



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION FOR A CERTIFICATE)
OF CONVENIENCE AND NECESSITY)
AUTHORIZING CONSTRUCTION OF A NEW)
HEADQUARTERS FACILITY AND AN ORDER)
AUTHORIZING BIG RIVERS TO SELL ITS)
EXISTING HEADQUARTERS FACILITY)

Case No.
2021-00314

Responses to Commission Staff's
Second Request for Information

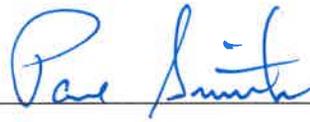
FILED: November 9, 2021

BIG RIVERS ELECTRIC CORPORATION

**ELECTRONIC APPLICATION
OF BIG RIVERS ELECTRIC CORPORATION
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
AUTHORIZING CONSTRUCTION OF A NEW HEADQUARTERS FACILITY
AND AN ORDER AUTHORIZING BIG RIVERS TO SELL
ITS EXISTING HEADQUARTERS FACILITY
CASE NO. 2021-00314**

VERIFICATION

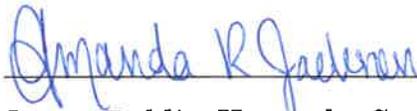
I, Paul G. Smith, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.



Paul G. Smith

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Paul G. Smith on this the 9th day of November, 2021.



Notary Public, Kentucky State at Large

Kentucky ID Number

619869

My Commission Expires

March 22, 2023

BIG RIVERS ELECTRIC CORPORATION
ELECTRONIC APPLICATION
OF BIG RIVERS ELECTRIC CORPORATION
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VERIFICATION

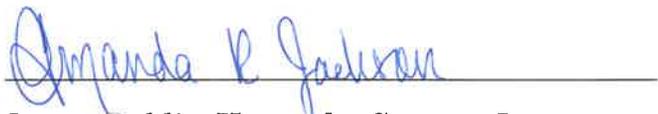
I, Christopher S. Bradley, verify, state, and affirm that the data request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.



Christopher S. Bradley

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Christopher S. Bradley on this the 9th day of November, 2021.



Notary Public, Kentucky State at Large

Kentucky ID Number 019869

My Commission Expires March 22, 2023

BIG RIVERS ELECTRIC CORPORATION
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Response to Commission Staff's
Second Request for Information
dated October 28, 2021

November 9, 2021

1 Item 1) *Refer to BREC's response to Commission Staff's First Request for*
2 *Information (Staff's First Request), Item 2, indicating that moving to*
3 *Owensboro avoids Henderson's higher property tax rate. Provide the*
4 *property tax rates in Owensboro and Henderson.*

5

6 **Response)** The property tax rate in the City of Owensboro is \$1.48059 per \$100 of
7 assessed value. The property tax rate in Henderson is \$1.57369 per \$100 assessed
8 value, or 6.3% higher than the property tax rate in the City of Owensboro.

9

10

11 **Witness)** Paul G. Smith

12

BIG RIVERS ELECTRIC CORPORATION
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- 1 Item 2) *Refer to BREC's response to Staff's First Request, Item 7.*
- 2 a. *Explain how BREC estimated the cost of the Transmission*
- 3 *Operations Center (TOC) it intends to propose, provide any documents that*
- 4 *support its estimate, and explain when it expects to have a final design and*
- 5 *estimate for the TOC.*
- 6 b. *Explain each basis for BREC's contention that "eliminating a*
- 7 *floor on the new proposed headquarters is cost neutral when compared to the*
- 8 *cost of shifting personnel to the [Energy Transmission and Substation*
- 9 *(ET&S)] facility because [BREC] plans to construct the same office space,*
- 10 *control center, and data center at the ET&S facility that would have been*
- 11 *constructed on the additional floor at the new headquarters."*
- 12 c. *Provide the amount the estimated price of the new proposed*
- 13 *headquarters was reduced by the elimination of a floor to shift personnel to*
- 14 *the ET&S facility.*

BIG RIVERS ELECTRIC CORPORATION
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1 *d. Identify generally the locations currently being considered for*
2 *the TOC, and provide their distance from the nearest substation to which the*
3 *TOC must be linked.*

4 *e. Explain how BREC's current ET&S facility and headquarters are*
5 *linked to BREC's fiber network.*

6 *f. State whether it is necessary for BREC to have a fiber connection*
7 *from its ET&S facility to its substations even if the control center is not*
8 *located at the ET&S facility, and if so, explain why.*

9

10 **Response)**

11 a. Big Rivers estimated the cost of the TOC it intends to propose
12 primarily based upon the needed square footage, 56,500 for warehouse space and
13 23,820 for office space. The Communications costs were estimated for a previously
14 considered location in Daviess County, Kentucky located about two miles from Big
15 Rivers' Bon Harbor substation.

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1 Attached to this response is a confidential breakdown of the estimated cost.
2 Big Rivers remains in the conceptual design phase evaluating factors such as
3 building configuration. It expects to have final design plans and estimates for the
4 TOC in the second quarter in 2022, at which time Big Rivers intends to submit an
5 application seeking a certificate of public convenience and necessity to construct the
6 TOC and for authority to sell its existing ET&S facility.

7 b. The statement that “*eliminating a floor on the new proposed*
8 *headquarters is cost neutral when compared to shifting personnel to the TOC*
9 *because Big Rivers plans to construct the same office space, control center, and data*
10 *center at the ET&S facility that would have been constructed on the additional floor*
11 *of the new headquarters*” is based upon the fact that the square footage of the
12 proposed headquarters building was reduced by 13,000 sq. ft., while the TOC
13 facility was increased by the same square footage in order to house the personnel,
14 control center, and data center.

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1 c. The amount the estimated price of the new proposed headquarters was
2 reduced by the elimination of a floor to shift personnel to the TOC is \$1,546,801.
3 This amount represents the reduced construction cost, due to the reduced square
4 footage necessary to house the personnel.

5 d. Big Rivers has recently narrowed down its consideration to one
6 location, which is one mile from its Bon Harbor substation in Owensboro, Kentucky.
7 Big Rivers is still negotiating with the City of Owensboro regarding this location.

8 e. Big Rivers currently relies on microwave radio to connect its existing
9 headquarters and ET&S facilities to its fiber network. Big Rivers currently uses
10 one third party fiber link to connect our backup control center to our primary
11 control center at Big Rivers' existing headquarters.

12 f. If the control center were not located at the new TOC, it would still
13 need a communication network to the control center which connects to the
14 substations. However, this could be done by fiber or radio connection.

15

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1

2 **Witness)** Christopher S. Bradley

3

Big Rivers Electric Corporation
Case No. 2021-00314
New Transmission Operation Center
Estimated Construction Costs

	Size (Sqft)	Cost (\$/Sqft)	Total
Warehouse	56,500		
ET&S Office	9,200		
Energy Control	4,000		
IT Offices	1,000		
Corp Data Center	1,000		
Engineering & Easement	2,000		
Purchasing Office	200		
Safety Manager Office	200		
Operations & Compliance	500		
COO	300		
Electrical & UPS	475		
Common Areas	4,945		
Land	15 Acres		
Site Development (Drainage, Gravel & Pavement)			
Parking Lot 60 Spaces			
25-50 KW Emergency Generator (LP or Natural Gas)			
Yard Lighting & Security System (Cameras)			
Security Fence (Ft)	2,600		
Fuel System (10K Gal Unleaded & 10K Gal Diesel)			
Relocating Inventory & Materials			
		Sub-Total	
Additional Costs			
Communication (Equipment & Relocation)			
Energy Control Dispatch System			
Corporate IT Equipment			
Phone System			
		Total	

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1 Item 3) *Refer to the Memorandum of Agreement, filed with the*
2 *Application as Exhibit Berry-4, Section 1(3), stating that Owensboro will pay*
3 *\$3 million to BREC to facilitate alternative parking for employees of Texas*
4 *Gas Transmission, LLC (Texas Gas), who are currently parking on the*
5 *property to be conveyed to BREC for its new headquarters. Refer also to*
6 *BREC's response to Staff's First Request, Item 9.*

7 *a. State whether the \$3 million referenced in Section 1(3) of the*
8 *Memorandum of Agreement is for River JAM to utilize 55 spaces on the*
9 *property through January 22, 2022, at the latest as indicated in*
10 *response to Staff's First Request, Item 9, or whether BREC has some*
11 *other obligation to facilitate parking for River JAM or Texas Gas*
12 *employees, and explain each basis for BREC's position regarding such*
13 *obligations, including references to any specific language in any*
14 *document memorializing the agreement between BREC and*
15 *Henderson.*

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- 1 ***b. If BREC has some obligation to facilitate parking for River JAM or***
2 ***Texas Gas employees other than those mentioned in response to Staff's***
3 ***First Request, Item 9, describe those obligations in detail, including***
4 ***references to any specific language in any document memorializing***
5 ***the agreement between BREC and Henderson, and explain how BREC***
6 ***intends to fulfill those obligations.***
- 7 ***c. Provide any memorandum of agreement, agreement, contract, or***
8 ***other document setting forth terms and conditions between BREC and***
9 ***Owensboro regarding or related in any way to the construction of***
10 ***BREC's headquarters in Owensboro.***

11

12 **Response)**

- 13 a. When the Memorandum of Agreement was executed, the City of Owensboro
14 leased the property that is the site of Big Rivers' proposed headquarters to
15 Riverfront JAM. Riverfront JAM owned a small parking lot on the property

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1 that it used to rent parking spaces to Boardwalk/Texas Gas. The \$3 million
2 referenced in Section 1(3) of the Memorandum of Agreement was
3 consideration that the City negotiated with Riverfront JAM in exchange for
4 Riverfront JAM releasing its lease on the property and finding alternate
5 parking for Boardwalk/Texas Gas. The City paid that \$3 million to Big
6 Rivers, Big Rivers immediately paid the \$3 million to Riverfront JAM, and
7 Riverfront JAM released its lease on the property.

8 The only other obligation Big Rivers has with respect to facilitating
9 parking for Riverfront JAM or Boardwalk/Texas Gas employees is the
10 agreement to temporarily allow Riverfront JAM to continue to rent 55
11 parking spaces to Boardwalk/Texas gas that was discussed in Big Rivers'
12 response to Staff's First Request for Information, Item 9. Please see the
13 Memorandum of Agreement dated August 23, 2021, between Riverfront Jam
14 and Big Rivers, attached to this response.

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- 1 b. Big Rivers has no obligations to facilitate parking for Riverfront JAM or
2 Boardwalk/Texas Gas employees other than that which was explained in
3 response to Staff's First Request for Information, Item 9.
- 4 c. See the following attachments to this response:
- 5 1. City of Owensboro, Municipal Order 31-2021 with the August 23, 2021,
6 Memorandum of Agreement between the City and Big Rivers attached
7 as Exhibit A to the Order; and
- 8 2. A Letter of Intent dated October 28, 2020 (Executed November 30,
9 2020), between the City of Owensboro and Big Rivers.

10

11 **Witness)** Robert W. Berry

12

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereinafter "Agreement"), dated as of August 23, 2021, is made by and between the **RIVERFRONT JAM**, a Kentucky limited liability company of 2960 Fairview Drive, Owensboro, Kentucky (hereinafter the "Brio"), and **BIG RIVERS ELECTRIC CORPORATION**, a Kentucky cooperative corporation, P.O. Box 24, Henderson, Kentucky 42419-0024 (hereinafter the "Big Rivers").

RECITALS

WHEREAS, Big Rivers is relocating its headquarters to the City of Owensboro, Kentucky;

WHEREAS, the City has agreed to incentivize Big Rivers for its relocation and job creation initiative in our community by deeding them property located at 711 W. 3rd Street (hereinafter "Property") in Owensboro, KY:

WHEREAS, the Property is subject to a lease whereby the tenant of JAM parks on the Property weekdays; and

WHEREAS, the City as agreed to pay Big Rivers \$3,000,000.00 to use as consideration for the relocation and release of the lease on the Property.

NOW THEREFORE, in consideration of these premises and the terms and conditions hereinafter set forth, the parties to this Agreement hereby agree as follows:

Section 1. JAM Obligations.

- (1) JAM shall execute a release of its leasehold interest in the Property and provide its tenant with alternate parking.
- (2) JAM tenant will be able to use 55 of the 107 spaces on the Property (hereinafter "Temporary Parking Spaces") for a temporary period of time at

no charge not to exceed 30 days after Big Rivers receives a certificate of public convenience and necessity from the Kentucky Public Service Commission for the headquarters relocation or January 1, 2022, whichever is earlier. See **Exhibit A** for location of the Temporary Parking Spaces.

- (3) JAM will maintain liability insurance on the Temporary Parking Spaces and provide Big Rivers with proof of such insurance.
- (4) JAM and its tenant agree to vacate the entirety of the Temporary Parking Spaces within 24 hours of receiving a notice to vacate from Big Rivers or its contractor, Envision Contractors, LLC.
- (5) JAM agrees to maintain the Temporary Parking Spaces clear of litter, trash, rubbish for the duration of their use of the Temporary Parking Spaces.
- (6) JAM agrees, to the extent permitted by applicable law, to indemnify and hold harmless Big Rivers, its directors, officers, employees, agents, shareholders, representatives, successors, heirs and assigns, from and against any and all claims, demands, injuries to persons, damage to property, suits, proceedings, judgments, losses, liabilities, damages, costs, fines, penalties and expenses (including but not limited to reasonable attorneys' fees), resulting from, arising out of or related JAM's use of the 55 parking spaces upon the Property.

Section 2. Big Rivers Obligations.

- (1) Tender payment of Three Million Dollars (\$3,000,000.00) to JAM within 3 business days of receipt from the City (which by notification from the City will occur within 3 business days of the City receiving the fully executed MOA from

Big Rivers which was approved by the City of Owensboro Board of Commissioners on August 10, 2021).

(2) Agree to permit JAM (for the benefit of its tenant) to use the Temporary Parking Spaces Monday thru Friday between the hours of 6:00 a.m. and 5:30 p.m.

Section 3. Conditions Precedent. The Parties understand and agree that the terms and conditions of this Agreement are conditioned on and subject to Big Rivers and the City closing on the Property and approval of the Big Rivers project by the Kentucky Public Service Commission, the Rural Utilities Service, and its Members.

Section 4. Waiver. The failure on the part of either Party hereto to insist in any instance upon a strict observance by the other Party of any provision of this Agreement, shall not be construed as a waiver of that or any other provision of this Agreement and it shall not diminish the right of either Party to demand compliance therewith on any subsequent occasion.

Section 5. Entire Agreement; Binding Effect. This Agreement shall constitute the entire agreement between the Parties. Any prior understandings or representations, or any subsequent oral representations or modifications of any kind shall not be binding on either Party except to the extent incorporated herein, in writing, by agreement of the Parties.

Section 6. Governing Law. This Agreement shall be governed by and be construed in accordance with, the laws of the Commonwealth of Kentucky in all respects, including all matters of construction, validity, and performance.

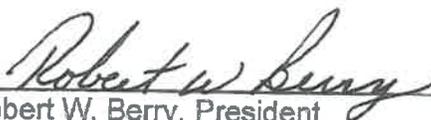
Section 7. Partial Invalidity. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and such remaining terms, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN TESTIMONY WHEREOF, witness the signatures of the Parties hereto on this the day and date first hereinabove written.

RIVERFRONT JAM, LLC:


Matthew Hayden, Managing Member

BIG RIVERS ELECTRIC CORPORATION:

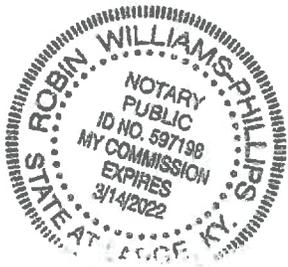

Robert W. Berry, President

COMMONWEALTH OF KENTUCKY)
) Sct.
COUNTY OF DAVIESS)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Matthew Hayden, Managing Member, for and on behalf of Riverfront JAM, LLC, on this the 20th day of August, 2021.







Notary Public, State of Kentucky at Large

Notary ID# 597198

My commission expires: 3-14-2022

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF Henderson) Sct.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Robert W. Berry, as President, for and on behalf of Big Rivers Electric Corporation, on this the 23 day of August 2021.

Amanda R. Jackson
Notary Public, State of Kentucky at Large
Notary ID# 619869
My commission expires: 03/22/2023

Amanda R. Jackson
NOTARY PUBLIC
STATE AT LARGE
KENTUCKY
ID. # 619869
MY COMMISSION EXPIRES March 22, 2023

Prepared by:


Ed Ray
Attorney at Law
2960 Fairview Drive
Owensboro, KY 42303
270-215-1687

MUNICIPAL ORDER 31-2021

A MUNICIPAL ORDER REPEALING MUNICIPAL ORDER 3-2021 IN PART AND AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF OWENSBORO AND BIG RIVERS ELECTRIC CORPORATION, BY WHICH THE CORPORATION SHALL RELOCATE ITS HEADQUARTERS TO THE CITY OF OWENSBORO IN EXCHANGE FOR CERTAIN FINANCIAL INCENTIVES FROM THE CITY, INCLUDING REBATES OF THE PURCHASE PRICE OF THE FOLLOWING REAL ESTATE, AND PROVIDING ALTERNATE PARKING FOR EMPLOYEES OF TEXAS GAS TRANSMISSION, LLC; AND FURTHER DECLARING 700 AND 710 WEST SECOND STREET AND 711 WEST THIRD STREET AS SURPLUS PROPERTIES; AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE DEEDS TRANSFERRING THOSE PROPERTIES TO BIG RIVERS ELECTRIC CORPORATION IN ACCORDANCE WITH KRS 82.083.

WHEREAS, Big Rivers Electric Corporation desires to relocate its headquarters to the City of Owensboro, Kentucky which will create jobs and further stimulate local commerce; and

WHEREAS, the City of Owensboro desires to provide alternate parking to employees of Texas Gas Transmission, LLC, who have been parking on property to be conveyed to Big Rivers Electric Corporation; and

WHEREAS, the City of Owensboro recognizes the economic impact of the Corporation's move to Owensboro and hereby agrees to incentivize the Corporation for its relocation and job creation initiative in our community; and

WHEREAS, the Parties entered into a previous Memorandum of Agreement on February 8, 2021, authorized by Municipal Order 3-2021, which Municipal Order should now be repealed in part; and

WHEREAS, the Parties wish to enter into a new Memorandum of Agreement that memorializes the benefits and specific obligations of each, a copy of which is attached hereto as Exhibit "A," and incorporated by reference; and

WHEREAS, the City wishes to declare 700 and 710 W. Second Street and 711 W. Third Street as surplus properties and authorize the Mayor to execute deeds transferring those properties to Big Rivers Electric Corporation, in accordance with KRS 82.083, with the City providing rebates of the purchase price of these properties as a part of the incentive to transfer its headquarters to Owensboro.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That, except for Section 2 concerning the purchase of 711 W. Third Street, Municipal Order 3-2021 is repealed.

Section 2. That the Mayor be, and hereby is, authorized and directed to execute a Memorandum of Agreement between the City of Owensboro and Big Rivers Electric Corporation for the purpose of establishing the benefits and obligations of each Party, which agreement includes a payment to Big Rivers Electric Corporation for providing parking to employees of Texas Gas Transmission, LLC.

Section 3. In accordance with KRS 82.083(3), the Board of Commissioners makes the following determination:

- (1) The surplus real properties owned by the City of Owensboro are located at:
 - (a) 700 W. Second Street, Owensboro, Kentucky;
 - (b) 710 W. Second Street, Owensboro, Kentucky; and

(c) 711 W. Third Street, Owensboro, Kentucky.

(2) The intended use for the properties listed above at the time of acquisition was for economic development purposes.

(3) It is in the public interest to dispose of the properties listed above in order that Big Rivers Electric Corporation can obtain and develop or utilize the properties in a positive manner for the economic benefit of the community.

(4) The properties located at 700 W. Second Street, 710 W. Second Street and 711 W. Third Street shall be conveyed to Big Rivers Electric Corporation for their PVA assessed value for economic development purposes, with the purchase price being rebated to Big Rivers Electric Corporation as a part of the incentive for it to relocate its headquarters to downtown Owensboro.

Section 4. By and through the Board of Commissioners, all the properties listed in Section 3(1) above are hereby declared surplus property which may be transferred, sold, or otherwise conveyed for economic development purposes in accordance with the provisions of KRS 82.083(4)(b).

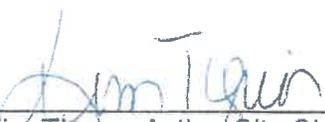
Section 5. That the Mayor, City Manager and other appropriate staff members are hereby authorized and directed to execute any and all of the agreements, instruments, or documents necessary and appropriate to effectuate and implement the intentions of the City of Owensboro and Big Rivers Electric Corporation.

INTRODUCED, PUBLICLY READ AND FINALLY APPROVED ON ONE
READING, this the 10th day of August, 2021.



Thomas H. Watson, Mayor

ATTEST:



Kim Tignor, Acting City Clerk

EXHIBIT "A"

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereinafter "Agreement"), dated as of August 23, 2021, is made by and between the **CITY OF OWENSBORO**, a municipal corporation of the Home Rule Class created and existing under the laws of the Commonwealth of Kentucky, 101 East Fourth Street, P. O. Box 10003, Owensboro, Kentucky 42302-9003 (hereinafter the "City"), and **BIG RIVERS ELECTRIC CORPORATION**, a Kentucky cooperative corporation, P.O. Box 24, Henderson, Kentucky 42419-0024 (hereinafter the "Corporation").

RECITALS

WHEREAS, the Corporation desires to relocate its headquarters to the City of Owensboro, Kentucky which will create jobs and further stimulate local commerce; and

WHEREAS, the City recognizes the economic impact of the Corporation's move to Owensboro and hereby agrees to incentivize the Corporation for its relocation and job creation initiative in our community.

NOW THEREFORE, in consideration of these premises and the terms and conditions hereinafter set forth, the parties to this Agreement hereby agree as follows:

Section 1. City Obligations. In consideration of the Corporation relocating its corporate headquarters to the City of Owensboro, the City agrees to provide the following incentives:

- (1) The City will convey the city block that includes parcels located at 700 and 710 W. Second Street and 711 W. Third Street for the construction of its headquarters building. The sale price shall be for the value of the property according to the Daviess County Property Valuation Administrator, currently Two

Million Ninety-One Thousand Seven Hundred Eighty-Nine Dollars (\$2,091,789.00). However, the sale price of the real property shall be rebated to the Corporation as a part of the incentive to relocate its headquarters to the City of Owensboro.

(2) The rebate of fifty percent (50%) of the General Fund Occupational Fee on gross employee wages for a period of ten (10) years upon the relocation of Big Rivers Electric Corporation Headquarters within the City of Owensboro. The ten-year incentive period must be activated within thirty-six (36) months of the date of incentive approval by the Owensboro Board of Commissioners.

(3) Payment of Three Million Dollars (\$3,000,000.00) to the Corporation to facilitate alternate parking for employees of Texas Gas Transmission, LLC, who are currently parking on the property to be conveyed to Corporation in Section 1(1).

Section 2. Corporation Obligations. In consideration of the incentives provided by the City, and subject to satisfying the Conditions Precedent in Section 5, the Corporation agrees to:

- (1) Retain its headquarters and have its employees domiciled for tax purposes at its headquarters within the City of Owensboro on the property described in Section 1(1) for the entire incentive period as described in Section 1(2) above.
- (2) Retain its headquarters within the downtown area of the City of Owensboro for a period of at least forty (40) years.
- (3) Obtain and maintain an active City business license, as well as timely comply with all contractual and financial obligations to the City under this Agreement.

Section 3. RWRA Sewer Project. The Corporation acknowledges the current plans by the Regional Water Resource Agency (RWRA) to relocate a tunnel sewer that currently traverses the property on which it will construct its new headquarters building. Regional Water Resource Agency (RWRA) and the Corporation agree to work together with the City to ensure both projects flow congruently in order to facilitate timely completion of both projects.

Section 4. Conditions Precedent. The Parties understand and agree that the Corporation's relocation to the City of Owensboro is subject to the approval of the Kentucky Public Service Commission, the Rural Utilities Service, and its Members. The Corporation acknowledges that sale by the City of the properties called for herein is conditioned upon approval of the transaction by the Owensboro Board of Commissioners.

Section 5. Waiver. The failure on the part of either Party hereto to insist in any instance upon a strict observance by the other Party of any provision of this Agreement, shall not be construed as a waiver of that or any other provision of this Agreement and it shall not diminish the right of either Party to demand compliance therewith on any subsequent occasion.

Section 6. Entire Agreement; Binding Effect. This Agreement shall constitute the entire agreement between the Parties. Any prior understandings or representations, or any subsequent oral representations or modifications of any kind shall not be binding on either Party except to the extent incorporated herein, in writing, by agreement of the Parties. This Agreement supersedes the Memorandum of Agreement entered into by the Parties in February 2021.

Section 7. Governing Law. This Agreement shall be governed by and be construed in accordance with, the laws of the Commonwealth of Kentucky in all respects, including all matters of construction, validity and performance. Any dispute involving the terms of this Memorandum of Agreement shall be brought in the State or Federal Courts of Daviess County, Kentucky.

Section 8. Partial Invalidity. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and such remaining terms, covenants or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN TESTIMONY WHEREOF, witness the signatures of the Parties hereto on this the day and date first hereinabove written.

CITY OF OWENSBORO:



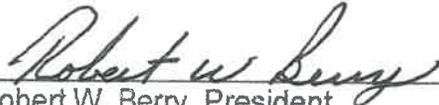
Thomas H. Watson, Mayor

ATTEST:



Kim Tignor, Acting City Clerk

BIG RIVERS ELECTRIC CORPORATION:



Robert W. Berry, President

October 28, 2020

Mr. Bob Berry
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42420

Re: Letter of Intent Big Rivers Electric Corporation Relocation to Owensboro, Kentucky

Dear Mr. Berry,

I want to express our community's full support of the capital investment and new job creation under consideration by Big Rivers Electric Corporation (BREC).

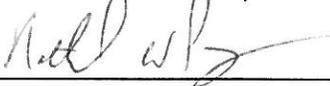
Subject to, and conditioned upon formal approval by an act of the Owensboro Board of Commissioners, the City is agreeable to the following incentive for the BREC Headquarters relocation:

- 1) The in-kind gift of the city block, including parcels 700 & 710 W 2nd Street and 711 W 3rd Street. The City will consider any reasonable structure for the property transfer as preferred by BREC. The value of the property according to the Daviess County PVA is \$2,091,789; and
- 2) The rebate of fifty percent (50%) of the General Fund Occupational Fee on gross employee wages for a period of ten years upon the relocation of BREC Headquarters within the City of Owensboro. The ten-year incentive period must be activated within two years of the date of incentive approval by the Owensboro Board of Commissioners.

In consideration of the incentive as described above, and subject to the approval of the Kentucky Public Service Commission, the Rural Utilities Service, and Big Rivers' Members, BREC will retain its Headquarters within the City referenced in Section 1) for a minimum of 20 years.

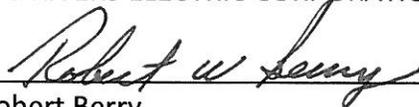
The participants have executed this Letter of Intent, by their duly authorized representatives, each on the dates noted below.

CITY OF OWENSBORO, KENTUCKY



Nate Pagan
City Manager, City of Owensboro

BIG RIVERS ELECTRIC CORPORATION



Robert Berry
President & CEO, Big Rivers Electric Corp

11/25/2020

Date

11-30-2020

Date

BIG RIVERS ELECTRIC CORPORATION
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1 Item 4) *Refer to the Memorandum of Agreement, filed with the*
2 *Application as Exhibit Berry-4, at Section 1(1) and (2).*

3 a. *Explain how the rebate of the sale price will be accomplished, when*
4 *it will be paid, and whether it will have any effect on the 50 percent*
5 *General Fund Occupational fee rebate, e.g., if the sale price rebate*
6 *is a rebate of the occupational fee will there be a limit on the total*
7 *annual rebate.*

8 b. *Provide the current rate for the General Fund Occupational fee in*
9 *Owensboro.*

10 c. *Explain what steps BREC must complete to activate the ten-year*
11 *incentive period as indicated in Section 1(2).*

12

13 **Response)**

14 a. The payment, and rebate, of the land sale price will occur following the
15 issuance of a Commission Order granting Big Rivers' request for a CPCN.

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1 The rebate will be a lump sum amount for the full purchase price, and it is
2 independent of the occupational tax rebate. There is no annual limit to the
3 occupational tax rebate, it is simply fifty percent of the total occupational
4 fee assessed by Owensboro.

5 b. The General Fund Occupational fee in Owensboro is 1.78%.

6 c. Big Rivers will notify the City of Owensboro when our employees occupy
7 the new headquarters, which will initiate the 10-year rebate incentive
8 period.

9

10

11 **Witness)** Paul G. Smith

12

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1 **Item 5)** *Refer to BREC's response to Staff's First Request, Item 12 and*
2 *Item 13, indicating that BREC anticipates having 64 employees at the*
3 *proposed headquarters and 63 employees at the new TOC. Explain whether*
4 *BREC anticipates both facilities being roughly the same size, and generally*
5 *describe the size and type of facility BREC contends it will need for the new*
6 *TOC.*

7 **Response)** Big Rivers remains in the conceptual design phase for the new TOC,
8 evaluating factors such as building configuration. As shown in the attachment to
9 Big Rivers' response to Staff's Second Request for Information, Item 2, the new TOC
10 facility will need an estimated 56,500 square feet of warehouse space in addition to
11 office space, and so will not be the same size as the proposed headquarters building.

12

13

14 **Witness)** Christopher S. Bradley

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1 **Item 6) *Refer to the Direct Testimony of Paul G. Smith (Smith***
2 ***Testimony), page 12.***

3 ***a. Explain why the annual depreciation expense on the new***
4 ***headquarters is lower than the depreciation expense for the existing***
5 ***headquarters.***

6 ***b. Provide an Excel spreadsheet, with formulas, rows, and columns***
7 ***unprotected and fully accessible, showing the calculation of the***
8 ***annual depreciation expense in the Smith Testimony for the new***
9 ***headquarters and the existing headquarters.***

10 ***c. Explain whether, and if so how, the projected capital costs in***
11 ***Exhibit Toerne-1 are included in the projected depreciation expense***
12 ***for the existing headquarters on page 12 of the Smith Testimony.***

13 ***d. Explain the basis for the projected difference in buildings &***
14 ***grounds costs for the proposed headquarters and the existing***
15 ***headquarters.***

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1

2 **Response)**

3 a. The annual depreciation expense on the new headquarters was calculated
4 assuming a useful life of 50 years. The annual depreciation expense for
5 the existing headquarters includes many capitalized expenditures that
6 are depreciated over a short useful life (e.g. carpeting, painting,
7 remodeling, etc.).

8 b. See the confidential Excel spreadsheet provided in response to Item 13 of
9 the Commission Staff's Second Request for Information, Operating Costs
10 (2nd tab), rows 32-35.

11 c. The existing headquarters avoided capital expenditures in Exhibit
12 Toerne-1 are not included in the depreciation expense savings on page 12
13 of the Smith Testimony.

14 d. The "Buildings and Grounds" costs for the proposed headquarters include
15 the projected cost of preventative maintenance programs and expected

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1 general maintenance, such as mowing and snow removal. The difference
2 in the projected "Buildings & Grounds" costs for the proposed
3 headquarters and the existing headquarters represents the break/fix
4 repairs projected for the existing headquarters that will be avoided due to
5 the new systems in the proposed headquarters.

6

7

8 **Witnesses)** Paul G. Smith (*a., b., and c. only*)

9 Robert F. Toerne (*d. only*)

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1 Item 7) *Refer to Smith Testimony, page 15, in which he indicates that the*
2 *additional economic benefit of the potential NMTC Program financing*
3 *enhances net margins and cash flow by approximately \$2.5 million.*

4 a. *Explain whether the \$2.5 million increase in the net margin would*
5 *be in the ten-year period assessed in Exhibit Smith-2 or over the life*
6 *of the new headquarters.*

7 b. *Explain how BREC estimated the \$2.5 million increase in the net*
8 *margin.*

9

10 **Response)**

11 a. The \$2.5 million increase in net margins would be realized when that
12 portion of the NMTC debt is forgiven, which is expected to occur within the
13 ten-year period. The cash flow benefit will be realized over the remaining
14 life of the loan.

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1 b. Experienced NMTC participants estimate that 20-25% of the NMTC loan
2 will be forgiven.

3

4

5 **Witness)** Paul G. Smith

6

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1 Item 8) *State whether BREC contends that a new ET&S facility would be*
2 *necessary even if BREC did not intend to relocate personnel from its existing*
3 *headquarters to that facility, and if so:*

4 a. *Provide each basis for BREC's contention that a new ET&S*
5 *facility would be necessary even if BREC did not intend to relocate personnel*
6 *from its existing headquarters to that facility; and*

7 b. *Explain how BREC intended to keep the existing ET&S facility in*
8 *Henderson despite planning to move forward with the new headquarters.*

9

10 **Response)** Yes, a new ET&S facility would be necessary even if Big Rivers did not
11 intend to relocate personnel from its existing headquarters to that facility.

12 a. A new ET&S facility would still be necessary to address Big Rivers'
13 needs including but not limited to:

14 1. Additional warehouse space. Due to very limited expansion
15 capability at the existing ET&S facility, Big Rivers considered

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- 1 constructing an additional warehouse at a remote site at a cost of
2 \$1.2 million. The Transmission Operation Center (TOC) will
3 include additional indoor storage space for critical equipment such
4 as mobile substations, bushings, etc. This equipment is currently
5 stored outdoors at multiple locations. The indoor storage will better
6 protect equipment from the elements and will provide additional
7 security as compared to the remote unmanned sites currently used
8 for some equipment storage.
- 9 2. The existing facilities do not have an adequate storm
10 rated/reinforced shelter-in-place area. This feature is critical for
11 staff that are expected to perform their duties during adverse
12 weather conditions.
- 13 3. Larger meeting spaces to ensure physical distances can be
14 maintained while meeting as a group.

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- 1 4. A new fuel storage system to ensure continued compliance with
2 environmental regulations and to replace ET&S' obsolete fuel
3 tracking/control system.
- 4 5. A wash bay to help maintain equipment. The current facility does
5 not have space available to add a wash bay.
- 6 6. Emergency generator and UPS properly sized and designed to
7 provide backup power for all the essential needs of the facility.
- 8 7. Expanded kitchen, bathroom, showers, and laundry facility to
9 better meet the needs of employees during routine operations and
10 major events.
- 11 b. If Big Rivers would have been successful in purchasing Henderson's
12 municipal electric system, Big Rivers would have used some of Henderson's
13 facilities for ET&S operations.
- 14
- 15 **Witness)** Christopher S. Bradley

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1 **Item 9)** *Provide any estimates of the cost to build a new ET&S facility or*
2 *remodel the existing facility to meet BREC's needs prepared by or on BREC's*
3 *behalf in the last three years, and explain for each whether and the extent to*
4 *which the construction or remodel contemplated relocating personnel from*
5 *the BREC's headquarters.*

6

7 **Response)** Please see the confidential attachment to Big Rivers' response to Item
8 2 of the Commission Staff's Second Request for Information. Also, attached to this
9 responses is a confidential internal preliminary estimate Big Rivers prepared,
10 which did not contemplate relocating personnel from the Big Rivers headquarters.
11 While the estimate includes a cost of land, there was no specific location being
12 considered as part of the estimate.

13 Big Rivers also considered constructing a 20,000 square foot warehouse at an
14 off-site location to address the need for additional enclosed storage space. No
15 personnel would have been relocated with this option. A final site for this

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1 warehouse was not selected and detailed costs estimates were not prepared. Budget
2 estimates for this 20,000 square foot facility were based on \$60 per square foot for a
3 total cost of \$1.2 million.

4

5

6 **Witness)** Christopher S. Bradley

Big Rivers Electric Corporation
Case No. 2021-00314
Preliminary Estimate for Construction
of a New ET S Facility

	Size (Sqft)	Cost (\$/Sqft)	Total
Warehouse	51800		
Office	9100		
Land (15 Acres)			
Energy Control (Alternate)	4000		
Site Development (Drainage, Gravel & Pavement)			
25-50 KW Emergency Generator (LP or Natural Gas)			
Yard Lighting & Security System (Fence & Cameras)			
Fuel System (10K Gal Unleaded & 10K Gal Diesel)			
Sub-Total:			
20% Contingency			
Total:			

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1 **Item 10)** *Explain how long BREC anticipates it will take to obtain*
2 *financing and complete construction on the new headquarters if the*
3 *Commission grants a Certificate of Public Convenience and Necessity*
4 *(CPCN).*

5

6 **Response)** Big Rivers anticipates financing can be arranged in approximately three
7 (3) months, and expects construction of the new headquarters to be completed by
8 December 31, 2022.

9

10

11 **Witness)** Paul G. Smith

12

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1 **Item 11)** *Explain when BREC anticipates requesting a CPCN for the TOC*
2 *it intends to propose and when it anticipates beginning and completing*
3 *construction of the TOC.*

4

5 **Response)** As stated in Big Rivers' response to Staff's Second Request for
6 Information, Item 2, Big Rivers expects to have final design plans and the estimate
7 for the TOC in the second quarter of 2022, at which time Big Rivers intends to
8 submit an application seeking a certificate of public convenience and necessity to
9 construct the TOC and for authority to sell its existing ET&S facility. Big Rivers
10 would begin construction upon receiving a CPCN and expects construction could be
11 completed within fourteen to eighteen months.

12

13

14 **Witness)** Christopher S. Bradley

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1 **Item 12)** *Explain whether BREC investigated combining its headquarters*
2 *and its existing ET&S facility. If not, explain why BREC did not consider that*
3 *option. If so, explain why BREC is choosing to construct separate facilities.*

4

5 **Response)** As explained in Big Rivers' response to Item 7 of the Commission
6 Staff's First Request in this matter, Big Rivers' existing ET&S facility cannot
7 accommodate relocating its headquarters to that facility. The proposed
8 headquarters location in downtown Owensboro is suited for business office and light
9 vehicle traffic, not for the industrial operations required at the ET&S facility, nor
10 for the housing of large vehicles and equipment.

11 Big Rivers is choosing to construct separate facilities to solve the deficiencies
12 of its existing headquarters and ET&S facility in a manner that would bring the
13 most value to our Members and their retail customers.

14

15 **Witness)** Robert W. Berry

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1 **Item 13)** *Provide a copy of Exhibit Smith-2 in Excel spreadsheet format*
2 *with formulas, rows, and columns unprotected and fully accessible.*

3

4 **Response)** Please see the confidential Excel spreadsheet provided with this

5 response.

6

7

8 **Witness)** Paul G. Smith

9

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1 **Item 14)** *Provide the plant in service and accumulated depreciation for*
2 *BREC's existing headquarters as of December 31, 2020.*

3

4 **Response)** As of December 31, 2020, Big Rivers' plant in service balance for the
5 existing headquarters was [REDACTED], and the accumulated depreciation was
6 [REDACTED].

7

8

9 **Witness)** Paul G. Smith

10

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1 **Item 15)** *Provide the remaining useful life of BREC's existing*
2 *headquarters used to calculate its depreciation rate.*

3

4 **Response)** The remaining useful life of 11.5 years was assumed when calculating
5 the depreciation rate of 3.76% for Big Rivers' existing Henderson headquarters as
6 approved by the Commission in Case No. 2012-00535.¹

7

8

9 **Witness)** Paul G. Smith

¹ See *In the Matter of: Application of Big Rivers Electric Corporation for an Adjustment of Rates*, Case No. 2021-00535, Application (filed January 15, 2013); *id.*, Order (Oct. 29, 2013); *id.* Order on Rehearing (July 24, 2014).

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1 **Item 16)** *Provide the extent to which, if any, BREC projects that the capital*
2 *expenses shown on Exhibit Toerne-1 will extend the useful life of the existing*
3 *headquarters, and explain each basis for BREC's response*

4

5 **Response)** Each of the capital expenses shown on Exhibit Toerne-1 represent work
6 and equipment with various life cycles. For example, replacement HVAC units for
7 the HVAC system on the 1st and 2nd floors and the HVAC unit on the 2nd story roof
8 have a projected life of fifteen years, according to the manufacture of the HVAC
9 units, while other projects identified in Exhibit Toerne-1 will need to be performed
10 more frequently or less frequently. Other expenditures enhance the safety or the
11 cosmetic appearance of the building which may, or may not, extend its useful life.

12

13

14 **Witness)** Paul G. Smith

15

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Response to Commission Staff's
Second Request for Information
dated October 28, 2021

November 9, 2021

1 **Item 17)** *Provide any requests for bids, requests for proposals, or similar*
2 *documents BREC has sent to third parties related to the design or*
3 *construction of a new TOC.*

4

5 **Response)** Please see the pre-construction contractor agreement attached to this
6 response

7

8

9 **Witness)** Chris S. Bradley

10



July 20, 2021

Mr. Rob Toerne
Director Supply Chain
Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42419-0024

RE: Facility Planning Study Proposal

Dear Mr. Toerne,

Thank you for the opportunity you and the other Big River Electric Corporation (BREC) Staff gave to Gary Hobson and myself last Thursday, July 1 to present our Introduction to Cooperative Building Solutions (CBS) and to learn about the status of your ET&S Building Project.

We would welcome the opportunity to become your Total Facility Consultant and to work with you on your Facility Planning Study and Conceptual Design. As a follow up to our meeting, I have summarized the key points regarding CBS and our process, and I have provided a proposal to complete this study for Big River Electric Corporation consideration.

CBS Overview

The key points from our July 1 meeting as it relates to our facility study process include:

- CBS provides a complete turnkey solution for the planning, design and construction of electric cooperative facilities. We are vested in the success of the electric cooperative industry and of Big River Electric Corporation.
- CBS is your single point of contact. While we will utilize M+H Architects as our strategic partner for the architecture / engineering services as part of this project, CBS is 100% accountable to you.
- We understand the electric cooperative industry, your culture and the day-to-day operations of your business.
- Communication is critical. In addition to our on-site visits, we have frequent Zoom meetings throughout the process.

Facility Planning Study and Conceptual Design

CBS would complete a Facility Planning Study and Conceptual Design that would address facility options on a proposed new site.

Scope of Services

1. Identify your facility goals and priorities.
2. Participate in tours of past CBS projects and/or other electric utility projects with Big Rivers Electric Staff.
3. Complete a Needs Assessment (NA) for a new Transmission Operations Center (TOC), addressing both your current and future needs. We will include and validate the square footage (SF) relocated from the existing headquarters building along with the SF at the existing ET&S (Energy, Transmission & Substation) facility. This summary will include a (SF) analysis that will be tabulated on a spreadsheet and detailed by department.
4. Prepare a site plan for a new Transmission Operations Center (TOC) that addresses your facility goals, priorities and needs. The site plan would show the layout of the facility, with future expansion noted, on a proposed new site. This site plan would include a level of detail by major use, i.e. office, warehouse, vehicle storage building, yard laydown, etc. If a second site option for the facility develops, we would include it as a part of this facility planning study.
5. Develop the necessary costs estimates and schedules for the proposed site plan.
6. Present an executive summary of the Facility Planning Study to Big Rivers Electric Corporation.

Proposed Time Frame

We estimate this scope of work would take approximately 12 – 14 weeks. A projected schedule for the study may be as follows.

- Week 1: Kickoff meeting with BREC Staff.
- Week 2: Initial on-site meeting to complete the needs assessments.
- Weeks 3 – 4: Begin developing facility site plan option(s) for the project.
- Week 5: Review and update meeting with BREC Staff.
- Weeks: 6 – 7: Complete modifications to project options.
- Week 8: Review and update meeting with BREC Staff.
- Weeks 9 – 10: Develop project cost estimates for each project option.
- Week 11: Review Draft Presentation with BREC Staff.
- Week 12: Formal Presentation of Facility Planning Study to BREC
- Week 13 – 14: Address follow – up items from presentation

Fees and Expenses

This scope of work would be performed for a cost with a range of [REDACTED]. Travel related expenses would be billed at cost as incurred.

Please let us know if you have any comments or questions regarding this proposal. You can reach me at [REDACTED]. We look forward to working with you towards the successful completion of your project.

Sincerely,



Timothy E. Masa
President

Accepted By:
Big Rivers Electric Corporation



Digitally signed by Robert F. Toerne
DN: cn=Robert F. Toerne, o=Big Rivers
Electric Corp., ou=Supply Chain,
email=rob.toerne@bigrivers.com, c=US
Date: 2021.07.22 07:09:37 -05'00'

By: _____

Printed Name: _____

Date: _____

Cc: Gary Hobson, Chairman, Cooperative Building Solutions