
LED STREETLIGHT CONVERSION AGREEMENT
Avista Contract No. M-17099

This **LED Streetlight Conversion Agreement** ("Agreement") is entered into between Avista Corporation ("Avista" or the "Company"), and the City of Othello, Washington (the "City"), sometimes referred to, individually, as a "Party" and collectively, as the "Parties".

Background and Purpose: Avista currently provides electrical power to streetlights within the City under rate schedules approved by the Washington Utilities and Transportation Commission (the "Commission"). Under the Relight Washington Program (the "Relight Program") administered by the Washington State Transportation Improvement Board (the "TIB"), the City has requested that Avista convert existing streetlights billed under Avista's Schedule 42, Company Owned Streetlight Service – Washington ("Schedule 42") to LED streetlights (the "Conversions") within the City limits. Avista agrees to perform the Conversions, subject to the terms of this Agreement. Therefore, the Parties agree as follows:

1. **Authorization.** The City authorizes Avista (or its agent) to remove the existing streetlight fixtures and install LED streetlight fixtures within the City limits (the "Conversion Work").
2. **Term of Agreement.** This Agreement will become effective when executed by both Parties ("Effective Date") and remain in effect until the City has reimbursed Avista for the "Conversion Costs" described in Section 4 below.
3. **Avista's Obligations and Responsibilities.**
 - 3.1 Avista will provide the labor, materials and equipment necessary to convert 236 Avista-owned streetlights, only. The City shall be responsible for arranging for the conversion of City-owned streetlights with the TIB.
 - 3.2 Avista will provide all vehicle and pedestrian traffic control required to complete the Conversion Work, using commercially reasonable efforts to minimize the duration of any road closures.
 - 3.3 Avista will use reasonable commercial efforts to complete the Conversions as soon as feasible taking into consideration the workloads and availability of Avista's crews and other utility situations that may require Avista, at its sole discretion, to delay completion.
4. **Conversion Costs/Reimbursement/Billing.**
 - 4.1 The "Conversion Costs" applicable under this Agreement are \$450.00 per streetlight fixture. Unless otherwise agreed to by the Parties, in writing (e-mail acceptable), upon completion of the Conversion Work, Avista will invoice the City for the number of Conversions multiplied by the Conversion Costs for submittal to the TIB for reimbursement. The City shall forward the TIB refund to Avista immediately upon City's receipt of same from the TIB.
 - 4.2 Avista will bill the City for the converted streetlights in accordance with the "Custom Streetlight Calculation" Section described in Schedule 42; provided, however that, in accordance with the Relight Program, Avista will convert existing streetlights to LED streetlights only once. In the event a converted LED streetlight is disabled, for any reason, Avista will replace the streetlight at its expense; however, such replaced streetlight will no longer be eligible for billing under the "Custom Streetlight" rate, but will revert back to the applicable monthly rate reflected in the then-current Schedule 42.
5. **Indemnification.**
 - 5.1 Subject to applicable law, the City shall indemnify and, upon request, defend Avista, its directors, officers, employees and agents, from and against all claims, demands, suits, losses, expenses (including court costs and reasonable attorneys' fees), and damages (individually or collectively, "Loss") brought against or incurred by Avista resulting from, or in any way connected with any

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- act, omission, fault, or negligence of the City or its employees, agents, suppliers and subcontractors of any tier in the performance or nonperformance of the City's obligations under this Agreement.
- 5.2 Subject to applicable law, Avista shall indemnify and, upon request, defend the City, its directors, officers, employees and agents, from and against all Loss brought against or incurred by the City resulting from, or in any way connected with any act, omission, fault, or negligence of Avista or its employees, agents, suppliers and subcontractors of any tier relating to the Conversion Work.
- 5.3 In the event that any Loss is caused by the concurrent negligence of both the City and Avista, the Loss will be borne by each Party in the proportion that their respective negligence bears to the total negligence causing such Loss.
- 5.4 Neither Party will be liable for any special, indirect, incidental, punitive or consequential damages arising from the installation, repair, maintenance or operation of the LED streetlights including, without limitation, the other Party's loss of actual or anticipated profits, loss because of shutdown, non-operation, increased expense of its facilities or operations, cost of capital, or claims of third parties.
6. **Notices.** Unless otherwise specified, any notice required under this Agreement shall be given in writing, and shall be effective from the date received by the Party to whom it is provided.
- 6.1 To Avista:
- Avista Utilities
PO Box 3727
1411 E. Mission Ave.
Spokane, WA 99220-3727
Contract No. M-17085
Attn.: Director, Energy Solutions
- 6.2 To City:
- City of Othello
500 E Main Street
Othello, WA 99344
Attn: Mayor
- 6.3 Either Party may change its address by providing written notice to the other as set forth above.
7. **Assignment.** The City shall not (by contract, operation of law or otherwise) assign this Agreement, or any right or interest in this Agreement, without providing Avista with at least 30 days' prior written notice of such assignment. No such assignment, with or without prior written notice, will relieve the City from its responsibilities under this Agreement, and all obligations and liabilities incurred will be preserved until satisfied.
8. **Governing Law.** This Agreement will be interpreted in accordance with the laws of the State of Washington, excluding any choice of law rules which direct the application of laws of another jurisdiction. Any litigation relating to this Agreement not within the jurisdiction of the Commission will be brought in a court of competent jurisdiction in the State of Washington.
9. **Attorney's Fees.** If any legal action or proceeding is brought by either Party against the other in connection with this Agreement, the prevailing Party will be entitled to recover from the other Party, reasonable attorney's fees to be fixed by the court.
10. **Amendment and Waiver.** This Agreement contains all of the conditions bearing upon its subject matter and may not be modified except by written agreement between the Parties. If at any time the

terms of this Agreement are not strictly adhered to or enforced, such requirements will not be deemed waived or modified but will, at all subsequent times and dates, be deemed in full force and effect.

11. **Headings.** Section headings in this Agreement are for convenience only and will not be considered part of, or used in the interpretation of this Agreement.

This Agreement has been executed by each Party's authorized representative on the date(s) set forth below.

Avista Corporation



(Signature)

Landen Grant
(Printed Name)

Project Manager
(Title)

6/2/16
(Date Signed)

City of Othello, WA


(Signature)

Shawn R. Logan
(Printed Name)

Mayor
(Title)

5/31/16
(Date Signed)