

**FIRST ADDENDUM
TO TERRITORIAL AGREEMENT**

THIS FIRST ADDENDUM TO TERRITORIAL AGREEMENT ("First Addendum") is made and entered into as of this 13th day of June, 2019, by and between the CITY OF GALLATIN, MISSOURI, a city of the fourth class organized and existing under the laws of Missouri with its principal office located at 112 E. Grand Street, Gallatin, Missouri 64640 ("Gallatin") and FARMERS' ELECTRIC COOPERATIVE, INC., a Missouri rural electric cooperative organized and existing pursuant to Chapter 394, RSMo. with its principal office located at 201 W. Business Hwy. 36, P.O. Box 680, Chillicothe, Missouri 64601 ("Farmers").

WITNESSETH:

WHEREAS, Gallatin and Farmers' are authorized by law to provide electric service within certain areas of Missouri, including portions of Daviess County; and

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

WHEREAS, Gallatin and Farmers' entered into a Territorial Agreement dated June 7, 1996, involving the provision of retail electrical service to customers within certain tracts in Daviess County, Missouri; and

WHEREAS, the provisions of the Territorial Agreement authorize Gallatin and Farmers' to subsequently agree in writing, on a case-by-case basis, to amend the service area of the parties; and

WHEREAS, the provisions of said Territorial Agreement are incorporated by reference within this First Addendum thereto; and

WHEREAS, this First Addendum does not require any customer of either Gallatin or Farmers' to change its supplier;

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

1. Description of Territory Affected.

A. This Agreement pertains only to one parcel of land in Daviess County, Missouri. A description of the parcel is as follows and shall herein after be referred to as the "Holcomb tract":

Starting at the South Quarter corner of Section Twenty-nine (29), Township Fifty-nine (59) North, of Range Twenty-seven (27) West; thence running North 0 degrees 33 minutes 52 seconds West along the quarter section line 1324.89 Feet to the point of beginning; thence North 89 degrees 26 minutes 44 seconds East, 1740.13 Feet to the West Right-of-way line of State Highway 13 which is 90.0 Feet right of center line station 94+09.6; thence North 21 minutes 11 seconds West, 367.10 Feet; thence North 4 degrees 29 minutes 03 seconds west 104.40 Feet; thence North 21 degrees 11 minutes West, 200.0 Feet; thence North 26 degrees 53 minutes 38 seconds West, 100.50 Feet; thence North 21 degrees 11 minutes West, 100.0 Feet; thence North 15 degrees 28 minutes 22 seconds West, 100.50 Feet; thence North 21 degrees 11 minutes West, 248.92 Feet; thence along the arc of a 5669.65 Feet radius, 182.93 Feet, to a point which is 60.0 Feet right of highway center line station 79 + 66.22; thence South 89 degrees 46 minutes 33 seconds West, 1272.74 Feet to the center of said Section Twenty-nine (29); thence South 0 degrees 33 minutes 52 seconds East, 1326.03 Feet to the point of beginning.

Except the following described tracts,
A Five Acre tract starting at the South Quarter corner of Section Twenty-nine (29), Township Fifty-nine (59) North, of range Twenty-seven (27) West; thence North 0 degrees 33 minutes 52 seconds West, 2320.92 Feet along the quarter section line to the point of beginning; thence North 89 degrees 46 minutes 33 seconds East, 660.0 Feet; thence North 0 degrees 33 minutes 52 seconds West; 330.0 Feet; thence South 89 degrees 46 minutes 33 seconds West, 660.0 Feet to an iron pin marking the center of said Section Twenty-nine (29) thence South 0 degrees 33 minutes 52 seconds East, 330.0 Feet to the point of beginning. Tract containing Five acres more or less and includes 0.125 acres along the West side for public road.

All of that part of the North Half of the Southeast Quarter, lying West of State Highway 13, in Section Twenty-nine (29), in Township Fifty-nine (59), of Range Twenty-seven (27), described as follows: Starting at the South Quarter corner of Section 29, Township 59, Range 27 thence running N 0 degrees 33 minutes 52 seconds West along the quarter section line 1,324.89 feet to the point of beginning, thence N 89 degrees 26 minutes 44 seconds East, 1740.13 feet, thence N 0 degrees 33 minutes 52 seconds West, 992.23, thence South 89 degrees 46 minutes 33 seconds West, 660.0 feet, thence South 0 degrees 33 minutes 52 seconds East, 996.03 feet to the point of beginning, all in Daviess County, Missouri according to survey filed in recorder's office of Daviess County, Missouri on June 3, 1978, at 11:30 A.M. and recorded in Plat Book C at Page 45.

B. Farmers' and Gallatin agree that this First Addendum is necessary in order to promote the safe and efficient provision of electrical service to the Holcomb Tract, in that the provision of service by Farmers' requires less new construction of electric facilities as Farmers' has existing electric facilities along a portion of the Holcomb Tract.

C. A map of the above described tract is attached hereto and marked **Exhibit A**.

- D. This Agreement shall have no effect whatsoever upon service by Farmers' or Gallatin in any other area.
- E. The described tract is located within the corporate limits of the City of Gallatin, Missouri, and thus is not a "rural area" as defined by Section 394.020(3) RSMo.

2. Condition Precedent - Regulatory Approvals.

- A. This First Addendum is conditioned upon receipt of approval of it by the Commission with no changes, or those changes which have been expressly agreed to by Gallatin and Farmers'. 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 First Addendum if the party objects to the form or content of the Commission's order approving the First Addendum. If neither party files such an application for rehearing or document prior to the effective date of the Commission order approving this First Addendum, it shall be presumed that the approval is satisfactory in form and content to both parties.
 - B. Gallatin and Farmers' agree that they shall submit this First Addendum to the Commission for its approval and shall submit therewith the notarized statements and justification as required by the terms of the Territorial Agreement.
 - C. Gallatin and Farmers' agree that Farmers' is authorized to commence providing electrical service to the Holcomb Tract at any time on a temporary basis, pending approval by the Commission of this First Addendum, pursuant to the terms of the Territorial Agreement. Nothing in this provision shall be deemed to limit Farmers' ability to provide electrical service to Holcomb Tract on a permanent basis following the Commission's approval of this First Addendum.
3. **Term.** The term of this First Addendum shall be the same as that of the Territorial Agreement to which this First Addendum relates. Nothing contained herein shall be construed to terminate this First Addendum prior to expiration or termination of the Territorial Agreement, or to extend the provisions hereof beyond expiration or termination of the Territorial Agreement.

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

5. **General Terms.**

- A. **Tract Descriptions:** The descriptions of tracts utilized in this First Addendum are assumed by the parties to be accurate and reliable and to match the maps being submitted; however, where there are maps and the map does not correspond with the given street address or legal description, the map shall be controlling.
- B. **No Constructive Waiver:** No failure of Gallatin or Farmers' to enforce any provision hereof shall be deemed to be a waiver.
- C. **Modifications:** Neither the provisions regarding service to the specific structures described in this First Addendum nor any other provision of this First Addendum may be modified or repealed except by a signed writing of the parties which is approved by all applicable regulatory authorities.
- D. **Survival:** This First Addendum 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 First Addendum, or if the Condition Precedent is not fulfilled, this First Addendum shall be nullified and of no legal effect between the parties, except as to providing authority for any temporary provision of electrical service undertaken by Farmers' during the period in which Commission approval was pending. If this First Addendum 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 First Addendum 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 First Addendum may be terminated by either party in the manner set forth in the Territorial Agreement for termination of the Territorial Agreement.

G. The subsequent re-naming of any tract covered by this First Addendum shall not affect the respective rights of Gallatin or Farmers' established by this First Addendum.

IN WITNESS WHEREOF, the parties have executed this First Addendum.

CITY OF GALLATIN, MISSOURI

By: Lance Vains

Title: City Administrator

Attest: Hattie Rains

(seal)

FARMERS' ELECTRIC COOPERATIVE, INC.

By: Phil Cook

Title: General Manager

Attest: Jenniel L. Tipton

(seal)

