 424.92 feet along the East line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  to the Northeast corner of parcel described in the Pulaski County Deed Records at Document #1997502; thence North 84° 11' 20" West 208.22 feet along the North line of said tract described in Document #1997-502; thence South 39° 01' 50" West 199.68 feet; thence North 61° 48' 20" West 204.64 feet to the East right-of-way of Missouri Highway #17; thence South 23° 49' 10" West 430.44 feet to the South line of



tract described in Document #1997 502; thence North 89° 29' 10" East 692.42 feet along the South line of said SE ¼ of NW ¼ to the point of beginning. Description per survey (R-8572) by Elgin Surveying & Engineering, Inc., also

All that part of the SE ¼ of NW ¼ of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Southeast corner of said SE ¼ of NW ¼; thence West 28° North 459 feet; thence West 27° North 259 feet to the true point of beginning of the tract herein described; thence North 19° East 210 feet; thence West 19° North 304 feet; thence South 19° West 400 feet; thence East 11° North 353 feet to the true point of beginning of the tract herein described, also

All that part of the SE ¼ of the NW ¼ of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying West or Northwest of Missouri State Highway #17 (also known as U.S. Highway #66 City Route) described as follows: Beginning at the Southeast corner of said SE ¼ of NW ¼; thence North 88° 50' West 689.3 feet along the South line of said SE ¼ of NW ¼ to the East right-of-way line of said Highway; thence North 86° 25' West 80 feet to the West right-of-way line of said Highway; thence North 25° 10' East 135.5 feet along the West right-of-way line of said Highway to the true point of beginning of the tract of land herein described; thence North 71° 50' West 312 feet; thence North 51° 07' East 85.7 feet; thence in a Northeasterly direction along the South line of a 30 foot street the following 3 courses and distances; North 69° 53' East 59.6 feet; North 82° East 125.2 feet; North 80° 50' East 154.7 feet to the West right-of-way line of said Highway; thence South 25° 30' West 240.8 feet along the West right-of-way line of said Highway and to the true point of beginning of the tract herein described. Containing one (1) acre, more or less. Being a part of Parcel #1 shown on survey made by J. T. Powell under date of February 17, 1968, also

All that part of the NE ¼ of SW ¼ and of the SE ¼ of NW ¼ of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying West of Missouri Highway #17, also known as Business Loop I-44, and formerly known as U.S. Highway #66 (City Route) and as U.S. Highway #66, described as follows: Beginning at the Northwest corner of said NE ¼ of SW ¼; thence East 587.0 feet along the North line of said NE ¼ of SW ¼ to the West right-of-way line of said Highway and to the true point of beginning of the tract herein described; thence North 28° 13' East 66.2 feet along the West right-of-way line of said Highway; thence North 70° 53' West 209.0 feet; thence South 28° 13' West 209 feet; thence South 19° 6' West 209.0 feet; thence South 70° 53' East 209.0 feet to the West right-of-way line of said Highway; thence North 19° 6' East 209.0 feet and North 28° 13' East 142.8 feet along the West right-of-way line of said Highway to the true point of beginning of the tract herein described; containing 2 acres, more or less. Subject to any easements of record. The foregoing description is intended to be a combined description of the parcels described in the conveyances recorded in Book 274, Page 175 and in Book 314, Page 803 in the Recorder's Office of Pulaski County, Missouri, also

All that part of the SE ¼ of NW ¼ of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Southeast corner of said SE ¼ of NW ¼; thence North 88° 38' 20" West 996.18 feet along the South line of said SE ¼ of NW ¼; thence North 20° 00' 20" East 17.77 feet; thence North 23° 36' East 34.0 feet to the true point of beginning of the tract herein described; thence continuing North 23° 36' East 150.0 feet; thence North 71° 44' 20" West 101.18 feet to the Southeasterly right-of-way of a road; thence South 26° 41' 40" West 150.0 feet along the said Southeasterly right-of-way; thence South 71° 13' 50" East 109.23 feet to the true point of beginning of the tract herein described; containing 0.36 acre, more or less. Known as Tract 1 on survey (R-3364) made by Elgin Surveying & Engineering, Inc. under date of September 21, 1989, also

A part of the E1/2 of the SE1/4 of Section 5, Township 35 North, Range 12 West, described as follows: BEGINNING at the Northeast corner of the NE1/4 of the SE1/4 of said Section 5, Thence South 01°43'14" West, 1189.12 feet; thence North 88°23'28" West, 1,323.90 feet; thence North 01°04'34" East, 1186.30 feet; thence South 88°30'50" East, 1,337.42 feet to the point of beginning containing 36.28 acres more or less, also

A part of the E1/2 of the SE1/4 of Section 5, Township 35 North, Range 12 West, described as follows: Commencing at the northeast corner of the NE1/4 of the SE1/4 of said Section 5, thence South 01°43'14" West, 1189.11 feet to the POINT OF BEGINNING: thence South 01°43'14" West, 149.87 feet; thence South 01°03'12" West, 385.98 feet; thence North 86°48'54" West, 594.84 feet; thence North 82°34'53" West, 117.03 feet; thence North 76°12'02" West, 206.85 feet; thence North 13°47'58" West, 50.04 feet; thence North 03°39'50" West, 256.44 feet; thence along the arc of a curve to the left 121.01 feet, said curve having a radius of 100.00 feet and a chord bearing North 38°19'48" West, 113.76 feet; thence North 73°00'45" West, 83.97 feet; thence North 11°00'59" East, 50.87 feet; thence South 88°23'28" East, 1068.46 feet to the point of beginning containing 11.12 acres more or less, also

A part of the E1/2 of the SE1/4 of Section 5, Township 35 North, Range 12 West, described as follows: Commencing at the Northeast corner of the NE1/4 of the SE1/4 of said Section 5, thence South 01°43'14" West, 1338.99 feet; thence South 01°03'12" West, 385.98 feet to the POINT OF BEGINNING: thence North 86°48'54" West, 594.84 feet; thence North 82°34'53" West, 117.03 feet; thence North 76°12'02" West, 206.85 feet; thence North 13°47'58" West, 50.04 feet; thence North 03°39'50" West, 256.44 feet; thence along the arc of a curve to the left 121.01 feet, said curve having a radius of 100.00 feet and a chord bearing North 38°19'48" West, 113.76 feet; thence North 73°00'45" West, 83.97 feet; thence North 11°00'59" East, 50.87 feet; thence North 88°23'28" West, 255.44 feet; thence South 01°04'34" West, 149.87 feet; thence South 01°37'54" West, 64.26 feet; thence South 23°38'57" East, 64.88 feet; thence South 05°31'21" East, 176.50 feet; thence South 01°24'29" West, 340.15 feet; thence North 80°55'48" East, 32.10 feet; thence North 34°01'35"

East, 102.72 feet; thence North 79°17'44" East, 60.33 feet; thence South 52°17'47" East, 104.19 feet; thence North 77°31'07" East, 65.72 feet; thence South 83°34'21" East, 197.88 feet; thence South 74°36'23" East, 246.13 feet; thence South 66°12'46" East, 288.18 feet; thence South 83°40'07" East, 276.58 feet; thence South 88°14'52" East, 7.52 feet; thence North 01°03'12" East, 398.97 feet to the point of beginning containing 12.87 acres more or less, also

All that part of the Southwest quarter of Southeast quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Northeast corner of said Southwest quarter of Southeast quarter; thence South 01°35'06" West 554.79 feet along the East line on said Southwest quarter of Southeast quarter; thence North 88°24'54" West 30.0 feet to the true point of beginning of the tract herein described; thence continuing North 88°24'54" West 190.0 feet; thence South 01°35'06" West 59.75 feet; thence South 63°32'06" West 302.8 feet; thence South 29°18'39" East 239.24 feet (partially along the Northeasterly line of parcel described in instrument recorded in Book 189, Page 674 in the Recorder's Office of Pulaski County, Missouri); thence North 63°32'06" East 378.89 feet; thence North 01°35'06" East 229.26 feet to the true point of beginning of the tract herein described; containing 2.50 acres, more or less. Description per surveys (Drawings No. 1391 and 1398) made by J. H. Mackey Associates. Subject to any easements of record, also

An easement for ingress and egress, to run with the above described real estate, over that part of the Southwest quarter of Southeast quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M., described as follows: Beginning at the Northeast corner of said Southwest quarter of Southeast quarter; thence South 01° 35' 06" West 600.92 feet to the Northwesternly right-of-way of Interstate Highway #44; thence North 60° 39' 21" East 34.97 feet along the said right-of-way to the East line of said Southwest quarter of Southeast quarter; thence North 01° 35' 06" East 582.96 feet along the East line of said Southwest quarter of Southeast quarter to the true point of beginning of the tract herein described, also

All that part of the Southwest quarter of Southeast quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M., and of the West half Lot 2 of the Northeast quarter of Section 3, Township 35 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Northwest corner of said West half of Lot 2 of the Northeast quarter; thence South 89° 05' 57" East 670.0 feet along the North line of said West half of Lot 2 of the Northeast quarter to the true point of beginning of the tracts herein described; thence North 21° 45' 01" West 75.0 feet; thence North 54° 42' 09" East 216.24 feet; thence South 35° 44' 27" East 249.81 feet to the Northwesternly right-of-way of Interstate Highway #44; thence South 60° 40' 35" West 273.0 feet along the said Northwesternly right-of-way to the Southwesterly line of tract described in instrument recorded in Book 186, Page 339 in the Recorder's Office of Pulaski County, Missouri; thence North 21° 45' 01" West 152.73 feet along the Southwesterly line of said tract described in Book 186, Page 339 to the true point of beginning of the tract

herein described; containing 1.33 acres, more or less. Known as Tract A on survey (Drawing No. 1789) made by J.H. Mackey Associates under date of March 16, 1998. Subject to any easements of record, also

All that part of the Southwest quarter of Southeast quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Northeast corner of said Southwest quarter of Southeast quarter; thence South 01° 35' 06" West 554.79 feet along the East line of said Southwest quarter of Southeast quarter; thence North 88° 24' 54" West 30.0 feet to the true point of beginning of the tract herein described; thence North 88° 24' 54" West 190.0 feet and South 01° 35' 06" West 59.75 feet, and South 63° 32' 06" West 302.8 feet along the Northerly line of parcel described in instrument recorded as Document # 9403075 in Recorder's Office of Pulaski County, Missouri; thence North 01° 35' 06" East 272.65 feet; thence South 88° 24' 54" East 457.23 feet; thence South 01° 35' 06" West 70.51 feet to the true point of beginning of the tract herein described; containing 1.54 acres, more or less. Known as Tract B on survey (Drawing No. 1789) made by J. H. Mackey Associates under date of March 16, 1998. Subject to any easements of record, also

A part of the Southwest quarter of the Southeast quarter of Section Thirty-four (34), Township Thirty-six (36) North of Range Twelve (12) West of the Fifth Principal Meridian, described as follows: Beginning at a point which is the intersection of the East line of said Southwest quarter of the Southeast quarter and the North right of way line of U.S. Highway No. 66; thence South 61 degrees 58 minutes West along the said North right of way line of U.S. Highway No. 66, 222.55 feet to the point of beginning of the tract herein described; thence North 28 degrees 2 minutes West 414.87 feet; thence South 61 degrees 58 minutes West 105 feet; thence South 28 degrees 2 minutes East 414.87 feet; thence North 61 degrees 58 minutes East 105 feet to the point of beginning to set off this tract, containing one (1) acre, more or less, together with all improvements situated thereon, also

A fractional part of the Northwest Quarter of the Southeast Quarter of Section 34, Township 36 North, Range 12 West of the 5<sup>th</sup> P.M. described as follows: Commencing at the Northwest Corner of the Northwest Quarter of the Southeast Quarter of said Section 34; thence South 0°05'20" East, 593.88 feet along the West line of said Northwest Quarter of the Southeast Quarter to the southwest corner of a parcel described in Pulaski county Deed Records at Book 336, page 447, the true point of beginning of the hereinafter described tract: Thence South 1°34' East, 180.76 feet, and South 0°58'50" West, 98.39 feet, all along the aforesaid West line of the Northwest Quarter of the Southeast Quarter; thence North 89° 09'50" East, 330.29 feet to the southwest corner of a parcel described in Pulaski County Deed Records at Document No. 1997-3456; thence North 0°08'20" East, 140.00 feet along the West line of said Document No. 1997-3456 parcel to the southwesterly right of way of Safe Road; thence South 89°26'50" West, 85.31 feet, and 157.38 feet along the arc of a curve, concave northeasterly with a radius of 100.00 feet, the chord of which is North 44°52'

West, 141.63 feet, and North 0°53'40" West, 19.24 feet, all along said southwesterly right of way to the southeast corner of the aforesaid Book 336, Page 447 parcel; thence North 84°03'50" West, 149.13 feet along the South line of said Book 336, Page 447 parcel to the true point of beginning. Above described tract contains 1.54 acre, more or less, per plat of survey R-11180, dated February 9, 2004, Elgin Surveying & Engineering, Inc., also

All that part of the Southeast quarter of the Northwest quarter lying East of U.S. Highway # 66 (City route) and all that part of the Southwest quarter of the Northeast quarter, all in Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Southeast corner of the last said forty; thence North 28°49' West 294.18 feet; thence North 33° 02' West 155.20 feet; thence North 34° 29' West 431.10 feet; thence North 49° 52' West 493.85 feet; thence South 41° 05' West 200.14 feet; thence North 54° 28' West 154.74 feet to the Northeast corner of tract conveyed to Orpha Ray Gibson ad wife by deeds recorded in Book 197, Page 427 and in Book 197, Page 429 of the Pulaski County, Missouri Deed Records; thence South 24° 01' West 170.50 feet along the East line of the said Gibson tract; thence North 58° 21' West 420.0 feet along the South line of the said Gibson tract to the East right-of-way line of said Highway; thence South 84° 13' West 654.35 feet along the East right-of-way line of said Highway; thence South 84° 13' East 480.30 feet to the West line of the said SW1/4 of NE1/4; thence South 0° 43' East 425.50 feet along West line of last said forty to the point of beginning; containing 26.75 acres, more or less, and description per survey (S-555) made by Robert L. Elgin. EXCEPT that part conveyed by deed recorded in Book 172, Page 350 of the said Deed Records, also

All that part of the Southeast quarter of Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the center of said Section 34; thence North 0° 43' West 424.92 feet along the East line of said Southeast quarter of Northwest quarter to the northeast corner of parcel described in Pulaski county Deed Records at Document #1997 502; thence North 84° 11' 20" West 208.22 feet along the North line of said parcel described in instrument recorded in Document # 1997 502 to the true point of beginning of the tract herein described; thence continuing North 84° 11' 20" West 269.63 feet along said North line to the easterly right-of-way of Missouri Highway 17; thence South 23° 49' 20" West 93.71 feet along said easterly right-of-way; then South 61° 48' 20" East 204.64 feet; thence North 39° 01' 50" East 199.68 feet to the true point of beginning of the tract herein described. Description per survey R-8572 made by Elgin Surveying & Engineering, Inc. under date of December 10, 1998, also

All that part of the Southeast quarter of Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying East of Missouri Highway #17 (formerly known as U.S. Highway #66 and as City Route #66) described as follows: Beginning at the Southeast corner of said Southeast quarter of Northwest quarter; thence North 0° 43' West 424.92 feet along the East line of

said Southeast quarter of Northwest quarter to the Northeast corner of parcel described in the Pulaski county Deed Records at Document # 1997 502; thence North  $84^{\circ} 11' 20''$  West 208.22 feet along the North line of said tract described in Document #1997-502; thence South  $39^{\circ} 01' 50''$  West 199.68 feet; thence North  $61^{\circ} 48' 20''$  West 204.64 feet to the East right-of-way of Missouri Highway #17; thence South  $23^{\circ} 49' 10''$  West 430.44 feet to the South line of tract described in Document #1997 502; thence North  $89^{\circ} 29' 10''$  East 692.42 feet along the South line of said Southeast quarter of Northwest quarter to the point of beginning. Description per survey (R-8572) by Elgin Surveying & Engineering, Inc., also

All that part of the Southeast quarter of Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Southeast corner of said Southeast quarter of Northwest quarter; thence West  $28^{\circ}$  North 459 feet; thence West  $27^{\circ}$  North 259 feet to the true point of beginning of the tract herein described; thence North  $19^{\circ}$  East 210 feet; thence West  $19^{\circ}$  North 304 feet; thence South  $19^{\circ}$  West 400 feet; thence East  $11^{\circ}$  North 353 feet to the true point of beginning of the tract herein described, also

All that part of the Southeast quarter of the Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying West or Northwest of Missouri State Highway #17 (also known as U.S. Highway #66 City Route) described as follows: Beginning at the Southeast corner of said Southeast quarter of Northwest quarter; thence North  $88^{\circ} 50'$  West 689.3 feet along the South line of said Southeast quarter of Northwest quarter to the East right-of-way line of said Highway; thence North  $86^{\circ} 25'$  West 80 feet to the West right-of-way line of said Highway; thence North  $25^{\circ} 10'$  East 135.5 feet along the West right-of-way line of said Highway to the true point of beginning of the tract of land herein described; thence North  $71^{\circ} 50'$  West 312 feet, thence North  $51^{\circ} 07'$  East 85.7 feet; thence in a Northeasterly direction along the South line of a 30 foot street the following 3 courses and distances; North  $69^{\circ} 53'$  East 59.6 feet; North  $82^{\circ}$  East 125.2 feet; North  $80^{\circ} 50'$  East 154.7 feet to the West right-of-way line of said Highway; thence South  $25^{\circ} 30'$  West 240.8 feet along the West right-of-way line of said Highway and to the true point of beginning of the tract herein described. Containing one (1) acre, more or less. Being a part of Parcel #1 shown on survey made by J. T. Powell under date of February 17, 1968, also

All that part of the Northeast quarter of Southwest quarter and of the Southeast quarter or Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. lying West of Missouri Highway #17, also known as Business Loop I-44, and formerly known as U.S. Highway #66 (City Route) and as U.S. Highway #66, described as follows: Beginning at the Northwest corner of said Northeast quarter of Southwest quarter; thence East 587.0 feet along the North line of said Northeast quarter of Southwest quarter to the West right-of-way line of said Highway and to the true point of beginning of the tract herein described; thence North  $28^{\circ} 13'$  East 66.2 feet along the West right-of-way line of said

Highway; thence North 70° 53' West 209.0 feet; thence South 28° 13' West 209 feet; thence South 19° 6' West 209.0 feet; thence South 70° 53' East 209.0 feet to the West right-of-way line of said Highway; thence North 19° 6' East 209.0 feet and North 28° 13' East 142.8 feet along the West right-of-way line of said Highway to the true point of beginning of the tract herein described; containing 2 acres, more or less. Subject to any easements of record. The foregoing description is intended to be a combined description of the parcels described in the conveyances recorded in Book 274, Page 175 and in Book 314, Page 803 in the Recorder's Office of Pulaski County, Missouri, also

All that part of the Southeast quarter of Northwest quarter of Section 34, Township 36 North, Range 12 West of 5<sup>th</sup> P.M. described as follows: Beginning at the Southeast corner of said Southeast quarter of Northwest quarter; thence North 88° 38' 20" West 996.18 feet along the south line of said Southeast quarter of Northwest quarter; thence North 20° 00' 20 East 17.77 feet; thence North 23° 36' East 34.0 feet to the true point of beginning of the tract herein described; thence continuing North 23° 36' East 150.0 feet; thence North 71° 44' 20" West 101.18 feet to the Southeasterly right-of-way of a road; thence South 26° 41' 40" West 150.0 feet along the said Southeasterly right-of-way; thence South 71° 13' 50" East 109.23 feet to the true point of beginning of the tract herein described; containing 0.36 acre, more or less. Known as Tract 1 on survey (R-3364) made by Elgin Surveying & Engineering, Inc. under date of September 21, 1989.

B. A map of the above described area is attached to this Agreement. In the event that the legal description and the map are in conflict, the map shall be deemed to control the intent of the parties. In addition to this area, the parties agree that Laclede shall have as its exclusive service area any and all tracts of land located south of the southern boundary of the right-of-way of Interstate Highway 44 (I-44) that may be hereafter lawfully annexed by the City of Waynesville, Missouri, into its incorporated municipal limits.

C. This Agreement shall have no effect whatsoever upon service by Laclede or Waynesville in any other area.

D. The described tract is located within the corporate limits of the City of Waynesville, Missouri, and thus is not a "rural area" as defined by Section 394.020(3) RSMo. 2000. The lands south of Interstate Highway 44 that may be annexed by future action of the City are not within the corporate limits of any city, town, or village.

## 2. Definitions.

A. For purposes of this Agreement, the references to "structure" have the same meaning as the statutory definition of the term "structure" found in Sections 393.106 and 394.315 RSMo. in effect at the relevant time. In the event no such statutory definitions exist or are not otherwise applicable, the term shall be construed to give effect to the intent of this agreement which is to designate an exclusive provider, as between the parties hereto, of retail electric service for anything using or designed to use electricity that is located within the Service Areas described herein.

B. The term "permanent service" shall have the same meaning as the definition of "permanent service" found in Section 394.315 RSMo., in effect at the relevant time. The term shall be liberally construed to give effect to the expressed intent of this Agreement.

C. The term "new structure" shall mean (i) one on which construction has not commenced by the Effective Date, or (ii) one on which construction has commenced by the Effective Date but on the Effective Date is not complete from the standpoint that permanent wiring for the electrical power and energy to be utilized by or within in the structure has not been permanently installed and permanently energized by physical connection to the facilities of an electrical supplier, or (iii) one for which the respective electrical inspection authority has not granted a permit by the Effective Date for it to be energized, or (iv) one for which the respective building authority has not granted an occupancy permit by the Effective Date.

D. The term "Effective Date" shall mean 12:01 a.m. of the date on which the Report and Order of the Commission approving this Agreement is effective pursuant to the terms of such Report and Order, unless a writ of review or other proceeding is taken challenging the Report and Order, in which case there shall be no Effective Date of this Agreement until Waynesville and Laclede both execute a document which establishes an Effective Date for purposes of this Agreement.

## 3. Exclusive Service Areas Established.

A. Laclede, pursuant to this Territorial Agreement, shall be entitled to provide permanent service to all structures now located within the area described in Paragraph 1A above



and all new structures that may be built therein and therefore it shall be considered the exclusive Service Area of Laclede, as between Waynesville and Laclede. Waynesville does not now serve any structures, and shall not be allowed to serve any new structures, within that designated area.

B. This Agreement does not purport to affect the rights of any electric supplier not a party to this Agreement.

4. Condition Precedent – Regulatory Approvals. This Agreement is conditioned upon receipt of approval of it by the Commission with no changes, or those changes which have been expressly agreed to by Waynesville and Laclede. Either party may file an application for rehearing or other document with the Commission prior to the effective date of a Commission order approving this Agreement if the party objects to the form or content of the Commission's order approving the Agreement. If neither party files such an application for rehearing or document prior to the effective date of the Commission order approving this Agreement, it shall be presumed that the approval is satisfactory in form and content to both parties.

5. Service to Structures Receiving Service as of the Date of this Agreement. Structures within the subject service area are being served by Laclede Electric Cooperative. To the knowledge of Waynesville and Laclede, there are no other suppliers of electricity providing permanent electric service within the tract.

6. Structures Coming Into Existence After the Effective Date.

A. After the Effective Date, Laclede shall have the exclusive right, as between Waynesville and Laclede, to provide permanent service to new structures within the tract.

B. During interim period between the date of execution of this Agreement and the Effective Date, the parties shall abide by the territorial division provisions of this Agreement and may provide provisional service to any customer seeking service. Pending the issuance of a decision by the Commission either granting or denying approval of this Agreement, however, neither party shall construct primary or secondary electric facilities within the territory assigned exclusively to the other pursuant to this Agreement, unless (i) ordered to do so by the Commission or a court of competent jurisdiction or (ii) as a necessary part of the provision of service to its customers in other areas and such construction is within a previously established

easement obtained for the purpose of providing service in other areas. In the interim before this Agreement is approved by the Commission, if a new structure should come into existence on one side of the proposed boundary and request service from the party on the opposite side of the boundary, and that party has existing right to provide such service, the parties agree to submit the matter to the Commission for determination in the case docketed for approval of this Agreement. The parties agree to propose to the Commission in such case that the party which will have the exclusive right to serve the customer if this Agreement is approved by the Commission should have the exclusive right and obligation to serve the customer in the interim.

7. Indirect Provision of Service to Structures Not Permitted. The intent of this Agreement is to designate an exclusive provider of electric service for structures or anything else using or designed to use electricity to be located within the described areas. Neither party shall furnish, make available, assist in providing, render or extend electric service to a structure, which that party would not be permitted to serve directly pursuant to this Agreement, by indirect means such as through a subsidiary corporation, through another entity, or by metering services outside of the area for delivery within the area. This shall not be construed to otherwise prohibit sales of electric power and energy between the parties to this Agreement.

8. Term. The initial term of this Agreement shall be twenty (20) years from and after the Effective Date ("initial term"). Thereafter, this Agreement shall be automatically renewed for successive five (5) year terms ("renewal terms") commencing on the anniversary of the Effective Date ("renewal date") unless either party hereto shall notify the other party in writing of its intent to terminate this Agreement at least one (1) year in advance of any such renewal date. The parties agree that a copy of any notice of termination of this Agreement shall be simultaneously served upon the Executive Secretary of the Commission and the Office of the Public Counsel. Termination of this Agreement shall eliminate the exclusive service territories provided for herein, but shall not entitle a party to provide service to a structure lawfully being served by the other party, or allow a change of supplier to any structure in the other's Service Area hereunder, unless such a change is otherwise permitted by law.

9. Franchise Authority. A. Concurrent with Commission approval of this Agreement, the City of Waynesville contractually agrees to fully recognize the statutory franchise authority of Laclede to use the public rights-of-way for electric distribution and other lawful purposes. In

order for Laclede to render efficient and continuous electrical service it will be necessary for Laclede to trim or remove the trunks and branches of trees and vegetation along or over the streets, sidewalks, alleys, avenues and other public places in the City, and in other areas dedicated to the City for public utility use, wherever the same are likely to come in contact with Laclede's equipment. The City therefore grants to Laclede and its agents the right to trim and remove such trees, including the trunk, branches, and all parts thereof, and other vegetation so as to enable Laclede to erect and maintain its equipment in a regular and consistent form and manner, and to enable it to provide the most efficient and continuous service that the circumstances will permit; provided, however, that Laclede and its agents shall exercise proper care and discretion in cutting, trimming and removing said trees, vegetation, and all parts thereof. Laclede shall comply with all applicable ordinances including Waynesville's tree ordinance.

B. As consideration for the rights and privileges conferred by this Agreement, and in lieu of any license tax payments that may be required by any other City ordinance, Laclede agrees to pay to the City, monthly, from its general funds, an amount equal to two percent (2.0%) of Laclede's gross retained receipts, derived exclusively from Laclede's own sales of electricity or electric service to persons and accounts residing or located inside that portion of the incorporated limits of the City that are subject to this Agreement. The term "gross retained receipts" means the aggregate amount of all sales and charges accrued from the business of supplying electricity or electric service by Laclede in said incorporated portions of the Agreement area allocated to Laclede during any monthly period, less any discounts, credits, refunds, taxes, fees, penalties and other charges or adjustment added to customer bills, and uncollectible accounts. The "aggregate amount" of sales and charges shall not include receipts derived from furnishing service to the City, to schools, churches, and non-profit organizations, or to receipts collected on behalf of another provider of electric power and energy.

C. Each first contract payment shall be due on or before the fifteenth (15<sup>th</sup>) day of each month after the effective date of Public Service Commission approval of this Agreement. Payment shall be calculated on the basis of gross receipts for the preceding calendar month. If requested to do so by Waynesville, Laclede shall timely produce the results of an audit of its applicable gross receipts by a qualified independent auditor.

10. Laclede's Authority. Neither acceptance of, or compliance with, the provisions of this Ordinance shall in any way impair or affect, or constitute or be construed as a relinquishment or waiver of, any right, permission, statutory powers, or authority which Laclede, its successor or assigns, may have independently of this Ordinance. Waynesville recognizes the full and independent exercise of Laclede's powers enumerated at Section 394.080, RSMo.

11. Permits. This Ordinance shall not relieve Laclede of the obligation to comply with any ordinance now existing in Waynesville or enacted in the future requiring Laclede to obtain written permits or other approval from Waynesville prior to commencement of construction of facilities within the streets thereof, except Laclede shall not be required to obtain permits or other approval from Waynesville for the maintenance and repair of its facilities.

12. Safety. All facilities of Laclede in Waynesville shall be installed and maintained in compliance with the applicable safety rules and guidelines of the National Electric Safety Code (NESC). Laclede shall at all times indemnify and save Waynesville harmless from any and all costs and damages which Waynesville may be liable to pay that may arise from the construction, maintenance, existence and operation of Laclede's system of facilities installed pursuant to this Agreement. This provision shall continue to apply after termination of the Agreement to any situations that may arise during the term of the Agreement.

13. Cooperation. Waynesville and Laclede agree to undertake all actions reasonably necessary to implement this Agreement. Waynesville and Laclede will cooperate in presenting a joint application to the Commission demonstrating that this Agreement is in the public interest. Laclede shall pay all the costs assessed by the Commission for seeking administrative approval of this Agreement. All other costs, including but not limited to the attorneys fees of each party, will be borne by the respective party incurring the costs.

14. General Terms.

A. Land Descriptions: The land descriptions utilized in this Agreement are assumed by the parties to be accurate and reliable and to match any maps being submitted; however, where there are maps and the map does not correspond with the metes and bounds description, the map shall be controlling.

B. No Constructive Waiver: No failure of Waynesville or Laclede to enforce any provision hereof shall be deemed to be a waiver.

C. Modifications: Neither the boundaries described in this agreement nor any provision of this Agreement may be modified or repealed except by a signed writing of the parties which is approved by all applicable regulatory authorities.

D. Survival: This Agreement shall inure to the benefit and be binding upon the parties, their respective successors and assigns.

E. Lack of Approval or Termination: If the Commission or any other regulatory authority having jurisdiction does not approve this Agreement, this Agreement shall be nullified and of no legal effect between the parties. If this Agreement is terminated pursuant to its terms, it shall thereafter be nullified and of no further legal effect except as may be necessary to govern disputes concerning situations existing prior to such termination. Further, if any part of this Agreement is declared invalid or void by a court or agency of competent jurisdiction, then the parties shall replace such provision as similarly as possible to the provision which was declared invalid or void so as to return each of them, as much as practical, to the status quo prior to the declaration.

F. This Agreement shall not be construed to prevent either party from obtaining easements or right of way through or in any part of the Service Area of the other if the acquisition of such easement or right of way is reasonably necessary to or desirable for the performance of the party's duties to provide electric service to its customers in other areas.

G. The subsequent platting, re-platting, subdividing, re-subdividing, or re-naming of any parcel or subdivision covered by this Agreement shall not affect the respective rights of Waynesville or Laclede established by this Agreement.

15. Subsequent Legislation. This Agreement is reached between the parties based upon their understanding of the current state of the law in Missouri under Section 394.315 RSMo. 2000, which allows an electrical supplier, once it lawfully commences supplying retail electric energy to a structure through permanent service facilities, to have the right to continue serving such structure. Further, the concept of service under those sections at the current time

contemplates not only the physical provision of the conductors to provide an electrical path and connection between the structure and the conductors of the electrical supplier, but also the provision of electrical power and energy through such conductors. In the event the law in Missouri is changed during any term of this Agreement to provide that the provider of the electrical facilities (i.e. conductors) within the Service Area is not also required or assumed to be the provider of electrical power and energy (i.e., the electricity), and thereby give customers a choice as to who provides their electricity, as contrasted with who owns the wires over which such electricity is provided, then nothing in this Agreement shall be construed to prohibit Waynesville from providing electrical power and energy to structures within the Service Area of Laclede established by this Agreement, or Laclede from providing electrical power and energy to structures within the Service Area of Waynesville established by this Agreement, under the terms of such future legislation, notwithstanding the terms of this Agreement to the contrary. However, if either § 394.315 or § 394.312 RSMo. are repealed and not reenacted in a form substantially equivalent to their status on the Effective Date, this Agreement shall terminate, coincident with the effective date of the elimination of the current content of § 394.315 or § 394.312, as the case may be.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this 19<sup>th</sup> day of February, 2009.

CITY OF WAYNESVILLE, MISSOURI

LACLEDE ELECTRIC COOPERATIVE

By: 

By: 

Title: Mayor

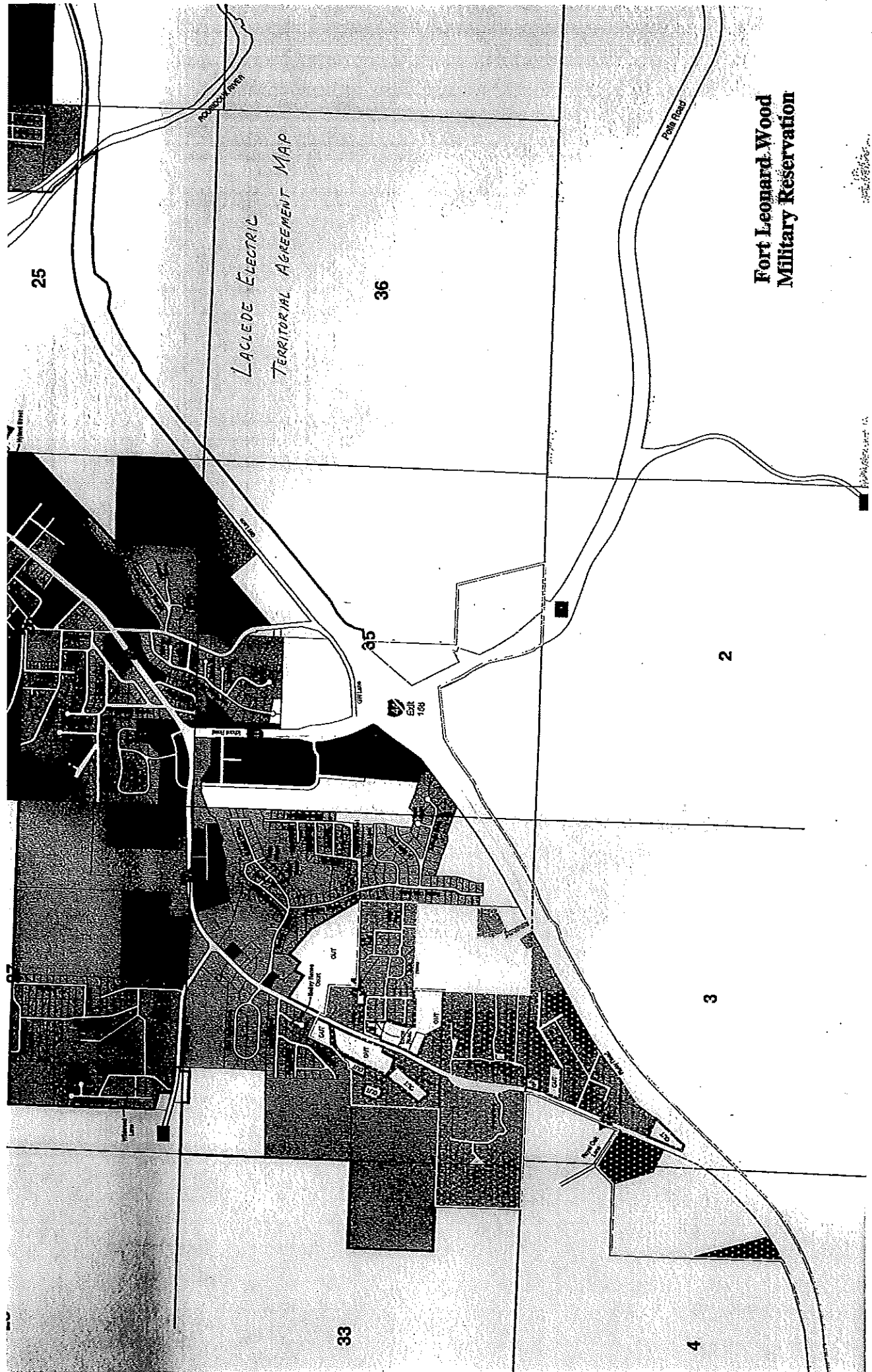
Title: General Manager

Attest: 

Attest: 

(seal)

(seal)



**Fort Leonard Wood  
Military Reservation**