

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**ADDENDUM TO CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC'S
UTILITY CONSTRUCTION SERVICES AGREEMENT**

(Church Street – Mobility Bond Project No. 20119)

This Addendum (“Addendum”) is made and entered into by and between FORT BEND COUNTY, TEXAS (“County”), a political subdivision of the state of Texas, and CenterPoint Houston Electric, LLC (“CenterPoint”), a Texas limited liability company. County and CenterPoint may be referred to individually as a “Party” or collectively as the “Parties.”

WHEREAS, CenterPoint is a utility company which provides electric power services to the Greater Houston Area; and

WHEREAS, County desires for CenterPoint to relocate its existing utilities located at or near Church Street in Fort Bend County, Texas under Mobility Project No. 20119 (the “Services”); and

WHEREAS, CenterPoint agrees to provide such services and has provided County with that certain Utility Construction Services Agreement (the “Utility Construction Services Agreement”); and

WHEREAS, subject to the amendments provided in this Addendum, County has agreed to the terms of the Utility Construction Services Agreement attached hereto as Exhibit “A”; and

WHEREAS, this Addendum and the Utility Construction Services Agreement are hereinafter collectively referred to as the “Agreement”; and

WHEREAS, pursuant to Section 262.024 of the Texas Local Government Code, the Fort Bend County Commissioners Court has determined that this Agreement is exempt from competitive bidding requirements because this Agreement is for electric power utility services which can only be obtained from one source.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties do mutually agree as follows:

1. **Scope of Services.** CenterPoint shall provide the Services to County as provided in the Utility Construction Services Agreement attached hereto as Exhibit “A” and incorporated by reference for all intents and purposes.

2. **Compensation and Payment Terms.**

- (a) The Maximum Compensation to CenterPoint for the Services performed under this Agreement is One Hundred Eleven Eight Hundred Fifty and 53/100 Dollars (\$111,850.53). CenterPoint understands and agrees that the Maximum Compensation stated is an all-inclusive amount and no additional fee, cost, or reimbursed expense shall be added whatsoever to the fees provided in this Agreement without a County approved change order.
- (b) County will pay CenterPoint based on the following procedures: CenterPoint shall submit to County staff person designated by the County Engineer, one (1) electronic (pdf) copy of the invoice showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward the same to the County Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days.

3. **Limit of Appropriation.** CenterPoint understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of One Hundred Eleven Eight Hundred Fifty and 53/100 Dollars (\$111,850.53) specifically allocated to fully discharge any and all liabilities County may incur under this Agreement. CenterPoint does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total Maximum Compensation that CenterPoint may become entitled to and the total maximum sum that County may become liable to pay to CenterPoint under this Agreement shall not under any conditions, circumstances, or interpretations thereof exceed One Hundred Eleven Eight Hundred Fifty and 53/100 Dollars (\$111,850.53) without a County approved change order.

4. **Insurance.** Prior to the commencement of the Services under this Agreement, CenterPoint shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. CenterPoint shall maintain such insurance coverage from the time Services commence until Services are completed and provided replacement certificates, policies, and/or endorsements for any such insurance expiring prior to completion of Services. CenterPoint shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the state of Texas, and shall obtain such insurance of the following types and minimum limits:

- (a) Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

- (b) Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- (c) Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- (d) Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

County shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of CenterPoint shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

If required coverage is written on a claims-made basis, CenterPoint warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time that work under the Agreement is completed.

- 5. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the Parties and supersedes all previous agreements, written or oral, pertaining to the subject matter of this Agreement. Any amendment to this Agreement must be in writing and signed by each Party to come into full force and effect.
- 6. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver or surrender by County of its governmental powers or immunity under the Texas Constitution or the laws of the state of Texas.
- 7. **Venue and Applicable Law.** This Agreement shall be construed in accordance with the laws of the State of Texas and exclusive venue of any claim or legal action by CenterPoint against County arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.
- 8. **Conflict.** In the event of a conflict between the Utility Construction Services Agreement attached hereto and the terms of this Addendum, this Addendum shall prevail.

9. **Certain State Law Requirements for Contracts** The contents of this Section are required by Texas law and are included by County regardless of content For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, CenterPoint hereby verifies that CenterPoint and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
- (a) Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - (b) If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CenterPoint does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - (c) If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CenterPoint does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - (d) If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, CenterPoint does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
10. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, CENTERPOINT ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

IN WITNESS WHEREOF, and intending to be legally bound, County and CenterPoint have executed this Agreement to be effective on the date signed by the last Party hereto.

FORT BEND COUNTY, TEXAS

**CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC**

KP George, County Judge

William F. Wilson Jr.
Authorized Agent – Signature

Date

William F. Wilson Jr.
Authorized Agent- Printed Name

ATTEST:

Staff Service Consultant
Title

Laura Richard, County Clerk

5/22/2022
Date

APPROVED:

J. Stacy Slawinski

J. Stacy Slawinski, County Engineer

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ _____ are available to pay the obligation of Fort Bend County, Texas within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

EXHIBIT A

(Utility Construction Services Agreement Follows Behind)

Utility Construction Services Agreement

This Utility Construction Services Agreement (this "Agreement") is entered into as of the 8th day of February, 2023, between CenterPoint Energy Houston Electric, LLC ("CenterPoint Energy") and Fort Bend County ("Customer").

Customer has requested the Construction Services described below by CenterPoint Energy, and CenterPoint Energy is willing to provide such Construction Services upon its receipt of funds from Customer sufficient to cover the estimated costs for providing the Construction Services. Customer and CenterPoint Energy therefore agree as follows:

1. Defined Terms. All capitalized terms used but not otherwise defined in this Agreement have the respective meanings set forth in CenterPoint Energy's Tariff for Retail Delivery Service (the "Tariff") approved by the Commission.

2. Description of Construction Services. Subject to its receipt of the Estimated Amount described in Section 3 hereof, CenterPoint Energy will provide the following Construction Services as requested by Customer (*check as applicable*):

- Relocation of any part of the Delivery System
- Installation or extension of non-standard Delivery System facilities
- Repair, maintenance or replacement work on the Delivery System outside of CenterPoint Energy's normal hours of operation as specified in the Tariff
- Other

The Construction Services to be provided under this Agreement (a) will be performed by CenterPoint Energy in accordance with Good Utility Practice and (b) may be further described in an attachment to this Agreement labeled Exhibit A. An Exhibit A is or is not attached to this Agreement as of the date hereof (*check one*).

3. Customer Upfront Payment. Customer agrees to pay the cost of the Construction Services described in this Agreement. CenterPoint Energy estimates the cost of the Construction Services to be \$111,850.53 (the "Estimated Amount"). Customer shall pay the Estimated Amount to CenterPoint Energy prior to CenterPoint Energy's commencement of the Construction Services. Except as otherwise provided in Section 4 hereof, Customer's payment of the Estimated Amount is non-refundable.

SAP# 106134166	\$100,977.24
SAP# 106134355	\$10,873.29

4. True-Up. After completion of the Construction Services described in this Agreement:

- (a) If the actual cost of the Construction Services is less than the Estimated Amount paid by Customer, CenterPoint Energy will refund or credit the difference to Customer;
- (b) If the actual cost of the Construction Services is more than the Estimated Amount paid by Customer, CenterPoint Energy will invoice Customer, and Customer will pay CenterPoint Energy, the difference.

5. Audit Rights. Customer may, at its expense and during normal business hours, audit the books and records of CenterPoint Energy to verify the actual costs incurred by CenterPoint Energy for the performance of the Construction Services. Such audit rights shall expire 6 months after CenterPoint Energy's completion of the Construction Services.

6. Incorporation of Tariff. The provisions of the Tariff governing Construction Services are incorporated into this Agreement, Sections 5.2.1 (limitation of liability), 5.2.4 (force majeure), and 5.2.6 (disclaimer of warranties) of the Tariff. In the event of any conflict between the terms of this Agreement and the terms of the Tariff, the terms of the Tariff shall prevail.

7. Governing Law; No Third Party Beneficiaries; Interpretation. This Agreement is to be interpreted under the laws of the State of Texas, excluding its choice of law principles, and such laws shall govern all disputes under this Agreement. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties hereto, and the obligations herein assumed are solely for the use and benefit of the parties hereto, their successors in interest and, where permitted, their assigns. The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the parties hereto or to impose any partnership obligation or liability upon either party.

8. Execution and Amendment. This Agreement may be executed in two or more counterparts which may be in portable document format (PDF) or other electronic form, each of which is deemed an original but all constitute one and the same instrument. This Agreement may be amended only upon mutual written agreement of the parties.

9. No Agency. Neither party hereto has any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

10. Final Agreement. This Agreement contains the final and complete agreement of the parties hereto regarding the subject matter hereof and supersedes all prior understandings and agreements between them with respect thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first written above.

**CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC**

FORT BEND COUNTY, TEXAS

By: 
(Signature)

By: _____
(Signature)

William F. Wilcox, Jr
(Name)

KP George

Staff Service Consultant
(Title)

County Judge

