

# **CUSTOMER OWNED STREET LIGHTING AGREEMENT**

This Customer Owned Street Lighting Agreement (“Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ (“the Municipality”), and Central Maine Power Company (“the Company”). This Agreement sets forth the agreement between the Municipality and the Company with respect to the terms and conditions under which the Company may sell and provide light fixtures attached to Company poles and the Municipality may install, own and maintain light fixtures attached to poles owned by the Company, whether such poles are owned individually by the Company or as joint owner with another entity (Company Owned Poles”). The Municipality and the Company may be referred to herein individually as a “Party” or collectively as the “Parties.”

## **1. BACKGROUND**

Under Section 53 of the Company’s Terms and Conditions, entitled “Municipal Ownership of Streetlights,” Municipalities may choose among three options for street lighting service, as set forth below:

- A. The Company will provide all of the components of the street lighting system, including installation on Company poles and maintenance of such lighting system. The Company will deliver electricity to the street lighting system from a power vendor selected by the municipality. For such service (Full Service Lighting), the Municipality shall pay the appropriate charges set forth in the Company’s Rate SL (Street Lighting Service) Electric Delivery Rate Schedule; or
- B. The Company will install and connect on its poles all of the components of the Street Lighting Hardware as selected, purchased and owned by the Municipality. Maintenance of all components of light fixtures will be the responsibility of the Municipality or its contractor; or
- C. The Company will connect to its distribution system light fixtures owned and installed by the Municipality on Company poles. Maintenance of all components of light fixture and mounting hardware will be the responsibility of the municipality or its contractor.

## **2. SCOPE OF THIS AGREEMENT; TERM**

This Agreement sets forth the terms and conditions under which the Municipality may install, own and maintain light fixtures attached to Company Owned Poles, pursuant to options (B) and (C) above. This Agreement is entered into by the Parties pursuant to Section 53 of the Company’s Terms and Conditions. To the extent that the provisions of this Agreement and those set forth in the Company’s Electric Delivery Rate Schedules or its Terms and Conditions are in conflict, the provisions set forth in the Company’s Electric Delivery Rate Schedules and its Terms and Conditions shall take precedence over any conflicting terms set forth in this Agreement.

The term of this Agreement shall commence upon execution by both Parties and shall continue in effect for as long as Municipality owns Street Lighting Hardware that is located on Company Owned Poles.

## **3. DEFINED TERMS**

Any other capitalized terms used in this Agreement that are specifically defined herein shall have the meanings set forth in the Company's Electric Delivery Rate Schedules and its Terms and Conditions.

"Business Day" means any day except a Saturday, Sunday, or a legal holiday in the State of Maine. A Business Day shall open at 8:00 a.m. and close at 4:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

"Commission" means the Maine Public Utilities Commission or any successor entity.

"Dedicated Street Lighting Conductor" shall mean a conductor used for the sole purpose of providing electric service to a street light. This excludes the tap wires from the secondary conductors to the street light fixture itself.

"Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable practices, methods, or acts generally accepted in the region.

"Routine Maintenance" shall mean (a) prior to the time when a fuse has been installed, changing of the lamp, and/or photocell, cleaning of the glass, reflector or photocell, as well as clearing of debris from the fixture and (b) after a fuse has been installed on a fixture, changing of the lamp, and/or photocell, ballast/driver, starter, fuse, fixture, fixture conductor wire, hardware and controls for any particular light, cleaning of the glass, reflector or photocell, as well as clearing of debris from the fixture.

"Street Lighting Hardware" shall mean the bracket, luminaire, lamp, photocell, fuse, fixture conductor wire, hardware and controls for any particular street light fixture. Hardware shall also include poles in place solely for street lighting purposes.

#### **4. OWNERSHIP**

For each street light fixture covered by this Agreement, the Municipality will provide, own, install and maintain the Street Lighting Hardware. Dedicated Street Lighting Conductors will be owned and maintained by the Company.

#### **5. STREET LIGHTING HARDWARE STANDARDS**

All Street Lighting Hardware provided by Municipality for installation on the Company's system shall be free from all defects and shall in no way jeopardize the Company's electric distribution system. The Company may refuse to allow the placement of any streetlight fixture which, in the Company's sole reasonable opinion, are not so free from defects or that might so jeopardize said system. If the Company refuses the placement of a streetlight fixture, it shall, at the time of the refusal, provide the Municipality with the specific reason or reasons for the refusal.

All Street Lighting Hardware shall be of a modern type approved roadway lighting for normal use by the Company. Once a specific fixture type has been approved by the Company as acceptable equipment, additional use of that fixture type as a replacement in a location where a street light currently exists will not require

additional approval by the Company, provided that the replacement light has a similar or lesser weight and wind profile as the light being replaced.

## **6. TRANSMISSION AND DISTRIBUTION SERVICE**

For each street light fixture covered by this Agreement, the Municipality shall take Delivery-Only Service for such fixture in accordance with the Company's currently effective Rate SL Electric Delivery Rate Schedule.

## **7. DESCRIPTION AND LOCATION OF STREET LIGHTS**

Exhibit A to this Agreement sets forth a description and location of all street light fixtures owned by the Municipality and located on Company Owned Poles. The Municipality shall notify the Company at least thirty (30) days in advance of making any changes to its street lighting inventory. Exhibit A shall be updated as necessary, but no more frequently than on a monthly basis, to reflect any changes to street lighting inventory.

Prior to the sale of street lighting equipment to the Municipality, the Company shall provide the Municipality with a complete inventory based on billing and property records of the street lighting equipment to be sold. The Municipality shall have ninety (90) days to provide corrections or objections to that inventory, after which time the inventory provided by the Company shall be deemed correct for all billing purposes. Should the Municipality choose to conduct a physical audit to confirm the inventory, the audit will be scheduled at a time that allows a representative of the Company to participate.

Street lighting equipment shall at all times contain the lamp type and size as recorded with the Company and shall be subject to a periodic field audit by the Company to confirm same. The Company will not charge the Municipality for the cost of these periodic audits. However, if the Company finds lamps which are in addition to or different from those reported by the Municipality or any other unauthorized equipment attached to the pole or fixture by the Municipality, the Company may conduct a full audit to determine the extent of the violations. The Company shall bill the Municipality for the reasonable cost of the full audit. Prior to conducting a full audit, the Company will consult with the Municipality and will work with the Municipality to coordinate such an audit.

All Street Lighting Hardware owned by Municipality and located on Company Owned Poles shall bear an ownership identification marking or label which is readily visible from the ground during daylight hours. All street lighting equipment purchased from the Company shall be so identified at the expense of Municipality no later than six (6) months from the time of purchase. In addition, Street Lighting Hardware shall have lamp fixture identification in accordance with the latest NEMA or ANSI Standard for High Intensity Discharge Lamps and Luminaires (ANSI Publication C 136.15 - 1980 and subsequent revisions). The ownership identification marking or label requirements set forth herein shall not apply in the circumstance in which Municipality has purchased all street lighting equipment in the Municipality from the Company all at one time.

## **8. MAINTENANCE OF STREET LIGHTING HARDWARE**

For each street light fixture covered by this Agreement, Municipality shall maintain the Street Lighting Hardware at its own expense. Maintenance shall not include connection or disconnection to the Company's distribution system, which shall be performed by Company personnel only. In performing such maintenance work the Municipality shall not permit its agents, employees or contractors to climb or otherwise ascend Company Owned Poles, but rather shall maintain the Street Lighting Hardware on such poles by using an aerial device. Section 53 of the Company's Terms and Conditions sets forth the additional maintenance requirements

for municipalities using contractors or municipal employees to perform street lighting maintenance work. Those provisions are incorporated herein.

Municipality may request, and the Company may agree at its sole option, that the Company provide maintenance service for street lights owned by the Municipality. For purposes of this section, maintenance service may include Routine Maintenance as defined herein, but shall be limited to maintenance requested by the Municipality and shall not include maintenance initiated by the Company under the terms of Section 10 below or requests for installation, removal, replacement or relocation of street light fixtures. Section 53 of the Company's Terms and Conditions sets forth the pricing for such maintenance services. Any requests for maintenance from the Municipality to Company shall be in writing on the form included as Exhibit B to this Agreement.

Within 7 Business Days of receipt of a request for maintenance service from the Municipality, the Company will either perform such work or provide a good faith estimate of the timeframe within which the Company will be able to complete the requested maintenance services. Within 7 Business Days of receipt of such estimate, the Municipality shall instruct the Company whether to commence with such maintenance services based on the timeframe proposed by the Company or whether the Municipality will make other arrangements for the performance of such maintenance services.

Municipality will repair or replace inoperative lighting controls for the lights owned by Municipality within sixty (60) days of failure. The Company will bill standard attachment fees for any de-energized fixtures and/or associated equipment left attached to the Company's poles for longer than sixty (60) days that is not being billed and paid for under the Company's Rate SL Electric Delivery Rate Schedule. This provision will not apply in the event that the Company is performing maintenance on behalf of Municipality and is the cause of the delay in repairing or replacing inoperative lighting equipment.

## **9. CONNECTION AND DISCONNECTION**

The Company will apply charges for connection and disconnection as set forth in the Company's Term and Condition 53 and in accordance with the Company's Rate SL Electric Delivery Rate Schedule.

The installation, maintenance, and removal of connections to the Company's secondary distribution system is restricted to authorized Company personnel. Work involving only Routine Maintenance does not require disconnection prior to the municipality or its contractor performing such work. Municipality does not need to notify the Company prior to performing any Routine Maintenance.

All existing fixtures must be fused by the Municipality within ten (10) years of the date that Municipality acquires them from the Company. All new fixtures must be fused when installed. Any existing Municipality owned street lights, or street lights acquired from the Company, will be set to operate in the "Fail Off" mode which can be phased in over the same ten (10) year period. All new fixtures will be installed to operate in the "Fail Off" mode.

## **10. INSTALLATION, REMOVAL, REPLACEMENT, AND RELOCATION**

- (a) **Municipality Requests.** Municipality shall make any request to the Company for the installation, removal, replacement and relocation of street light fixtures, or shall notify Company of its intent to install, remove or relocate any street light fixture in writing on the form included as Exhibit B to this Agreement. Within 10 Business Days of receipt of request for installation, removal, replacement or relocation of street light fixtures, the Company will provide a good faith estimate of the timeframe within which the Company will be able to complete the installation, removal, replacement or relocation.

Within 7 Business Days of receipt of such estimate, the Municipality shall instruct the Company whether to commence with the requested work based on the timeframe proposed by the Company or whether the Municipality will make other arrangements for the performance of such work.

By its approval or acceptance of any street light installation, the Company does not give any warranty, expressed or implied, as to the adequacy, safety or other characteristics of such installation; provided, however, that with respect to any street light installation that was performed by the Company, the Company warrants that such installation was performed in accordance with Good Utility Practice.

(b) Company-Initiated Work.

- (i) Non-Emergency Basis. When Company needs to replace or repair existing poles/wire configurations on a non-emergency basis (such in the event of road changes requiring pole relocation, maintenance/repair/replacement of poles, or for any other non-emergency reason), the Company will notify Municipality as far in advance of the proposed work to be performed as is practicable under the circumstances. Municipality or their contractor must remove, relocate, and reinstall municipal-owned street lighting fixtures and/or equipment at their expense. In the event that Municipality fails to remove, relocate, and reinstall municipal-owned street lighting fixtures and/or equipment in a timely manner, the Company may elect to remove, relocate, and reinstall any such undamaged municipal-owned street lighting fixtures and/or equipment and shall bill the Municipality for any cost incurred by the Company to do so, which shall be calculated by using the Connection and Installation charge applicable to additional street lights under Section 53 of the Company's Terms and Conditions .
- (ii) Emergency Basis. When Company needs to replace or repair existing poles/wire configurations on an emergency basis (such in the event of a car/pole accident), the Company may elect to remove, relocate, and reinstall any undamaged municipal-owned street lighting fixtures and/or equipment at the expense of the Municipality, in which case the Company shall bill the Municipality for any cost incurred by the Company in completing such removal, relocation and installation, which shall be calculated by using the Connection and Installation charge applicable to additional street lights under Section 53 of the Company's Terms and Conditions.

## **11. BILLING**

All work performed by the Company at the expense of the Municipality shall be billed to the Municipality monthly, with reasonable itemization, at the Company's then-current rates for such work as described in the Company's Term and Condition 53, as approved by the Commission. All such bills shall be payable when rendered. Bills paid more than thirty (30) days from the date of billing shall bear interest at the rate of one percent (1%) per month from the date of billing.

## **12. PAYMENT SCHEDULE**

Municipality may purchase street lighting equipment from the Company all at one time or over a period not to exceed three (3) years. If the Municipality elects to phase in the purchase of the Company's street lights over multiple years, the Municipality must purchase all street lights billed to the Municipality's account(s) within three (3) years from the date of the first purchase. Any such purchase and sale of street lights shall be documented in either a separate Purchase and Sale Agreement or Bill of Sale between Municipality and Company.

The price for any such purchase shall be based on net book value. The Company's net book value calculation for a municipality shall show for each vintage year (1) the net amount of street lighting plant additions and retirements associated with the municipality; (2) the net accumulated depreciation amount, including depreciation expense incorporating both the depreciable life and the removal cost component for plant still in service, retirements, and actual removal and salvage costs associated with those retirements (the Company will remove actual salvage and removal costs from the accumulated depreciation amount for each year that the Company has available data); and (3) associated income tax impacts; and any other reasonable costs the Company may incur in order to complete the sale.

Exhibit C to this Agreement sets forth the agreed-upon payment dates and [balances] [percentages] for the purchase of the Municipality's street lighting equipment.

### **13. BREACH AND REMEDIES**

Each Party hereby agrees to carry out the terms and conditions of this Agreement, and not knowingly to take any action that would interfere with the performance of this Agreement. In the event of any breach of any of the terms or conditions of this Agreement by either Party, other than a breach for which immediate sanctions or specified cure periods are specifically provided under this Agreement, the breaching Party shall have thirty (30) days following receipt of notice from the non-breaching Party in which to cure. In the event of any uncured breach, the breaching Party shall be liable to pay the other Party any and all costs or damages caused the other Party as a result thereof.

### **14. DISPUTE RESOLUTION**

Any disputes regarding the rights or obligations of the Company or Municipality under this Agreement shall be referred to the Commission for resolution. Neither the Company nor Municipality may petition the Commission to initiate such dispute resolution procedures unless the Parties, through their respective duly authorized representatives, have first attempted in good faith to resolve the dispute.

### **15. INSURANCE REQUIREMENTS**

As a condition of installing any lighting equipment on Company poles or performing any street light maintenance on Company poles, the Municipality shall at all times maintain in place \$1 million liability insurance in the amount and under such terms as may be required by the Commission (as further set forth in Section 53 of the Company's Terms and Conditions), with the Company named as an additional insured. Such insurance shall include provisions or endorsements naming Company, its directors, officers and employees as additional insureds; provisions that the insurance is primary insurance with respect to the interest of Company and that any insurance maintained by Company is excess and not contributory insurance with the insurance required hereunder; cross-liability or severability of insurance interest clause; and provisions that the policies shall not be cancelled or their limits of liability reduced without sixty (60) days prior written notice to Company. Within ten (10) days after execution of this Agreement, Municipality shall, if required by the Commission to provide liability insurance, furnish to Company a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company or at the discretion of Company, in lieu thereof, insurance shall be issued by insurance companies rated A- VII or better, by Best's Insurance Guide and Key Ratings, (or, if Best's Insurance Guide and Key Ratings is no longer published, an equivalent rating by another nationally recognized insurance rating agency of similar standing) or other insurance companies of recognized responsibility. The liability insurance required under this Section shall be considered excess and shall not be deemed a waiver of immunity under the Maine Tort Claims Act.

## **16. INDEMNIFICATION**

Municipality hereby agrees to indemnify, defend, and hold harmless Company, its affiliates, any other owners of poles on which Street Lighting Hardware is located pursuant to this Agreement, and the trustees, directors, officers, employees, agents, consultants, advisors and representatives of each of them (each, an “Company Indemnified Party”) from and against any and all claims, judgments, demands, damages, fines, losses, interest, awards, causes of action, litigation, lawsuits, administrative proceedings or investigations, penalties and liabilities, costs and expenses (including reasonable attorneys’ fees and disbursements and other reasonable costs of suit, arbitration, dispute resolution or other similar proceeding) in tort, contract, or otherwise (collectively “Liabilities”) incurred or suffered by any Company Indemnified Party arising from a contractor or employee of the Municipality performing work on any Company Owned Pole; provided, however, that Municipality is not required to indemnify Company for any costs, losses, or damages resulting from work performed by Company. The foregoing indemnification provisions shall not be deemed a waiver of immunity under the Maine Tort Claims Act or any other applicable law.

## **17. CHANGE IN LAW; SEVERABILITY**

If, after the execution of this Agreement, any right or obligation of a Party under this Agreement is materially altered as the result of any revision to laws or regulations applicable to Municipal installation, ownership, or maintenance of Street Lighting Hardware on Company Owned Poles, the Parties agree to negotiate in good faith in an attempt to amend this Agreement to conform to the revised laws or regulations and to present any such agreed-upon amendment to the Commission for approval. The intent of the Parties is that any such amendment will preserve, as closely as possible, the basic intent and substance of this Agreement, as set forth herein. In the event that the Parties are unable to agree upon an amendment to this Agreement pursuant to this paragraph, the Parties agree to submit the matter to the Commission for resolution in accordance with Section 14 above.

The invalidity or unenforceability of any provisions of this Agreement shall not affect the other provisions hereof. If any provision of this Agreement is held to be invalid, such provision shall not be severed from this Agreement; instead, the scope of the rights and duties created thereby shall be reduced by the smallest extent necessary to conform such provision to the applicable law, preserving to the greatest extent the intent of the Parties to create such rights and duties as set out herein. If necessary to preserve the intent of the Parties hereto, the Parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable. In the event that the Parties are unable to agree upon an amendment to this Agreement pursuant to this paragraph, the Parties agree to submit the matter to the Commission for resolution in accordance with Section 14 above.

## **18. MISCELLANEOUS**

(a) This Agreement may be modified only by a writing duly executed by each of the Parties hereto or by order of the Commission.

(b) This Agreement shall be construed and interpreted in accordance with the laws of the State of Maine notwithstanding any choice of law rules which may direct the application of the laws of another jurisdiction.

(c) Notices as to operational matters (such as the installation, removal, relocation and maintenance of street light fixtures) shall be provided by electronic mail as follows:

If to the Company:  
[company e-mail contact]

If to the Municipality:  
[Municipality e-mail contact]

All other notices hereunder (such as legal notices in the event of breach) shall be in writing and deemed duly delivered if hand delivered to the recipient, or sent by certified mail, postage prepaid or by reputable overnight delivery service. Notices shall be addressed as follows:

If to the Company:  
Director  
Marketing and Sales  
Central Maine Power Company  
83 Edison Drive  
Augusta, Maine 04336

If to the Municipality:

Either party may change its address by giving the other party hereto written notice thereof in the manner provided in this section.

(d) Nothing contained in this Agreement, whether express or implied, is intended to confer upon any person or entity, other than the Parties hereto, any rights or remedies.

(e) No delay or omission on the part of either Party to exercise any right accruing to it under the terms of this Agreement shall impair any such right or be deemed in any way a waiver on such Party's part, or construed as an estoppel against it, or impair any right or remedy arising subsequent thereto.

(f) The captions and section headings contained in this Agreement are for reference only, and shall not affect the construction or interpretation of any provision hereof.

(g) This Agreement may be executed simultaneously in two or more counterparts, any of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

WITNESS: CENTRAL MAINE POWER COMPANY

\_\_\_\_\_ By: \_\_\_\_\_

Its:  
Print Name:

DATE: \_\_\_\_\_

WITNESS:

CENTRAL MAINE POWER COMPANY

\_\_\_\_\_

By: \_\_\_\_\_  
Its:  
Print Name:

DATE: \_\_\_\_\_

WITNESS:

[MUNICIPALITY NAME]

\_\_\_\_\_

By: \_\_\_\_\_  
Its:  
Print Name:

DATE: \_\_\_\_\_

**Exhibit A**

Description and location of all street light fixtures owned by the Municipality and located on Company Owned Poles.

Town Code	Town Name	Account	Road Address	Pole Number	Existing Fixture					New Fixture			
					Type	Description	Wattage	Rated Input Watts	Vintage	Type	Description	Wattage	Rated Input Watts
1111	Rockland	111-11111111-111	123 Washington St.	111	Metal Halide	Post Top	1,000	1,080	1992	LED	LED	1,000	1,080

## EXHIBIT B

Request Form for the installation, removal, maintenance and relocation of street light fixtures.

<p><b>Box 1</b></p> Municipality: _____ Date Sent: _____ Street Name: _____	 <b>CENTRAL MAINE POWER</b> Municipal Street/Area Lighting Request Exhibit B	<p style="text-align: right;">For CMP Use</p> SAP Customer No: _____ Account No: _____ Notification: _____ Work Order: _____
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Please fill out **Box 1** and **Box 2**, and send to your Key Account Manager (KAM). The KAM will create a time estimate and return to you. Please then fill out **Box 3** to signify your acceptance of this agreement and return to KAM.

KAM Name: \_\_\_\_\_ Email Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX # \_\_\_\_\_

**Box 2** (CMP will fill in grayed columns)

Pole#	Road Code	Rate Code	No.	Watts	Type	REMOVE	INSTALL	MAINTENANCE	RELOCATION	Pad	Pole	Brkt	Guy	Estimated Amount
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
Total:														

**Notes:**

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**Central Maine Power Company**

By (printed name): \_\_\_\_\_  
Date: [Click here to enter a date.](#)  
Signature: \_\_\_\_\_  
Date Received: [Click here to enter a date.](#)  
Estimated Completion Date: [Click here to enter a date.](#)  
Reject/reason: \_\_\_\_\_

**Municipality**

By (printed name): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: [Click here to enter a date.](#)  
Signature: \_\_\_\_\_  
Complete Request:   
Drop Request: 

**FOR CMP USE ONLY**

Effective Date of Replacement: \_\_\_\_\_ CSS Updated Completed By: \_\_\_\_\_ Date: [Click here to enter a date.](#)  
No. Months Remaining: \_\_\_\_\_ Installed by: \_\_\_\_\_ Date: [Click here to enter a date.](#)



**EXHIBIT C**

Agreed-upon payment dates and [balances] [percentages] for the purchase of the Municipality's street lighting equipment.