

RESOLUTION NO. 3-07  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Shesham ON THE  
19<sup>th</sup> DAY OF February, 2007.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR STREET LIGHTING AND ENERGY SERVICES FOR USE ON PUBLIC GROUNDS AND STREETS IN THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, STATE OF OHIO, FOR A PERIOD OF FORTY-EIGHT (48) MONTHS COMMENCING JANUARY 1, 2007 AND EXPIRING ON DECEMBER 31, 2010.

WHEREAS, the citizens of City of Centerville, Montgomery County, Ohio require the efficient and effective delivery of municipal services; and

WHEREAS, all City purchases in excess of \$30,000.00 require authorization by the City Council.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. The City Manager is hereby authorized to enter into an agreement for street lighting and energy services for use on public grounds and streets and in conformity with the City's purchasing and contracting procedures, a copy of said Agreement is attached hereto, marked as Exhibit "A" and incorporated herein.

PASSED this 19<sup>th</sup> day of February, 2007.

Debra A. James  
Deputy - Mayor of the City of Centerville, Ohio

ATTEST:

Debra A. James  
Clerk of Council, City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 3-07, passed by the Council of the City of Centerville, Ohio, on the 19<sup>th</sup> day of February, 2007.

Debra A. James  
Clerk of Council

Approved as to form, consistency  
with the Charter and Constitutional Provisions.

Department of Law  
Scott A. Liberman  
Municipal Attorney

**City of Centerville,**  
**Street Lighting and Energy Services Agreement**

Whereas, the lighting of roadways and neighborhoods enhances public safety and security, and

Whereas, the State of Ohio and Public Utilities Commission of Ohio (PUCO) have made certain options available to municipalities pertaining to the supply of electric generation and transmission service, and

Whereas, Miami Valley Lighting, LLC, and DPL Energy Resources, Inc., are DPL Inc. subsidiaries and collectively, d.b.a. DPL Energy (DPLE), and

Whereas DPLE is willing to own, maintain, and operate lighting fixtures and associated equipment on a long-term basis to provide full service lighting services and is also willing to provide other electric generation and transmission supply services, and

Whereas, The City of Centerville, Ohio (City), desires to purchase such full service lighting services from DPLE at prices and on terms stated herein and also may in the future desire to purchase electric generation and transmission supply services from DPLE on terms beneficial to both parties.

Now therefore, DPLE proposes to light the streets, roads and public places within the boundaries of the City and potentially contract for the provision of electric generation and transmission supply services on the following terms and conditions:

1. **Street Lighting Service:** DPLE shall provide the City's full service street lighting needs and various other related street lighting services designed to illuminate the streets, roads and public places within the City. Full service street lighting is the provision of street lighting by DPLE using DPLE owned lighting fixtures and associated equipment operated and maintained by DPLE and attached to either DPLE, The Dayton Power and Light Company ("DP&L") or other entity, or City provided poles.

2. **Full Service Lighting Charges:** The individual prices for full service street lighting fixtures/poles will remain constant throughout the term of the agreement and are set forth in Appendix A, which is incorporated herein by reference. The City will pay DPLE these charges minus a four percent (4%) discount off the City's total monthly street light bill in 2007. For 2008, 2009 and 2010, the discount level moves to three percent (3%).

3. **Retail Generation and Transmission Service:** If at any time during the four (4) years of the Agreement, the City elects to purchase electric generation and transmission supply service from an entity other than its current supplier, the City shall select DPLE as its provider of choice. In the event that the City elects to contract with DPLE for such services the City and DPLE will negotiate a separate agreement for the provision of electric generation and transmission service to the City at a specified price. DPLE will utilize reasonable efforts to find the best generation and transmission service that DPLE can acquire for the City, given the City's specification as to term, source, price, delivery risk and other factors.

4. **Billing and Payment:** Unless otherwise agreed to by the parties, the charges assessed hereunder shall be billed by DPLE and paid by the City on a monthly basis. All bills issued for services rendered hereunder shall be due and payable to DPLE within twenty (20) days of the

mailing date of said bills. Payments received after the due date will be subject to interest at the rate of one and one-half percent (1-1/2%) per month on all balances past due, provided however, that if the City contests the amount of a bill, the portion of the bill which is contested in good faith will not be subject to the delayed payment charge if the City notifies DPLE prior to the due date for payment of the fact that it is contesting and provides the reason why that portion of the bill is incorrect.

**5. Temporary Disconnection:** At times it may become necessary to temporarily disconnect certain street lighting fixtures. DPLE shall temporarily disconnect any of its fixtures at the City's request. In exchange for this service, DPLE shall assess a charge of \$50.00 for each physical disconnection and \$50.00 for each physical reconnection of a street lighting fixture. During the period a light has been disconnected, but not removed, at the City's request, the monthly service charge will be 60% of the applicable full service lighting charge

**6. New Full Service Lighting Installations:** The standard street lighting installation of DPLE equipment will be high pressure sodium (HPS) cobra head fixtures in 9,500, 16,000, 27,000 and 50,000 initial lumen level choices. These lights will be installed on existing or new DPLE-provided wood or metal poles, DP&L or other entity or City-provided poles where electricity for the lighting can be supplied with overhead conductor spans served from the electric distribution utility's (EDU) existing secondary distribution system using accepted engineering standards. Should the City choose to have DPLE install a standard cobra head fixture on a DP&L or other pole, the City will be responsible for all costs incurred by DPLE from DP&L or other pole owner to have the fixture installed. DPLE will offer decorative type light fixtures of types and styles designated by DPLE. The decorative lighting fixtures will be available for installation on appropriate DPLE or other entity provided poles.

The City shall pay charges for the installation of new street lighting fixtures and equipment as stated in Appendix B.

Beginning January 1, 2008, these charges may be increased annually at the rate which does not exceed the increase of the Consumers Price Index, All Commodities (CPI), calculated on a one year lag basis. (e.g. prices in January 2008 will increase above December 2007 prices based on the annual increase in the CPI during 2006.)

The above-stated charges are for all new street lighting installations agreed to and approved by the City and DPLE prior to November 1<sup>st</sup>, of the then current year. Installations approved after November 1 of the then current year will be charged at the following year's stated price unless installed prior to December 31<sup>st</sup>. Installation of new fixtures/poles will be scheduled by DPLE after receiving final approval by the City of DPLE's proposal and plans for the installation and receipt of a purchase order for the above-described charges from the City's authorized agent.

DPLE is able to provide a wide selection of street light product offerings. If the City desires a street light product not in DPLE's offerings, DPLE will work with the City in an effort to develop a proposal for the desired street light product.

**7. Non-Standard Street Lighting Installations:** DPLE may also install and sell to the City certain non-standard lighting system components for prices which will be quoted annually. DPLE will install standard mast arms and lighting fixtures on non-standard City-owned or provided poles in accordance with the terms and charges specified in Section 6, herein. The price for non-standard installations currently available from DPLE is listed in Appendix C.

Commencing in January 2008, the charges may be increased annually at a rate which does not exceed the increase in the CPI rate determined as described in Section 6, herein.

The above-stated charges are for all new street lighting installations agreed to and approved by the City and DP&L prior to November 1<sup>st</sup> of the then current year. Installations approved after November 1 of the then current year will be charged at the following year's stated price unless installed prior to December 31<sup>st</sup>.

The trenching and associated costs to provide underground service if required by code or designated by the City will be the responsibility of the City as outlined in Section 9, herein and may be quoted by DP&L as an additional charge for each installation.

**8. Poles:** Existing poles, owned or leased by either DP&L, owned by DP&L or another entity or the City, will be used for the installation of new or replacement fixtures whenever practical. Otherwise, DP&L will install lights on new DP&L-owned or leased wood poles or poles provided by the City.

Where DP&L installs fixtures on poles owned, leased or provided by the City, it will be the responsibility of the City to provide replacement poles and materials and maintenance when necessary. The City will pay DP&L for all reasonable work performed by DP&L to install, maintain or repair City-owned/provided poles when performed on an emergency basis.

Additionally, DP&L may quote charges for repairs, replacement and maintenance of City-owned/provided poles on a non-emergency basis upon request for such a quote from the City. The monthly charge for DP&L lights installed on poles owned or provided by the City will be the appropriate full service street light charge for the type of street light installed.

**9. Wiring:** DP&L will provide all wiring to lighting provided by DP&L. Standard wiring will be spans of overhead conductor operating at one of DP&L's standard secondary voltages.

When underground wiring is required, or requested by the City, it will be the responsibility of the City to provide all trenching, back filling, pavement cuts and repairs, and associated work and/or costs for the installation of underground wiring. DP&L will be afforded the opportunity to bid for such service.

**10. Changes to Existing Lighting Equipment:** Upon request by the City's authorized agent, DP&L will permanently remove a limited number of street lights at no charge to the City. DP&L will relocate street lights at no charge to the City when such relocation is required for completion of the City public works projects such as road reconstruction, installation of water mains, storm sewers etc. DP&L will not be required to remove a street light facility on a temporary basis and any temporary disconnection will be charged in accordance with Section 5 of this Agreement.

The City may request the change out of existing lighting fixtures to the same style, higher lumen standard HPS fixture without charge except for the change in the monthly full service charge. All other change outs including relocation of fixtures or mast arms on existing poles or change out of fixtures to the same or lower lumen fixtures or to different styles will be done at a charge mutually agreed to by the City and DP&L.

All change outs will be accomplished on a schedule submitted by DP&L to the City.

If in the judgment of DPLE, a lighting fixture becomes obsolete or will no longer be serviceable, DPLE will notify the City and upon permission from the City's authorized agent, change the light out to a standard DPLE street light fixture. DPLE may also, after receiving permission from the City's authorized agent, change lighting fixtures to technically or economically superior equipment. The City will not unreasonably withhold permission for these changes. If DPLE and the City cannot reach agreement on such changes, DPLE may remove the lighting fixture at no cost to the City.

**11. Installation.** DPLE will be permitted to install, in public right-of-way, DPLE-owned or leased wires, poles, guys, and other equipment it deems necessary to provide the services agreed upon hereunder at no cost to DPLE for the use of public right-of-way.

**12. Period of Illumination:** All lights will be illuminated in accordance with an "ALL NIGHT AND EVERY NIGHT SCHEDULE", which is every night from approximately one-half hour after sunset of one day, until approximately one-half hour before sunrise of the next day. This will result in each fixture being illuminated approximately 4,000 hours per year. DPLE does not guarantee continuous lighting without disruption or interruption and will not be liable to the City or anyone else for any damage, loss or injury resulting from/or in any way connected to the loss of illumination at any time. DPLE will use its best efforts to restore lighting service when interrupted within the terms described herein.

**13. Outages:** DPLE will repair minor outages (lamp, photocell, fuse, replacements, etc.) within three (3) business days, on a monthly average basis, from when the outage is reported by the City. DPLE will repair major outages (underground electric faults, fixture or pole replacements, etc.) within seven (7) business days, on a monthly average basis, from when the outage is reported by the City. A monthly average restoration will be calculated by dividing the number of elapsed days to restore service to all street lights impacted by minor and major outages by the number of minor and major service calls reported by the City in the effective month.

On a monthly basis DPLE will provide each City a monthly minor and major repair report by the 15<sup>th</sup> day after the effective month. If the average restoration exceeds three (3) days for minor repairs or seven (7) days for major repairs, DPLE will credit the community One Hundred Fifty (\$150) on their next monthly bill.

**14. Commitment:** The "Commitment Level" is the number of full service street lights leased by DPLE to the City as of December 31, 2006. Through the term of the Agreement, the Commitment Level shall be maintained at all times except that the City will have the option to reduce its Commitment Level by one percent (1%) of the original Commitment Level per calendar year.

If in any month the number of full service street lights falls below the Commitment Level, DPLE will be entitled to continue billing City at the Commitment Level minus any applicable 1% reductions already taken. If City falls below the Commitment Level they shall be invoiced according to the following equation; (actual Contract charges for remaining equipment) + (average cost of remaining equipment X the number of lights below the Commitment Level).

**15. Term:** This Agreement shall supersede any previous agreement for street lighting that may currently exist between the parties and shall retroactively commence on January 1, 2007 and shall remain in effect through December 31, 2010.

16. **Force Majeure:** Neither party shall be liable to the other for any act, omission, misfeasance, malfeasance or circumstance arising or resulting from events reasonably beyond the control of either party. If a force majeure condition arises, each party will use due diligence to remove the condition and put itself in a position to carry out all of the obligations it has assumed hereunder.

17. **Assignment:** DPLE reserves the right to assign this agreement upon ninety (90) days advance written notice.

18. **Obligations:** Nothing in this agreement will be construed to obligate DPLE or the City to trim trees located adjacent to any street lighting fixture. Further, except as provided herein, nothing in this agreement will obligate DPLE to maintain City-owned lighting equipment or provide non-standard lighting installations unless otherwise agreed.

19. **Modification and Extension:** Prior to the expiration of this Agreement, the parties shall meet and negotiate in good faith for the possible renewal of this Agreement. If the parties are unable to agree on new terms and conditions 60 days before the date of contract expiration or the expiration of any renewal term, then either party may give written notice of termination up to the date of actual expiration. If neither party elects to terminate, the contract shall automatically renew on the same terms and conditions and for a like term as the expired contract. If the Agreement is not renewed or is terminated for any reason, DPLE shall have a reasonable amount of time in which to remove its equipment and the City shall be responsible for all costs associated with DPLE's permanent removal of its lighting equipment.

20. **Notices:** All notices and correspondence transmitted in regard to this Agreement shall be addressed to the following persons:

If to DPLE:           DPL Energy  
                          1065 Woodman Drive  
                          Dayton, OH 45432  
                          Attn: Customer Account Manager, DPL Energy

If to City:           \_\_\_\_\_

                          \_\_\_\_\_

                          \_\_\_\_\_

                          \_\_\_\_\_

These addresses may be changed upon written notice to the other party.

21. **Waiver:** Either party may waive any right under this agreement. The waiver by a party to require performance of a provision of the Agreement will not affect the right to require full performance of any provision thereafter. The waiver by either party of a breach of a provision will not constitute a waiver of any subsequent breach or nullify the effectiveness of the provision.

22. **Entirety:** This Agreement contains the entire agreement and understanding between the parties. Except as stated herein, THERE ARE NO OTHER ORAL OR WRITTEN PROMISES, AGREEMENTS, WARRANTIES, ASSURANCES OR CONDITIONS WHICH AFFECT THE PROMISES AND OBLIGATIONS PROVIDED HEREIN.

DPL Energy

\_\_\_\_\_  
Attest

By: \_\_\_\_\_  
Gary Stephenson  
Vice President, Miami Valley Lighting,  
LLC, and DPL Energy Resources, Inc.,

Date \_\_\_\_\_

City of Centerville, Montgomery County,  
State of Ohio

\_\_\_\_\_  
Attest

By: \_\_\_\_\_  
City Manager

Date \_\_\_\_\_



**Appendix A  
Street Lighting Agreement**

**Monthly Full Service Lighting Charge Per Fixture**  
2007-10

**HIGH PRESSURE SODIUM FIXTURES:**

5,800 Lumens	\$8.60
9,500 Lumens	\$10.99
16,000 Lumens	\$12.79
27,000 Lumens	\$17.17
50,000 Lumens	\$20.81
50,000 Lumens (Sterner, Pole Included In Price)	\$24.94
54,000 Lumens (Twin, Pole Included In Price)	\$52.66
77,000 Lumens (Sterner, Pole Included In Price)	\$45.82
100,000 Lumens (Twin, Pole Included In Price)	\$36.71
5,800 Lumens (Post Top Traditional, Fixture Only)	\$13.35
5,800 Lumens (Post Top Acorn, Fixture Only)	\$17.90
9,500 Lumens (Vimont Post Top, Limited Maintenance)	\$5.50
9,500 Lumens (Post Top Traditional, Fixture Only)	\$12.85
9,500 Lumens (Post Top Acorn, Fixture Only)	\$18.70
9,500 Lumens (Post Top Gas Light Style, Fixture Only)	\$24.40
16,000 Lumens (Post Top Regal, Fixture Only)	\$25.00
16,000 Lumens (Tear Drop, Fixture Only)	\$25.50

**MERCURY LUMINAIRES:**

4,000 Lumens	\$6.32
7,700 Lumens	\$9.91
11,000 Lumens	\$11.07
21,000 Lumens	\$14.46
4,000 Lumens (Post Top, Pole Included In Price)	\$13.82
7,700 Lumens (Post Top, Pole Included In Price)	\$14.06

**OTHER LUMINAIRES:**

2,500 Lumens (Incandescent)	\$4.24
4,000 Lumens (Incandescent)	\$7.69
12,000 Lumens (Fluorescent)	\$18.64

Unless specifically noted above as already being included, the full service lighting charge listed above shall also have added to it the following sum each month for lighting fixtures installed on DPLE provided metal or decorative poles.

**Metal or Decorative Pole Installations Existing on January 1, 1995:** \$3.55

**New Installations of Metal or Decorative Poles made after January 1, 1995:**

23' Spun Aluminum Pole	\$23.00
30' Spun Aluminum Pole	\$26.50
35-37' Spun Aluminum Pole	\$32.30
13' Textured Fiberglass Pole	\$6.65
13' Smooth Fiberglass Pole	\$7.40
13' Textured Aluminum Pole, Direct Bury	\$7.40
12' Cast Aluminum Pole	\$16.40

**Appendix B**  
**New Full Service Lighting Installation Charges**

	<u>Fixture Only</u>
HPS Cobra Head Fixtures:	<u>No Charge</u>
<u>HPS Decorative Fixtures:</u>	
9,500 Lumen Post Top (Traditional Style)	\$365
9,500 Lumen Post Top (Acorn Style)	\$401
9,500 Lumen Post Top (Gas Light Style)	\$573
16,000 Lumen Post Top (Regal Style)	\$800
16,000 Lumen (Tear Drop Style)	\$600
<u>Poles:</u>	<u>Pole Only</u>
Wood Poles (35' and Below)	\$401
Wood Poles (40' and Higher)	\$500
23' Spun Aluminum Pole	\$470
30' Spun Aluminum Pole	\$573
37' Spun Aluminum Pole	\$1,100
13' Textured Aluminum Pole, Direct Bury	\$275
12' Cast Aluminum Pole	\$625

**Appendix C**  
**Non-Standard Lighting Installation Charges**

Spun Aluminum Pole (23') with Screw Anchor Foundation	\$1,553
Spun Aluminum Pole (30') with Screw Anchor Foundation	\$1,829
Spun Aluminum Pole (37') with Screw Anchor Foundation	\$2,836
Cast Aluminum Pole (Nominal 12') with Screw Anchor Foundation	\$1,630
13' Textured Cast Aluminum, Direct Bury	\$823

**SPECIFICATIONS FOR LIGHTING THE STREETS, ROADS,  
LANES, ALLEYS, AVENUES AND PUBLIC PLACES  
IN THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, STATE OF OHIO**

**FIRST.** The luminaires of the various nominal lumen intensities to be used for the lighting of said streets, roads, lanes, alleys, avenues and public places shall be equipped with a type unit for directing and distributing the light onto the street. The luminaires with their corresponding type unit, or luminaires substantially equivalent thereto, shall be as follows:

<u>Luminaire</u>	<u>Type Unit</u>
7,700 Lumen - Mercury	G.E. Form M-250
21,000 Lumen - Mercury	G.E. Form M-400
5,800 Lumen - High Pressure Sodium	G.E. Form M-250
9,500 Lumen - High Pressure Sodium	G.E. Form M-250
16,000 Lumen - High Pressure Sodium	G.E. Form M-250
27,000 Lumen - High Pressure Sodium	G.E. Form M-250
50,000 Lumen - High Pressure Sodium	G.E. Form M-400
5,800 Lumen (Acorn Style Post Top) - High Pressure Sodium	G.E. Edison III
9,500 Lumen (Acorn Style Post Top) - High Pressure Sodium	G.E. Edison III
9,500 Lumen (Traditional Style Post Top) - High Pressure Sodium	G.E. Salem
9,500 Lumen (Gas Light Style Post Top) - High Pressure Sodium	Lumec L32

**SECOND.** All luminaires shall be supported on standard poles per the Construction Standards attached, equipped with a suitable metal bracket, and all of which shall be erected in accordance with the plans for street lighting on file with the Clerk of said City. The distance from the street to the light source will be approximately 23 to 40 feet, depending on the size of the light source. Post top mounting will be accomplished according to specifications to be submitted with proposed projects.

**THIRD.** The luminaires provided for in these specifications shall be illuminated every night from approximately one-half hour after sunset of one day to approximately one-half hour before sunrise of the next day. This provides for approximately 4,000 hours operation of each luminaire per year.

**FOURTH.** All trenching and back filling for underground service for street lighting will be provided by the City of Centerville, Montgomery County, State of Ohio, or their designated agent.

**FIFTH.** The street lighting provider shall erect poles, posts, wires and other fixtures necessary to do said lighting and supply the luminaires and renewals thereof.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
Clerk