

ELECTRIC UTILITY FRANCHISE AGREEMENT

This Electric Utility Franchise Agreement is between the City of Austin, Texas, which owns and operates a municipal electric utility d/b/a Austin Energy ("AE"), and the City of Rollingwood, Texas ("the City").

SECTION 1. GRANT OF FRANCHISE

- 1.1 The City hereby grants AE, for a term of ten years from the effective date of this agreement, a franchise for the transmission, distribution, and sale of electricity within the City. AE may construct, operate and maintain in, upon, over, under, and across the present and future streets, alleys and public ways and places within the City all the facilities AE deems reasonably necessary for the provision of safe, reliable, and economical electric service ("AE Facilities").
- 1.2 This Franchise shall not be construed to restrict or materially affect or alter any power or authority granted to AE by state or federal law, nor does it grant to the City any right or regulatory authority over AE's rates or operations not otherwise expressly given the City by state or federal law.

SECTION 2. FRANCHISE FEE

- 2.1 During the term of the franchise granted herein, AE shall pay a Franchise Fee to the City for street rental in the amount of 3% of AE's Gross Receipts from the sale of electricity to customers within the City from the effective date of this agreement written below. "Gross Receipts" shall consist of amounts actually billed for electric consumption and shall exclude taxes. In the event a customer bill contains charges for services or fees other than for electric service, customer payments shall be allocated between services on a pro-rata basis.

- 2.2 If at any point during the term of this agreement, AE imposes a stand-alone charge upon customers within the City for the direct recovery of the cost of the Franchise Fee rather than recovering the cost through base rates on a system-wide basis, the City may opt to terminate this agreement. AE shall provide written notice to the City not later than 60 days prior to enactment of any such direct recovery charge, and thereafter the City shall have 180 days in which to exercise its termination option. If AE fails to provide written notice as required by this section, the City may terminate this agreement at any time after enactment of such direct recovery charge by providing not less than 60 days advance written notice of termination to AE. Termination of this agreement shall not be construed as a revocation of the City's consent for AE to operate and provide electric service within the municipal limits of the City.
- 2.3 The payment for street rental shall be based upon AE's Gross Receipts on a quarterly basis and will be due and payable to the City within 45 days after the close of each quarter in AE's fiscal year.
- 2.4 The Franchise Fee is in lieu of all other fees and charges and the City shall not impose upon or collect from AE any other charge or fee in connection with the use of rights-of-way for AE facilities within the City.

SECTION 3. CONSTRUCTION AND OPERATION OF FACILITIES

- 3.1 Prior to starting work, AE shall give ten days written notice to the City of the scope and duration of the work and shall otherwise follow the City's generally applicable notice and permitting process for work within City rights-of-way. Prior notice may be reduced or waived by the City Administrator. In the event AE deems there is an emergency, the work is necessary to restore interrupted service, or AE otherwise deems that the notice requirement will hamper its ability to maintain safety or reliability, AE may act without prior notice.

- 3.2 The surface of any street, alley, or public way or place disturbed by AE shall be restored by AE within a reasonable time after completion of the work. Restoration shall be made to standards at least equal to those used by AE within the city limits of Austin.
- 3.3 Unless expressly stated herein, this Agreement does not excuse AE from compliance with any City ordinance that may otherwise be lawfully applicable to AE's operations within the City, nor does it impose upon AE any obligation to comply with a City ordinance that would not otherwise lawfully apply to it.

SECTION 4. CIVIC IMPROVEMENTS

The City shall give AE reasonable prior notice of street widening or straightening projects, water line or wastewater line replacement projects, and other projects that may affect AE's facilities. AE shall, at its expense, relocate AE facilities in City-owned rights-of-way as is reasonably necessary to accommodate street widening or straightening, water or wastewater line replacement, or when otherwise required to relocate by state law.

SECTION 5. USE OF POLE SPACE

AE shall permit the City to use existing AE poles for the City's communications fiber (and other equipment to the extent generally allowed by AE pole-attachment policy) to be used for governmental purposes to the extent AE determines space is available. Such use shall be subject to the City's execution of AE's form contract for pole attachments and payment of the AE fees applicable to such service.

SECTION 6. UNIFORM FRANCHISE FEES

If at any time during the term of this Agreement, AE enters into a franchise agreement with another municipality that provides for payment of a franchise fee at a greater percentage than that stated in Section 2, AE shall provide written notice of such event to

the City. Within 60 days after the City's receipt of notice from AE, the City may opt to amend the percentage stated in Section 2 to reflect the percentage given to such other municipality. Such amendment shall take effect on the same date shown in the franchise with such other municipality.

SECTION 7. LIABILITY

Nothing herein creates for one Party legal liability stemming from acts or omissions of the other Party.

SECTION 8. GOVERNING LAW

This Agreement is performable in Travis County, Texas, shall be governed by the Laws of the State of Texas.

SECTION 9. ACCOUNTS AND RECORDS

On not more than an annual basis, AE will provide reasonable records necessary to verify that all payments to the City are accurate within 30 days of a written request.

SECTION 10. NOTICES

Any notices required under this Agreement shall be effective when delivered to the City through its City Administrator, when notice to the City is required, or to the General Manager of Austin Energy, when notice to AE is required.

SECTION 11. SEVERABILITY


Should any of the clauses, sentences, paragraphs, sections or parts of this Agreement be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Agreement.

SECTION 12. SOURCE OF FUNDING

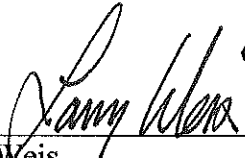
The obligations of AE under this Agreement shall be payable solely from electric utility operating revenues. Nothing herein shall be construed as creating a right or obligation enforceable against the taxing revenues or authority of the City of Austin.

EFFECTIVE AS OF MARCH 1, 2011:


City of Rollingwood

By: 
William C. Hamilton, Mayor
Date signed: July 25, 2011

City of Austin d/b/a Austin Energy

By: 
Larry Weis
General Manager
Date signed: 8/15/11

Attest:


Robyn Ryan, City Secretary

