

Governmental NESC® Lease Agreement Lighting Services

DEKALB CO GOVERNMENT (EMORY CLIFTON ROAD PROJECT)

Customer Legal Name DEKALB CO GOVERNMENT (EMORY CLIFTON ROAD PROJECT) DBA NA
 Service Address 0 CLIFTON ROAD, ATLANTA, GA 30322 County DEKALB
 Mailing Address SAME
 Email NA Tel # 770-465-5397 Alt Tel NA
 Tax ID NA Business Description GOVERNMENTAL
 Existing Customer Yes No If Yes (and if possible), does Customer want Equipment added to an existing account? Yes No If Yes, Which Account Number _____

Equipment (excludes any applicable sales taxes)										
Action	Qty	Wattage	Type	Description	OH/UG	M/UM	Equipment Amount (\$)	Estimated Regulated Charge (\$)*	Estimated Monthly Charge (\$)*	
(1) INS	35	80	LED	GRANVILLE POST TOPS	UG	UM	\$568.30	\$93.80	\$680.10	
(2) INS	35	85	LED	TEAR DROP FIXTURES	UG	UM	\$568.00	\$100.10	\$680.10	
(3)										
(4)										
(5)										
Monthly Total *							\$1,126.30	\$193.90	\$1,320.20	

Install (INS) Remove (REM) Reconnect (RVC) Previously UnBilled (UNB)

* The Regulated Charge is subject to change at any time as dictated by the Georgia Public Service Commission. The amount shown is an estimate based on Summer rates in effect at time of Agreement proposal; actual charges may vary.

Project Notes: DEVELOPER HAS PAID UPFRONT COST

Initial Term 1 months Prepaid Amount (excludes any applicable sales taxes) \$482,158.00

Customer agrees to lease the Equipment referenced above from Georgia Power Company on the attached terms and conditions and authorizes all actions noted above.
 Customer also agrees to allow removal of existing outdoor lights as outlined in the removal contract incorporated by this reference. Yes N/A

Customer Authorized Signature	Date	Georgia Power Company	Date
Print Name		Print Name	
Print Title		Print Title	

GPC Internal Use Only						Lead #	PPID#
DWE	INS/REM	UNREG/REG	LED/LED	NEW/RENEW	EXIST. CUST. /NEW		
DWE	INS	UNREG	LED	NEW	No		311195110
DWE						Rev Class: Com1 <input checked="" type="checkbox"/> Res <input type="checkbox"/> Ind <input type="checkbox"/>	
DWE						Region <u>M. EAST</u>	
DWE						Construction: New <input checked="" type="checkbox"/> Existing <input type="checkbox"/>	
DWE						Customer Choice? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

If an existing customer, list account number if it is not shown above:

TERMS and CONDITIONS (Governmental NESG)

1. **Lighting Equipment Lease.** This Lease Agreement ("Agreement") states the agreed terms and conditions upon which Georgia Power Company ("GPC") will:
(i) lease to "Customer" (identified on Page 1) the "Equipment" referenced on Page 1 for use at the stated "Service Address" (the "Premises"); and (ii) provide electric service to operate the Equipment. The "Equipment" includes all poles, bases, wiring, conduit, fixtures, controls, and related items necessary to provide lighting service through the listed fixtures, unless expressly noted otherwise in "Project Notes." Customer acknowledges that regulatory change during the Agreement term may require GPC to modify or replace some Equipment.
2. **Intent and Title.** This Agreement is not a sale of the Equipment to Customer. Customer expressly acknowledges that GPC retains title to the Equipment and agrees that this Agreement only gives Customer the right to use the Equipment during the Agreement term, so long as Customer complies with all terms and conditions. Customer acknowledges that the Equipment, although attached to real property, always will remain the exclusive personal property of GPC and that GPC may remove the Equipment when this Agreement ends. Customer authorizes GPC, without further consent or action, to file any UCC financing statement or security agreement relating to the Equipment and agrees that GPC may record those documents. 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 1700 Montreal Circle, Tucker, GA 30084-8801; 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 (20 days after billing date). Customer acknowledges 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.
5. **Premises Activity.** Customer grants a license and right of access to GPC, and its contractors and representatives, to enter the Premises with vehicles and equipment to: (i) install and connect the Equipment and, if applicable, remove or disconnect existing equipment (collectively, the "Installation"); (ii) inspect, maintain, test, replace, repair, or remove the Equipment; (iii) provide electric service for the Equipment; or (iv) conduct any other Agreement-related activity (Items (i) - (iv) collectively, the "GPC Activity"). Customer represents that the individual signing this Agreement on its behalf has authority to do so and that it has express authority from all Premises owners (and any other party with rights in the Premises) to enter into this Agreement and to authorize the GPC Activity. Customer is solely responsible for safety of the Premises and agrees that GPC has no obligation to ensure the safety of the Premises.
6. **Installation.** Customer represents that: (i) the Premises' final grade will vary no more than 8 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 perform any part of the installation (including trenching) itself or through a third party, 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's installation activity 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. §§26-9-1 - 26-9-13) ("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 installation, 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. not properly marked or identified ("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 Equipment modification or change requested by Customer or dictated by an Unforeseen Condition or circumstance outside GPC's control.
7. **Equipment Protection and Damage.** After installation and throughout this Agreement's term, in the event of any work or digging near the Equipment, 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. §§48-3-30 - 48-3-40). As between Customer and GPC, Customer is responsible for all damages arising from failure to comply with applicable law or for Equipment damage caused by anyone other than GPC (or a GPC contractor or representative).
8. **Maintenance.** During this Agreement's term, GPC will maintain the Equipment and will bear the cost of routine repair or replacement. Customer must notify GPC of any need for Equipment repair by either calling 1-888-880-8890 or by reporting the need online (<http://outdoorlighting.georgiapower.com>).
9. **Pole Attachments.** If Customer desires to attach anything to any Equipment (poles, light fixtures, etc.), Customer must first obtain GPC's written consent. Customer must call GPC Lighting Services Business Unit at 1-888-780-8458 to obtain the proper pole attachment 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 Equipment or any GPC Activity. Customer also acknowledges that, due to the unique characteristics of the Premises, Customer's needs, or Equipment choice, the Equipment may not follow IESNA guidelines. Customer waives any right to consequential, special, indirect, treble, exemplary, incidental, punitive, loss of business reputation, or loss of use (including loss of revenue, profits, or capital costs) damages in connection with the Equipment or this Agreement, or arising from damage, hindrance, or delay involving the Equipment or this Agreement, whether or not reasonable, foreseeable, contemplated, or avoidable.
11. **Risk Allocation Liability.** Each Party will be responsible for its own acts and the results of its acts.
12. **Default.** Customer is in default if Customer does not pay the entire amount owed within 45 days of billing. GPC's waiver of any past default will not waive any other default. If default occurs, GPC, at its discretion, may immediately terminate this Agreement, collect all past due amounts (including late fees) and all amounts due for the Equipment during the remaining Agreement term, remove the Equipment from the Premises, and seek any other available remedy.
13. **Georgia Security, Immigration, and Compliance Act.** Customer is a "public employer" as defined by O.C.G.A. § 13-10-91 and this Agreement is a contract for physical performance of services within the State of Georgia. Compliance with the requirements of O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 is a condition of this Agreement and is mandatory. GPC's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 will be attested by execution of the contractor's affidavit attached as Exhibit "1" and made a part of this Agreement. GPC agrees that, if it employs or contracts with any subcontractor(s) in connection with this Agreement, GPC will secure from each subcontractor attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by execution of a subcontractor's affidavit in the form attached as Exhibit "2." The affidavit will become a part of the GPC/subcontractor agreement and GPC will maintain records of the affidavits for inspection by Customer.
14. **Miscellaneous.** This Agreement contains the parties' entire agreement relating to the Equipment and replaces any prior agreement, written or oral. Only a written amendment signed by each party can modify this Agreement, except that 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 without GPC's prior written consent. No assignment, whether with or without consent, relieves Customer of its Agreement obligations. Customer must provide advance notice of a change in control of all, or substantially all, of Customer's ownership or interest in the Premises. 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered an original, by their authorized representative, on the day and date hereinabove written.

GEORGIA POWER COMPANY

DEKALB COUNTY, GEORGIA

By:

Signature (SEAL)

(SEAL)

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Print Name and Title

Date

Date

ATTEST:

ATTEST:

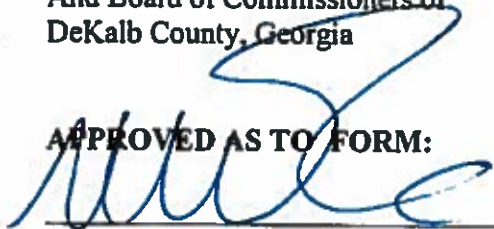
Witness

BARBARA SANDERS, CCC
Clerk of the Chief Executive Officer
And Board of Commissioners of
DeKalb County, Georgia

Name (Typed or Printed)

APPROVED AS TO FORM:

Title



Matthew C. Welch
Supervising County Attorney Signature
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

David Pelton, Director
Public Works Transportation Division
DeKalb County, Georgia