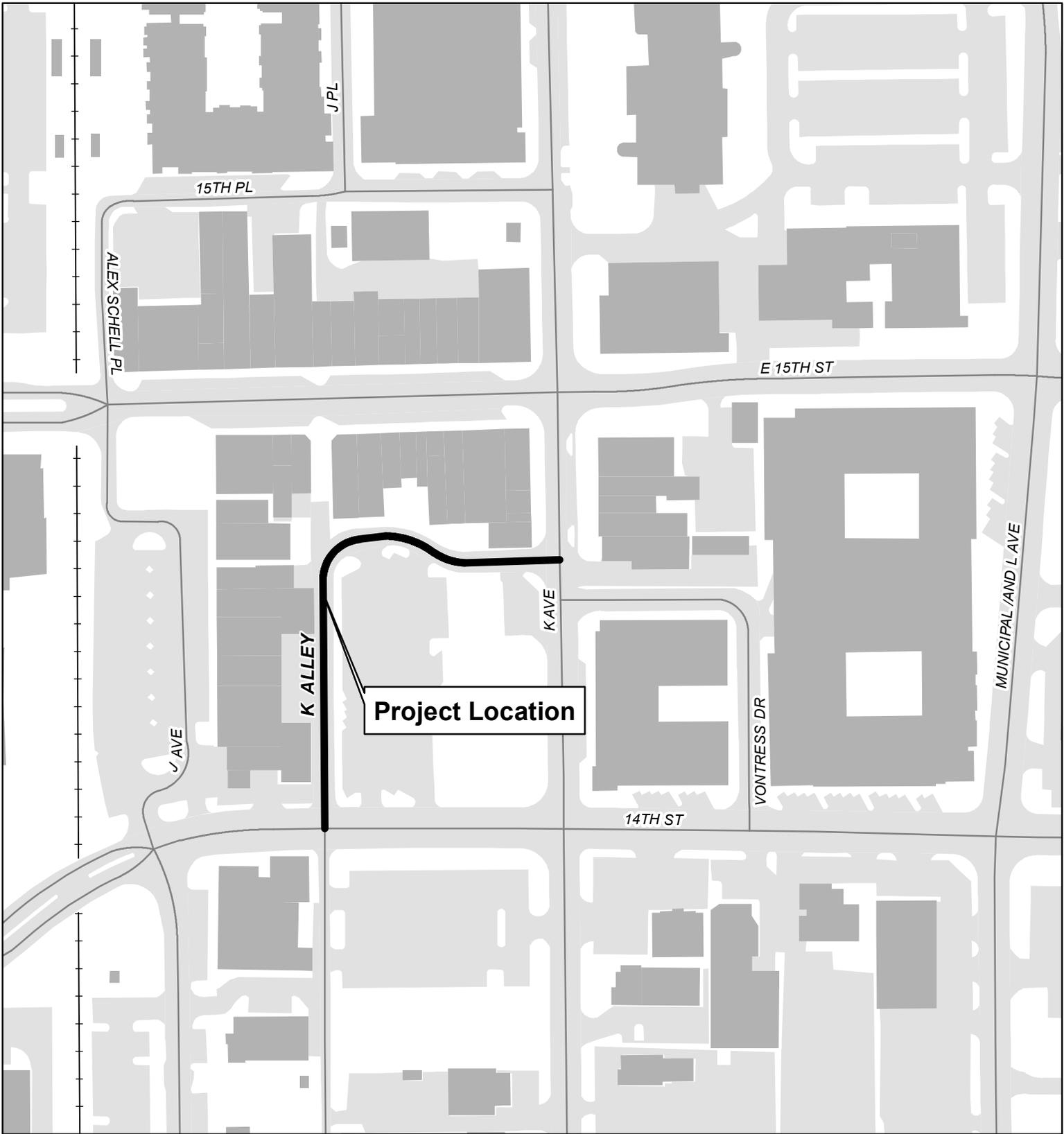
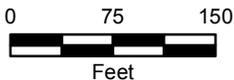


CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		8/08/16			
Department:	Engineering				
Department Head	Caleb Thornhill				
Agenda Coordinator (include phone #): Kathleen Schonne X-7198					
CAPTION					
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a Discretionary Service Agreement by and between the City of Plano and Oncor Electric Delivery Company LLC, providing for the burial of a portion of and the re-build of a portion of existing overhead facilities in the alley ways of 14th Street and K Avenue to underground; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2015-16	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	10,361,383	0	10,361,383
Encumbered/Expended Amount		0	0	0	0
This Item		0	-334,579	0	-334,579
BALANCE		0	10,026,804	0	10,026,804
FUND(S): TIF II FUND					
<p>COMMENTS: Funding is available for this item in the TIF II Fund. An agreement to relocate utility lines underground, in the amount of \$334,579, will leave \$10,026,804 remaining in the TIF II Fund to support the redevelopment of Downtown Plano and other TIF objectives.</p> <p>STRATEGIC PLAN GOAL: Relocating overhead utility lines and placing them underground to improve neighborhood aesthetics relates to the City's goals of Exciting Urban Centers - Destination for Residents and Guests and Great Neighborhoods - 1st Choice to Live.</p>					
SUMMARY OF ITEM					
<p>The City has been working with Oncor to relocate a portion of the overhead facilities to underground and to rebuild of a portion of existing overhead facilities in the alley west of K Avenue starting south of 14th Street and then going north to the alley located behind the businesses on the south side of 15th Street and then east to K Avenue. This relocation is associated with an agreement the City has with Southern Land and their redevelopment of the former Municipal Center South property.</p> <p>Oncor has estimated the cost to be \$334,579 as identified in the attached Discretionary Service Agreement. This resolution authorizes the City Manager to execute the agreement.</p> <p>https://www.google.com/maps/@33.01908,-96.6997644,19z</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies:		
Location Map, Resolution Discretionary Service Agreement			N/A		



georgetau C:\Projects\Engineering\Locator\Maps\201606-22-2016_K Alley\K Alley_Underground Facilities.mxd



City of Plano GIS Division
June, 2016

Alley Ways of 14th Street and K Avenue

Project Location



A Resolution of the City of Plano, Texas, approving the terms and conditions of a Discretionary Service Agreement by and between the City of Plano and Oncor Electric Delivery Company LLC, providing for the burial of a portion of and the re-build of a portion of existing overhead facilities in the alley ways of 14th Street and K Avenue to underground; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Discretionary Service Agreement by and between the City of Plano and Oncor Electric Delivery Company LLC providing for the burial of a portion of and the re-build of a portion of existing overhead facilities in the alley ways of 14th Street and K Avenue to underground, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager, or his designee, should be authorized to execute it on behalf of the City of Plano.

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

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager, or his designee, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 8th day of August, 2016.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

Exhibit "A"

Tariff for Retail Delivery Service
Oncor Electric Delivery Company LLC

6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: September 21, 2009

Page 1 of 2

6.3.5 Discretionary Service Agreement

WR # 3278863

Transaction ID: _____

This Discretionary Service Agreement ("Agreement") is made and entered into this 9th day of June, 2016, by Oncor Electric Delivery Company LLC ("Oncor Electric Delivery Company" or "Company"), a Delaware limited liability company and distribution utility, and City of Plano ("Customer"), a municipality, each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties". In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. **Discretionary Services to be Provided** -- Company agrees to provide, and Customer agrees to pay for, the following discretionary services in accordance with this Agreement.

DD2- Delivery Systems Facilities Relocation/Removal Charge

Customer charge in the amount of \$334,579 is for the burial of a portion of and the re-build of a portion of existing overhead facilities in the alley ways of 14th St and K Ave. Project involves the installation 2-3 ph risers, ug pri in pvc conduits, a switchgear, 4 sec risers, ug sec in pvc conduits, 6 traffic bearing handholes, the replacement of 2 poles and the installation of 1 pole, and the removal of existing poles and wires.

2. **Nature of Service and Company's Retail Delivery Service Tariff** -- Any discretionary services covered by this Agreement will be provided by Company, and accepted by Customer, in accordance with applicable Public Utility Commission of Texas ("PUCT") Substantive Rules and Company's Tariff for Retail Delivery Service (including the Service Regulations contained therein), as it may from time to time be fixed and approved by the PUCT ("Company's Retail Delivery Tariff"). During the term of this Agreement, Company is entitled to discontinue service, interrupt service, or refuse service initiation requests under this Agreement in accordance with applicable PUCT Substantive Rules and Company's Retail Delivery Tariff. Company's Retail Delivery Tariff is part of this Agreement to the same extent as if fully set out herein. Unless otherwise expressly stated in this Agreement, the terms used herein have the meanings ascribed thereto in Company's Retail Delivery Tariff.

3. **Discretionary Service Charges** -- Charges for any discretionary services covered by this Agreement are determined in accordance with Company's Retail Delivery Tariff. Company and Customer agree to comply with PUCT or court orders concerning discretionary service charges.

4. **Term and Termination** -- This Agreement becomes effective upon acceptance by Customer and continues in effect until completion of construction by company. Termination of this Agreement does not relieve Company or Customer of any obligation accrued or accruing prior to termination.

5. **No Other Obligations** -- This Agreement does not obligate Company to provide, or entitle Customer to receive, any service not expressly provided for herein. Customer is responsible for making the arrangements necessary for it to receive any further services that it may desire from Company or any third party.

6. **Governing Law and Regulatory Authority** -- This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to all valid, applicable federal, state, and local laws, ordinances, and rules and regulations of duly constituted regulatory authorities having jurisdiction.

7. **Amendment** -- This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties. But changes to applicable PUCT Substantive Rules and Company's Retail Delivery Tariff are applicable to this Agreement upon their effective date and do not require an amendment of this Agreement.

8. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including all attached Exhibits, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the service(s) expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation _____, and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

9. **Notices** -- Notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:

- (a) If to Company:
Oncor Electric Delivery Company,LL
7309 Frankford Rd.
Dallas, Texas 75252
Attn: Steve Walker



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

6.3 Agreements and Forms

Applicable: Entire Certified Service Area
Effective Date: September 21, 2009

Page 2 of 2

(b) If to Customer:
City of Plano
1520 Avenue K
Plano, Texas 75074
Attn: Michael Martin

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other.

10. **Invoicing and Payment** – Invoices for any discretionary services covered by this Agreement will be mailed by Company to the following address (or such other address directed in writing by Customer), unless Customer is capable of receiving electronic invoicing from Company, in which case Company is entitled to transmit electronic invoices to Customer.

City of Plano
1520 Avenue K
Plano, Texas 75074
Attn: Michael Martin

If Company transmits electronic invoices to Customer, Customer must make payment to Company by electronic funds transfer. Electronic invoicing and payment by electronic funds transfer will be conducted in accordance with Company's standard procedures. Company must receive payment by the due date specified on the invoice. If payment is not received by the Company by the due date shown on the invoice, a late fee will be calculated and added to the unpaid balance until the entire invoice is paid. The late fee will be 5% of the unpaid balance per invoice period.

11. **No Waiver** -- The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

12. **Taxes** -- All present or future federal, state, municipal, or other lawful taxes (other than federal income taxes) applicable by reason of any service performed by Company, or any compensation paid to Company, hereunder must be paid by Customer.

13. **Headings** -- The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

14. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

15. **Other Terms and Conditions** –

(i) Customer has disclosed to Company all underground facilities owned by Customer or any other party that is not a public utility or governmental entity, that are located within real property owned by Customer. In the event that Customer has failed to do so, or in the event of the existence of such facilities of which Customer has no knowledge, Company, its agents and contractors, shall have no liability, of any nature whatsoever, to Customer, or Customer's agents or assignees, for any actual or consequential damages resulting from damage to such undisclosed or unknown facilities.

(ii) City of Plano agrees that payment shall be made within 30 days of the date the project is completed or the date the invoice is received, whichever is later.

(iii) The Discretionary Service Charges provided in this agreement are for Oncor Electric Delivery facilities only and do not include any charges related to the relocation of any facilities owned by a franchised utility, governmental entity, or licensed service provider (Joint User). The customer must contact all Joint Users and make arrangements to have their facilities transferred or relocated. Oncor Electric Delivery cannot complete the relocation/removal of facilities outlined in this agreement until Joint User(s) remove their facilities attached to Oncor Electric Delivery Poles.

(iv)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

Oncor Electric Delivery Company LLC

City of Plano
Customer / Entity

Signature

Signature

Steve Walker
Printed Name

Printed Name

Project Manager
Title

Title

Date

Date

