
MEMORANDUM

To: Mayor and City Council

From: Michael Smith, Public Works Director

Date: February 11, 2013

Subject: **Discussion of Resolution to Create a Streetlight District for Leisure Ridge Subdivision**

ITEM DESCRIPTION

Discussion of Resolution to Create a Streetlight District for Leisure Ridge Subdivision

BACKGROUND

The City has approved a sketch plat for the Whitney Landing subdivision on Dunwoody Club Drive and construction of the improvements is underway. The developer has requested the installation of streetlights by Georgia Power. As provided in Chapter 26 of the City Code of Ordinances the City Council must approve by resolution the establishment of each district prior to the installation of streetlights. As part of establishing and maintaining a streetlight district, it is the City's policy to levy a special assessment on each property in the district to offset the streetlight energy and maintenance costs incurred by the City. The assessment is prorated based on the street frontage of each lot.

For the Leisure Ridge subdivision, 8 streetlights are proposed with an annual estimated cost of \$1,558. The recommended assessment rate of \$0.79 per foot will result in a total annual revenue of \$1,572.

RECOMMENDED ACTION

I recommend approval of the resolution to create a streetlight district 213A for Leisure Ridge.

STATE OF GEORGIA
COUNTY OF DEKALB

RESOLUTION 2013-XX-XX

A RESOLUTION PROVIDING FOR THE INSTALLATION OF STREET LIGHTS AT LEISURE RIDGE AND THE ASSESSMENT OF THE ANNUAL COST OF MAINTAINING AND OPERATING SAID LIGHTS AGAINST ABUTTING PROPERTY.

WHEREAS, Article IX, Section II, Paragraph 6, of the Constitution of the State of Georgia of 1976, as amended in 1983 (Ga. Laws 1983, Vol. 2, Page 724) and Chapter 26 (Streets, Sidewalks and Other) of the City Code of Ordinances authorizes and empowers the City Council of the City of Dunwoody, Georgia to establish districts for the purpose of building, erecting, establishing, maintaining, and operating street lights for the illumination of the public streets, roads, and sidewalks in the City of Dunwoody, and to levy a special assessment or tax against all property served by these functions; and

WHEREAS, pursuant to Chapter 26, Article VI of the City Code, as well as the stated Policy of the City, the owners of fifty-one (51) percent or more of the property affected by the hereinafter described improvements have petitioned the City of Dunwoody, Georgia, for the installation of street lights.

NOW, THEREFORE, BE IT RESOLVED, by the City Council, City of Dunwoody, Georgia, as the governing body of said City, that there be and there is hereby created and established within the area of the City of Dunwoody, Street Light District Number **213A**, for the purpose of building, erecting, establishing, maintaining, and operating street lights and lamps for the illumination of the public streets, roads, sidewalks, and ways therein, located in Land Lot **359** of the **18th** District of DeKalb County, Georgia, consisting of all or portions of the following street: **Leisure Valley** as more particularly shown and delineated on a map entitled "Leisure Ridge Streetlight District" which map is attached hereto and made a part of this resolution by reference; and

BE IT FURTHER RESOLVED the boundaries of said district as enumerated on said plat and/or map be the same and hereby established as shown and delineated on said plat and/or map as full and complete as if the full legal description of the courses, distances, and boundaries of said District were fully set forth herein.

BE IT FURTHER RESOLVED that the annual cost and charges for the maintenance and operation of said street lights shall not exceed **\$0.79** per foot per year and shall be a lien upon the abutting property annually from January 1st next and continuing each year until all annual charges have been paid; provided, however, that said annual charges may be increased by the City Council to reflect increases in operating and maintenance costs.

IT IS ORDERED that a copy of this resolution be transmitted to the Tax Commissioner of DeKalb County, Georgia for the collection of any and all taxes and/or special assessments and/or service charges which may be imposed against any and all businesses, residents, and property served by said facilities.

SO RESOLVED by the City Council of City of Dunwoody, Georgia this ___ day of _____, 2013.

Approved:

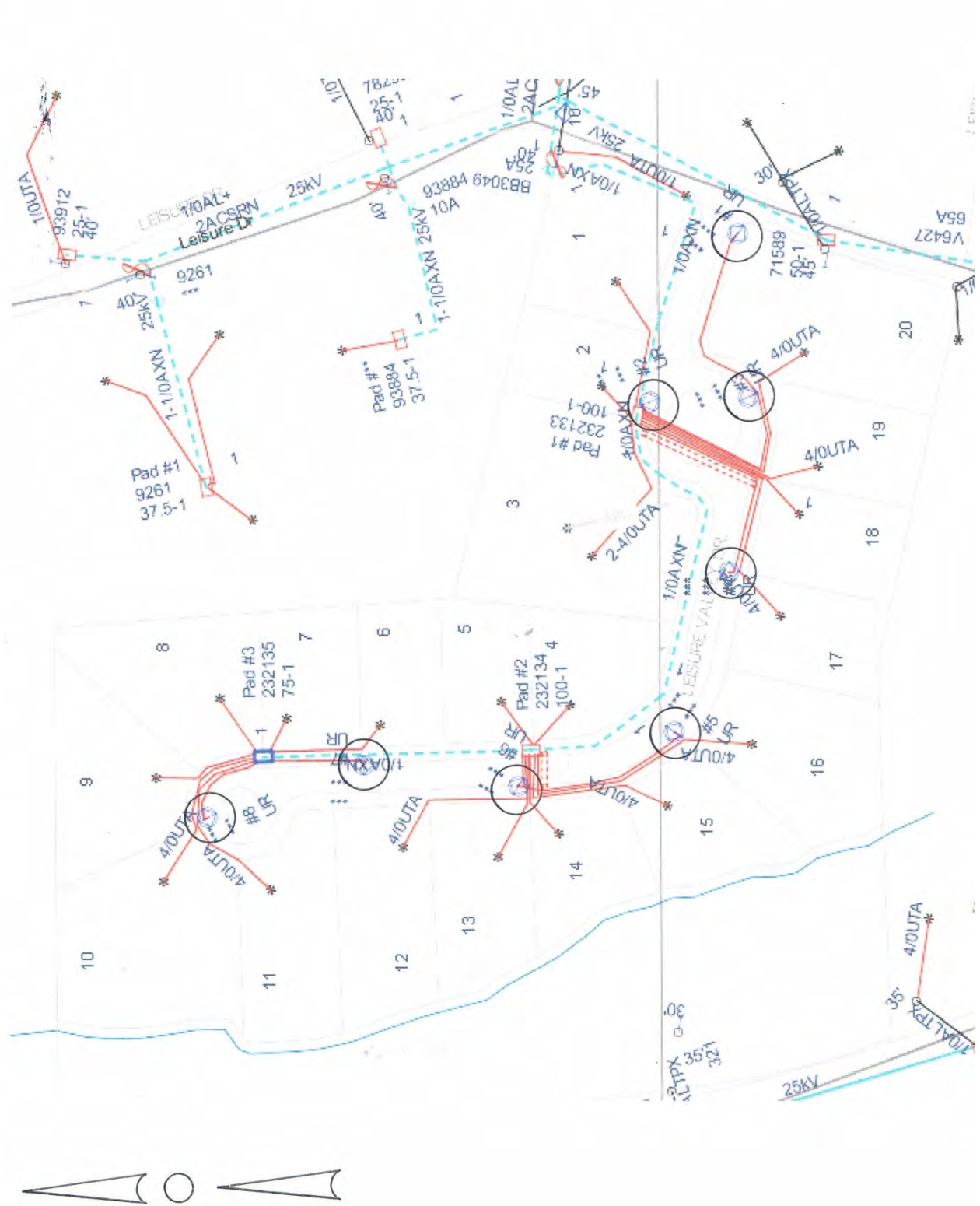
Michael G. Davis, Mayor

Attest:

Sharon Lowery, City Clerk

Seal

LEISURE RIDGE STREETLIGHT DISTRICT



1. **Lighting Equipment Lease.** Georgia Power Company ("GPC") will lease to Customer the "Equipment" described on Page 1 of this Lease Agreement ("Agreement") for use at the "Premises" (the "Service Address" shown on Page 1) and will provide electric service to operate the Equipment. Customer grants a license and right of access to GPC (and to GPC's representatives and contractors) to enter the Premises to install, connect, inspect, maintain, test, replace, repair, or remove the Equipment; to remove or disconnect pre-existing equipment as noted; to provide electric service for the Equipment; or to conduct any other Agreement-related activity (collectively, the "GPC Activities"). Customer acknowledges that the Equipment, though attached to real property, will always remain the exclusive personal property of GPC and that GPC may remove the Equipment when this Agreement ends. Customer also acknowledges that regulatory change during the Agreement term may require GPC to modify or replace some Equipment.
2. **Term.** The "Initial Term" of this Agreement is the period stated on Page 1, calculated from the date of the first monthly bill. After the Initial Term, the Agreement will automatically renew on a month-to-month basis until terminated by either Customer or GPC by providing written notice of intent to terminate to the other party at least six months before the desired termination date in accordance with the then-current PSC Tariff. GPC's address for notice is 1790 Montreal Circle, Tucker, GA 30084-6801; Customer's address for notice is the Mailing Address shown on Page 1.
3. **Payment.** GPC will invoice Customer per the terms stated on Page 1. Customer acknowledges that the electric service charge will vary as dictated by the Georgia Public Service Commission. Customer agrees to pay the amount billed by the due date (20 days after billing date). If there is a balance outstanding past the due date, Customer agrees to also pay a 1.5% late fee on the unpaid balance and also acknowledges that Customer may be required to pay a deposit of up to two times the Estimated Regulated Charge in order to continue service. CUSTOMER ACKNOWLEDGES THAT 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.
4. **Equipment Protection.** Throughout this Agreement's term, Customer will inform its personnel (and any contractor or person performing construction at the Premises or digging near the Equipment) of the Equipment's presence. Either Customer or the other party must provide notices and locate requests to the Georgia Utilities Protection Center and must coordinate all activities with the Utilities Protection Center and with all utility facility owners or operators as required by the then-current Georgia Utility Facility Protection Act (O.C.G.A. § 25-9-1 et seq.) or High-voltage Safety Act (O.C.G.A. § 46-3-30 et seq.). As between Customer and GPC, Customer will bear all costs arising from failure to comply with these laws or for Equipment damage caused by anyone other than GPC (or GPC's representatives or contractors). IF THE EQUIPMENT IS DAMAGED, CUSTOMER WILL REPORT THE DAMAGE TO GPC AS SOON AS POSSIBLE BY CALLING (888) 660-5890.
5. **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 (888) 660-5890 or reporting the need online (<http://outdoorlighting.georgiapower.com>). If the Equipment damage was caused by Customer or a third party, Customer will reimburse GPC for the repair or replacement cost.
6. **Safety; Damages.** CUSTOMER ACKNOWLEDGES SOLE RESPONSIBILITY FOR THE SAFETY OF THE PREMISES AND ACKNOWLEDGES THAT GPC NEITHER HAS, NOR ASSUMES, ANY OBLIGATION TO ENSURE THE PREMISES' SAFETY. 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 UNDER THIS AGREEMENT. Customer will not be entitled to indirect or consequential damages from GPC of any kind (including loss of revenue, loss of actual or anticipated profits, loss of capital costs, loss of business reputation, or punitive damages) arising from any damage or delay involving the Equipment or this Agreement.
7. **Indemnity.** To the fullest extent allowed by law, Customer agrees to indemnify, defend (if requested by GPC), and hold harmless GPC and its affiliates and contractors (and their officers, directors, employees, representatives, and agents) from and against any claim, demand, damage, expense (including attorneys' fees and court costs), action, proceeding, judgment, penalty, fine, cost, or other liability (whether based upon tort, breach of contract, strict liability, equity, or otherwise) of any kind or nature for bodily injury (including death) to persons, damage to real or personal property (including loss of use), monetary damage, or equitable relief caused by or arising out of any act or omission of Customer involving this Agreement, the Equipment, or the Premises, in whatever manner caused and regardless of whether caused by or arising out of the joint, concurrent, or contributory (but not sole) negligence of GPC, any other person indemnified under this Agreement, or any other person not a party to this Agreement.
8. **Default.** Customer will be in default if any amount owed under this Agreement is not paid within 45 days of billing. GPC's waiver of any past default will not waive any other default. If default occurs, GPC may, at its discretion, immediately terminate this Agreement, collect all past due amounts and all amounts due for the Equipment during the Agreement's remaining term, remove the Equipment from the Premises, and seek any other available remedy.
9. **Entire Agreement.** This Agreement contains the parties' entire agreement relating to the Equipment and replaces any prior agreement, written or oral. This Agreement may be modified only by an amendment signed by each party, except that updated contact information (e.g., address, phone, website) may be provided at any time by written notice to the other party. This Agreement will be governed by Georgia law. If any provision is ruled invalid or unenforceable, the Agreement as a whole will not be affected. In this Agreement, "including" means "including, but not limited to."
10. **Pole Attachments.** If Customer desires to attach anything to any Equipment (poles, light fixtures, etc.), Customer must first obtain GPC's written permission. Customer must call GPC Lighting Services Business Unit at 1-888-768-8458 to obtain the proper pole attachment authorization.
11. **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.
12. **Customer Representations.** Customer represents to GPC that: (i) Customer is expressly authorized by all Premises owners (and any other party with rights in the Premises) to enter into this Agreement and to authorize the GPC Activities (including the use of vehicles, equipment, tools, and materials as necessary); (ii) all Premises property lines are clearly and accurately marked; and (iii) the Premises' final grade will vary no more than six inches from the grade existing at the time of Equipment installation.
 - (a) **Customer Duty.** If GPC agrees to allow Customer to perform any part of the Equipment installation (including trenching) itself or through a third party, Customer warrants that its work will meet GPC's installation specifications (which will be provided to Customer and are incorporated by this reference). Customer will bear 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 portion of the Equipment installation can commence.
 - (b) **Underground Facilities/Obstructions.** Because GPC's Activities may require excavation or digging, Customer acknowledges that Customer must mark all underground obstructions and private utilities and facilities (e.g., gas lines, water lines, sewer lines, irrigation facilities, low voltage data or communication cables or lines, etc.) at the Premises. Customer warrants either that: (i) all underground obstructions and private utilities and facilities have been marked or will be marked before GPC commences Equipment installation or other GPC Activities involving excavation or digging; or (ii) there are no underground obstructions or private utilities or facilities at the Premises.
 - (c) **Unforeseen Conditions.** If Customer fails to properly mark or identify a private utility or facility or other underground obstruction, and damage occurs in connection with GPC's Activities, Customer agrees that, as between Customer and GPC, Customer will bear sole responsibility and that GPC will have no liability for any damage or resulting delay. Customer also acknowledges that the estimated charges shown on Page 1 include no allowance for any subsurface rock, wetlands, underground stream, buried waste, unsuitable or unstable soil, underground obstruction, archeological artifact, burial ground, threatened or endangered species, hazardous substance, etc. not properly identified and marked by Customer ("Unforeseen Condition"). If an Unforeseen Condition is encountered, GPC, in its sole discretion, may stop all GPC Activity until Customer either remedies the Unforeseen Condition or agrees to reimburse all GPC expenses arising from the Unforeseen Condition. Customer will bear all costs of any Equipment modification or change requested by Customer or dictated by Unforeseen Conditions or circumstances outside GPC's control.

CUSTOMER REPRESENTATIONS ACKNOWLEDGED BY CUSTOMER: Initials _____ Date _____

Lighting Services – NESC® Regulated Governmental Lease Agreement



Ref # _____ DWE # _____ LAMP # _____
 Ref # _____ DWE # _____ LAMP # _____
 Lead # _____

Customer Name: CITY OF DUNWOODY Tel #: 678.382.6700 Alt. Tel #: _____

Service Address: 0 STREET LIGHTS, RESIDENTIAL STREET LIGHTS
(street, apt #, zip, etc)
DUNWOODY, GA 30338

Mailing Address: _____
(street, apt #, zip, etc)

SS# / Tax ID #: _____ Acct# 03993-10073 County: DEKALB Region: METRO NORTH

EQUIPMENT								
Contribution in Aid of Construction <i>(excludes applicable sales tax)</i>						\$		Bill <input type="checkbox"/> Collected <input type="checkbox"/>
Action	Qty	Lamp Wattage	Type Lamp <i>(HPS, etc.)</i>	Fixture Description	OH/ UG	M/ UM	Estimated Regulated Charge * (\$)	
I	8	150	HPS	POST TOPS	UG	UM	\$129.84	
Monthly Total *							\$ 129.84	

* Estimated Regulated Charge is subject to change at any time as dictated by the Georgia Public Service Commission.

Project Notes: LEISURE RIDGE SUBDIVISION - LEISURE VALLEY DRIVE

Date Billing Effective: _____ *Initial term starts on the date billing begins. As specified by the Outdoor Lighting Service Governmental Tariff, the original term is a minimum of 60 months and will continue thereafter until terminated by either party with at least six months written notice.*

Customer agrees to lease the Equipment described above from Georgia Power Company on the attached terms and conditions.

Customer's Authorized Representative:
 Date: _____
 Print _____
 Name: _____
 Print _____
 Title: _____

Georgia Power Company:
 Signature: _____ Date: _____
 Print _____
 Name: TAMMY PALMER
 Print _____
 Title: SALES ASSOCIATE