

RESOLUTION

R18-921

A RESOLUTION AUTHORIZING GEORGIA POWER LIGHTING SERVICE AGREEMENT FOR MEMORIAL PARK LED CONVERSION; AUTHORIZING THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; REPEALING INCONSISTENT RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Stockbridge ("City") is a municipal corporation located within Henry County, Georgia duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and

WHEREAS, the City finds it necessary and desirable to provide lighting service for Memorial Park;

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKBRIDGE, GEORGIA, AS FOLLOWS:

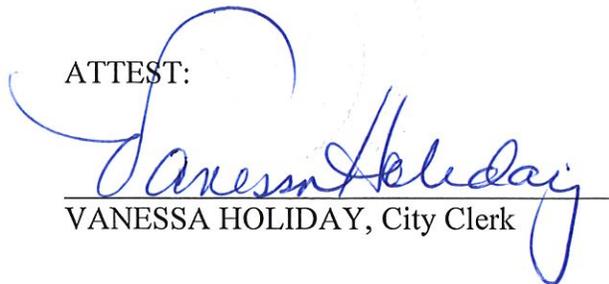
1. **Approval of Execution.** The City hereby approves the service agreement to provide lighting service for Memorial Park, attached hereto as Exhibit A, and the Mayor or Mayor Pro Tem is hereby authorized to execute said contract with such changes as are recommended by the City Attorney.
2. **Documents.** The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate the amendment, subject to approval as to form by the City Attorney.
3. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.
4. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.
5. **Effective Date.** This Resolution shall be effective on the date of its approval by the City Council and Mayor as provided in the City Charter.

SO BE IT RESOLVED this 12th day of March 2018.



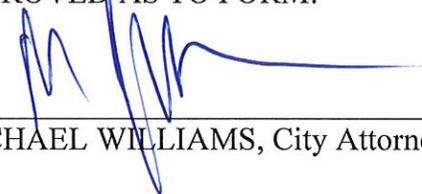
ANTHONY S. FORD, MAYOR

ATTEST:



VANESSA HOLIDAY, City Clerk (SEAL)

APPROVED AS TO FORM:



MICHAEL WILLIAMS, City Attorney

EXHIBIT A

Lighting Services Agreement - Illumination



Customer Legal Name STOCKBRIDGE CITY OF DBA _____
 Service Address 106 CEMETARY ST STOCKBRIDGE GA 30281 County Henry - GA
 Mailing Address 4545 N HENRY BLVD STOCKBRIDGE GA 30281
 Email _____ Tel # 770-389-7900 Alt Tel # _____
 Tax ID# 5620 Business Description Memorial Park
 Existing Customer Yes No If Yes (and if possible), does customer want the Service added to an existing account? Yes No If Yes, which Account Number? _____

Selected Components

Action	Qty	Wattage	Type	Description
INS	33	80	LED	Post Top
INS	2	130	LED	Flood (pole-mounted)
INS	2	150	LED	Area

Service Cost (\$)	Regulated Cost (\$)*	Monthly Cost (\$)*	Term (Months)
\$681.75	\$112.64	\$794.39	1

* The actual Regulated Cost will be calculated using the tariffs approved by Georgia Public Service Commission at the time of billing. This estimate is based on Summer Rates in effect at the time of this proposal.

** The actual upfront sales tax will be calculated based on the taxes in effect at the time for the premise location.

Project Notes:

Customer agrees to this Lighting Services Agreement with Georgia Power Company under the attached terms and conditions and authorizes all actions noted on this agreement. Customer also agrees to allow removal of existing GPC assets, and/or Customer Owned assets as needed to provide the Service.

Type	Customer	Tariff	Content
NESC	Gov	EOL	

Pre-Payment (\$)	Estimated Taxes (\$)**	Total (\$)**
\$27,000.00	N/A	\$27,000.00

Customer recognizes that the individual signing this Agreement on its behalf has authority to do so.

Customer Authorization		Georgia Power Authorization	
Signature: <i>Anthony S. Ford</i>		Signature: <i>Ezekiel Roberts</i>	
Print Name: <i>Anthony S. Ford</i>		Print Name: Ezekiel Roberts	
Print Title: <i>MAYOR</i>		Print Title: Account Exec	
Date: <i>March 12, 2018</i>		Date: <i>3-17-18</i>	

EXHIBIT A
PAGE 1 OF 1

TERMS and CONDITIONS (Illumination - Governmental)

1. **Lighting Services Agreement.** This Lighting Services Agreement (the "Agreement") establishes the terms and conditions under which Georgia Power Company ("GPC") will provide lighting service and, where GPC deems necessary, related electric service (collectively "Service") to the Customer identified on page 1 of this Agreement ("Customer"). Service will be provided to Customer at the Service Address set forth on page 1 of this Agreement (the "Premises"). GPC may update, modify or replace all poles, bases, wiring, conduit, fixtures, controls and related items (collectively, the "GPC Assets") as necessary or convenient in order to address regulatory requirements or for other reasons related to the provision of Service.
2. **Intent and Title.** This Agreement concerns the provision of Service to Customer by GPC and is not a sale, lease or licensing of goods, equipment, property or assets of any kind. GPC retains the sole and exclusive right, title and interest in and to all of the GPC Assets utilized in connection with the Service. Moreover, GPC may remove the GPC Assets upon termination of this Agreement. GPC makes no representation or warranty regarding treatment of this transaction by the Internal Revenue Service or the status of this Agreement under any federal or state tax law. Customer enters into this Agreement in sole reliance upon Customer's own advisors.
3. **Term.** The Initial Agreement term is stated on Page 1, calculated from the date of the first monthly bill. After the initial term, this Agreement automatically renews on a month-to-month basis until terminated by either party by providing written notice of intent to terminate to the other party at least 30 days before the desired termination date. GPC's address for notice is 1790 Montreal Circle, Tucker, GA 30084-6801; Customer's mailing address is noted on Page 1.
4. **Payment.** GPC will invoice Customer per the terms stated on Page 1, subject to any change in the electric service charge dictated by the Georgia Public Service Commission. Customer agrees to pay the amount billed by the due date. If a balance is outstanding past the due date, Customer acknowledges that GPC may require Customer to pay a deposit of up to two times the Estimated Monthly Charge in order to continue service. If applicable, Customer must provide a copy of its Georgia sales tax exemption certificate. Customer will be required to pay any and all costs associated with Customer initiated changes after the date the Agreement has been signed.
5. **Premises Activity.** Customer grants GPC and its contractors and representatives the right and license to enter the Premises and perform all manner of activities related to the provision of Service, including the right to: (i) access the Premises with vehicles, the GPC Assets and other tools or equipment in order to install and connect the GPC Assets and provide Service; (ii) remove and disconnect pre-existing equipment where it is necessary or convenient to do so for the provision of Service; (iii) inspect, maintain, test, replace, repair, and remove GPC Assets; (iv) provide electric energy in relation to the Service where GPC deems necessary; and (v) conduct any other activities reasonably related to the provision of Service, including surveying, digging and excavation with tools, mechanized equipment and other machinery (activity items (i) - (v) collectively, the "GPC Activity"). Customer represents that it has the right to permit GPC to provide the Service and perform the GPC Activity upon the Premises and, where applicable, has obtained the express authority and any required permissions from all Premises owners (and any other party with rights in the Premises) to enter into this Agreement and to authorize the GPC Activity and Service.
6. **Installation.** Customer recognizes that GPC may be required to install the GPC Assets in order to provide this service. Customer represents that: (i) the Premises' final grade will vary no more than 6 inches from the grade existing at the time of installation; and (ii) if applicable and required for proper installation, Premises property lines will be clearly marked before installation.
 - A. **Customer Work.** If GPC, upon Customer's request, allows Customer to itself or through a third party perform any part of the activities related to the installation of GPC Assets at the premises (including trenching), Customer warrants that the work will meet GPC's installation specifications (which GPC will provide to Customer and are incorporated by this reference). Customer is responsible for all reasonable additional costs arising from Customer's non-compliance with GPC's specifications or lack of timely (i.e., 10 days) notice to GPC that GPC Activity related to the installation and connection of GPC Assets can commence.
 - B. **Underground Facility/Obstruction Not Subject to Dig Law.** Because GPC Activity may require excavation not subject to the Georgia Utility Facility Protection Act (O.C.G.A. §§25-9-1 - 25-9-13) ("Dig Law"), Customer must mark any private utility or facility (e.g., gas/water/sewer line; irrigation facility; low voltage data/communication line) or other underground obstruction at the Premises that is not subject to the Dig Law. If GPC causes or incurs damage due to Customer's failure to mark a private facility or obstruction before GPC commences the GPC Activity, Customer is responsible for all damages and any resulting delay.
 - C. **Unforeseen Condition.** The estimated charges shown on Page 1 include no allowance for any subsurface rock, wetland, underground stream, buried waste, unsuitable soil, underground obstruction, archeological artifact, burial ground, threatened or endangered species, hazardous substance, etc. encountered during the GPC Activity ("Unforeseen Condition"). If GPC encounters an Unforeseen Condition, GPC, in its sole discretion, may stop all GPC Activity until Customer either remedies the condition or agrees to reimburse all GPC costs arising from the condition. Customer is responsible for all costs of modification or change to the GPC Assets requested by Customer or dictated by an Unforeseen Condition or circumstance outside GPC's control.
7. **GPC Asset Protection and Damage.** During the term of this Agreement, in the event of any work or digging near the GPC Assets, Customer (or any person or entity working on Customer's behalf) must: (i) provide notices and locate requests to the Georgia Utilities Protection Center ("UPC") and other utility owners or operators as required by the then current Dig Law; (ii) coordinate with the UPC and all utility facility owners or operators as required by the Dig Law; and (iii) comply with the High-voltage Safety Act (O.C.G.A. §§46-3-30 -- 46-3-40). As between Customer and GPC, Customer is responsible for all damages arising from failure to comply with applicable law or for damage to the GPC Assets caused by anyone other than GPC (or a GPC contractor or representative).
8. **Interruption of Service.** Customer understands Service is provided on an "as is" and "as available" basis and may be interrupted. Customer is responsible for notifying GPC if there is a Service interruption. Customer can provide such notice by either calling 1-888-660-5890 to report the issue or by reporting the issue online at (<http://outdoorlighting.georgiapower.com>).
9. **Pole Attachments.** If Customer desires to attach or affix anything to the GPC Assets, Customer must first obtain GPC's written consent. Customer must call GPC Lighting Services Business Unit at 1-888-660-5890 to obtain such authorization.
10. **Disclaimer; Damages.** GPC makes no covenant, warranty, or representation of any kind (including warranty of fitness for a particular purpose or of merchantability) regarding the Illumination Service or any GPC Activity. Customer also acknowledges that, due to the unique characteristics of the Premises, Customer's needs, or GPC Assets choice, the Illumination Service may not follow IESNA guidelines. Customer waives any right to consequential, special, indirect, trouble, exemplary, incidental, punitive, loss of business reputation, or loss of use (including loss of revenue, profits, or capital costs) damages in connection with the Illumination Service, GPC Assets or this Agreement, or arising from damage, hindrance, or delay involving the Illumination Service or this Agreement, whether or not reasonable, foreseeable, contemplated, or avoidable. Customer is solely responsible for safety of the Premises and agrees that GPC has no obligation to ensure the safety of the Premises.
11. **Georgia Security, Immigration, and Compliance Act.** Customer is a "public employer" as defined by O.C.G.A. § 13-10-91 and this is a contract for physical performance of services within the state of Georgia. Compliance with requirements of O.C.G.A. § 13-10-91 is a condition of this Agreement and is mandatory. GPC will provide to Customer a contractor's affidavit as required by O.C.G.A. § 13-10-91. GPC also agrees that, if it employs or contracts with any subcontractor(s) in connection with this Agreement, GPC will secure from each subcontractor an affidavit attesting to the subcontractor's compliance with O.C.G.A. § 13-10-91.
12. **Arbitration.** Any disputes which the parties are unable to resolve in good faith within 30 days written notice to the defaulting or breaching party, other than those disputes related to indemnity or for which a claim is filed by Customer or GPC individually in a small claims court or Customer's state's equivalent court so long as the claim remains in such court and advances as an individual (non-class, non-representative) claim for relief, will be submitted to arbitration administered by JAMS in Atlanta, Georgia in accordance with the JAMS Streamlined Arbitration Rules & Procedures before a single arbitrator, and the Federal Arbitration Act, 9 U.S.C. § 1 et seq. The arbitrator will issue an award in a form not to exceed one page and will not include findings of fact, conclusions of law or a reasoned opinion. Customer must pay their share of the arbitration fees, as established by the arbitrator, up to a maximum of \$75. If Customer prevails in the arbitration, GPC will bear all reasonable expenses borne by Customer in connection with the arbitration. Customer will not be permitted to participate as a representative or member of any class arbitration with respect to any claim that is subject to this agreement and Customer irrevocably waives any right they may have had to participate in any such class. The arbitrator has no authority to conduct any consolidated, joint or class arbitration as to any claims and will only address and determine the individual claims of the parties. If any part of this arbitration clause is found to be unenforceable, the entire arbitration clause will be unenforceable.
13. **Default.** Customer is in default if Customer does not pay the entire amount owed within 45 days of billing or terminates this Agreement without proper notice and prior to the end of the then current term. GPC's waiver of any past default will not waive any other default. If default occurs, GPC may elect to immediately terminate this Agreement and remove any or all GPC Assets from the Premises, and shall be entitled to seek any and all available remedies provided by law, including, without limitation, the right to collect all past due amounts (including late fees if applicable) and all amounts due for the Service during the remaining term of the Agreement.
14. **Miscellaneous.** This Agreement contains the parties' entire agreement relating to the Service and GPC Activity and replaces any prior agreement, written or oral. Subject to applicable law, GPC may modify the terms of this Agreement by providing 30 days' prior written notice to Customer of such modification. If Customer uses the Service or makes any payment to use the Service on or after the effective date of the modification, Customer accepts the modification. Either party may update administrative or contact information (e.g., address, phone, website) at any time by written notice to the other party. Customer will not assign, in whole or in part, this Agreement or its Agreement rights or obligations. Any such assignment without GPC's prior written consent will be void and of no effect. In this Agreement, "including" means "including, but not limited to." Georgia law governs this Agreement. If a court rules an Agreement provision unenforceable to any extent, the rest of that provision and all other provisions remain effective.