

RESOLUTION NO. 23-0025

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF MARLIN, TEXAS, AUTHORIZING AND APPROVING A SETTLEMENT AND RELEASE AGREEMENT WITH ONCOR ELECTRIC DELIVERY COMPANY LLC; AUTHORIZING EXECUTION OF THE SETTLEMENT AND RELEASE AGREEMENT WITH ONCOR ELECTRIC DELIVERY COMPANY LLC; AND PROVIDING FOR EFFECTIVE DATE AND OPEN MEETINGS CLAUSES.

WHEREAS, the City of Marlin ("City") experienced and incurred the loss of City-owned equipment during a period of extreme cold weather that occurred during the week of February 14, 2021 and the week of February 20, 2021, which has been termed and called "Winter Storm Uri;

WHEREAS, the City asserted a claim for damages to Oncor Electric Delivery Company LLC, and the City thereafter filed suit against Oncor Electric Delivery Company LLC, in Falls County District Court under Cause No. CV41566 (the "Litigation");

WHEREAS, the City of Marlin and Oncor Electric Delivery Company LLC, have reached an agreed settlement agreement to resolve the City's claim in return for Oncor Electric Delivery Company LLC, making payment to the City in the amount of \$17,500.00 (the "Settlement Funds"); and

WHEREAS, the City Council for the City intends to consider and approve of the settlement agreement between the City of Marlin and Oncor Electric Delivery Company LLC,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MARLIN, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Approval of Settlement and Release Agreement. The City Council authorizes and approves of the Settlement and Release Agreement attached to this Resolution as **Exhibit "A."** The City Council authorizes the Mayor to execute the Settlement and Release Agreement.

Section 3. Authorization to Nonsuit Litigation. The City Council authorizes the City Attorney to file a nonsuit dismissing the Litigation after the City has received the Settlement Funds and take reasonable and necessary action to finalize the settlement of the Litigation as approved by and through this Resolution.


Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption by the City Council and publication as required by the *Loc. Gov't. Code*.

Section 5. Open Meetings. That it is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, *Tex. Gov't. Code*.


PASSED AND APPROVED on this the 29th day of August, 2023.

ATTEST:

CITY OF MARLIN, TEXAS



Maryann Waddle, City Secretary



Susan Byrd, Mayor

EXHIBIT "A"

SETTLEMENT AND RELEASE AGREEMENT

CAUSE NO. CV41566

THE CITY OF MARLIN, TEXAS,
Plaintiff,

V.

ONCOR ELECTRIC DELIVERY
COMPANY LLC,
Defendant.

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IN THE DISTRICT COURT

82ND JUDICIAL DISTRICT

OF FALLS COUNTY, TEXAS

SETTLEMENT AND RELEASE AGREEMENT

FOR AND IN CONSIDERATION of the agreements herein made, the sufficiency of which is hereby acknowledged, THE CITY OF MARLIN, TEXAS, (“City”), Plaintiff in the above-styled cause (the “Cause”), for itself, its quitclaims and assigns, hereby and forever releases and discharges ONCOR ELECTRIC DELIVERY COMPANY LLC (“Oncor”), as well as its agents, employees, and representatives, whether specifically mentioned or not (collectively, “Releasees”), and the Releasees likewise forever release and discharge the City, as well as the City’s agents, employees, council members, and representatives, whether specifically mentioned or not, actions, causes of action, claims, damages, costs, or compensation of any kind whatsoever, arising out of or relating to the facts and circumstances and the loss of City-owned equipment as alleged in Plaintiff’s Original Petition filed in this Cause that occurred or took place during the week of February 14, 2021, and during the week of February 20, 2021, related to or which arose from and during what has been termed and called “Winter Storm Uri.”

The consideration to be given for this settlement is as follows:

- A. Oncor shall pay to the City and the city shall receive the total sum of Seventeen Thousand Five-Hundred Dollars and No/100 Dollars **(\$17,500.00)** which sum shall be paid to the City on or before September 5, 2023, in funds payable to

the City of Marlin, Texas (the amount of \$17,500.00 is further referred to herein as the "Settlement Sum"); and

- B. The City will Dismiss this Cause with prejudice, releasing the City's claims that the City brought or could have brought in this Cause, as set forth above within seven (7) business days of the City's receipt of entire Settlement Sum.

It is understood the Settlement Sum is being paid to settle the City's claims alleged in this Cause and it is further understood and agreed that this is a settlement is not to be construed as an admission of liability on the part of any person, firm, entity, corporation, or municipal corporation hereby released, by all of whom liability is expressly denied.

Each party is responsible for their own attorney fees and costs.

The Parties each covenant that no representations or promises other than those expressed in this SETTLEMENT AND RELEASE AGREEMENT have been made to it with regard to this settlement, that each party to this Cause has carefully read and fully understands this SETTLEMENT AND RELEASE AGREEMENT. The Settlement and Release Agreement shall be construed and interpreted in accordance with the laws of Texas.

Each party acknowledges and agrees that it has been represented by an attorney of its own choosing throughout the negotiations leading to this settlement and compromise agreement and that each party has consulted its attorney regarding the meaning and effect of the agreement and the provisions hereof.

If any part of this document is held to be invalid, such finding or holding shall not affect the validity of the remainder of this Agreement. This Agreement may be signed in duplicate originals.

The Parties may execute this Settlement and Release Agreement in one or more counterparts, each of which will be deemed an original and all of which, when taken together, will be deemed to constitute one and the same agreement. Any signature page hereto delivered

electronically shall be binding to the same extent as an original signature page.

The Parties execute this Settlement and Release Agreement on the date shown below the signature line of the authorized representative for the parties below.

THE CITY OF MARLIN, TEXAS

By: 

Print Name: Susan Byrd

Title: Mayor

Date: August 29, 2023

ONCOR ELECTRIC DELIVERY COMPANY LLC

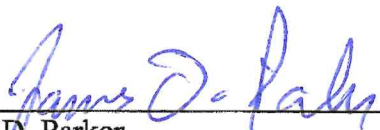
By: 

Print Name: Daniel G. Altman

Title: Senior Counsel

Date: August 29, 2023

APPROVED AS TO FORM AND CONTENT:



James D. Parker
THE PARKER LAW FIRM, PLLC
Attorney for Plaintiff



Daniel G. Altman
ONCOR ELECTRIC DELIVERY COMPANY LLC
Attorney for Defendant