

**TOWN OF ADDISON, TEXAS**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT FOR STREET LIGHTING SERVICE BETWEEN THE TOWN OF ADDISON AND ONCOR ELECTRIC DELIVERY COMPANY LLC, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**Section 1.** The Agreement for Street Lighting Service between the Town of Addison and Oncor Electric Delivery Company LLC, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

**Section 2.** This Resolution shall take effect from and after its date of adoption.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this the 22<sup>nd</sup> day of January 2019.

\_\_\_\_\_  
Joe Chow, Mayor

ATTEST:

By: \_\_\_\_\_  
Irma Parker, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Brenda N. McDonald, City Attorney

# EXHIBIT A

## Tariff for Retail Delivery Service Oncor Electric Delivery Company LLC

### 6.3 Agreements and Forms

Applicable: Entire Certified Service Area

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### 6.3.17 Agreement for Street Lighting Service

## AGREEMENT FOR STREET LIGHTING SERVICE

BY AND BETWEEN

\_\_\_\_\_, Texas

AND

ONCOR ELECTRIC DELIVERY COMPANY LLC

DATE

\_\_\_\_\_

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### AGREEMENT FOR STREET LIGHTING SERVICE BY AND BETWEEN ONCOR ELECTRIC DELIVERY COMPANY LLC AND

The City of \_\_\_\_\_, Texas, a Municipal Corporation ("Customer"), and Oncor Electric Delivery Company LLC, for and in consideration of the mutual covenants set forth in this Agreement for Street Lighting Service (the "Agreement"), agree as follows:

1. **Definitions.** For purposes of this Agreement, the following terms shall have the meanings indicated:
  - a. "Company's Tariff" shall mean the Company's approved Tariff for Retail Delivery Service, as may be revised from time to time during the term of this Agreement, on file with the Public Utility Commission of Texas;
  - b. Customer shall be the "Retail Customer" as such term is used in Company's Tariff.
  - c. "Facility" or "Facilities" shall mean the electrical facilities or equipment, including but not limited to, pole(s), luminaire(s), wires, and appurtenances, owned by Company or Customer, through which Company will provide service to Customer pursuant to this Agreement.
2. **Term and Termination.** Consistent with the requirements of section 6.1.1.1.8 - Lighting Service of Company's Tariff, this Agreement shall be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and, unless terminated early in accordance with the terms of this Agreement, shall remain in effect for an initial term of ten (10) years and from year to year thereafter until canceled by either party consistent with the terms of this Agreement. After the expiration of the initial ten year term, this Agreement may be terminated by either party upon ninety (90) days written notice to the other party. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated at any time under the following conditions.
  - (a) If Company begins installation of any requested Facilities prior to receiving full payment of any contribution-in-aid-of-construction provided for in section 6.1.1.1.8 - Lighting Service of Company's Tariff or any subsequently approved similar provision, from Customer or Customer's agent or representative ("Customer's Agent") as appropriate, and Customer or Customer's Agent thereafter fails to make such payment in full, then: (i) Company may immediately terminate this Agreement by providing written notice of such termination to Customer, (ii) Company may remove all such Facilities, and (iii) Customer shall pay Company all cost incurred by Company in removing such Facilities, less the salvage value of such Facilities, within 30 days of Company's removal of the subject Facilities.
  - (b) If Customer discontinues taking electric service from Customer's designated competitive retailer at Facilities, for purposes other than to allow the Customer to begin receiving service from another competitive retailer at such Facilities, then: (i) Company may immediately terminate this Agreement by providing written notice of such termination to Customer, (ii) Company may remove all such Facilities owned by Company, and (iii) Customer shall pay Company all cost incurred by Company in removing such Facilities, less the salvage value of such Facilities, within 30 days of Company's removal of the subject Facilities.
  - (c) If Customer purchases Facilities owned by Company.
3. **Contribution-In-Aid-Of-Construction.** Section 6.1.1.1.8 - Lighting Service of Company's Tariff provides for the installation or construction by Company of a base level of Facilities with no contribution-in-aid-of-construction required from Customer. For example, Schedule A provides for the installation or construction of wood poles of a type normally used by Company served overhead without the payment of contribution-in-aid-of-construction by Customer. Requested Facilities that exceed such base level require a contribution-in-aid-of-construction to be paid by Customer to Company. Company will begin work on the requested Facilities prior to receipt of full payment of any required contribution-in-aid-of-construction from Customer or Customer's Agent. However, Customer or Customer's Agent shall pay to Company any required

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contribution-in-aid-of-construction prior to Company energizing the requested Facilities or within 90 days from the receipt of a contribution-in-aid-of-construction invoice, whichever is earlier. If Customer has arranged for Customer's Agent to pay to Company any required contribution-in-aid-of-construction, then Customer's Agent shall execute a Supplement to this Agreement, the form of which is attached hereto as Exhibit A, for the sole purpose of establishing such agent's agreement to pay such contribution-in-aid-of-construction.

**4. Service Subject to Company's Tariff.** This Agreement is subject to the terms and conditions of Company's Tariff, and all services provided by Company shall be pursuant to and consistent with Company's Tariff. To the extent any provision of this Agreement conflicts with or is inconsistent with Company's Tariff, then the provisions of Company's Tariff shall control.

**5. Material Change.** In the event that a judicial decision, order, new law or regulation, or a change in any law or regulation, materially and directly affects a party's ability to perform its obligations hereunder, then the party that is negatively affected shall have the right to notify the other party, within 30 days after becoming aware of such detrimental event. The parties shall use their best efforts to negotiate a modification to the terms of this Agreement so as to mitigate the impact of the event. If, after twenty (20) days beyond the notice, the parties have been unable to negotiate a mutually satisfactory modification to the terms of this Agreement, then either party shall have the right to terminate this agreement upon ten (10) days written notice to the other party. If such right to terminate is not exercised within forty-five (45) days after the date of the original notice, then the right to terminate this Agreement shall be waived with respect to the particular event.

**6. Type of Service and Applicable Rate Schedule.** The type of service provided and rate schedule applicable at each Facility or group of Facilities shall be agreed to by the Parties and specified on the form entitled Request for Street Lighting Service, attached hereto as Exhibit "B," which may be amended or supplemented as necessary, at any time, by mutual agreement of the parties.

**7. Installation/Construction.** All requests for installation or construction of Facilities subject to this Agreement shall be made on the form entitled Request for Street Lighting Service, attached hereto as Exhibit "B" and incorporated into this Agreement by execution of the form Supplement to the Agreement attached hereto as Exhibit "A." All such installation or construction shall be performed by Company pursuant to and consistent with section 6.1.1.1.8 - Lighting Service of Company's Tariff, and all other applicable provisions of such Tariff.

**8. Relocation of Facilities.** Nothing contained herein modifies section 37.101 of PURA, which provides that "the governing body of a municipality may require an electric utility to relocate the utility's facility at the utility's expense to permit the widening or straightening of a street by: (1) giving the electric utility 30 days' notice; and (2) specifying the new location for the facility along the right-of-way of the street." Notwithstanding the foregoing, issues regarding the relocation of Facilities should, if possible, be resolved by the parties prior to the execution of this Agreement and may require the execution of a separate agreement.

**9. Billing and Payment.** Company will invoice Customer directly for the contribution-in-aid-of-construction specified on the form entitled Request for Street Lighting Service, attached hereto as Exhibit "B" and any other charges for which Company's Tariff provides for direct billing by Company to Customer. Federal income taxes are due on contributions-in-aid-of-construction, pursuant to current Internal Revenue Service ("IRS") rulings and regulations, unless Customer is eligible for an exemption available under applicable IRS regulations. To the extent such IRS rulings and regulations are modified in a manner that impacts the obligation of Customer to pay such federal income taxes, then the Parties shall implement such modified rulings and regulations on a prospective basis. All other charges associated with the Services provided by Company to Customer will be included on the bill or invoice that Customer receives from Customer's designated competitive retailer.

**10. No Delegation of Authority.** Customer does not by this Agreement delegate its authority or responsibility for the Facilities covered by this Agreement to Company but shall continue to hold full discretion to determine the policies and procedures regarding such Facilities.

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**11. Obstructions.** Customer is responsible for removing all obstructions and trimming all trees that may interfere with the installation or construction of requested Facilities. After installation, Company is responsible for removing or trimming all trees that interfere with the distribution line providing service to the lighting facilities and Customer is responsible for removing or trimming all trees that interfere with the dispersion of light from the Facilities.

**12. Outages.** To the extent that Company is responsible for maintaining Facilities pursuant to this Agreement, Customer may report any Facilities requiring maintenance to Company via either of the following means:

Internet: <http://oncorstreetlight.com>

Telephone: 1-888-313-4747

**13. Permits.** Customer will secure for Company all permits and consents necessary for the performance of this Agreement.

**14. Notice.** Except as provided in section 12 above, any notice required under this Agreement shall be forwarded to the following representatives of the parties:

Customer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company:

CUSTOMER OPERATIONS / STREETLIGHT ADMINISTRATION

ONCOR ELECTRIC DELIVERY COMPANY LLC

1616 WOODALL RODGERS FWY

DALLAS, TX 75202

**15. Prior Agreements for Street Lighting Service.** This Agreement supersedes and amends all prior agreements for Street Lighting Service between Company and Customer.

**16. Successors and Assigns.** This Agreement shall inure to the benefit of, and be binding upon, Company and Customer and their respective successors and permitted assigns. Neither party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, Company may, without the consent of Customer and upon five (5) days advance written notice, (a) transfer or assign this Agreement to an affiliate of Company, or (b) transfer or assign this Agreement to any person or entity succeeding to all or a substantial portion of the assets of Company. UPON AN ASSIGNMENT PURSUANT TO THIS SECTION, CUSTOMER AGREES THAT COMPANY SHALL HAVE NO FURTHER OBLIGATIONS REGARDING FUTURE PERFORMANCE HEREUNDER.

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This Agreement is effective this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

BY:

\_\_\_\_\_

TITLE

DATE

ONCOR ELECTRIC DELIVERY COMPANY LLC

BY:

\_\_\_\_\_

TITLE

DATE



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#### EXHIBIT "A"

WR Number: \_\_\_\_\_

#### SUPPLEMENT TO THE AGREEMENT FOR STREET LIGHTING SERVICE BY AND BETWEEN ONCOR ELECTRIC DELIVERY COMPANY LLC AND \_\_\_\_\_ DATED \_\_\_\_\_

This Supplement ("Supplement") to the Agreement for Street Lighting Service ("Agreement"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by ONCOR Electric Delivery Company LLC and \_\_\_\_\_, ("Customer") both hereinafter referred to as the "Parties." In consideration of the mutual promises and undertakings herein set forth, the Parties hereby agree to amend the Agreement as follows:

1. The following Request for Street Lighting Service is hereby added to the Agreement:  
  
Request for Street Lighting Service dated \_\_\_\_\_, attached hereto as Exhibit B.
2. This Supplement shall become effective upon execution by the Parties.
3. This Supplement is subject to the terms and conditions of the Agreement.
4. If Customer has arranged for its designated agent or representative ("Customer's Agent") to pay to Company the contribution-in-aid-of-construction ("CIAC") referenced in the Agreement, then Customer's Agent shall execute this Amendment for the sole purpose of establishing such agent's agreement to pay such CIAC.
5. Except as otherwise provided herein, the Agreement shall continue in full force and effect in accordance with its terms.

IN WITNESS HEREOF, the Parties have caused this Supplement to be executed in several counterparts, each of which shall be deemed an original but all shall constitute one and the same instrument.

ONCOR ELECTRIC DELIVERY COMPANY LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
[[INSERT CUSTOMER NAME]]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*For CIAC purposes only pursuant  
to Section (4) above.*

\_\_\_\_\_  
[[INSERT CUSTOMER'S AGENT'S NAME]]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_