

**THE EMPIRE DISTRICT ELECTRIC COMPANY d.b.a. LIBERTY
MUNICIPAL ELECTRIC SERVICE AGREEMENT**

BILL NO: _____

ORDINANCE NO: _____

“**AN ORDINANCE** authorizing and providing a contract between the **City of Republic, Missouri** (hereinafter sometimes called the CITY) and The Empire District Electric Company (hereinafter sometimes called the COMPANY), its successors or assigns, for electric service and equipment to light the CITY’s streets, alleys, and public ways, electric service for light and power for the CITY’s parks, other properties and public places, for a term of years, and specifying the prices to be paid for such lighting and power service, and the terms and conditions of such contract; and in consideration of COMPANY’s covenants and obligations contained herein and COMPANY’s acceptance of the terms and conditions contained herein including but not limited to COMPANY’s agreement to payment by the COMPANY of the License and Occupation Tax imposed upon COMPANY by Ordinance No. 84-1039 of the CITY as full payment by the COMPANY of any Occupation Tax, Franchise Tax, License Tax or any similar tax or charge imposed upon the COMPANY by the CITY (other than the License and Occupation Tax imposed upon the COMPANY by Ordinance No. 84-1039 of the CITY, or any amendment thereof) for the establishment, operation and maintenance of the Company’s facilities within the CITY; except providing further that nothing herein shall prohibit the CITY from lawfully collecting motor vehicle license fees and any ad valorem tax on the COMPANY’s real estate and personal property.”

“**BE IT ORDAINED** by the **City Council of the City of Republic, Missouri** as follows.”

ARTICLE 1: That said **City of Republic, Missouri** is hereby authorized and does contract with The Empire District Electric Company, a corporation, its successors or assigns for electric service and equipment to light the CITY’s streets, alleys and public ways; and electric service for light and power for the CITY’s parks, other properties and public places.

ARTICLE 2: The CITY and the COMPANY (CITY and COMPANY collectively the “Parties”, each individually a “Party”) mutually agree that this ordinance will constitute a contract (the “Agreement” or “Contract”) and that all of its terms, conditions and provisions for payment shall be in effect for a period of two (2) years from the date of execution hereof as provided in Article 13; and shall be automatically extended for a further period of two (2) years from each successive expiration date unless one party shall notify the other in writing not less than sixty (60) days prior to any such expiration date of its desire to terminate this agreement; and further providing that this contract shall not be effective for a total period exceeding ten (10) years; and further provided that the terms of Article 5 are not limited by the terms of Article 2.

ARTICLE 3: The COMPANY agrees to furnish and the CITY agrees to use and pay for the street lighting service described in SPL Street Lighting data sheet, designated Exhibit A, attached hereto and made a part hereof, and for any and all additional street lighting service subsequently agreed upon under the terms of this contract or any amendment hereto, according to the rates and conditions set out in the Municipal Street Lighting Service Schedule SPL as now or in the future approved by competent authority having jurisdiction.

ARTICLE 4: When, by agreement with the CITY, the COMPANY shall install, own, operate and maintain street lights charged for under Schedule SPL, or is required to provide special or excessive electric facilities to serve CITY owned street lighting systems served under Schedule SPL, there shall be charged, in addition to the rates hereinbefore set out, a Facilities Usage Charge, payable as herein provided, as mutually agreed upon by the parties.

ARTICLE 5: It is agreed that the Facilities Usage Charge shall be computed at the rate set forth in Municipal Street Lighting Service Schedule SPL as now or in the future approved by competent authority having jurisdiction. Said rate shall be applied to the investment in COMPANY owned street lights and special or excessive electric facilities to serve CITY owned street lights utilized by the CITY under Schedule SPL. The total of such investment by the COMPANY is **\$824,151.91** and the total of the Facilities Usage Charge shall be **\$74,173.67** until additional street lights are requested by the CITY and installed by the COMPANY and this contract amended by written agreement. Such Facilities Usage Charge shall be due and payable by the CITY of **Republic, Missouri**, to the COMPANY so long as the street lights and/or special electric facilities herein referred to in Article 4 and its references shall be utilized by said CITY, but for a term of not less than **ten (10) years** from date hereof, and shall be payable as provided in said Schedule SPL.

ARTICLE 6: The COMPANY agrees to change the location of any street lamp in use upon the written request of the CITY, provided the CITY shall pay the COMPANY the actual cost thereof.

ARTICLE 7: The COMPANY shall furnish and the CITY shall take and pay for all electric service for municipal use, other than street lighting service, as may be required from time to time by the CITY in its parks, buildings, properties and public places, according to the rates and provisions of the filed standard rate schedules of the COMPANY, and subject to the valid rates, rules and regulations of any competent regulating authority of COMPANY. Notwithstanding the language of this Article 7, COMPANY acknowledges that due to the CITY’s consolidation with the Village of Brookline, certain portions of the CITY are now served by City Utilities of Springfield pursuant to territory that utility can serve solely or in conjunction with COMPANY.

ARTICLE 8: The rates and conditions set forth in the attached Schedule SPL, and all applicable rates, rules and regulations of the COMPANY filed with competent authority having jurisdiction as now or hereafter promulgated, shall be allowed provided the CITY utilizes the COMPANY’s service for its entire requirements for electric or power service and the COMPANY serves the CITY under the provisions of an electric franchise having an original term of not less than **ten (10) years**; and COMPANY’s agreement to pay the License and Occupation Tax imposed upon COMPANY by Ordinance No. 84-1039 of the CITY shall be accepted by the CITY as full payment of any Occupation Tax, Franchise Tax, License Tax or any similar tax or charge imposed upon the COMPANY by the CITY (other than the License and Occupation Tax imposed upon the COMPANY by Ordinance No. 84-1039 of the CITY, or any amendment thereof) for the establishment, operation and maintenance of the COMPANY’s facilities within the CITY; provided however that nothing herein shall prohibit the CITY from lawfully collecting motor vehicle license fees or any ad valorem tax on the COMPANY’s real estate and personal property.

ARTICLE 9: Nothing in this Agreement shall be construed to create any liability on behalf of either Party for any direct, special, indirect, liquidated, consequential damages, or attorney fees.

ARTICLE 10: The COMPANY agrees to exercise reasonable care in maintaining the facilities to be maintained by it and in rendering the service to be rendered by it in the performance of this contract, so that the said service and said facilities may be furnished and maintained in a satisfactory manner.

ARTICLE 11: The CITY agrees for the term of this contract to utilize the COMPANY's service for the purpose herein set forth, and that the electric service rendered the CITY hereunder shall be for its use alone, and shall not be resold, and that it will utilize no electric or power service from a source other than the COMPANY. Notwithstanding the language of this Article 11, COMPANY acknowledges that due to the CITY's consolidation with the Village of Brookline, certain portions of the CITY are now served by City Utilities of Springfield pursuant to territory that utility can serve solely or in conjunction with COMPANY.

ARTICLE 12: This contract supersedes all prior representations or agreements, either verbal or written concerning matters herein contained, and shall inure to the benefit of and be binding upon the respective legal representatives, successors and assigns of the parties hereto.

ARTICLE 13: Upon the passage and approval of this Ordinance, two copies thereof shall be prepared by the Clerk, and shall be signed in the name of the CITY by the Mayor with the seal of the CITY affixed, attested by the Clerk, and shall also be signed for THE EMPIRE DISTRICT ELECTRIC COMPANY d.b.a. LIBERTY by a proper officer, with the seal of the COMPANY affixed, attested by Its Secretary, and thereupon same shall be a valid and binding contract between the said parties. One counterpart shall be delivered to the Clerk, placed and kept in the records of the CITY and the other counterpart shall be delivered to the COMPANY.

ARTICLE 14: This Agreement shall be governed by the laws of the state of Missouri, and forum and venue as to any disputes related to this Agreement shall be the Circuit Court of Greene County, Missouri. Nothing in this Agreement shall be construed to waive the right to resolve disputes through litigation nor limit the jurisdiction of the state of Missouri.

ARTICLE 15: The Parties to this Agreement are separate and independent from each other. This Agreement shall not be construed as creating any type of joint venture or partnership between the Parties. This Agreement shall not be construed as an agreement for the benefit of any third party, including, but not limited to, that this Agreement does not create any employment relationship of any kind, including between any individual who provides services under this Agreement, and no such individual shall be entitled to wages or employment benefits of compensation of any kind, including any pursuant to any employment law liability theory, such as, but not limited to: the Fair Wage and Labor Standards Act of 1938, and as subsequently amended, all Missouri statutory laws, including Workers' Compensation, or common law.

ARTICLE 17: COMPANY and the individuals through whom it provides services contemplated by the Agreement are not employees of the CITY and will not be entitled to any of the benefits established for the employee of the CITY, including that no part of this Agreement will be construed to require coverage of such individuals by the CITY's workers' compensation plan or carrier.

ARTICLE 18: No salaried officer or employee of the CITY, and no elected official or member of the City Council, shall have a financial interest, direct or indirect, in this Agreement.

ARTICLE 19: The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities, and obligations under this Agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin.

ARTICLE 20: The Parties agree that signatures transmitted by facsimile or scanned and emailed shall have the same legal effect of original signatures. In addition to facsimile or scanned and email signatures, this Agreement may be executed by the Parties in accordance with the applicable version of the Uniform Electronic Transactions Act ("UETA") and the Electronic Signatures in Global and National Commerce Act ("ESIGN"). The Parties hereto agree to conduct transactions by electronic means and hereby affirmatively consent to use electronic records to memorialize and execute this Agreement and any alterations thereto. At the request of any Party, the Parties shall promptly exchange executed original counterparts of this Agreement or any amendment. COMPANY expressly acknowledges that, regardless of the method of delivery of executed documents, the CITY can only execute such to the extent authorized by law, and regardless of any expressed opinion, representation, writing, or signature, by any individual or entity purporting to act on behalf of the CITY, execution of the Agreement and any addendum can only be done by the CITY to the extent authorized by Missouri law, including that CITY can only approve such as authorized by its governing body, either directly or through its duly authorized agent of record.

ARTICLE 21: This Agreement may not be assigned by any Party without prior written consent of the other Party, which shall not be unreasonably withheld.

ARTICLE 22: In no event shall the language or requirements of this Agreement constitute or be construed as a waiver or limitation of any rights or defenses with regard to applicable sovereign, governmental, official, or any individual immunities and any other protections or defenses as provided by federal and state constitutions, statutes, and laws. The procurement and maintenance of insurance shall not be construed as waiver of any such defense otherwise available.

ARTICLE 23: A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this Agreement shall not affect the validity of the remaining parts to this Agreement.

ARTICLE 24: This Agreement is contingent upon the CITY having sufficient funds available for the subject of this Agreement. COMPANY shall have no right of action against CITY in the event CITY is unable to perform its obligations under this Agreement as a result of insufficient funds. Further, this Agreement is subject to and conditioned upon approval by ordinance by the City Council.

ARTICLE 25: It being understood that this provision does not apply to utility service bills or other utility service communications, any notice, request or demand provided for in this Agreement shall be deemed to have been given when the same shall have been personally delivered to the following offices or deposited in the United States Mail, Registered or Certified, with postage thereon prepaid as follows:

City of Republic, Missouri: 4221 S. Wilson's Creek Blvd., Republic, Missouri 65738

Empire: The Empire District Electric Company, d/b/a Liberty, 602 S. Joplin Ave., Joplin, Missouri 64801-2337

Approved this _____ day of _____, 2025.

(CITY SEAL)

CITY OF REPUBLIC, MISSOURI

ATTEST:

CLERK

MAYOR

The foregoing Ordinance having been duly passed and adopted, the **CITY OF REPUBLIC, MISSOURI** and **THE EMPIRE DISTRICT ELECTRIC COMPANY** hereby execute this contract in their respective corporate names by their proper officers with their respective corporate seals hereto affixed, as and for their contract covering all the terms of said Ordinance.

Done this _____ day of _____, 2025.

(CITY SEAL)

CITY OF REPUBLIC, MISSOURI

ATTEST:

By _____

MAYOR

CLERK

THE EMPIRE DISTRICT ELECTRIC COMPANY

(COMPANY SEAL)

By _____

PRESIDENT

ATTEST:

SECRETARY

STATE OF **Missouri**

COUNTY OF **Greene**

CITY OF **Republic**

I, _____, Clerk of the **City of Republic, Missouri** do hereby certify that the above and foregoing is a full, true and correct copy of Ordinance No. _____, duly passed by the Governing Body of said CITY and the execution of the contract therein provided, as the same appears on the records of said CITY.

Witness my hand and the seal of said CITY, this _____ day of _____, 2025.

CLERK

(CITY SEAL)