

RESOLUTION NO. 50-00  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER C. Mark Kingseed ON THE  
20<sup>th</sup> DAY OF November, 2000.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR FULL SERVICE LIGHTING SERVICES FROM DPLE FOR STREETS, ROADS AND PUBLIC PLACES WITHIN THE BOUNDARIES OF THE CITY OF CENTERVILLE.

WHEREAS, Miami Valley Lighting, Inc., a DPL Inc. Company, d.b.a. DPL Energy (DPLE) is willing to own, maintain, and operate lighting fixtures and associated equipment on a long-term basis and is also willing to provide other street lighting related services, and

WHEREAS, The City of Centerville desires to purchase Full Service lighting services from DPLE at prices and on terms beneficial to both parties, and

WHEREAS, an Agreement for these services has been negotiated between the City of Centerville and DPLE.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized and directed to enter into an Agreement, on behalf of the City of Centerville, with DPLE to 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, a copy of said Agreement is attached hereto, marked as Exhibit "A" and incorporated herein.

Section 2. That this Resolution shall become effective immediately upon passage.

PASSED this 20<sup>th</sup> day of November, 2000.

Sally D. Bink  
Mayor of the City of Centerville, Ohio

ATTEST:

Marie J. Saugel  
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 50-00, passed by the Council of the City of Centerville, Ohio, on the 20<sup>th</sup> day of November, 2000.

Marie J. Saugel  
Clerk of Council

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

Department of Law  
Robert N. Farquhar  
Municipal Attorney

**City of Centerville, State of Ohio**  
**Street Lighting Agreement**

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

**Whereas**, Miami Valley Lighting, Inc., a DPL Inc. Company, d.b.a. as DPL Energy (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 street lighting related services, and

**Whereas**, The City of Centerville, State of Ohio (City), desires to purchase such Full Service lighting services from DPLE at prices and on terms beneficial to both parties.

**Now therefore**, DPLE proposes to light the streets, roads and public places within the boundaries of the City on the following terms and conditions:

1. **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 or City provided poles.

2. **Full Service Lighting Charges**: In addition to the other charges described herein, the City shall pay to DPLE a customer charge of \$20 per bill rendered and the Full Service Street Lighting Charges as set forth in Appendix "A", for Full Service street lighting services provided by DPLE. Additional overall discounts of 1% each will be applied to the resulting Full Service Lighting Charges if the City elects the HPS Always Option detailed in Section 13, herein or the Lighting Partner Option detailed in Section 14, herein.

3. **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.

4. **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 \$25.00 for each physical disconnection and 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 the following:

Mercury Lights:	50% of the applicable Full Service Lighting Charge
HPS Lights:	60% of the applicable Full Service Lighting Charge

**5. 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 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. Additionally, DPLE will offer 9,500 initial lumen HPS decorative post type light fixtures of types and styles designated by DPLE. The post top lighting fixtures will be available for installation on DPLE or City-provided poles.

The City shall pay the following charges for the installation of new street lighting fixtures and equipment as stated below:

	<u>Fixture Only</u>
<u>HPS Cobra Head Fixtures:</u>	No Charge
<u>HPS Decorative Fixtures:</u>	
9,500 Lumen Post Top (Traditional Style)	\$350
9,500 Lumen Post Top (Acorn Style)	\$385
9,500 Lumen Post Top (Gas Light Style)	\$550
<u>Poles:</u>	<u>Pole Only</u>
Wood Poles (35' and Below)	\$385
Wood Poles (40' and Higher)	\$480
23' Spun Aluminum Pole	\$450
30' Spun Aluminum Pole	\$550
35' Spun Aluminum Pole	\$650
13' Textured Fiberglass Pole	\$200
13' Smooth Fiberglass Pole	\$250
12' Cast Aluminum Pole	\$600

Beginning January 1, 2003, 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 2003 will increase above December 2002 prices based on the annual increase in the CPI during 2001.)

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.

**6. 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 5, herein. The price for 2001 and 2002 for non-standard installations currently available from DPLE is as follows:

Spun Aluminum Pole (23') with Screw Anchor Foundation	\$1,490
Spun Aluminum Pole (30') with Screw Anchor Foundation	\$1,755
Spun Aluminum Pole (35') with Screw Anchor Foundation	\$2,130
Fiberglass Pole (Nominal 13') Direct Buried/Textured Finish	\$470
Fiberglass Pole (Nominal 13') Direct Buried/Smooth Finish	\$565
Cast Aluminum Pole (Nominal 12') with Screw Anchor Foundation	\$1,600

Commencing in January 2003, these charges may be increased annually at a rate which does not exceed the increase in the CPI rate determined as described in Section 5, herein.

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>.

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 8, herein and may be quoted by DPLE as an additional charge for each installation.

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

Where DPLE 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 DPLE for all reasonable work performed by DPLE to install, maintain or repair City-owned/provided poles when performed on an emergency basis.

Additionally, DPLE 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 DPLE 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.

**8. Wiring:** DPLE will provide all wiring to lighting provided by DPLE. Standard wiring will be spans of overhead conductor operating at one of DPLE'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. DPLE will be afforded the opportunity to bid for such service.

**9. Changes to Existing Lighting Equipment:** Upon request by the City's authorized agent, DPLE will permanently remove street lights at no charge to the City. DPLE 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. DPLE 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 4 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 DPLE.

All change outs will be accomplished on a schedule submitted by DPLE 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.

**10. 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.

**11. 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.

**12. Outages:** The City shall promptly report to DPLE all luminaires which are not illuminated. DPLE will have all such reports investigated within three (3) working days and restore service to any luminaires which can be repaired by routine repairs, such as lamp, photocell or fuse replacement. When more complex repair work is required, such as fixture replacement, electrical system failures or structural repairs, including pole repair or replacement, DPLE will notify the City and restore service to the luminaires within seven (7) working days. For the purpose of this document the term "working day" will mean all days except Saturdays, Sundays and legal holidays. In the event lighting is not restored within the stated time periods, the City will not be liable for charges for that luminaire, retroactive to the date the luminaire was reported out of service, on a pro rata daily basis until such luminaire is repaired and DPLE has notified the City of restoration of lighting service.

13. **HPS Always Option:** If the City agrees in advance to allow DPLE to change out mercury lighting fixtures to an equal or higher lumen HPS lighting fixture upon the need for replacement or relocation of the mercury lighting fixture, the City shall qualify for the benefit of the HPS Always Option as described in Section 2, above.

14. **Lighting Partner Option:** DPLE and the City recognize the value to both parties of being "lighting partners." The City shall qualify for the benefits of the Lighting Partner Option as described in Section 2, above if the City agrees to and does the following:

- a. Specifically inform DPLE of all municipal lighting projects currently being considered or developed including, but not limited to, new developments and roads and road improvements.
- b. Inform DPLE promptly as new municipal lighting projects are considered.
- c. Permit DPLE to participate in the planning and/or design of any municipal lighting project.
- d. Provide DPLE with the opportunity to bid and the bid package documents on all municipal lighting projects.

15. **Commitment:** At all points in time over the term of this Agreement, the City agrees to maintain or increase the number of DPLE Full Service lighting fixtures. If in any month the number of fixtures falls below the August 1, 2000 levels, DPLE will assess an additional charge for that month equal to the number of fixtures below the basis described herein times the average price per fixture.

16. **Term:** This Agreement shall commence on January 1, 2001 and shall remain in effect for a period of six (6) years through December 31, 2006.

17. **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.

18. **Indemnity:** Each party agrees to indemnify, exonerate, hold harmless and to defend the other for all loss, damage or expense growing out of or in any way connected with the claims of any person, except claims for injuries and/or death of employees of the parties arising out of and in the course of their employment with each respective party, for injuries to person or property occasioned by, arising out of, or related to the equipment and/or services provided by the indemnifying party to produce street lighting hereunder.

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

20. **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.

**21. Modification and Extension:** No later than twelve (12) months prior to the date of expiration of this Contract each party may submit to the other suggested changes to be included in a new or renewed contract. If the parties are unable to agree on new contractual language within the period ending 60 days before the date of contract expiration 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.

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

If to DPLE:        DPL Energy  
                         P.O. Box 1807  
                         Dayton, OH 45401  
                         Attn: Manager, Lighting Services

If to City:        \_\_\_\_\_  
                         \_\_\_\_\_  
                         \_\_\_\_\_  
                         \_\_\_\_\_

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

**23. 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.

**24. Options Election:** The City elects the following option(s):

- HPS Always Option (Section 13)
- Lighting Partner Option (Section 14)

**25. 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

By: \_\_\_\_\_  
Judy Lansaw  
Miami Valley Lighting, Inc.  
d/b/a/ DPL Energy

City of Centerville, State of Ohio

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

\_\_\_\_\_  
Attest

\_\_\_\_\_  
Attest



**Appendix A  
Street Lighting Agreement**

**Monthly Full Service Lighting Charge Per Fixture**

	<u>2001-02</u>	<u>2003-04</u>	<u>2005-06</u>
<b><u>HIGH PRESSURE SODIUM FIXTURES:</u></b>			
5,800 Lumens	\$10.08	\$9.34	\$8.60
9,500 Lumens	\$12.07	\$11.53	\$10.99
16,000 Lumens	\$13.11	\$12.95	\$12.79
27,000 Lumens	\$18.85	\$18.01	\$17.17
50,000 Lumens	\$22.83	\$21.82	\$20.81
50,000 Lumens (Sterner, Pole Included In Price)	\$24.94	\$24.94	\$24.94
54,000 Lumens (Twin, Pole Included In Price)	\$52.66	\$52.66	\$52.66
77,000 Lumens (Sterner, Pole Included In Price)	\$45.82	\$45.82	\$45.82
100,000 Lumens (Twin, Pole Included In Price)	\$36.71	\$36.71	\$36.71
5,800 Lumens (Post Top Traditional, Fixture Only)	\$13.35	\$13.35	\$13.35
5,800 Lumens (Post Top Acorn, Fixture Only)	\$17.90	\$17.90	\$17.90
9,500 Lumens (Vimont Post Top, Limited Maintenance)	\$5.50	\$5.50	\$5.50
9,500 Lumens (Post Top Traditional, Fixture Only)	\$12.85	\$12.85	\$12.85
9,500 Lumens (Post Top Acorn, Fixture Only)	\$18.70	\$18.70	\$18.70
9,500 Lumens (Post Top Gas Light Style, Fixture Only)	\$24.40	\$24.40	\$24.40
<b><u>MERCURY LUMINAIRES:</u></b>			
4,000 Lumens	\$6.92	\$6.62	\$6.32
7,700 Lumens	\$10.21	\$10.06	\$9.91
11,000 Lumens	\$12.15	\$11.61	\$11.07
21,000 Lumens	\$15.86	\$15.16	\$14.46
4,000 Lumens (Post Top, Pole Included In Price)	\$13.82	\$13.82	\$13.82
7,700 Lumens (Post Top, Pole Included In Price)	\$14.06	\$14.06	\$14.06
<b><u>OTHER LUMINAIRES:</u></b>			
2,500 Lumens (Incandescent)	\$4.24	\$4.24	\$4.24
4,000 Lumens (Incandescent)	\$7.69	\$7.69	\$7.69
12,000 Lumens (Fluorescent)	\$18.64	\$18.64	\$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.

<b>Metal or Decorative Pole Installations Existing on January 1, 1995:</b>	\$3.55	\$3.55	\$3.55
<b>New Installations of Metal or Decorative Poles made after January 1, 1995:</b>			
23' Spun Aluminum Pole	\$23.00	\$23.00	\$23.00
30' Spun Aluminum Pole	\$26.50	\$26.50	\$26.50
35' Spun Aluminum Pole	\$32.30	\$32.30	\$32.30
13' Textured Fiberglass Pole	\$6.65	\$6.65	\$6.65
13' Smooth Fiberglass Pole	\$7.40	\$7.40	\$7.40
12' Cast Aluminum Pole	\$16.40	\$16.40	\$16.40