

BOARD OF SELECTMEN AGENDA

MONDAY, MAY 23, 2016

SELECTMEN MEETING 7:00 P.M.

SELECTMEN'S CONFERENCE ROOM, TOWN OFFICES

The agenda for each meeting closes at 4:30 P.M. on the Wednesday preceding the meeting. Times designated for agenda items are estimated.

- I. Call to Order– 7:00 P.M.
- II. Opening Ceremonies – 7:00 P.M.
 - A. Moment of Silence/Pledge of Allegiance
- III. Communications/Announcements/Liaison Reports – 7:05 P.M.
- IV. Citizens Petitions and Presentations – 7:15 P.M.
- V. Regular Business of the Board – 7:20 P.M.
 - A. Andover Country Club – (10 minutes)
Andover Country Club to discuss Seasonal Liquor License fees.
 - B. Designer Selection Procedures – (5 minutes)
Board of Selectmen to discuss and consider to vote on the Designer Selection Procedures.
 - C. Establishment of Permanent Town Building Advisory Committee – (10 minutes)
Board of Selectmen to discuss and consider to vote support of the establishment of a new Permanent Town Building Advisory Committee.
 - D. Street Lights – (5 minutes)
Board of Selectmen to consider to vote to approve the Town Manager to enter into a licensing agreement and a purchase agreement with National Grid, in order to facilitate the purchase of the Andover Street Lights.
 - E. Approve Purchase and Sale Agreement for 5 Campanelli Drive – (10 minutes)
Board of Selectmen to review Purchase and Sale Agreement for the acquisition of 5 Campanelli Drive and consider to vote to approve and sign.
 - F. Street Acceptance – (5 minutes)
Board of Selectmen to sign the street acceptance documents to be recorded at registry for Newport Circle, Willoughby Lane and Prides Circle as voted on at Town Meeting.

AGREEMENT OF SALE

This Agreement of Sale (“Agreement”), is made as of this ____ day of June, 2016 by and between Massachusetts Electric Company d/b/a National Grid, a corporation organized and existing under the laws of the Commonwealth of Massachusetts, having its principal place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the “Seller” or the “Company”) and the Town of Andover, a municipality organized and existing under the laws of the Commonwealth of Massachusetts, having its principal place of business at 36 Bartlet Street, Andover, Massachusetts 01810 (hereinafter referred to as the “Buyer” or the “Town”). The Seller and the Buyer may hereinafter be referred to individually as a “Party”, and, collectively, as the “Parties.”

WHEREAS, the Seller presently provides street lighting services to the Buyer pursuant to multiple Massachusetts Electric Company tariffs approved by the Massachusetts Department of Public Utilities (“MDPU”);

WHEREAS, the Buyer has exercised its rights under section 34A of Chapter 164 of the Massachusetts General Laws (“Section 34A”) and has requested that the Company sell to the Buyer certain of the Company’s existing overhead outdoor street and/or area lighting and associated equipment located within the boundary limits of the Town of Andover as shown and described on Exhibit A attached hereto and made a part hereof (each, individually, a “Facility” and, collectively, the “Facilities”);

WHEREAS, the Seller, pursuant to Section 34A, has agreed to transfer the Facilities to the Buyer, subject to the terms and conditions of this Agreement;

WHEREAS, a number of lights in Shawsheen Village owned by the Town since, or prior to, 1987, and all of the equipment used to service the lights, are expressly excluded from the Agreement (the “Shawsheen Facilities”);

WHEREAS, the sale of the Facilities shall be made on an “as is, where is” basis and pursuant to the Massachusetts Electric Company, Street and Area Lighting – Customer Owned Equipment S-5, Retail Delivery Service Tariff (“S-5 Tariff”) approved by the MDPU;

WHEREAS, for a number of years, the Company billed the Town for full maintenance service to the Shawsheen Facilities under Option A of Rate S-3 that is applicable to Company-owned streetlights, rather than under Option B Rate S-3 that is applicable to municipally-owned streetlights (“Billing Discrepancy”), resulting in a credit owed to the Town in the amount of \$162,184.38 (“Billing Credit”); and

WHEREAS, the Parties agree to settle the Billing Discrepancy by applying the Billing Credit to the Purchase Price (“Bill Adjustment”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Seller and Buyer agree to the following terms and conditions:

I. BASIC UNDERSTANDINGS

1. The Seller agrees to sell, and Buyer agrees to purchase, the Facilities, subject to the terms and conditions of this Agreement, the S-5 Tariff and Section 34A, on an “as is, where is” basis.

2. Upon Closing (as defined below), the Seller will convey to the Buyer all of its rights, title and interests in such Facilities; provided, however, that the Seller is not making any representations or warranties to the Buyer regarding the same.

3. The Buyer maintains sole responsibility for ensuring that the list of Facilities in Exhibit A is accurate and complete as of the Closing Date. After the Closing Date, the purchase of any outdoor street or area lights and associated equipment not included in Exhibit A (“Additional Facilities”) shall be subject to an additional purchase price calculation. If, at such time, Seller desires to sell to Buyer and Buyer desires to purchase from Seller such Additional Facilities, Buyer shall pay to Seller a new purchase price in consideration for the Additional Facilities.

4 As of the Closing Date (as defined below), the Buyer shall assume all responsibilities and obligations associated with ownership of the Facilities, including, without limitation, those contemplated by the S-5 Tariff.

5 To the extent that Seller possesses existing physical, hardcopy paper maps that appear to relate to the Facilities, and such maps are able to be copied in a legible form, Seller shall furnish the Buyer with one (1) copy of each such map in its current form (“Map(s)”) after the Closing as such Maps may be available. Seller shall not have any obligation to create any new maps for the Buyer, nor shall Seller have any obligation to review, update or correct any Maps. The Buyer assumes all risk and liability arising from the Buyer's (including any contractor, agent or representative of Buyer) use or reliance on any Map or information contained therein. **SELLER MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES IN CONNECTION WITH THE MAPS, WHETHER STATUTORY, ORAL, WRITTEN, EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, (I) WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND (II) REPRESENTATIONS, WARRANTIES OR GUARANTEES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE MAPS.** If and to the extent the Buyer transfers the Facilities back to the Seller, the Buyer agrees to return to Seller, at no charge, all Maps (including all revisions or updates thereto made by Buyer), together with all newly created maps with respect to the Facilities, on or before the date that the Facilities are transferred back to the Seller.

II. PURCHASE PRICE/CONSIDERATION

1. The Parties acknowledge and agree that the purchase price of the Facilities is \$165,740.25, ("Purchase Price") which represents the value of the overhead sourced Facilities as of the date that the Seller received notice from the Buyer of its intent to acquire the Facilities. For the purposes of this Agreement and the purchase of the Facilities by the Buyer, (i) the Parties agree to settle the Billing Discrepancy by the Bill Adjustment amount which the Parties agree represents full accord and satisfaction of the Billing Discrepancy; (ii) Buyer expressly agrees and accepts the Billing Adjustment; and (iii) the Parties agree that the Buyer shall pay consideration of one dollar (\$1.00) ("Consideration"), instead of the Purchase Price, for the Facilities under this Agreement. The Buyer on behalf of itself and its successors, assigns, affiliates, employees, agents, consultants and all other legal representatives, shall release and forever discharge Seller, its affiliates and their respective successors, assigns, affiliates, employees, and agents from any and all actions, causes of action, debts, expenses (including, but not limited to, consultant and attorney fees), claims, and demands of every kind, name and nature, both at law and in equity arising out of or in any way related to the Billing Discrepancy and Billing Credit. The Parties acknowledge that the Consideration is mutually agreed and is legal and sufficient for the Facilities pursuant to Section 34A.

2. The Buyer shall be solely responsible for the payment of all taxes on or relating to the Facilities, if any, following the Closing Date and thereafter. The Seller shall pay all taxes on the Facilities up to and including the Closing Date. Notwithstanding the designation of a Party as the owner of record of the Facilities for tax purposes, unless the tax liability on the Facilities is abated in its entirety as of the Closing Date, the tax liability shall be apportioned between Buyer and Seller in proportion to the number of days during such tax year within which Buyer and Seller, respectively, owned the Facilities. If the amount of the tax liability is not known or cannot be determined reliably at the time of the Closing, the tax liability shall be apportioned on the basis of the tax assessed for the most recent tax year for which such an apportionment or determination can be made, with a reapportionment to be performed as soon as the new tax rate and valuation can be ascertained.

III. CLOSING, TITLE AND DISCLAIMER OF WARRANTIES

1. **CLOSING:** The closing of the purchase and sale of the Facilities ("Closing") shall occur on or about June __, 2016 or such other date as may be mutually agreed by the Parties ("Closing Date"). At the Closing, Buyer shall pay the Consideration to Seller, and Seller shall deliver to the Buyer a Bill of Sale in the form attached hereto as Exhibit B and incorporated herein by reference (the "Bill of Sale").

2. **LIENS AND ENCUMBRANCES:** Notwithstanding any provision to the contrary, Seller represents to Buyer that the Facilities are free from all liens and encumbrances that are known to the Seller. In the event that the Buyer discovers any liens or encumbrances on the Facilities, which were in place prior to Closing, Seller shall, upon

the request of the Buyer, take such reasonable action as is necessary to obtain a discharge of any such liens or encumbrances on the Facilities.

3. **CONDITION PRECEDENT:** The Closing shall be conditioned upon the execution of the License Agreement for Overhead Sourced Street and Area Lighting and the License Agreement for Underground Sourced Street and Area Lighting between Seller and Buyer (collectively the "License Agreements"), in the forms attached hereto as Exhibits C and D, respectively, incorporated herein by reference.

4. **BILL OF SALE; DISCLAIMER OF WARRANTY:**

(a) Seller shall transfer title to the Facilities to Buyer by the Bill of Sale attached hereto as Exhibit B.

(b) THERE ARE NO PROMISES, COVENANTS OR UNDERTAKINGS WITH RESPECT TO THE FACILITIES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS SET FORTH EXPRESSLY HEREIN. THE EXPRESS COVENANT SET FORTH IN THE BILL OF SALE IS IN LIEU OF, AND SELLER DISCLAIMS, ANY AND ALL OTHER WARRANTIES, GUARANTEES, PROMISES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE FACILITIES OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT SELLER KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), OR COMPLIANCE WITH THE NATIONAL ELECTRIC CODE (NEC), NATIONAL ELECTRIC SAFETY CODE (NESC), OR THE RULES, REGULATIONS, AND PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. THE FACILITIES ARE SOLD "AS IS." IN ADDITION, THE SELLER EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY THIRD PARTY WITH RESPECT TO THE FACILITIES OR ANY PART THEREOF.

IV. TRANSFER, OPERATION AND MAINTENANCE OF THE FACILITIES

1. **REMOVAL OF COMPANY DESIGNATION:** Buyer shall remove or permanently cover up, in a reasonable manner and within a reasonable time, the designation "Massachusetts Electric Company" or any other reference to Seller, Seller's affiliates, or Seller's predecessors in interest found on or among the Facilities, so that no reference to Seller remains visible on or among the Facilities being transferred. The foregoing sentence shall only apply to wooden poles and street light standards included in the Facilities. The Buyer shall also place Buyer identification labels on all Facilities.

2. **FACILITY IDENTIFICATION:** The Buyer shall also place Buyer identification labels on all Facilities which shall include the name of the Buyer and a number identification pursuant to the License Agreements. As Buyer places its identification labels on the Facilities or any new street lighting equipment, Buyer shall provide a quarterly inventory list to the Seller that identifies (i) any equipment on which a new identification label has been affixed, (ii) its unique identification number per luminaire location, and (iii) the street address. The Buyer may utilize the numbering system established by the Seller. Any number identification system used by the Buyer shall be clear and comprehensive to the Seller.

3. **REPAIR AND MAINTENANCE:** From and after the Closing Date and subject to this Agreement, the Buyer shall be the sole owner of the Facilities with all rights, duties and obligations arising from, or in connection with, such ownership, including, without limitation, the obligations to repair, replace, maintain and operate the Facilities. Seller shall be responsible for the repair, replacement, maintenance, and operation of the Facilities up to, but not including, the Closing date.

4. **DEMARCATON OF OWNERSHIP:** The Parties acknowledge and agree that there may not be a physical ownership demarcation point to separate or identify ownership (post-Closing) of Buyer's Facilities from Seller's electric distribution structures or systems. Accordingly, the Parties agree that the point of ownership demarcation shall be deemed to be the existing connection point where the applicable street light Facility is energized from the electric distribution system ("Connection Point"). The Seller shall retain ownership of the electric distribution system up to and including the Connection Point. Buyer shall own the street lighting system from the Connection Point to the luminaire inclusive of the applicable Facilities. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Seller shall, in its sole discretion, define the Connection Point.

5. **THIRD PARTY LIGHTING:** Lighting facilities (including, without limitation poles, standards, arms, brackets, wires, cable, conductor, conduit, foundations and luminaires) owned by Seller and used to provide regulated lighting services to independent third party customers (each, a "Third Party Lighting Asset" or collectively, the "Third Party Lighting Assets") shall not be included in the Facilities that are being transferred to the Buyer through this Agreement. The transfer of Facilities shall exclude facilities upon which Third Party Lighting Assets are attached, physically and/or electrically ("Third Party Lighting Facility(ies)"); provided, however, the Seller shall transfer the requested luminaires and associated brackets or arms to the Buyer on these facilities upon which Third Party Lighting Assets are attached. The Seller shall retain ownership of all existing Third Party Lighting Facilities. The Buyer understands that the Seller shall continue to provide the regulated lighting services to independent customers in the Town of Andover after the Closing.

6. **AUTHORITY TO PERFORM CONNECTIONS:** The Buyer shall not perform or make any connections (permanent or temporary) to, or disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Seller's electric

distribution system or assets, in whole or in part, nor shall the Buyer permit or cause any third party (including without limitation, Buyer's agent or contractor) to do so. The Seller shall be the sole Party with authority to perform or make any and all (permanent and temporary) connections or disconnections to the Seller's electric distribution system or assets for the purpose of providing electric service to the Buyer's outdoor street and area lighting system or otherwise in connection with the Facilities. If and to the extent the Buyer has a need for a connection to, or disconnection from the Seller's electric distribution system or assets, the Buyer shall contact the Seller through normal customer contact channels to initiate the proper work order and scheduling, whereas Seller shall perform the necessary work, provided, that the Seller determines, in its sole discretion, that such work is appropriate under the terms of Agreement, Licenses, applicable codes, standards, laws, regulations and Seller's practices and policies.

7. **JOINT USE INFRASTRUCTURE:** Buyer acknowledges and agrees that some of the Facilities ("Coexisting Facilities") are currently installed or otherwise coexist, in whole or in part, on or within Seller's conduit, vaults, or other Seller facilities, assets or infrastructure ("Joint-Use Structures"), that such Coexisting Facilities shall not be separated from the Joint Use Structures prior to Closing, and that, following Closing, the Coexisting Facilities and/or the Joint Use Structures may, from time to time, require modification or replacement. If Seller elects, in its sole discretion, to significantly modify or replace any Joint Use Structure, including, without limitation, making significant repairs or upgrades to such Joint Use Structure or associated Seller assets, or if Buyer determines that the Coexisting Facilities require significant repair, modification or replacement, or as otherwise provided in the License Agreements, it shall be the sole responsibility of the Buyer to relocate the Buyer's Coexisting Facilities associated with such Joint Use Structure (at Buyer's expense and in compliance with all-applicable laws, rules, regulations codes and standards (each, a "Relocation")) as if such Coexisting Facilities were new facilities. For each such Relocation and subject to this Agreement, Buyer shall relocate the applicable Coexisting Facilities in a manner that is completely separate from the Joint Use Structure or any other Seller assets and Buyer shall be solely responsible for implementing and paying for any associated work and materials, including, without limitation, new conduit, cable and handholes.

8. **ACCESS:** The Buyer or its contractors are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Seller's enclosed or underground primary or secondary electric distribution system infrastructure, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears. The Buyer or its contractors shall comply with all applicable codes, standards, laws, regulations, and Seller's practices and policies when accessing or making contact with any overhead or underground electric distribution system infrastructure. If and to the extent the Buyer needs to access or ingress to any of the Seller's underground or overhead electric distribution system infrastructure, the Buyer shall contact the Seller and the Seller shall respond to the Buyer's request and perform the work as requested following its normal work scheduling protocol, provided, that, the Seller determines, in its sole discretion, that such work is appropriate under the terms of applicable codes, standards, laws, regulations, any other applicable agreements

between the Parties, including but not limited to the License Agreements, and Seller practices and policies.

9. **ATTACHMENT RIGHTS:** The Seller shall provide attachment rights to the Buyer to attach the Facilities to the Seller's support infrastructure and electric distribution system in accordance with the terms in the License Agreements attached hereto. The Buyer, and not the Seller, shall be solely responsible for obtaining all other necessary and appropriate attachment rights or consents required for the Buyer to maintain and operate the Facilities or otherwise required in connection with the Facilities, including, without limitation, rights to attach to support infrastructure (i.e. poles). The Buyer, and not the Seller, has the responsibility to arrange with any other support infrastructure owners (i.e. Verizon) and any other necessary parties other than Seller to obtain such attachment rights, including, without limitation, the owners or joint owners of the support infrastructure (which may be entities other than the Seller). The Seller makes no representations or warranties with respect to, and is not purporting to provide any third party (including, without limitation, Verizon) attachment rights or consents for or in connection with the Facilities.

10. **EASEMENT/ACCESS RIGHTS:** The Seller makes no representations or warranties with respect to, and is not purporting to provide, easements, rights of way or other access rights in connection with this Agreement, the License Agreements or the Facilities ("Access Rights"). The Buyer, and not the Seller, shall be solely responsible for obtaining at Buyer's sole expense any Access Rights required to maintain and operate the Facilities or otherwise required in connection with the Facilities. It is not the responsibility of the Seller to provide or deliver to the Buyer any lists or other documentation of existing easements or rights granted currently held by the Seller. Nor shall it be the Seller's responsibility to assist the Buyer in obtaining any easement or Access Rights.

11. **NEW LIGHTING FACILITIES:**

(a) All new, reconfigured or Materially Changed (as defined in the License Agreements) street lighting facilities which the Buyer requests to be connected to the Seller's electric distribution system shall meet the requirements of the Seller's applicable engineering standards and other design requirements for customer owned Facilities (as determined by Seller) before any request for connection will be performed or completed. All customer equipment connections by the Buyer shall comply with all applicable Seller standards and requirements as provided in the License Agreements, including, but not limited to, the application of a physical disconnect in close proximity to the electric distribution system source. All new lighting/illumination sources (i.e. lamps) for existing or new lighting locations must comply with applicable Seller tariffs and policies.

(b) Buyer acknowledges and agrees that, in the event the Buyer seeks to convert to lighting/illumination sources other than those provided in Seller's tariff, (each, a "Non-Compliant Source"), Seller shall not be able to provide service for

such Non-Compliant Source and Seller shall be under no obligation to permit or provide service to such Non-Compliant Source.

(c) Anything in this Agreement to the contrary notwithstanding, the Buyer understands and agrees that any new outdoor lighting within an underground residential distribution (URD) area shall be placed only in the name of the Buyer as opposed to being placed in the name of the developer or other third party.

(d) Buyer shall immediately notify Seller of the installation of any new street lighting equipment or any material change to any street lighting equipment. Seller shall provide a form to be used for such notification after the Closing.

V. LIABILITY

From and after the Closing Date, the Seller, its affiliates, and their respective officers, directors, employees, and agents, shall not be liable to Buyer or its officers, officials, employees, representatives or contractors for direct, indirect, consequential, punitive, special, exemplary, or any other damages under any theory of law that is now or may in the future be in effect, including without limitation, contract, tort, M.G.L. c. 93A, strict liability, or negligence, in connection with this Agreement, the License Agreements or the Facilities, including, without limitation, damages with respect to or arising from the condition, operation of, or failure of operation of the Facilities. The Buyer's sole remedy for recovery under this Agreement shall be limited to an equitable remedy to enforce the transfer of the Facilities under the Agreement.

Anything in this Agreement to the contrary notwithstanding, the Buyer's liability in connection with this Agreement is limited or capped pursuant to any applicable statute or regulation (including without limitation, M.G.L. c. 258), then the Seller hereto shall be entitled to an identical liability limitation and/or cap as if such statute or regulation were applicable to the Seller.

VI. INDEMNIFICATION

The Parties acknowledge and agree that the indemnification provisions in the License Agreements are incorporated herein by reference; provided, however, that this Article shall not apply to any liability, loss, damages, or expense arising out of any claim from personal injury or property damage or other type of claim, in which the cause of action occurred before the Closing Date.

The Buyer agrees, to the extent permitted by law and to the extent of the Buyer's insurance coverage (under which Seller shall be named an additional insured as set forth in Article VI below) to defend and to pay, protect, indemnify and save harmless the Seller and its affiliates against and from any and all liabilities, claims, suits, fines, penalties, damages, personal injury, losses, fees (including reasonable attorneys' fees), costs, and expenses (hereinafter "Claims") arising out of or in connection with this Agreement resulting from any act, failure or omission on the part of the Buyer or its

officers, officials, employees, representatives or contractors, provided however, the Buyer's liability hereunder is limited pursuant to any applicable statutes or regulations.

VII. INSURANCE

In accordance with the License Agreements, the Buyer shall, at its sole cost and expense, obtain and keep in force comprehensive general liability insurance in terms and amounts commercially reasonable (but no less than any applicable statutory or regulatory limit or cap on liability) covering any action arising in connection with this Agreement, and shall name the Seller as an additional insured thereunder. Such insurance will insure all of the indemnity obligations set forth herein and, upon request, the Buyer shall provide a certificate of insurance to Seller showing such coverage.

VIII. GOVERNING LAW

This Agreement shall be governed by, performed, and construed in accordance with the laws of The Commonwealth of Massachusetts without regard to the conflicts of law principles contained therein.

IX. PRIOR AGREEMENTS

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all previous agreements, discussions, communications, and correspondence. Any prior agreements, promises, negotiations, or representations not set forth in this Agreement are of no force or effect.

X. ASSIGNMENT, MODIFICATION

This Agreement and the rights and obligations set forth herein shall not be assigned by either Party without the written agreement of both Parties. This Agreement may not be amended or modified except in a writing signed by both Parties, and shall inure to and be binding upon the Parties and their respective successors and assigns.

XI. SEVERABILITY

If any provision of this Agreement is held invalid by any court or body of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

XII. SURVIVAL

Articles I, II, III, IV, V and VI shall survive the Closing.

XIII. NOTICE

Any notice given under this Agreement shall be in writing and shall be hand delivered, sent by registered or certified mail, delivered by a reputable overnight courier,

or sent by facsimile with electronic confirmation of receipt, to the other party's representative as follows:

Buyer:

Town of Andover

36 Bartlet Street

Andover, MA 01810

Attention: _____

Seller:

Massachusetts Electric Company d/b/a National Grid

40 Sylvan Avenue

Waltham MA 02451

Attention: Outdoor Lighting & Attachments

XIV. APPLICABLE STATUTE AND TARIFF

The Parties understand and agree that this Agreement is made pursuant to Section 34A and shall be subject to the terms of the S-5 Tariff. To the extent there is any conflict between this Agreement and the S-5 Tariff, the S-5 Tariff shall govern.

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

MASSACHUSETTS ELECTRIC COMPANY
d/b/a NATIONAL GRID

By: _____

Name: Christopher Kelly
Title: Acting Senior Vice President, Electric
Process and Engineering

TOWN OF ANDOVER

By: _____

Name: Andrew P. Flanagan
Title: Town Manager

EXHIBIT A
DESCRIPTION OF STREET AND AREA LIGHTING FACILITIES

Town of Andover
Summary of Exhibit A - Description of Facilities to be Purchased
As of October 9, 2015

Count of Bill Print and Tariff Description				Component		Source		Billing		
				Type	Type	Status				
Customer Name	Rate	Account No	Bill Print and Tariff Description	Active	Temp Turn Off	Luminaire		Pole	Pole Total	
						Total	Overhead			
TOWN OF ANDOVER	S-1	03223-58001	LUM HPS FLD 400W	4		4				
			LUM HPS RWY 250W	1		1				
			LUM HPS RWY 400W	1		1				
			LUM MV FLD 1000W	1		1				
			03223-58001 Total	7		7				
		03223-59008		LUM HPS RWY 50W	2		2			
		03223-59008 Total	2		2					
		15559-57000		LUM HPS FLD 400W	8		8			
				POLE - WOOD				6	6	
		15559-57000 Total	8		8			6	6	
		27992-74009		LUM HPS FLD 250W	4		4			
				LUM HPS FLD 400W	10		10			
				LUM HPS RWY 100W	146		146			
				LUM HPS RWY 100W TT		29	29			
				LUM HPS RWY 150W	7		7			
				LUM HPS RWY 150W TT		4	4			
				LUM HPS RWY 250W	120		120			
				LUM HPS RWY 250W TT		6	6			
				LUM HPS RWY 400W	23		23			
				LUM HPS RWY 50W	555		555			
				LUM HPS RWY 50W TT		137	137			
				LUM INC RWY 105W	82		82			
				LUM INC RWY 105W TT		36	36			
		LUM INC RWY 205W	3		3					
		LUM MV RWY 100W	107		107					
		LUM MV RWY 100W TT		232	232					
		LUM MV RWY 175W	39		39					
		LUM MV RWY 175W TT		61	61					
		LUM MV RWY 400W	24		24					
		LUM MV RWY 400W TT		8	8					
		POLE - WOOD				6	6			
27992-74009 Total	1120	513	1633			6	6			
S-1 Total	1137	513	1650			12	12			
TOWN OF ANDOVER Total	1137	513	1650			12	12			

Bill Print and Tariff Description Key
 FLD = Flood or Area style fixture
 HPS = High Pressure Sodium
 INC = Incandescent
 LUM = Luminaire or fixture
 MV = Mercury Vapor
 RWY = Roadway style fixture
 POLE = Non-distribution pole
 WOOD = Wood pole

EXHIBIT B

BILL OF SALE

MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with a principal place of business in Waltham, Middlesex County, Massachusetts ("Seller"), in consideration of \$1.00 paid by the Town of Andover ("Buyer"), the receipt of which is hereby acknowledged, does hereby sell, transfer and assign all its right, title, and interest unto Buyer, in the following described goods and chattels, to wit:

[Description of Facilities – Exhibit A]

THERE ARE NO PROMISES, COVENANTS OR UNDERTAKINGS WITH RESPECT TO THE FACILITIES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS SET FORTH EXPRESSLY HEREIN. THE EXPRESS COVENANT SET FORTH IN THE BILL OF SALE IS IN LIEU OF, AND SELLER DISCLAIMS, ANY AND ALL OTHER WARRANTIES, GUARANTEES, PROMISES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE FACILITIES OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT SELLER KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), OR COMPLIANCE WITH THE NATIONAL ELECTRIC CODE (NEC), NATIONAL ELECTRIC SAFETY CODE (NESC), OR THE RULES, REGULATIONS, AND PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. THE FACILITIES ARE SOLD "AS IS." IN ADDITION, THE SELLER EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY THIRD PARTY WITH RESPECT TO THE FACILITIES OR ANY PART THEREOF.

TO HAVE AND TO HOLD the Facilities herein described unto Buyer, its successors and assigns, to its and their own use and benefit forever.

IN WITNESS WHEREOF, MASSACHUSETTS ELECTRIC COMPANY has caused these presents to be signed in its name and behalf by its duly authorized representative, this ____ day of June, 2016.

MASSACHUSETTS ELECTRIC COMPANY

By: _____
Name: Christopher Kelly
Title: Acting Senior Vice President, Electric Process
and Engineering

Accepted as to the Terms and Conditions contained herein,

TOWN OF ANDOVER

By: _____
Name: Andrew P. Flanagan
Title: Town Manager

EXHIBIT C

**LICENSE AGREEMENT
FOR
OVERHEAD ELECTRICAL SERVICE
AND
ATTACHMENTS TO
UTILITY POLES
FOR
STREET AND AREA LIGHTING**

EXHIBIT D

**LICENSE AGREEMENT
FOR
UNDERGROUND ELECTRICAL SERVICE
AND
ATTACHMENTS TO
UTILITY STRUCTURES
FOR
STREET LIGHTING AND AREA LIGHTING**



LICENSE AGREEMENT
FOR
OVERHEAD ELECTRICAL SERVICE
AND
ATTACHMENTS TO
UTILITY POLES
FOR
STREET AND AREA LIGHTING

BETWEEN

Massachusetts Electric Company
d/b/a National Grid
(LICENSOR)

AND

Town of Andover, Massachusetts
(LICENSEE)

DATED: June __, 2016

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THIS AGREEMENT ("Agreement"), is made this ____ day of June, 2016, by and between Massachusetts Electric Company, a corporation organized and existing under the laws of Massachusetts, having its principal office at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the "Licensor"), and the Town of Andover, a municipal corporation organized and existing under the laws of Massachusetts, having its principal office at 36 Bartlet Street, Andover, Massachusetts 01810 (hereinafter referred to as the "Licensee").

WITNESSETH

WHEREAS, Licensee is a municipal government and shall own, operate and maintain street and area lighting equipment to provide street and area lighting of public ways or public lands within Licensee's municipality; and

WHEREAS, Licensee has purchased street and area lighting Facilities attached to Licensor's Poles pursuant to M.G.L., c. 164, § 34A, and the rulings of the MDPU (formerly MDTE) interpreting said provision, and desires to retain and/or make Attachments on the Poles of Licensor, which Poles are either Jointly Owned or solely owned by Licensor; and

WHEREAS, the execution of this Agreement by and between the Licensor and Licensee is a condition to the closing of the sale of the Facilities described in the Agreement of Sale; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, and/or is required to permit the continued existence and new placement of Attachments on Licensor's Poles in a specified geographic area, where reasonably available and where such use will not interfere with Licensor's service requirements and obligations or the use of its facilities by others subject to the terms of this Agreement;

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties do hereby mutually covenant and agree as follows:

1.0 DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the following meanings:

1.1 "Agreement of Sale" shall mean the agreement pursuant to which Licensor sold and Licensee purchased the Facilities subject to this Agreement.

1.2 "Attachment" shall mean the Facilities, including without limitation; (i) any single luminaire and its supporting bracket, owned by Licensee, placed on Licensor's Pole and used for providing street or area lighting of public ways or public lands and/or (ii) any wire, conductor or circuitry owned by Licensee, limited to the specific wiring of an individual luminaire and/or a conductor span from a Licensee owned pole and including Guy Strand(s), placed on Licensor's pole and connected to the distribution system at the Connection Point for which it is used solely for delivering electrical energy to such luminaire.

1.3 "Connection Point" shall have the meaning ascribed to it in the Agreement of Sale, as further defined herein and as the Parties understand such to be where the street light Facility is energized from the electric distribution system or similarly referenced as the point of ownership demarcation. The Licensor shall own the electric distribution system up to and including the Connection Point. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Licensor, at its sole discretion, shall define the Connection Point.

1.4 "Facilities" shall have the meaning ascribed to it in the Agreement of Sale and further defined herein and limited to, or inclusive of, additional facilities purchased or components or equipment having the sole purpose and function to provide outdoor illumination of streets or areas including the associated support infrastructure and electrical circuitry compliant with applicable regulations, codes or policies.

1.5 "Field Survey" shall mean an on-site audit and/or office asset record review, requested by Licensee, of the Pole(s) on which Licensee proposes to: (i) make a new Attachment(s), (ii) relocate an existing Attachment(s), or (iii) Materially Change an existing Attachment(s), performed by Licensor in order to determine if the Pole(s) can safely accommodate the requested Attachment.

1.6 "Identification Labels" shall mean markings, decals, labels or other displays that indicate ownership and function of Licensee's Facilities.

1.7 "Joint Owner" or "JO" shall mean a person, firm, or corporation sharing an ownership interest in a Pole and/or anchor rod with Licensor.

1.8 "Joint User" shall mean any other public utility, which shall now or hereafter have the right to use any of Licensor's Poles. The term "Joint User" shall not include Licensee.

1.9 "Make-Ready Work" shall mean the work, identified through the Licensee requested Field Survey, required to safely accommodate Licensee's requested Attachments on Licensor's Pole(s), including the reconfiguration and/or transfer of existing facilities on a Pole, the replacement of a Pole, or any other modifications or upgrades required to accommodate Licensee's Attachments safely on Licensor's Pole(s).

1.10 "Material Change", "Materially Change" or "Materially Changed" shall mean any alteration, modification or replacement made to the existing Facilities that changes its characteristics associated with the; licensed specifications or description, mode of operation or

maintenance, physical attributes, use of Poles by Licensor or Other Licensees, attributes related to billing, and/or financial reporting considered as a capital investment.

1.11 "MDPU" shall mean the Massachusetts Department of Public Utilities.

1.12 "OSHA" shall mean the Occupational Safety and Health Act as it may be amended from time to time as administered by the Occupational Safety and Health Administration within the U.S. Department of Labor.

1.13 "Other Licensee" shall mean any entity, other than Licensee as defined herein or a Joint User, to whom Licensor has extended or hereafter shall extend the privilege of attaching equipment or facilities to Licensor's Pole(s).

1.14 "Pole" shall mean any vertically oriented utility structure constructed predominately of treated wood, including metal, composites and concrete used to support electrical conductors and other utility equipment necessary to facilitate the operation of an electric distribution system and used for Attachments.

1.15 "Qualified Electrical Worker" shall mean any worker, electrical worker, contractor or other designated individual having successfully achieved a specified minimum level of training and/or experience including, but not limited to all applicable federal, state, and local work rules and Company requirements, including compliance with OSHA 29 CFR 1910.269 as it may be amended from time to time.

1.16 "Removal Rights" shall refer to the rights pursuant to this Agreement or to applicable laws granting Licensor certain legal rights and/or recourse to request or perform the removal of certain Attachments.

1.17 "Sole Owner" or "SO" shall mean a person, firm, or corporation having and maintaining a singular ownership interest in a Pole and/or anchor rod.

2.0 SCOPE OF AGREEMENT

2.1 Subject to the provisions of this Agreement, Licensor agrees to issue to Licensee, revocable, nonexclusive licenses authorizing Licensee's Attachments to Licensor's Structures within the Town of Andover, for the sole purpose of providing street or area lighting of public ways or public lands. The license(s) shall (1) authorize existing and future Attachments upon Licensor's Poles, (2) provide definition of individual Facilities through the designation of a unique identification reference, (3) utilize the identification reference as the individual license reference, (4) recognize Facilities that are considered Attachments based solely upon the extended use of the Connection Point, and (5) represent Facilities for the purpose of inventory and billing administration. This Agreement shall govern with respect to licenses issued to Licensee's existing or future Attachments. The application for licenses or listing of current licenses shall be in the form attached hereto as APPENDIX II, Form A-1 (Application to Street Light Pole Attachment License) and A-2 (Street Light Pole Attachment License), respectively.

2.2 No use, however extended, of Licensor's Poles or the payment of any fees or charges by Licensee as required under this Agreement shall create or vest in Licensee any ownership or property rights in such Poles. Licensee's rights herein shall be and shall remain a license. Neither this Agreement nor any license granted hereunder shall constitute an assignment of any of Licensor's rights to use the public or private property at the location of Licensor's Poles.

2.3 Nothing contained in this Agreement shall be construed to compel Licensor to construct, retain, extend, place, or maintain any Pole or other facilities not needed for Licensor's own service requirements. This paragraph is not intended to limit the obligation of Licensor to provide electric distribution service to Attachments pursuant to Licensor's tariffs.

2.4 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Licensor with respect to any agreement(s) and arrangement(s) that Licensor has heretofore entered into, or may in the future enter into, with Other Licensees not party to this Agreement regarding the Poles covered by this Agreement. The rights of Licensee shall at all times be subject to any such existing and future agreement(s) or arrangement(s) between Licensor and any Joint Owner(s), Joint User(s) or Other Licensees of Licensor's Poles. Anything in this Agreement to the contrary notwithstanding nothing contained in this Agreement shall be construed to grant, and Licensor makes no representations or warranties with respect to, and is not purporting to provide, any third party or Joint Owner attachment rights, licenses or consents for or in connection with the Attachments. Licensee shall be and remain solely responsible for obtaining all necessary and appropriate attachment rights or consents required in connection with the Attachments. The Licensee is solely responsible to seek out the necessary parties to obtain such attachment rights, including, without limitation, the owners or Joint Owners of the applicable Poles or other assets to which the Attachments are or will be attached.

2.5 Nothing contained in this Agreement shall be construed to grant any rights to Licensee to include any wired or wireless hardware, equipment, apparatus, or device as part of any Attachment authorized by Licensor under the terms of this Agreement.

2.6 Except as otherwise provided herein, Licensor and Licensee hereby agree that this Agreement shall govern with respect to the Attachments and supersede any applicable provision that may be contained in the Agreement of Sale.

3.0 FEES AND CHARGES

3.1 Licensee shall pay to Licensor the fees and charges, calculated in accordance with appropriate state and/or federal rules and regulations and as specified in applicable tariffs and in accordance with the terms and conditions of APPENDIX I, attached hereto and incorporated herein by reference, Article 4.0, Article 8.0, and APPENDIX II, Forms B-1 and B-2.

3.2 Nonpayment of any authorized work and the corresponding amount due under this Agreement shall constitute a default of this Agreement, and Licensor shall be entitled to

exercise all of its rights and remedies under this Agreement, including but not limited to, termination rights under Article 19.0.

3.3 Licensor may change the amount of fees and charges specified in APPENDIX I by giving Licensee no fewer than sixty (60) days written notice prior to the date the change becomes effective. Notwithstanding any other provision of this Agreement, Licensee may terminate this Agreement at the end of such sixty (60) day notice period if the change in fees and charges is not acceptable to Licensee, provided that Licensee gives Licensor no fewer than thirty (30) days written notice of its election to terminate this Agreement prior to the end of such sixty (60) day period. Upon said termination, Licensee shall be responsible for the removal of all Licensee's Attachments unless otherwise specified in accordance with and to the extent authorized by Article 19.0.

4.0 PAYMENTS

4.1 As described in Section 8.2, a Field Survey is required for each Pole on which Licensee requests to install an Attachment or on which Licensee proposes to relocate or Materially Change an existing Attachment. Prior to Licensor's performance of the required Field Survey, Licensee shall authorize Licensor to perform such Field Survey and Licensee shall make advance payment to Licensor in the amount specified by Licensor to cover Licensor's estimated cost to perform and complete the required Field Survey, as described in Section 8.2. The parties agree that upon completion of the Field Survey by Licensor, no adjustment of the Field Survey costs paid by Licensee shall be made to reflect Licensor's actual costs to perform the Field Survey, whether or not Licensor's actual costs are more or less than the estimated costs paid by Licensee. The current standard charge assessed to Licensee and all Other Licensees for the Field Survey can be found in APPENDIX I, Schedule of Fees and Charges and is based on Licensor's current estimated cost to perform and complete the Field Survey. Licensor reserves the right to change such standard charge assessed to Licensee and all Other Licensees from time to time and to provide written notice as stated in Section 3.3 for the Field Survey. In addition to the standard charge, Licensor's estimated total costs shall include applicable permits, work zone protection and other functions which may be required to perform the Field Survey at any specific location. For each Application for Street Light Pole Attachment License, the required Field Survey shall not be conducted until the total cost amount of the Field Survey has been specified by Licensor, the Field Survey has been authorized by Licensee, and Licensee has made advance payment to Licensor in the amount specified by Licensor.

4.2 Prior to Licensor's performance of any required Make-Ready Work, Licensee shall authorize Licensor, in accordance with Article 8.0, to perform such required Make-Ready Work, and Licensee shall make advance payment to Licensor in the amount specified by Licensor. Such specified amount shall be sufficient to cover Licensor's estimated cost to perform

and complete the required Make-Ready Work. The parties agree that upon completion of the Make-Ready Work by Licensor, no adjustment of the Make-Ready Work costs paid by Licensee shall be made to reflect Licensor's actual costs to perform the Make-Ready Work, whether or not Licensor's actual costs are more or less than the estimated costs paid by Licensee.

4.3 Licensee shall pay the fees and charges for the purposes and as described in APPENDIX I to this Agreement and/or applicable tariffs.

5.0 SPECIFICATIONS

5.1 Licensee's Attachments shall be placed, maintained, and removed in accordance with the applicable requirements and specifications of the most recent editions of the National Electrical Code (NEC); the National Electrical Safety Code (NESC); the rules, regulations, and provisions of OSHA; and any governing authority having jurisdiction over the subject matter of this Agreement, as each may be amended from time to time. In addition, upon the performance of a Licensee requested Field Survey, Licensee's Attachments, which are the subject of the Field Survey, shall be placed, maintained, and removed in accordance with all safety-related requirements and specifications of the most recent edition of the Licensor's engineering standards, as may be amended from time to time, in effect at the time the Field Survey for such Attachments is performed. Licensee shall participate in any forum, group or organization, and utilize any designated common information management system, solely at the Licensee's cost, established to facilitate communications, priority, schedule and any other functions necessary to manage, locate or identify the attachment assets and actions of all licensees and facility owner(s). This includes, but is not limited to, the coordination of transferring Attachments when Poles have been replaced requiring Company or Joint Owners, Licensee, Joint Users and other customers to relocate their attachments. At the time of this Agreement, the system in use is National Joint Use Notification System (NJUNS).

5.2 To the extent authorized by Article 18.0, if Licensee's Attachments or any part(s) thereof are not placed, maintained, and removed in accordance with Section 5.1, Licensor may, upon ten (10) days' written notice to Licensee and in addition to any other remedies Licensor may have hereunder, remove Licensee's Attachments from any or all of Licensor's Poles or perform such other work and take such other action in connection with said Attachments that Licensor deems necessary or advisable to provide for the safety of the public or Licensor's employees or performance of Licensor's service obligations, at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee therefore; provided, however, that when in the reasonable judgment of Licensor such a condition may endanger the safety of Licensor's employees or contractors, other persons or property or interfere with the performance of Licensor's service obligations, Licensor may take such action in its sole discretion without liability and without prior notice, written or otherwise, to Licensee.

5.3 If Licensor reasonably determines that an emergency condition exists, Licensor may rearrange, transfer, de-energize or remove Licensee's Attachments on Licensor's Poles at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee for loss of service and/or damage or injury to Licensee's Attachments.

5.4 Licensee shall install in-line fuse assemblies or another form of Licensor approved physical disconnect device to function as an electrical separation between Licensor's and Licensee's systems and provide a designated level of electrical system protection. This disconnect device shall be located in close proximity to the energizing source Connection Point, accessible to both Licensor and Licensee, installed in conformance with Licensor's Overhead Electrical Construction Standards and be connected to the electrical distribution system's energized lead of the aerial conductor designated by Licensor for use by the street or area light(s). The installation of these disconnect devices shall occur during each Facility Material Change or prior to each Licensor connection or reconnection or as otherwise provided in the Agreement of Sale. All existing overhead sourced Facilities shall be so equipped within ten (10) years following execution of the Agreement of Sale. For avoidance of doubt, Licensor shall own the electric distribution system from and including the Connection Point and the Licensee shall own the street lighting equipment from the Connection Point to the applicable luminaire. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Licensor shall, in its sole discretion, determine the applicable demarcation point with respect to electric distribution equipment and the Facilities.

5.5 Licensee shall remove or permanently cover up, in a reasonable manner and within a reasonable time not to exceed a period of five (5) years, the designation "Massachusetts Electric Company" or any other reference to Licensor, Licensor's affiliates, or Licensor's predecessors in interest found on or among the Facilities so that no reference to Licensor remains visible on or among the Facilities being transferred from Licensor to Licensee. The foregoing sentence shall only apply to wooden poles and street light standards included in the Facilities. The Licensee shall also place Licensee Identification Labels on all Attachments which shall include the name of the Licensee. The Licensor, in its sole discretion, shall have the right to approve or reject all ownership Identification Labels that vary from those described in APPENDIX II, Form E.

5.6 Licensee shall maintain applicable National Electrical Manufacturers Association (NEMA) or other industry standard labeling upon each luminaire, in a clear and legible condition, to identify the type of light source and associated wattage or lumen output.

5.7 Licensee shall utilize Licensor's pole location identification reference or shall maintain an appropriate means of light location identification (i.e. numbering system) in conjunction with and/or coordinated to the Licensor's pole location identification reference to maintain a unique reference which shall be clear, legible, comprehensive and visible from the

street side of the Facilities. The Licensee shall provide to the Licensor an inventory list at the end of each calendar quarter that identifies any Facilities on which a new identification reference per luminaire location has been assigned and the corresponding street address. Any number identification system used by the Licensee must be clear, comprehensive and approved by the Licensor.

6.0 LEGAL REQUIREMENTS

6.1 Licensee shall be responsible for obtaining from the appropriate public and/or private authority any authorizations required to construct, operate, and/or maintain its Attachments on the public and private property at the location of Licensor's Poles for which Licensee has obtained Street Light Pole Attachment Licenses under this Agreement and shall submit to Licensor evidence of such authorization before making Attachments on such public and/or private property.

6.2 The provisions of this Agreement are subject to, and the parties hereto shall at all times observe and comply with, all laws, ordinances, regulations, and rulings that in any manner affect the rights and obligations of the parties hereto, so long as such laws, ordinances, regulations, or rulings remain in effect.

6.3 No license granted under this Agreement shall extend to any of Licensor's Poles where the placement of Licensee's Attachments would result in a forfeiture of the rights of Licensor or Joint Users to occupy the property on which such Poles are located. If placement of Licensee's Attachments would result in a forfeiture of the rights of Licensor or Joint Users, or both, to occupy such property, Licensee agrees to remove its Attachments forthwith; and Licensee agrees to pay Licensor or Joint Users, or both, all losses, damages, and costs incurred as a result thereof.

6.4 Neither this Agreement nor the payment of any fees under this Agreement shall be used by any party hereto as evidence that the space occupied by Licensee's Attachments is either usable or unusable space.

7.0 ISSUANCE OF LICENSES

7.1 Licensor agrees that it will authorize the Street Light Pole Attachment License(s), attached as APPENDIX II, Form A-1 hereto, simultaneously with the execution of this Agreement for Facilities purchased by Licensee from Licensor prior to the date hereof.

7.2 Prior to the placement, relocation, or Material Change by Licensee of any Attachment to any Pole of Licensor, Licensee shall make application for and have received a license therefore from Licensor in the form of APPENDIX II, Forms A-1 (Application for Street

Light Pole Attachment License and Street Light Pole Attachment License) and A-2 (Street Light and Pole Details).

7.3 For the Licensor to provide the Attachment license and to maintain quality assurance of the billing records, Licensee shall issue to Licensor within 15 days of the beginning of each calendar year, and as otherwise requested by Licensor, a complete and detailed listing of all Facilities in-service as of December 31 of the preceding calendar year. The minimum detail to be provided shall meet the requirements designated for the Application for Street Light Pole Attachment License and Street Light and Pole Details (as defined in APPENDIX I). Licensee shall provide to Licensor a similar list of Facilities which are in-service upon request by Licensor. Such requests shall be limited to no more than one every 90 days. The Licensee shall be capable of providing the list of Facilities in a form approved by Licensor. The Licensor may perform random field audits of Facilities for the purpose of quality assurance of the information on the list provided by the Licensee. To the extent there are any differences between the Licensee's list of Facilities and the Licensor's list of Attachments which cannot be reconciled to the satisfaction of the Licensor such differences shall be resolved through compliance with the terms and conditions of this Agreement applicable statutes and tariffs.

8.0 MAKE-READY WORK

8.1 All new, Material Changed or reconfigured Facilities which the Licensee requests to be connected to the Licensor's electric distribution system must meet the requirements of the Licensor's engineering standards and other designated design configurations for customer owned facilities (as determined by Licensor in its sole discretion); Licensor may not elect to connect any new Materially Changed or reconfigured Facilities that fail to meet such standards. All equipment connections by the Licensee shall comply with all applicable Licensor standards and requirements, including, but not limited to, the application of a physical disconnect in close proximity to the Licensor provided connection to the electric distribution system.

8.2 A Field Survey is required for each Pole on which Licensee requests to install an Attachment or on which Licensee proposes to relocate or Materially Change its existing Attachment(s) in order to determine whether or not the Pole is adequate to accommodate Licensee's Attachment(s). If, as a result of the Field Survey, a determination is made that the requested Attachment cannot be accommodated safely on said Pole(s), the Field Survey shall identify what work, if any, is necessary to make the pole(s) ready to accommodate the requested Attachment, and provide the basis for estimating the cost of this work. The Licensor acknowledges that the Licensee will not request a Field Survey if Licensee replaces an existing Facility with a new Facility having the same physical and operational characteristics and in the same location and orientation as the existing Facility being replaced, (i.e. in-kind replacement). The Licensee is to provide Licensor a written request for each Field Survey providing appropriate

description and engineering detail to define the proposed Attachment. The Licensor shall provide Licensee a Field Survey estimate representing all anticipated costs. Licensor shall perform the Field Survey(s) following receipt of the Licensee's written authorization to proceed and the advance payment of the estimated total cost amount specified by the Licensor for all Field Survey(s) work in accordance with the provisions of Article 4.0.

8.3 In the event Licensor determines that a Pole on which Licensee desires to install a new Attachment or on which Licensee proposes to reconfigure, relocate or Materially Change its Attachments is inadequate or otherwise needs rearrangement of the existing facilities thereon to accommodate the Attachments of Licensee in accordance with the specifications set forth in Article 5.0, Licensor will indicate on the Authorization for Pole Make-Ready Work (APPENDIX II, Form B-2) the cost of the required Make-Ready Work and will send the Authorization for Pole Make-Ready Work to Licensee.

8.4 Any required Make-Ready Work will be performed following receipt by Licensor of the completed Authorization for Pole Make-Ready Work and Licensee's advance payment in the amount specified by the Licensor. Licensee shall pay Licensor for all Make-Ready Work in accordance with the provisions of Article 4.0, and shall also reimburse the owner(s) of other facilities attached to said Poles for any expense incurred by such owner(s) of other facilities in transferring or rearranging such facilities to accommodate installation, reconfiguration or removal of Licensee's Attachments. Licensee shall not be entitled to reimbursement of any amounts paid to Licensor for Pole replacements or for reconfiguration of Attachments on Licensor's Poles by reason of the use by Licensor or other authorized user(s) of any additional space resulting from such replacement or reconfiguration. Any federal, state, or local taxes incurred upon Licensor's receipt of these amounts from Licensee will be added to Licensee's Make-Ready Work costs on a grossed up basis, as applicable and determined by the scope of work being performed.

8.5 Licensor reserves the right to refuse to grant a Street Light Pole Attachment License to Licensee or refuse authorization for the relocation or replacement of Attachments on a Pole when Licensor reasonably determines that: (i) the space on such Pole is required for the safe operation of Licensor's distribution system, (ii) such Pole may not be replaced, (iii) the existing Facilities on such Pole may not be rearranged to accommodate Licensee's Attachments, or (iv) the proposed Licensee Facilities will negatively impact other customer services provided by Licensor. For the avoidance of doubt, the parties understand and agree that the list of above-mentioned conditions is not an exhaustive list as other conditions may exist that would require Licensor to refuse to grant a license.

8.6 If Licensor, or Joint Owner with whom it has a Joint Use agreement, for its own service requirements, needs to attach additional facilities to any of Licensor's Poles upon which Licensee has Facilities attached, Licensee shall either;

(a) reconfigure its Attachment(s) on the Pole(s) or transfer its Attachment(s) to any replacement Pole(s) as determined by Licensor so that the additional facilities of Licensor or Joint Owner may be attached. When such reconfiguration or transfer is required to install Licensor's or Joint Owner's additional attachments, Licensee shall assume the expense of such reconfigurations or transfer of Licensee's Facilities by Licensee. This paragraph also applies to circumstances under which: (i) an agency of government, whether local, state or federal, requires the removal, relocation, or modification of a Pole affecting Licensee's Attachment(s) or (ii) a Pole must be repaired or replaced for any reason, including when such repair or replacement is performed to accommodate additional attachments of Licensor or Joint Owner.

(b) not reconfigure or transfer its Attachments within fifteen (15) days after receipt of written notice from Licensor requesting such reconfiguration or transfer, Licensor or Joint User may perform or have performed such reconfiguration or transfer of Licensee's Attachments to accommodate additional Attachment, modifications, rearrangements, replacements or relocations of Licensor's or Joint Owner Attachments. Licensee shall reimburse the Licensor for all expenses incurred with the Make-Ready Work performed by Licensor. Where such reconfiguration or transfer of Licensee's Attachments is completed by Licensor due to: (i) the requirements of a government agency, whether local, state or federal, for the removal, relocation, or modification of a Pole affecting Licensee's Attachments or (ii) a Pole must be repaired or replaced for any reason, including when such repair or replacement is performed to accommodate additional attachments of Licensor or Joint Owner, Licensee agrees to pay the costs thereof.

8.7 If another Licensee or other third party needs to attach additional facilities to any of Licensor's Poles to which Licensee is attached, Licensee shall:

(a) reconfigure its Attachment(s) on the Pole(s) or transfer its Attachment(s) to any replacement Pole(s) as determined by Licensor so that the additional facilities of another Licensee or other third party may be attached. When such reconfiguration or transfer is required to accommodate the Attachment of another Licensee or third party, Licensee shall assume the expenses of such reconfiguration or transfer of Licensee's Facilities. Licensee retains and reserves all rights to recover and be reimbursed by the other Licensee or third party for such reconfiguration or transfer of Licensee's attachments.

(b) not rearrange or transfer its Attachments within fifteen (15) days after receipt of written notice from Licensor requesting such reconfiguration or transfer, Licensor or Joint User may perform or have performed such reconfiguration or transfer. Licensee shall be responsible for the expenses of such reconfiguration, transfer or

removal performed by Licensor on behalf of Licensee in accordance with the provisions of Article 4.0. Licensee shall be given sixty (60) days' notice prior to the performance of the Make-Ready Work associated with such reconfiguration, transfer or removal to establish expense reimbursement terms with the Other Licensee or third party. Licensee has sole responsibility for the recovery of the costs of the reconfiguration, transfer or removal of Licensee's Attachments from such Other Licensee or third party.

8.8 Licensor may, when it reasonably deems an emergency to exist, rearrange, transfer, de-energize or remove Licensee's Attachments on or from Licensor's poles, at Licensee's expense, and without any liability on the part of the Licensor for loss of service provided by Licensee or any damage or injury to Licensee's Attachments.

8.9 Licensor will endeavor to perform all Make-Ready Work to accommodate Licensee's Attachments as a part of its normal scheduled workload.

8.10 All existing and new Facilities must comply with applicable Licensor tariffs and policies. All lighting or illumination sources (i.e. lamps) will be compliant with the energy consumption schedules and defined hours of operation as set-forth in the tariffs. Licensee acknowledges and agrees that, in the event that Licensee seeks to convert, replace or otherwise use a lighting or illumination source other than those provided in Licensor's applicable tariff, or operate such Facilities in a manner other than as stated in Licensor's applicable tariff, ("Non-Compliant Facilities"), Licensor shall be under no obligation to permit or provide service to such Non-Compliant Facilities. In the event Licensor elects, in its sole discretion, to accommodate such Non-Compliant Facilities, a separate agreement between Licensee and Licensor shall be executed. Such agreement shall be subject to applicable regulatory consent or approval prior to the application of the agreement.

9.0 CONSTRUCTION, MAINTENANCE, AND REMOVAL OF ATTACHMENTS

9.1 Licensee shall, at its own expense and in accordance with the terms and conditions set forth in this Agreement, construct and maintain its Attachments on Licensor's Poles in a safe condition and in a manner that: (i) does not interfere with Licensor's operation of its electric distribution system, (ii) does not conflict with the use of Licensor's Poles by Licensor or by any other authorized user of Licensor's Poles, nor (iii) electrically interfere with Licensor's facilities attached thereon.

9.2 Licensor shall specify the point or area of attachment on each of Licensor's Poles to be occupied by Licensee's Attachments. Where Attachments of multiple Licensees are involved, Licensor will attempt, where possible, to designate the same relative position on each Pole for each Licensee's Attachments.

9.3 Licensee shall obtain specific written authorization from Licensor before any relocation or Material Change to its Attachments, other than an in-kind replacement, on Licensor's Poles, in accordance with Section 7.1 of this Agreement.

9.4 All Attachment related work performed upon Poles by the Licensee and its contractors shall be performed by a Qualified Electrical Worker. The Licensee shall execute the Acknowledgement For the Use of Qualified Electrical Worker (as set forth in Appendix II, Form G) affirming that any person(s) under contract with and/or direction of the Licensee and performing the installation, maintenance, and/or removal of Attachments upon Poles is/are qualified to perform such work in accordance with the requirements of OSHA and Articles 5.0, 7.0, 8.0 and 9.0 of this Agreement. Licensee shall further ensure completion and documentation of any required training, except where such work is performed by the Licensor.

9.5 In the event the Licensee cannot confirm that its employee, contractor and/or agent performing work on its behalf is a Qualified Electrical Worker in accordance with this Article, the Licensee is required to comply with appropriate electrical clearance distances and only perform work on the Attachments in a de-energized condition. If a disconnect device is not installed, the Licensee shall schedule a disconnect service request with the Licensor prior to performing any Attachment work. Following the completion of the work, the Licensee shall schedule a connection service request with the Licensor to re-energize the Attachment.

9.6 The Licensee and its employees, contractors, agents or any persons acting on Licensee's behalf shall not perform or make any connections (permanent or temporary) to, disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Licensor's electric distribution system or assets, in whole or in part, nor shall the Licensee permit or cause any third party (including without limitation, Licensee's agent or contractor) to do so. The Licensor shall be the sole party with authority to perform or make any and all (permanent and temporary) connections to or disconnections from the Licensor's electric distribution system for the purpose of providing electric service to the Licensee's Facilities. If and to the extent the Licensee has a need for a connection or disconnection associated with the Licensor's electric distribution system or assets, the Licensee shall contact the Licensor by making a connection/disconnection request through normal customer contact channels and Licensor shall make the necessary connection/disconnection, provided, that the Licensor determines, in its sole discretion, that such connection is appropriate under the terms of applicable codes, standards, laws, regulations and Licensor's practices and policies.

9.7 Licensee or its employees, contractors, agents or any persons acting on Licensee's behalf are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Licensor's enclosed or underground primary or secondary electric distribution infrastructure, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears. The Licensee and its contractors shall comply with all

applicable codes, standards, laws, regulations, and Licensor's practices and policies when accessing any overhead electric distribution system infrastructure. If and to the extent the Licensee needs to access or ingress to any of the Licensor's underground or overhead electric distribution system infrastructure, the Licensee shall contact the Licensor and the Licensor shall respond to the Licensee's request, provide required support, and/or perform the necessary work as requested following its normal work order scheduling protocol, provided, that, the Licensor determines, in its sole discretion, that such connection/disconnection or other requested work is appropriate under the terms of applicable codes. The Licensee further agrees to compensate Licensor for all work performed by Licensor associated with each Attachment consistent with the charges or fees as set forth in this Agreement and/or as defined in the applicable tariff.

9.8 Licensee may contract with Licensor or any other entity for the construction, maintenance, and/or removal of Licensee's Attachments on Licensor's Poles. Licensee shall be responsible for ensuring that any persons, including its employees, agents or contractors, installing, maintaining, and/or removing Licensee's Attachments on Licensor's Poles, are qualified to perform such work in accordance with the requirements of Articles 5.0, 9.0 and other applicable parts of this Agreement. Licensee shall be responsible for ensuring completion and documentation of any required training for said persons, except where such work is performed by Licensor.

9.9 All tree trimming made necessary by reason of:

(a) initial construction, reconstruction, relocation, or Facility Material Change of Licensee's proposed Attachments at the time of such installation, provided that the owner(s) of such tree(s) and all other governing authorities grant permission to Licensee, shall be performed by qualified contractors approved by Licensor and Licensee, at the sole cost and expense of Licensee, but at the direction of Licensor, or

(b) prospective maintenance and operation, including but not limited to the functional performance, lumen output or illumination orientation shall be performed by Licensee or Licensee's qualified contractor provided appropriate approvals have been granted by the owner(s) of the tree(s) and all other governing authorities. The portion of the tree(s) to be impacted by trimming shall only be within a radial distance of three (3) feet of the luminaire extending below a horizontal plane established from the highest vertical point of the luminaire unless such area is within specified clearance distances of the electrical distribution or transmission system as designated by Licensor and/or other governing authorities upon which the Licensee shall comply with the tree trimming Section 9.9(a) for construction, reconstruction, relocation or Facility Material Change.

10.0 INSPECTIONS OF LICENSEE'S ATTACHMENTS

10.1 Licensor reserves the right, at its sole discretion, to make inspections of any part of Licensee's Attachments, at any time, without notice to Licensee, at Licensor's own expense.

10.2 Licensor reserves the right, at its sole discretion, to make inspections of any part of Licensee's Attachments at Licensee's expense, if the inspection performed pursuant to Section 10.1 *supra* reveals any of the following:

(a) Attachments for which no license has been issued by Licensor pursuant to Article 7.0 *supra*,

(b) Discrepancy in type, style or size of installed Facility (i.e. luminaire) as compared with Licensor's records, or

(c) Any situation creating a safety-related emergency or any condition that prevents safe access to Licensor's Pole(s) or any facilities installed on Licensor's Pole(s).

Prior to the performance of such inspections, at Licensee's expense, Licensor shall provide advance notice to Licensee stating the reason for the inspection. Licensee may join Licensor in the inspection of Licensee's Attachments when such inspection is performed at Licensee's expense.

10.3 Any charge imposed by Licensor for such inspections shall be in addition to any other sums due and payable by Licensee under this Agreement. No act or failure to act by Licensor with regard to said charge or any unlicensed use by Licensee shall be deemed as a ratification or the authorization of the unlicensed use; and if any license should subsequently be issued, said license shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise.

11.0 UNAUTHORIZED ATTACHMENTS

11.1 To the extent authorized by Article 18.0, if any of Licensee's Attachments for which no license is outstanding is found attached to Licensor's Poles, Licensor, without prejudice to its other rights or remedies under this Agreement (including termination) or otherwise, may impose electric delivery service and other charges, pursuant to Section 11.2, and require Licensee to submit in writing, within fifteen (15) days after receipt of written notification from Licensor of the unlicensed Attachment(s), an Application for Street Light Pole Attachment License. If such application is not received by Licensor within the specified time period, Licensee shall remove its unlicensed Attachment(s) within fifteen (15) days of the final date for submitting the required Attachment License application, or Licensor may remove the unlicensed Attachment(s) at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee for loss of service provided by Licensee or any damage or injury to Licensee's unlicensed Attachment(s).

11.2 For the purpose of determining the applicable charges, both parties shall attempt in good faith to determine if an unlicensed Attachment is identified within a period of three (3) months following the execution date of this Agreement, the Attachment will be considered to have existed prior to the date of this Agreement and was inadvertently omitted by the parties. Absent

satisfactory evidence to the contrary and subject to the terms hereof, the unlicensed Attachment shall be deemed to have been installed after the date of the Agreement first authorizing the installation of Attachments by Licensee, and the fees, charges, and interest as specified in Article 4.0, Article 8.0, APPENDIX I and APPENDIX II, Forms B-1 and B-2 at the time the unlicensed Attachment is discovered, shall be applicable thereto and due and payable forthwith whether or not Licensor permits Licensee to continue the placement of the Attachment.

12.0 LIABILITY, INDEMNIFICATION AND DISCLAIMER

12.1 Licensor reserves to itself, its successors and assigns, the right to locate and maintain its Poles and to operate its facilities in conjunction therewith in such a manner as will best enable Licensor to fulfill its service obligations and requirements. Licensor shall not be liable to Licensee for any interruption of Licensee's service or for interference with the operation of Licensee's services arising in any manner out of the use of Licensor's Poles, except to the extent caused by Licensor's negligence or to the extent otherwise required by Licensor's tariffs.

12.2 Licensee shall be liable for any damages it causes to the facilities of Licensor and of others attached to Licensor's Poles, and Licensee assumes all responsibility for any and all loss from such damage caused by Licensee or any of its agents, contractors, servants or employees. Licensee shall, without waiving the protections of M.G.L. c. 258, make an immediate report to Licensor and any Joint Users of the occurrence of any such damage and agrees to reimburse the respective parties for all costs incurred by Licensor and/or Joint Users in making repairs to their respective facilities.

12.3 Except to the extent caused by the negligence of Licensor, Licensee shall, to the full extent allowed by law, without waiving the protections of M.G.L. c. 258, and to the extent of Licensee's insurance coverage (under which Licensor shall be named an additional insured), and shall cause any party performing work in connection with this Agreement on behalf of Licensee to, indemnify, save harmless, and defend Licensor, against and from any and all liabilities, claims, suits, fines, penalties, damages, losses, fees (including reasonable attorneys' fees), costs, and expenses (including reasonable costs and expenses incurred to enforce this indemnity) (hereinafter "Claims") to the extent arising from or in connection with Licensee's installation, operation, maintenance, or removal of Facilities and/or Attachments including, but not limited to, those Claims which may be imposed upon, incurred by, or asserted against Licensor, by reason of:

- (a) any work or action done upon the Poles licensed hereunder or any part thereof performed by Licensee or any of its agents, contractors, servants, or employees;
- (b) any use, occupation, condition, operation of said Poles or any part thereof by Licensee or any of its agents, contractors, servants, or employees;

(c) any act or omission on the part of Licensee or any of its agents, contractors, servants, or employees, for which Licensor may be found liable;

(d) any accident, injury (including, but not limited to, death), or damage to any person or property occurring upon said Poles or any part thereof or arising out of any use thereof by Licensee or any of its agents, contractors, servants, or employees, except where such work is performed by Licensor;

(e) any failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Agreement;

(f) payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits arising out of any use of the Poles by Licensee or any of its agents, contractors, servants, employees; or

(g) by the installation, operation, maintenance, presence, use, occupancy, or removal of Licensee's Attachments by Licensee or any of its agents, contractors, servants, or employees or by their proximity to the facilities of other parties attached to Licensor's Poles, including without limitation, taxes, special charges by others, and from and against all claims and demands for infringement of patents with respect to the manufacture, use, and operation of Licensee's Attachments in combination with Licensor's Poles, or otherwise.

12.4 The Licensor makes no warranties, representations, guarantees or promises in connection herewith or therewith, whether statutory, oral, written, express, or implied as to the present or future strength, condition, or state of any Facilities, Poles, wires, apparatus or otherwise in connection with any Attachment, the Facilities or this Agreement. The Licensee, or its contractors, agents and representatives performing any attachment work, shall be responsible and liable for testing or observing the Poles to determine whether the Poles are safe to access and ascend. If the Licensee questions the integrity or safety of any Pole or if the Pole is marked as unsafe, the Licensee shall refrain from accessing, ascending, or handling the Pole in any manner whatsoever and shall notify or confirm said condition with Licensor. Should the Licensee, or its contractor, agent or representative decide, in its sole judgment, to access a Pole (including, without limitation, Poles which are marked unsafe or appear to be unsafe), the Licensee, not Licensor or its affiliates, shall assume all risk of loss, liability and damages (including injury to any person(s) (including death) or property), and the Licensee shall indemnify, defend, release and hold harmless Licensor, its affiliates and the Licensor's and its affiliate's successors, assigns, officers, agents, representatives as indicated herein.

12.5 Licensor, the Licensor's affiliates, and their respective officers, directors, employees, representatives and contractors shall not be liable to Licensee for any indirect, consequential, punitive, incidental, special, or exemplary damages in connection with any attachment, the Facilities, any Pole, or the Attachments owned by the Licensee contemplated

herein, including, without limitation, the condition, design, engineering, installation, maintenance, construction, location, operation of, or failure of operation of, the Facilities, under any theory of law that is now or may in the future be in effect, including without limitation: contract, tort, strict liability, or negligence.

12.6 The provisions of this Article 12.0 shall survive the expiration or earlier termination of this Agreement or any license issued under this Agreement.

13.0 INSURANCE

13.1 Licensee shall carry insurance issued by an insurance carrier satisfactory to Licensor to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in Article 12.0 *supra*. The Licensee may elect to self-insure provided that the Licensor consents and Licensee provides written notice and evidence of self-insurance to the Licensor prior to transfer of the Facilities and execution of the Agreement of Sale.

13.2 Comprehensive or Commercial General Liability Insurance, including Contractual Liability and Product/Completed Operations Liability covering all insurable operations required under the provisions of this Agreement and, where applicable, coverage for damage caused by any explosion or collapse with the following minimum limits of liability:

Bodily Injury Liability	\$5,000,000
Property Damage Liability	\$5,000,000

If a combined single limit is provided, the limit shall not be less than \$5,000,000 per occurrence. Licensee's insurance requirements for General Liability or Automobile Liability may be satisfied through any combination of excess liability and/or umbrella. Coverage shall include contractual liability with this Agreement and all associated agreements with respect to the Licensee's ownership of the street lights being included.

13.3 Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of \$500,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act and the Jones Act. Proof of qualification as a self-insurer may be acceptable in lieu of a Workers' Compensation Policy.

13.4 Automobile Liability covering all owned, non-owned and hired vehicles used in connection with the work or services to be performed under this Agreement with minimum limits of:

Bodily Injury & Property Damage Combined Single Limit - \$1,000,000
--

13.5 All insurance must be effective before Licensor will authorize Licensee to make

Attachments to any Pole and shall remain in force until such Attachments have been removed from all such Poles. Licensee accepts the obligation to inform Licensor of changes in insurance or insurance carrier and/or policy on a prospective basis.

13.6 Licensee shall submit to Licensor certificates of insurance including renewal thereof, by each company insuring Licensee to the effect that it has insured Licensee for all liabilities of Licensee covered by this Agreement; and that such certificates will name Licensor as an additional insured under the General Liability and Automobile Liability policies and that it will not cancel or change any such policy of insurance issued to Licensee except after the giving of not less than thirty (30) days' written notice to Licensor. Licensee shall also notify and send copies to Licensor of any policies maintained under this Article 13.0 written on a "claims-made" basis. The following language shall be used when referencing the additional insured status of Licensor: National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be named as additional insured.

13.7 Licensee shall require all of its contractors to carry insurance which meets the requirements specified under this Article 13.0 of this Agreement, and to name Licensor as an additional insured. Contractor shall waive all rights of recovery against the Licensor and their directors, officers and employees, for any loss or damage covered under those policies referenced in this insurance provision, or for any required coverage that may be self-insured by the contractor.

14.0 AUTHORIZATION NOT EXCLUSIVE

14.1 Nothing herein contained shall be construed as a grant of any exclusive authorization, right, or privilege to Licensee. Licensor shall have the right to grant, renew, and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use any Pole subject to this Agreement.

15.0 ASSIGNMENT OF RIGHTS

15.1 Licensee shall not assign or transfer this Agreement or any authorization granted hereunder, and this Agreement shall not inure to the benefit of Licensee's successors, without the prior written consent of Licensor.

15.2 In the event such consent or consents are granted by Licensor, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

15.3 Pole space licensed to Licensee hereunder is for Licensee's exclusive use only and is licensed to Licensee for the sole purpose of permitting Licensee to place Facility Attachments on Licensor's Poles. Licensee shall not lease, sublicense, share with, convey, or resell to others any such space or rights granted hereunder. Licensee shall not allow a third

party, including affiliates, to place Attachments or any other equipment anywhere on Licensor's Poles, including, without limitation, the space on Licensor's Poles licensed to Licensee for Licensee's Attachments, without the prior written consent of Licensor. Such consent shall not be unreasonably withheld unless otherwise required by law and may be contingent upon the Licensor entering into a separate but mutually agreed upon license agreement with the third party.

15.4 No contract between the Licensee and any other party regarding the operation, maintenance, modification, or repair of the Facilities shall be considered an assignment or transfer under Article 15.0.

16.0 FAILURE TO ENFORCE

16.1 Failure of Licensor to enforce or require compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a general waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

17.0 TERM OF AGREEMENT

17.1 Unless terminated in accordance with Article 19.0, this Agreement shall remain in effect for a term of five (5) years from the date hereof and shall continue indefinitely thereafter until terminated by either party with at least six (6) months written notice to the other party.

17.2 Termination of this Agreement or any licenses issued hereunder shall not affect Licensee's liabilities and obligations incurred hereunder prior to the effective date of such termination, nor Licensor's and Licensee's rights pursuant to the laws, ordinances, regulations, and rulings governing the subject matter of this Agreement, including but not limited to, MGL c. 164, § 34A, and DTE 98-76, 98-89, and 01-25.

18.0 TERMINATION OF LICENSE

18.1 Any license issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority pursuant to any laws, ordinances, regulations, and rulings, including but not limited to MGL c. 164, § 34A and DTE 98-76, 98-89, and 01-25, to construct, operate, and/or maintain its Attachments on the public or private property at the location of the particular Pole covered by the license.

18.2 Licensee may at any time terminate a license for specific Attachment(s) provided written notice of such termination is received by Licensor no less than fifteen (15) days prior to

the proposed removal of the Attachment(s) from the specific Pole(s), (APPENDIX II, Form D). Terms and conditions of Articles 8.0 and 20.0 of this Agreement shall govern the removal of Licensee Attachments. Following such removal, installation of an Attachment(s) to such Pole(s) shall not be made again until Licensee has first complied with all of the provisions of this Agreement as though no such installation of Attachments to such Pole(s) had ever been made.

18.3 Licensor may at any time terminate a license for specific Attachment(s) provided written notice of such termination is received by Licensee no less than fifteen (15) days prior to proposed actions causing conflict with the existing Attachment(s). Licensor may exercise its Removal Rights requiring Licensee to remove its Attachment(s), at its expense, from any of the designated Licensor's Pole(s) within fifteen (15) days after termination of the license covering such Attachment(s). If Licensee fails to remove its Attachment(s) within such fifteen (15) day period, Licensor shall have the right to remove such Attachment(s) at Licensee's expense. Terms and conditions of Articles 8.0 and 20.0 of this Agreement shall govern the removal of Licensee's Attachments.

19.0 TERMINATION OF AGREEMENT

19.1 If Licensee fails to materially comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement, or if Licensee's facilities or Attachments are maintained or used in violation of any law and Licensee shall fail within thirty (30) days after written notice from Licensor to correct such default or noncompliance, Licensor may, at its option, terminate this Agreement and all authorizations granted hereunder, or the authorizations covering the Poles as to which such default or noncompliance shall have occurred.

19.2 If, at any time, an insurance carrier notifies Licensor that any policy or policies of insurance, acquired pursuant to Article 13.0 *supra*, will be canceled or changed so that the requirements of Article 13.0 will no longer be satisfied, then this Agreement shall terminate automatically unless prior to the effective date of the cancellation or change in the insurance policy(ies), Licensee furnishes to Licensor new certificates of insurance providing insurance coverage in accordance with the provisions of Article 13.0 *supra*.

19.3 In the event of termination of this Agreement, and to the extent Licensor is exercising Licensor's Removal Rights, Licensor may require Licensee to remove its Attachments, Licensee shall within thirty (30) days of the date of termination of this Agreement submit a plan and schedule to Licensor pursuant to which Licensee (or its agents) will remove its Attachments from Licensor's Poles within six (6) months from the date of termination, unless otherwise agreed to by both parties; provided, however, that Licensee shall be liable for and pay all fees and charges due to Licensor pursuant to the terms of this Agreement until Licensee's Attachments are removed from Licensor's Poles and Licensor is properly notified of same.

20.0 REMOVAL RIGHTS

20.1 The Removal Rights as designated within this article shall apply in all cases where either Licensee or Licensor terminates a license or this Agreement or in the course of normal operation or maintenance of Attachments to Poles and as authorized pursuant to any laws, ordinances, regulations, and regulatory rulings, including but not limited to MGL c. 164, § 34A and DTE 98-76, 98-89, and 01-25.

20.2 In the course of daily operation or maintenance, should the existing Attachment require replacement, relocation or other Material Change, the Attachment is to be modified or terminated. The Licensee is responsible for the proposed construction to facilitate the replacement, relocation or removal of the Facilities where applicable at Licensor's expense.

20.3 Licensor may exercise its Removal Rights and require Licensee to remove its Attachments, and Licensee, at the Licensee's sole expense, shall remove or have removed in accordance with this Agreement its Attachments from any of Licensor's Poles within fifteen (15) days of notice. If Licensee (or its agents) fails to remove Licensee's Attachments from Licensor's Poles within the applicable time period, Licensor shall have the right to remove the Attachments at Licensee's expense and without any liability on the part of Licensor for damage or injury to Licensee's Attachments. If Licensor exercises its Removal Rights to remove the Attachments, Licensor shall have the option to sell or otherwise dispose of the removed Attachments to cover the expense of the removal. If the sale of the Attachments does not cover the entire expense of the removal, Licensee shall be liable for the remaining expense. Licensee shall be liable for and pay all fees pursuant to the terms of this Agreement to Licensor until such Attachments are removed from Licensor's Poles.

20.4 Notwithstanding any other provision of this Agreement, this Agreement is not intended to, and does not by its terms, broaden or expand Licensor's Removal Rights.

21.0 CHOICE OF LAW

21.1 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to the conflicts of law principles contained therein.

22.0 SEVERABILITY

22.1 In the event that any provision or part of this Agreement or the application thereof to any party or circumstance is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions or parts hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

23.0 NOTICES

23.1 All written notices required under this Agreement shall be given by posting the same via first-class mail as follows:

(a) **To Licensee:** All correspondence related to Licensee’s street and area lighting including but not limited to; Application for Street Light Pole Attachment License(s), Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Street Light Pole Attachment License(s) to Licensee’s office at:

_____ (Municipality Contact Name)
_____ (Title of Municipal Contact),
_____ (Municipal Department Name)
Town of Andover
36 Bartlet Street
Andover, MA 01810

(b) **To Licensor:** Application for Street Light Pole Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Use of Poles, and a copy of all certificates of Insurance to Licensor’s District Office at:

Massachusetts Electric Company d/b/a National Grid
Attention: Manager, Community & Customer Management
1101 Turnpike Street
North Andover, MA 01845

All original certificates of Insurance to:

National Grid USA Service Company, Inc.
Attn: Risk Management, B-3
300 Erie Boulevard West
Syracuse, NY 13202

A copy of all applications, notices, authorizations and certificates to:

Massachusetts Electric Company d/b/a/ National Grid
Attention: Outdoor Lighting and Attachments
40 Sylvan Road
Waltham, MA 02451-1120

(c) Each party has the right to add, modify, change or remove contact information as presented herein provided such corrections are communicated in writing to the other party and made part of this Agreement.

24.0 ENTIRE AGREEMENT

24.1 The parties have freely entered into this Agreement and agree to each of its terms without reservation. Paragraph headings are for the convenience of the parties only and are not to be construed as binding under this Agreement. This Agreement constitutes the entire Agreement between Licensor and Licensee, and all previous representations either oral or written, (including, but not limited to any and all previous Pole Attachment Agreements insofar as Licensee is concerned except as to liabilities accrued, if any) are hereby annulled and superseded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first above written.

Massachusetts Electric Company d/b/a National Grid

By: _____

Name: Christopher Kelly

Title: Acting Senior Vice President, Electric Process and Engineering

Town of Andover

By: _____

Name: Andrew P. Flanagan

Title: Town Manager

APPENDIX I

SCHEDULE OF FEES AND CHARGES
STREET LIGHT POLE ATTACHMENTS

(A) Attachment

To the extent that the MDPU may, in the future, allow Licensor to charge fees for the use of its Poles by Licensee's Attachments, Licensee agrees to pay such fees.

(B) Field Survey

Whenever a Field Survey is required under this Agreement, Licensee shall pay Licensor for the expense thereof. The current standard charge assessed to Licensee and all Other Licensees for the Field Survey is \$126.21 per Attachment and is based on Licensor's current estimated cost to perform and complete the Field Survey. Specific to each occurrence, any actions required by the Licensor to remedy a Pole ingress or egress condition in compliance with applicable laws, regulations, codes and company policies and procedures is considered to be in addition to the Field Survey function. The Licensee shall be responsible for the associated costs which will be predefined as an estimate in addition to the aforementioned fee.

(C) Make-Ready Work

Whenever Make-Ready Work is required under this Agreement, Licensee shall pay Licensor for the expense thereof. Make Ready Work may include, but is not limited to, the replacement of the Pole on which Licensee's Attachments will be placed with a new Pole of the necessary height, strength, and class required to accommodate Licensee's Attachments, and such other changes in the existing Pole line in which such Pole is included as Licensee's Attachments may require. Make Ready Work expenses charged by Licensor may also include the following:

- (1) The net loss to Licensor on the replaced Pole based on its reproduction cost less depreciation, plus cost of removal;
- (2) Excess height or strength of the new Pole over the existing Pole made necessary by reason of Licensee's Attachments;
- (3) Transferring Licensor's Attachments from the old Pole to the new Pole; and

(4) Any other rearrangements and changes necessary by reason of Licensee's proposed or existing Attachments.

(D) Other Charges and Fees

Licensee shall be subject to and responsible for all other charges and fees under the applicable tariff.

(E) Payment Date

Failure to pay all authorized fees and charges within 30 days after presentment of the bill therefore or on the specified payment date or as otherwise provided in the applicable tariff, whichever is later, shall constitute a default of this Agreement with respect to the specific Attachment(s) in question.

For bills rendered by Licensor, the following shall be applicable:

Interest shall accrue and be payable to Licensor at the rate set by the Commissioner of Internal Revenue pursuant to Internal Revenue Code, Section 6621; Treasury Regulations Section 301.6621-1, from and after the payment date of any payment required by this Agreement. The payment of any interest shall not cure or excuse any default by Licensee under this Agreement.

APPENDIX II

ADMINISTRATIVE FORMS AND NOTICES

INDEX OF ADMINISTRATIVE FORMS

APPLICATION FOR STREET LIGHT POLE ATTACHMENT LICENSE / STREET LIGHT POLE ATTACHMENT LICENSE	A-1
STREET LIGHT AND POLE DETAILS	A-2
ESTIMATE FOR FIELD SURVEY / AUTHORIZATION FOR FIELD SURVEY	B-1
MAKE-READY WORK ESTIMATE / AUTHORIZATION FOR MAKE-READY WORK	B-2
ITEMIZED MAKE-READY WORK	C
NOTIFICATION OF DISCONTINUANCE OF USE OF POLES FOR STREET LIGHT ATTACHMENT	D
IDENTIFICATION LABELS	E
LIGHTING SOURCE IDENTIFICATION LABELS	F
ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS	G

Agreement Number 8412
Application Number _____ (to be provided by Licensor)

Form A-1

APPLICATION FOR STREET LIGHT POLE ATTACHMENT LICENSE

DATE _____
LICENSEE _____
Street Address _____
City, State, Zip Code _____

In accordance with the terms and conditions of the License Agreement for Street and Area Lighting between us, dated _____, 2016 application is hereby made for a license(s) to make _____ Attachments to JO Poles and _____ Attachments to SO Poles located as indicated on the attached Form A-2.

LICENSEE _____
By (Print Name) _____
Signature _____
Title _____
Telephone No. / Email Address _____

STREET LIGHT POLE ATTACHMENT LICENSE

Street Light Pole Attachment License Number(s) _____ is hereby granted to make the Attachment(s) described in this application as _____ Attachments to JO Poles and _____ Attachment(s) to SO Poles located as indicated on the attached Form A-2.

DATE _____
LICENSOR _____
By (Print Name) _____
Signature _____
Title _____
Telephone No. / Email Address _____

-
- NOTES:**
1. Applications shall be submitted to Licensor.
2. Applications to be numbered in ascending order by Licensor.
3. Licensor will process in order of application received from Licensee.

Agreement Number 8412
Application Number _____ (to be provided by Licensor)

Form A-2

STREET LIGHT POLE ATTACHMENT DETAILS

LICENSEE _____

City/Town _____

Pole No. Location Attachment Description (including nominal wattage)

_____ (Yes/No)

LICENSEE HEREBY REQUESTS LICENSOR TO
PROVIDE AN ITEMIZED ESTIMATE OF POLE MAKE
READY WORK REQUIRED AND ASSOCIATED
CHARGES (APPENDIX II FORM C).

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

ESTIMATE FOR FIELD SURVEY

(Licensee)

In accordance with the License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting, dated _____, the following is a summary of the charges which will apply to complete a field survey covering Application / Request Number _____.

<u>Total</u>	<u>Unit Quantity</u>	<u>Rate / Unit</u>	<u>Total</u>
Field Survey	_____	_____	\$ _____
Ancillary Services	_____	_____	\$ _____
Administrative Compensation		_____ %	\$ _____
TOTAL			\$ _____

If you wish the Company to complete the required field survey, please sign this copy below and return with an advance payment in the amount of \$ _____.

DATE _____

LICENSOR _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

AUTHORIZATION FOR FIELD SURVEY

The required field survey covering Application / Request Number _____ is authorized and the costs therefore will be paid to Licensor in accordance with Appendix I to the License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting.

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

Agreement Number 8412
Application / Request No. _____

Form B-2

MAKE-READY WORK ESTIMATE

Town of Andover
(Licensee)

In accordance with the License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting, dated _____, a Field Survey associated with your Application / Request Number _____ dated _____, for Attachment to Poles has been completed. The following is a summary of the charges that will apply to complete the required Make-Ready Work.

TOTAL MAKE-READY CHARGES \$ _____

Attached as requested, is an itemized description (Form C) of required Make-Ready Work. A cost estimate of associated Make-Ready Work is also attached. If you wish us to complete the required Make-Ready Work, please sign this copy below and return with an advance payment in the amount of \$ _____.

DATE _____

LICENSOR _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

AUTHORIZATION FOR MAKE-READY WORK

The Make-Ready Work associated with Application / Request Number _____ is authorized and the costs therefore will be paid to Licensor in accordance with Appendix I to the License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting.

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

NOTIFICATION OF DISCONTINUANCE OF USE OF POLES FOR STREET LIGHT ATTACHMENT

LICENSEE _____
Street Address _____
City, State, Zip Code _____

In accordance with the terms and conditions of the License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting, dated _____, notice is hereby given that specific Attachments to poles, as listed below, in the municipality of _____, covered by permit number _____ were removed on _____.

License No. _____	Street Name	Pole Number(s)	Description of Attachments
-------------------	-------------	----------------	----------------------------

Total number of Attachments to JO Poles to be discontinued is _____ and the total number of Attachments to SO Poles to be discontinued is _____.

Said permit is to be canceled entirely/partially (circle one).

DATE _____
By (Print Name) _____
Signature _____
Title _____

ACKNOWLEDGMENT OF DISCONTINUANCE OF USE OF POLES FOR STREET LIGHT ATTACHMENT

Use of Poles has been discontinued as above.

DATE _____
LICENSOR _____
By (Print Name) _____
Signature _____
Title _____

OWNERSHIP IDENTIFICATION LABELS(A) **GENERAL**

This Appendix describes ownership Identification Labels to be installed and maintained by Licensee on its luminaires, cables and other apparatus to allow Licensor to readily identify the owner of such luminaires, cables and apparatus.

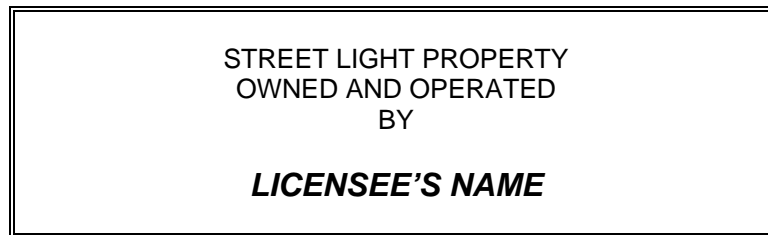
(B) **DESCRIPTION OF OWNERSHIP IDENTIFICATION LABELS**

FIGURE 1: Ownership Identification Label

The labels shall be yellow with black lettering. Licensee shall be responsible for maintaining the legibility of identification labels at all times.

The ownership Identification Label shall be placed on Licensee's facilities including, but not limited to, luminaries, cables, Guy Strands, terminals, terminal closures, and cabinets. The Identification Label shall read as follows: "STREET LIGHT PROPERTY OWNED AND OPERATED BY" and clearly identify Licensee's name. Licensee's name may be printed on the label using indelible ink.

(C) **PROCUREMENT OF LABELS**

It shall be the responsibility of Licensee to obtain, place, and maintain Identification Labels.

(D) **INSTALLATION OF IDENTIFICATION LABELS - AERIAL APPLICATION**

When required by Section 5.5, ownership Identification Labels shall be installed at the following locations:

- (1) On each luminaire, on the bottom of the luminaire so that it is visible from the ground.
- (2) On cables at each pole, on the bottom of the cable so that it is visible from the ground.
- (3) On cable risers at each pole, on the riser conduit approximately 6' above ground.

- (4) At anchor and guy locations:
- (5) Between the device used to secure the strand (i.e., strand vise, guy grips or clamps) and the eye of the rod, or
- (6) If a guy shield is in place, at the top of the guy shield on the strand.
- (7) At terminal locations, at the neck of the terminal.
- (8) At cabinets, on the front of the cabinet.

LIGHTING SOURCE IDENTIFICATION LABELS

The Licensee is required to provide and affix to each luminaire a clear, legible and comprehensive lighting source identification label consistent with ANSI-NEMA Standards for Roadway and Area Lighting Equipment – Field Identification of High Intensity Discharge Lamps and Luminaires, (ANSI/NEMA C136.15-2009, latest revision) or other industry standard compliant with the specific lamp or lighting source, as applicable.



ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS

The Town of Andover hereby acknowledges and agrees to the following:

1. Massachusetts Electric Company, d/b/a National Grid (hereinafter "National Grid") expects the use of electrically-qualified personnel as required by OSHA in 29 CFR 1910.269 for all work associated with the LICENSE AGREEMENT FOR OVERHEAD ELECTRICAL SERVICE AND ATTACHMENTS TO UTILITY POLES FOR STREET AND AREA LIGHTING BETWEEN MASSACHUSETTS ELECTRIC COMPANY D/B/A NATIONAL GRID and TOWN OF ANDOVER DATED JUNE ___, 2016 (hereinafter "TOWN OF ANDOVER LICENSE AGREEMENT").
2. The Town of Andover hereby agrees that any work being done pursuant to TOWN OF ANDOVER LICENSE AGREEMENT will be done by qualified electrical workers as defined by OSHA in 29 CFR 1910.269 and in accordance with all relevant laws, regulations, codes, and industry standards.
3. The Town of Andover understands and agrees that any injuries to persons or property arising out of or related to this work, including without limitation as a result of a failure to comply with this Acknowledgement, will be the sole responsibility of the Town of Andover pursuant to Article 12.0 of TOWN OF ANDOVER LICENSE AGREEMENT, except to the extent attributable to the negligence or willful misconduct of National Grid.

TOWN OF ANDOVER

BY: _____

NAME: Andrew P. Flanagan

TITLE: Town Manager

DATE: ___/___/2016



LICENSE AGREEMENT
FOR
UNDERGROUND ELECTRICAL SERVICE
AND
ATTACHMENTS TO
UTILITY STRUCTURES
FOR
STREET AND AREA LIGHTING

BETWEEN

Massachusetts Electric Company
d/b/a National Grid
(LICENSOR)

AND

Town of Andover, Massachusetts
(LICENSEE)

DATED: June __, 2016

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THIS AGREEMENT, ("Agreement"), is made this ____ day of June, 2016, by and between Massachusetts Electric Company, a corporation organized and existing under the laws of Massachusetts, having its principal office at 40 Sylvan Road, Waltham, Massachusetts 02451, (hereinafter referred to as the "Licensor") and the Town of Andover, a municipal corporation organized and existing under the laws of Massachusetts, having its principal office at 36 Bartlet Street, Andover, Massachusetts 01810, (hereinafter referred to as the "Licensee").

WITNESSETH

WHEREAS, Licensee is a municipal government and shall own, operate and maintain street and area lighting equipment to provide street and area lighting of public ways or public lands within Licensee's municipality; and

WHEREAS, Licensee has purchased street and area lighting Facilities located in or upon Licensor's Structures pursuant to MGL c. 164, § 34A, and the rulings of the MDPU (formerly MDTE) interpreting said provision, and desires to retain Attachments of existing Facilities in or upon Structures of Licensor; and

WHEREAS, the execution of this Agreement by and between the Licensor and Licensee is a condition to the closing of the sale of the Facilities described in the Agreement of Sale; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so and/or is required to permit the continued existence of Attachments within or upon Licensor's Structures in a specified geographic area where such use will not interfere with Licensor's service requirements and obligations or the use of its Structures by others subject to the terms of this Agreement; and

WHEREAS, the Licensor and Licensee agree to minimize or eliminate the applications of Attachments, except those necessary for electrical connection of Licensee Facilities, as designated in this Agreement, by separating existing Facilities at the time of any Material Change (as defined below) to establish clear and distinct ownership delineation, electric distribution and lighting systems separation and demarcation as well as operations and maintenance independence;

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties do hereby mutually covenant and agree as follows:

1.0 DEFINITIONS

Whenever used in this Agreement with initial capitalization, these terms shall have the following meanings:

1.1 "Agreement of Sale" shall mean the agreement pursuant to which Licensor sold and Licensee purchased the Facilities subject to this Agreement.

1.2 "Attachment" shall mean the Facilities, including without limitation; any wire, cable, and other hardware, equipment, apparatus, or device, owned by Licensee, existing or proposed to exist in or upon Structures connected to the distribution system at the Connection Point for the sole purpose of delivering electrical energy to Licensee owned luminaire(s) used to provide street and/or area lighting of public ways or public lands within Licensee's assigned municipal boundary.

1.3 "Conduit" shall mean a Structure containing one or more Ducts.

1.4 "Connection Point" shall have the meaning ascribed to it in the Agreement of Sale, as further defined herein and is understood to be where the Facility is energized from the electric distribution system up to and including the Connection Point. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Licensor, at its sole discretion, shall define the Connection Point which is similarly referenced as the point of ownership demarcation.

1.5 "Duct" shall mean a single enclosed raceway or pipe in which wires or cables are enclosed.

1.6 "Facilities" shall have the meaning ascribed to it in the Agreement of Sale and further defined herein and limited to, or inclusive of, additional facilities purchased or components or equipment having the sole purpose and function to provide outdoor illumination of streets or areas including the associated support infrastructure and electrical circuitry compliant with applicable regulations, codes or policies.

1.7 "Field Survey" shall mean an on-site audit and/or office asset record review, requested by Licensee, of the Structure(s) upon which Licensee has an existing Attachment(s) or proposes a new Attachment(s) in accordance with this Agreement, performed by the Licensor to obtain information regarding existing Facilities or Structures. Field Survey shall not represent actions to remedy ingress or egress conditions required to be in compliance with applicable laws, regulations, codes and company policies and procedures.

1.8 "Identification Labels" shall mean markings, decals, labels or other displays that indicate ownership and function of Licensee's Facilities.

1.9 "Make-Ready Work" shall mean the work to be performed by the Licensor, identified through the Licensee requested Field Survey, required to safely accommodate Licensee's proposed actions of the existing Attachments safely within Licensor's Structures.

1.10 "Material Change", "Materially Change" or "Materially Changed" shall mean any alteration, modification or replacement made to the existing Facilities that changes its characteristics associated with the; licensed specifications or description, mode of operation or maintenance, physical attributes, use of Structures by Licensor or Other Licensees, attributes related to billing, and/or financial reporting considered as a capital investment.

1.11 "MDPU" shall mean the Massachusetts Department of Public Utilities.

1.12 "OSHA" shall mean the Occupational Safety and Health Act as it may be amended from time to time as administered by the Occupational Safety and Health Administration within the U.S. Department of Labor.

1.13 "Other Licensee" shall mean any entity, other than Licensee as defined herein, to whom Licensor has extended or hereafter shall extend the privilege of attaching equipment or facilities within or upon Licensor's Structure(s).

1.14 "Qualified Electrical Worker" shall mean any worker, electrical worker, contractor, or other designated individual having successfully achieved a specified minimum level of training and/or experience including, but not limited to all applicable federal, state, and local work rules and Company requirements, including compliance with OSHA 29 CFR 1910.269 as it may be amended from time to time.

1.15 "Removal Rights" shall refer to the rights pursuant to this Agreement or to applicable laws granting Licensor certain legal rights and/or recourse to request or perform the removal of certain Attachments.

1.16 "Structures" shall mean, but not be limited to, the Ducts, Conduits, vaults, manholes, handholes, foundations, standards and other utility equipment or infrastructure necessary to facilitate the operation of an underground electric distribution system or underground sourced street and/or area light(s) owned by Licensor and used for Attachments.

2.0 SCOPE OF AGREEMENT

2.1 Subject to the provisions of this Agreement, Licensor agrees to issue to Licensee, revocable, nonexclusive licenses authorizing Licensee's existing Attachments to Licensor's Structures within the Town of Andover, for the sole purpose of providing street or area lighting of public ways or public lands. The license(s) shall (1) authorize existing and future Attachments within or upon Licensor's Structures, (2) provide definition of individual Facilities through the designation of a unique identification reference, (3) utilize the identification reference as the individual license reference, (4) recognize Facilities that are considered Attachments based solely upon the extended use of the Connection Point, and (5) represent Facilities for the purpose of inventory and billing administration. This Agreement shall govern with respect to licenses issued to Licensee's existing or future Attachments. The application for licenses or listing of current licenses shall be in the form attached hereto as APPENDIX II, Form A-1

(Application for Underground Served Street Light Attachment) and A-2 (Underground Served Street Light Attachment Licenses), respectively.

2.2 No use, however extended, of Licensor's Structures or the payment of any fees or charges by Licensee as required under this Agreement shall create or vest in Licensee any ownership or property rights in such Structures. Licensee's rights herein shall be and remain a license. Neither this Agreement nor any license granted hereunder shall constitute an assignment of any of Licensor's rights to use the public or private property at the location of Licensor's Structures.

2.3 Nothing contained in this Agreement shall be construed to compel Licensor to construct, retain, extend, place or maintain any Structure or other facilities not needed for Licensor's own service requirements. This paragraph is not intended to limit the obligation of Licensor to provide electric distribution service to Attachments pursuant to Licensor's tariffs.

2.4 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Licensor with respect to any agreement(s) and arrangement(s) that Licensor has heretofore entered into, or may in the future enter into with Other Licensees not party to this Agreement regarding the Structures covered by this Agreement. The rights of Licensee shall at all times be subject to any such existing and future agreement(s) or arrangement(s) between Licensor and any Other Licensee(s). Licensee is solely responsible to obtain the necessary and appropriate attachment rights or consents required from the necessary parties, other than the Licensor, in connection with the Attachments.

2.5 Nothing contained in this Agreement shall be construed to grant any rights to Licensee to include any wired or wireless hardware, equipment, apparatus, or device as part of any Attachment authorized by Licensor under the terms of this Agreement.

2.6 Except as otherwise provided herein, Licensor and Licensee hereby agree that this Agreement shall govern with respect to Licensee's Attachments and supersede any applicable provision that may be contained in the Agreement of Sale.

3.0 FEES AND CHARGES

3.1 Licensee shall pay to Licensor the fees and charges, calculated in accordance with appropriate state and/or federal rules and regulations and as specified in applicable tariffs and in accordance with the terms and conditions of APPENDIX I, attached hereto and incorporated herein by reference, Article 4.0, Article 8.0, and APPENDIX II, Forms B-1 and B-2.

3.2 Nonpayment of any authorized work and the corresponding amount due under this Agreement shall constitute a default of this Agreement, and Licensor shall be subject to all rights and remedies under this Agreement, including but not limited to, termination rights under Article 19.0.

3.3 Licensor may change the amount of fees and charges specified in APPENDIX I by giving Licensee no fewer than sixty (60) days written notice prior to the date the change becomes effective. Notwithstanding any other provision of this Agreement, Licensee may terminate this Agreement at the end of such sixty (60) day notice period if the change in fees and charges is not acceptable to Licensee, provided that Licensee gives Licensor no fewer than thirty (30) days written notice of its election to terminate this Agreement prior to the end of such sixty (60) day period. Upon said termination, Licensee shall be responsible for the removal of all Licensee's Attachments unless otherwise specified in accordance with and to the extent authorized by Article 19.0.

4.0 PAYMENTS

4.1 As described in Section 8.2, a Field Survey is required for each Structure within or upon which the Licensee requests to install an Attachment, a new connection for any Attachment, reconfiguration, or to which Licensee proposes to relocate or Materially Change an existing Attachment. Prior to Licensor's performance of the required Field Survey, Licensee shall authorize Licensor to perform such Field Survey and Licensee shall make advance payment to Licensor in the amount specified by Licensor to cover Licensor's estimated cost to perform and complete the required Field Survey, as described in Section 8.2. The parties agree that upon completion of the Field Survey by Licensor, no adjustment of the Field Survey costs paid by Licensee shall be made to reflect Licensor's actual costs to perform the Field Survey, whether or not Licensor's actual costs are more or less than the estimated costs paid by Licensee. The current standard charge assessed to Licensee and all Other Licensees for the Field Survey can be found in APPENDIX I, Schedule of Fees and Charges and is based on Licensor's current estimated cost to perform and complete the Field Survey. Licensor reserves the right to change such standard charge assessed to Licensee and all Other Licensees from time to time and to provide written notice as stated in Section 3.3 for the Field Survey. In addition to the standard charge, Licensor's estimated total costs shall include applicable permits, work zone protection and other functions which may be required to perform the Field Survey at any specific location. For each Application for Underground Served Street Light Attachment License, the required Field Survey shall not be conducted until the total cost amount of the Field Survey has been specified by Licensor, the Field Survey has been authorized by Licensee, and Licensee has made advance payment to Licensor in the amount specified by Licensor.

4.2 Prior to Licensor's performance of any required Make-Ready Work, Licensee shall authorize Licensor, in accordance with Article 8.0, to perform such required Make-Ready Work, and Licensee shall make advance payment to Licensor in the amount specified by Licensor. Such specified amount shall be sufficient to cover Licensor's estimated cost to perform the required Make-Ready Work. The parties agree that upon the completion of the Make-Ready

Work by Licensor, no adjustment of the Make-Ready Work costs paid by Licensee shall be made to reflect Licensor's actual cost to perform the Make-Ready Work, whether or not Licensor's actual costs are more or less than the estimated costs paid by Licensee.

4.3 Licensee shall pay the fees and charges for the purposes and as described in APPENDIX I to this Agreement and/or applicable tariffs.

5.0 SPECIFICATIONS

5.1 Licensee's Attachments shall be placed, maintained and removed in accordance with the requirements and specifications of the most recent editions of the National Electrical Code (NEC); the National Electrical Safety Code (NESC); the rules, regulations and provisions of OSHA; and any governing authority having jurisdiction over the subject matter, as each may be amended from time to time. In addition, upon the performance of a Licensee requested Field Survey, Licensee's Attachments, which are the subject of the Field Survey, shall be placed, maintained, and removed in accordance with all safety-related requirements and specifications of the most recent edition of the Licensor's Standards, as may be amended from time to time, in effect at the time the Field Survey for such Attachments is performed. Licensee shall participate in any forum, group or organization, and utilize any designated common information management system, solely at the Licensee's cost, established to facilitate communications, priority, schedule and any other functions necessary to manage, locate or identify the attachment assets and actions of all licensees and other facility owner(s). This includes, but it not limited to, the coordination of transferring Attachments when poles or Structures have been replaced requiring Company or other owners, Licensee, joint users and other customers to relocate their attachments. At the time of this Agreement, the system in use is National Joint Use Notification System (NJUNS).

5.2 To the extent authorized by Article 18.0, if Licensee's Attachments or any part(s) thereof are not placed, maintained, and removed in accordance with Section 5.1, Licensor may, upon ten (10) days' written notice to Licensee and in addition to any other remedies Licensor may have hereunder, remove Licensee's Attachments from any or all of Licensor's Structures or perform such other work and take such other action in connection with said Attachments that Licensor deems necessary or advisable to provide for the safety of the public or Licensor's employees or performance of Licensor's service obligations, at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee therefore; provided, however, that when in the reasonable judgment of Licensor such a condition may endanger the safety of Licensor's employees, contractors, other persons or property, or interfere with the performance of Licensor's service obligations, Licensor may take such action, in its sole discretion, without liability and without prior notice, written or otherwise, to Licensee.

5.3 If Licensor reasonably determines that an emergency condition exists, Licensor may rearrange, transfer, de-energize or remove Licensee's Attachments in or upon Licensor's Structures at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee for loss of service and/or damage or injury to Licensee's Attachments.

5.4 Licensee shall install in-line fuse assemblies or another form of Licensor approved physical disconnect device to function as an electrical separation between Licensor's and Licensee's systems and provide a designated level of electrical system protection. This disconnect device shall generally be located in a Licensee installed secure Facility, such as a handhole, accessible to both Licensor and Licensee, installed in conformance with Licensor's Underground Electrical Construction Standards, be located in close proximity to the Connection Point within or upon the Licensor's Structures, and be connected to the electric distribution system's energized lead of the underground cable designated by Licensor for use by the street or area light(s). The installation of these disconnect devices shall occur during each application of circuit maintenance, circuit or other Facility Material Change and/or prior to each Licensor connection or reconnection. All existing underground sourced Facilities shall be so equipped within ten (10) years following execution of this License Agreement. For avoidance of doubt, the Licensor shall own the electric distribution system from the Connection Point and the Licensee shall own the street lighting equipment from the Connection Point to the applicable luminaire. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Licensor shall, in its sole discretion, determine the applicable demarcation point with respect to Licensee's Facilities and electric distribution system equipment.

5.5 As described in APPENDIX II, Form E, Licensee shall place or have placed by Licensor as Make-Ready Work, Identification Labels on cables and on any other associated Facilities of Licensee located in or in close proximity to Licensor's underground Structures including handholes containing circuit disconnect devices. For underground Attachments that exist on the date of this Agreement, Licensee shall commission the placement of Identification Labels on each of its Attachments at such time when maintenance, repair or relocation of such Attachment is performed. For aboveground Attachments, Licensee shall place Identification Labels on each of its Attachments at such time as the Attachment requires maintenance, replacement, relocation or Materially Change, but not to exceed a period of five (5) years following the execution of the Agreement of Sale. Licensor, in its sole discretion, shall have the right to approve or reject all ownership Identification Labels that vary from those described in APPENDIX II, Form E. Licensee shall remove designations of Licensor found on any of the Facilities and place Identification Labels on all of the Facilities owned by Licensee which were originally owned by Licensor.

5.6 Joint use of Duct by Licensee for new Facilities shall not be permitted. Such Facilities (i.e. street lighting cables) and other systems (i.e. wired fire alarm monitoring, traffic control, or surveillance systems) must exist prior to this Agreement.

5.7 The installation of equipment, splice boxes and coiled cables in Structures is discouraged but may be allowed if specifically authorized in the Underground Served Street Light Attachment License. Where splice boxes are allowed, cable slack shall be installed to allow the splice box to be lifted clear of the Structure to allow maintenance and splicing.

5.8 Clearances between communications, electric distribution system and street lighting cables shall be compliant with applicable codes, standards and Licensor requirements to adequately allow for proper maintenance, repair and reconfiguration of electric distribution system, street lighting and communications cables.

5.9 For Material Changes to existing Attachments upon or within Licensor's underground served aboveground Structures, Licensee shall obtain an Underground Served Street Lighting Attachment License for each Attachment including the request for a new Connection Point to Licensor's underground electric distribution system. In general, the Licensee's Facilities referenced herein shall include the luminaire, support component (i.e. arm) and associated wiring including disconnect to be sourced within the base of the Licensor's Structure (i.e. standard or pole).

5.10 Licensee shall maintain applicable National Electric Manufacturers Association (NEMA) or other industry standard labeling upon each luminaire, in a clear and legible condition, to identify the type of light source and associated wattage or lumen output.

5.11 For aboveground Facilities as applicable, Licensee shall utilize and maintain an appropriate means of individual Attachment location identification (i.e. numbering system) to maintain a unique reference which shall be clear, legible, comprehensive and visible from the street side of the Facilities. Licensee shall provide to the Licensor an inventory list at the end of each calendar quarter that identifies any Facilities on which a new identification reference per luminaire location has been assigned and the corresponding street address. Any number identification system used by the Licensee must be clear, comprehensive and approved by the Licensor.

6.0 LEGAL REQUIREMENTS

6.1 Licensee shall be responsible for obtaining from the appropriate public and/or private authority any required authorization to construct, operate and/or maintain its Attachment on the public and private property at the location of Licensor's Structures for which Licensee has obtained Attachment Licenses under this Agreement and shall submit to Licensor evidence of such authorization before making Attachments on such public and/or private property.

6.2 The provisions of this Agreement are subject to, and the parties hereto shall at all times observe and comply with, all laws, ordinances, regulations, and rulings that in any manner affect the rights and obligations of the parties hereto, so long as such laws, ordinances, regulations or rulings remain in effect.

6.3 No license granted under this Agreement shall extend to any of Licensor's Structures where the placement of Licensee's Attachments would result in a forfeiture of the rights of Licensor or Other Licensees, or both, to occupy the property on which such Structures are located. If placement of Licensee's Attachments would result in a forfeiture of the rights of Licensor or Other Licensee, or both, to occupy such property, Licensee agrees to remove its Attachments forthwith; and Licensee agrees to pay Licensor or Other Licensees, or both, all losses, damages, and costs incurred as a result thereof.

6.4 Neither this Agreement nor the payment of any fees under this Agreement shall be used by any party hereto as evidence that the space occupied by Licensee's Attachments is either usable or unusable space.

7.0 ISSUANCE OF LICENSES

7.1 Licensor agrees that it will authorize the Underground Served Street Light Attachment License(s), attached as APPENDIX II, Form A-1 hereto, simultaneously with the execution of this Agreement for Facilities purchased by Licensee from Licensor prior to the date hereof.

7.2 For the Licensor to provide the Attachment licenses and to maintain quality assurance of billing records, Licensee shall issue to Licensor within 15 days following the beginning of each calendar year a complete and detailed listing of all Facilities in-service as of December 31 of the preceding calendar year. The minimum detail to be provided shall meet the requirements designated for the Application for Underground Served Street Light Attachment License (as defined in APPENDIX I, Form A-1, A-2). Licensee shall provide to Licensor a similar list of Facilities which are in-service upon request by Licensor. Such requests shall be limited to no more than one every 90 days. The Licensee shall be capable of providing the list of Facilities in a form approved by Licensor. The Licensor may perform random field audits of Facilities for the purpose of quality assurance of the information on the list provided by the Licensee. To the extent there are any differences between Licensee's list of Facilities and Licensor's list of Attachments which can not be reconciled to the satisfaction of the Licensor, such differences shall be resolved through compliance with the terms and conditions of this Agreement, applicable tariffs and/or statutes.

8.0 MAKE-READY WORK

8.1 Licensee understands that only electrical connections (Connection Points) for new Attachments or reconfigurations of existing Attachments will be authorized by Licensor for Licensee's Facilities located within or upon underground Structures. Licensee further understands that any proposed new Attachments or modifications of existing Attachments for the purpose of Material Change or reconfiguration of the Facility(ies) (as defined in Section 5.9) within or upon Licensor's underground served aboveground Structures may be authorized by Licensor. Licensee shall be responsible for the installation of all new Facilities, Material Changes or replacements of existing Facilities at a location external to Licensor's Structures. For Attachments authorized by Licensor, Licensee will comply with Licensor's engineering standards and designated design configuration requirements to facilitate appropriate ingress/egress of Licensee's Facilities to Licensor's Structures and to assure compatibility of Licensee's Facilities for the purpose of connections to Licensor's electric distribution system, respectively.

8.2 A Field Survey is required for each Structure within or upon which the Licensee requests an Attachment having a new electrical connection or, reconfiguration, Material Change or replacement of existing Attachment. Reconfiguration, Material Change or replacement of Facilities within underground Structures may result in the required removal of an existing Attachment so as to relocate the Facilities external to Licensor's Structures. The Licensor acknowledges that the Licensee will not request a Field Survey if Licensee replaces an existing aboveground Facility with a new aboveground Facility having the same physical and operational characteristics and in the same location and orientation as the existing aboveground Facility being replaced, (in-kind replacement). The Licensee is to provide Licensor a written request for each Field Survey providing appropriate description and engineering detail to define the proposed Attachment. The Licensor shall provide Licensee a Field Survey estimate representing all anticipated costs. Licensor shall perform the Field Survey(s) following receipt of the Licensee's written authorization to proceed and the advance payment of the estimated total cost amount specified by the Licensor for all Field Survey(s) work in accordance with the provisions of Article 4.0.

8.3 In the event Licensor determines that a Structure in which Licensee desires to install a new Attachment or in which Licensee proposes to reconfigure, relocate or Materially Change its Attachments is inadequate or otherwise needs reconfiguration of the existing Facilities therein to accommodate electric distribution system changes, the Licensor will indicate on the Authorization for Make-Ready Work (APPENDIX II, Form B-2) the cost of the required Make-Ready Work and will send the Authorization for Make-Ready Work to Licensee.

8.4 Any required Make-Ready Work will be performed following receipt by Licensor of the completed Authorization for Make-Ready Work and Licensee's advance payment in the amount specified by the Licensor. Licensee shall pay Licensor for all Make-Ready Work in accordance with the provisions of Article 4.0, and shall also reimburse the owner(s) of other

facilities attached within or upon said Structures for any expense incurred by such owner(s) of other facilities in transferring or rearranging such facilities to accommodate the installation, reconfiguration or removal of Licensee's Attachments. Licensee shall not be entitled to reimbursement of any amounts paid to Licensor for Structure replacements or capacity upgrades, or for rearrangement of Attachments in Licensor's Structures by reason of the use by Licensor or other authorized user(s) of any additional capacity resulting from such replacement or rearrangement. Any federal, state or local taxes incurred on Licensor's receipt of these amounts from Licensee will be added to Licensee's Make-Ready Work costs on a grossed up basis, as applicable and determined by the scope of work being performed.

8.5 If Licensor, for its own service requirements, needs to attach additional facilities or make changes to existing facilities in any Structures within which Licensee has Facilities attached, Licensee agrees to; authorize the Make-Ready Work necessary to either reconfigure its Attachment(s) in the Structure(s) as determined by the Licensor, or transfer its Attachment(s) to a designated Licensee Structure(s) so that the additional facilities of Licensor may be attached. When such reconfiguration or transfer is required to facilitate additional attachments of Licensor, Licensee shall assume the expense of such reconfiguration or transfer and Licensee shall reimburse the Licensor for all Make-Ready Work performed by Licensor within Licensor's Structures to accommodate such reconfiguration or transfer. This paragraph also applies to circumstances under which: (i) an agency of government, whether local, state or federal, requires the removal, relocation, or modification of a Structure affecting Licensee's Attachment or (ii) a Structure must be repaired or replaced for any reason, including such repair or replacement to accommodate Licensor's additional attachments.

8.6 When reconfiguration, transfer or removal of Licensee's Facilities is required to facilitate Attachments of Other Licensees or third parties within Licensor's Structures, Licensee shall be responsible for the expenses of such reconfiguration, transfer or removal performed by Licensor on behalf of Licensee in accordance with the provisions of Article 4.0. Licensee shall be given sixty (60) days notice prior to the performance of the Make-Ready Work associated with such reconfiguration, transfer or removal to establish expense reimbursement terms with the Other Licensee(s) or third party(ies). Licensee has sole responsibility for the recovery of the costs of the reconfiguration, transfer or removal of Licensee's Attachments from such Other Licensee(s) or third party(ies).

8.7 The Licensee further acknowledges and agrees that any new outdoor lighting Facilities proposed and/or constructed within an underground residential distribution (URD) area shall be placed only in the name of the Licensee as opposed to being placed in the name of the developer or other third party.

8.8 Licensor may, when it reasonably deems an emergency to exist, reconfigure, transfer, de-energize or remove Licensee's Attachments from upon or within Licensor's

Structures, at Licensee's expense, and without any liability on the part of Licensor for loss of service provided by Licensee or any damage or injury to Licensee's Attachments.

8.9 Licensor will endeavor to perform all Make-Ready Work to accommodate Licensee's Attachments as a part of its normal, scheduled workload.

8.10 All existing and new Facilities must comply with applicable Licensor tariffs and policies. All lighting or illumination sources (i.e. lamps) will be compliant with the energy consumption schedules and defined hours of operation as set-forth in the tariffs. Licensee acknowledges and agrees that, in the event that Licensee seeks to convert, replace or otherwise use a lighting or illumination source other than those provided in Licensor's applicable tariff, or operate such Facilities in a manner other than as stated in Licensor's applicable tariff, ("Non-Compliant Facilities"), Licensor shall be under no obligation to permit or provide service to such Non-Compliant Facilities. In the event Licensor elects, in its sole discretion, to accommodate such Non-Compliant Facilities, a separate agreement between Licensee and Licensor shall be executed. Such agreement shall be subject to applicable regulatory consent or approval prior to the application of the agreement.

8.11 Licensor reserves the right to refuse to grant an Underground Served Street Light Attachment License to Licensee or refuse authorization for the relocation, Material Change or replacement of Attachments on an aboveground Structure when Licensor reasonably determines that: (i) refusal is necessary in order to maintain the safe operation of Licensor's distribution system, (ii) such Structure may not be replaced to accommodate Licensee's proposed Attachment, (iii) the existing Facilities on such Structure may not be rearranged to accommodate Licensee's Attachments, or (iv) the proposed Licensee Facilities will negatively impact other customer services provided by Licensor. For the avoidance of doubt, the parties understand and agree that the list of above-mentioned conditions is not an exhaustive list as other conditions may exist that would require Licensor to refuse to grant a license.

9.0 CONSTRUCTION, MAINTENANCE AND REMOVAL OF ATTACHMENTS

9.1 Licensee shall, at its own expense and in accordance with the terms and conditions set forth within this Agreement, construct and maintain its Attachments within or upon Licensor's Structures in a safe condition and in a manner that: (i) does not interfere with Licensor's operation of its electric distribution system, (ii) does not conflict with the use of Licensor's Structures by Licensor or by any authorized user of Licensor's Structures, nor (iii) electrically interfere with Licensor's facilities attached therein.

9.2 Licensor shall specify the point or area of attachment within or upon each of Licensor's Structures to be occupied by Licensee's Attachments.

9.3 Licensee shall obtain specific written authorization from Licensor to perform construction, maintenance repairs, reconfiguration, relocation, connection/disconnection or removal of its Attachments within or upon Licensor's Structures as may appropriately apply, in accordance with Articles 4.0 and 8.0 of this Agreement.

9.4 All Attachment related work performed within or upon Structures by the Licensee and its contractors shall be performed by a Qualified Electrical Worker. The Licensee shall execute the Acknowledgement For the Use of Qualified Electrical Worker (as set forth in Appendix II, Form G) affirming that any person(s) under contract with and/or direction of the Licensee and performing the installation, maintenance, and/or removal of Attachments within or upon Structures is/are qualified to perform such work in accordance with the requirements of OSHA and Articles 5.0, 7.0, 8.0 and 9.0 of this Agreement. Licensee shall further ensure completion and documentation of any required training, except where such work is performed by the Licensor.

9.5 In the event the Licensee cannot confirm that its employee, contractor and/or agent performing work on its behalf is a Qualified Electrical Worker in accordance with this Article, the Licensee is required to comply with appropriate electrical clearance distances and only perform work on the Attachments in a de-energized condition. If a disconnect device is not installed, the Licensee shall schedule a disconnect service request with the Licensor prior to performing any Attachment work. Following completion of the work, the Licensee shall schedule a connection service request with the Licensor to re-energize the Attachment.

9.6 The Licensee and its employees, contractors, agents or any other persons acting on Licensee's behalf shall not perform or make any connections (permanent or temporary) to, disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Licensor's electric distribution system or assets, in whole or in part, nor shall the Licensee permit or cause any third party (including without limitation, Licensee's agent or contractor) to do so. The Licensor shall be the sole party with authority to perform or make any and all (permanent and temporary) connections to or disconnections from the Licensor's electric distribution system or other assets for the purpose of providing electric service to the Licensee's Facilities. If and to the extent the Licensee has a need for a connection or disconnection associated with the Licensor's electric distribution system or assets, the Licensee shall contact the Licensor by making a connection/disconnection request through normal customer contact channels and Licensor shall make the necessary connection/disconnection, provided, that the Licensor determines, in its sole discretion, that such connection is appropriate under the terms of applicable codes, standards, laws, regulations and Licensor's practices and policies.

9.7 Licensee or its employees, contractors, agents or any persons acting on Licensee's behalf are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Licensor's enclosed or underground primary or

secondary electric distribution system infrastructure, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears. The Licensee and its contractors shall comply with all applicable codes, standards, laws, regulations, and Licensor's practices and policies when accessing any overhead electric distribution system infrastructure. If and to the extent the Licensee needs access or ingress to any of the Licensor's underground or overhead electric distribution system infrastructure, the Licensee shall contact the Licensor and the Licensor shall respond to the Licensee's request, provide required support, and/or perform the necessary work as requested following its normal work order scheduling protocol, provided, that, the Licensor determines, in its sole discretion, that such connection/disconnection or other requested work is appropriate under the terms of applicable codes and Agreements. The Licensee further agrees to compensate Licensor for all work performed by the Licensor associated with each Attachment consistent with the charges or fees as set forth in this Agreement and/or as defined in the applicable tariffs.

9.8 Licensee may (or may explicitly authorize Licensor, its employees or third parties acting on Licensee's behalf to) access or enter Licensor's Structures for the purpose of asset verification, inventory, inspection and/or other engineering or asset management functions provided the Licensee provides sufficient advanced notice to the Licensor to accommodate all aspects of scheduling. A representative of Licensor shall be present and all parties are to be properly qualified and outfitted for the physical, environmental and electrical conditions to be encountered. Where Licensee has been granted access as provided above, the Licensor may halt Licensee's activities if Licensee's activities threaten the safety of any individuals or property and the integrity or reliability of Licensor's electrical distribution system.

9.9 Any materials removed, or caused to be removed, from within the Structures by Licensor on behalf of the Licensee shall be managed, tested, treated, transported, stored and disposed of by Licensor in accordance with applicable rules, regulations or statutes at Licensee's expense.

9.10 Licensee shall be responsible for its own underground cable locating and for any participation in the "One Call System(s)" responsible for providing one-call notifications within the Licensee's operating service area. The One Call System is an independent association which, in compliance with federal, state and local requirements, facilitates the location identification of underground utility infrastructure through a notification/communication process between excavators and underground facility owners. The contact information for the One Call System responsible for a specific geographic area within the United States can be obtained by calling 811 nationally. At the time of this Agreement, Dig Safe System, Inc. is this association.

9.11 Licensee acknowledges and agrees that some of the Facilities ("Coexisting Facilities") are currently installed or otherwise coexist, in whole or in part, on or within Licensor's conduit, vaults, or other Licensor facilities, assets or infrastructure ("Joint-Use Structures"), that

such Coexisting Facilities shall not be separated from the Joint Use Structures prior to the closing date of the applicable Agreement of Sale, and that following the closing date, the Coexisting Facilities and/or the Joint Use Structures may, from time to time, require change or replacement. If Licensor elects, in its sole discretion, to modify/change or replace any Joint Use Structure, including, without limitation, to upgrade such Joint Use Structure or associated Licensor assets, Licensor shall provide Licensee with written notice of such work ("Licensor Notice") and Licensee agrees to separate and relocate the Licensee's Coexisting Facilities associated with such Joint Use Structure within six (6) months following the date of the Licensor Notice, at Licensee's expense and in compliance with all applicable laws, rules, regulations, codes and standards, as if such Coexisting Facilities were new Facilities. The Licensor Notice shall be provided by Licensor within a reasonable period of time after commencing such work and provide a brief description of the separation or relocation that will be required with respect to the Coexisting Facilities.

10.0 INSPECTIONS OF LICENSEE'S ATTACHMENTS

10.1 Licensor reserves the right, at its sole discretion, to make inspections of any part of Licensee's Attachments, at any time, without notice to Licensee, at Licensor's own expense.

10.2 Licensor reserves the right, at its sole discretion, to make inspections of any part of Licensee's Attachments at Licensee's expense, provided the Licensee complies with all terms required to gain access to Licensor's Structures if needed to witness Licensee's Attachments, if the inspection performed pursuant to Section 10.1 *supra* reveals any of the following:

- (a) Attachments for which no license has been issued by Licensor pursuant to Article 7.0 *supra*,
- (b) Discrepancy in type, style or size of installed street light luminaire and or lamp as compared with Licensor's records, or
- (c) Attachments that have been installed in violation of Article 5.0 *supra*.

Prior to the performance of such inspections, at Licensee's expense, Licensor shall provide advance notice to Licensee stating the reason for the inspection. Licensee may join Licensor in the inspection of Licensee's Facilities, provided Licensee complies with Section 9.8, when such inspection is performed at Licensee's expense.

10.3 Any charge imposed by Licensor for such inspections shall be in addition to any other sums due and payable by Licensee under this Agreement. No act or failure to act by Licensor with regard to said charge or any unlicensed use by Licensee shall be deemed as a ratification or the licensing of the unlicensed use; and if any license should subsequently be issued, said license shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise.

11.0 UNAUTHORIZED ATTACHMENTS

11.1 To the extent authorized by Article 18.0, if any of Licensee's Attachments for which no license is outstanding is found attached to Licensor's Structures, Licensor, without prejudice to its other rights or remedies under this Agreement (including termination) or otherwise, may impose electric delivery service and other charges, pursuant to Section 11.2, and require Licensee to submit in writing, within fifteen (15) days after receipt of written notification from Licensor of the unlicensed Attachment(s), an Application For Underground Served Street Light Attachment License. Alternatively, Licensee may notify and authorize Licensor to remove the unlicensed Attachment in accordance with Article 9.0. If such application or notification is not received by Licensor within the specified time period, Licensor shall have the authority to remove the unlicensed Attachment(s) at the cost and expense of Licensee and without any liability incurred by Licensor to Licensee for loss of service provided by Licensee or any damage or injury to Licensee's unlicensed Attachment(s).

11.2 For the purpose of determining the applicable charge, both parties shall agree in good faith that if an unlicensed Attachment is identified within a period of three (3) months following the execution date of this Agreement, the Attachment will be considered to have existed prior to the date of this Agreement and was inadvertently omitted by the parties. Absent satisfactory evidence to the contrary and subject to the terms hereof, the unlicensed Attachment shall be deemed to have been installed on the date of this Agreement first authorizing Attachment by Licensee, and the fees, charges, and interest as specified in Article 4.0, Article 8.0, APPENDIX I and APPENDIX II (Form B-1 and B-2) at the time the unauthorized Attachment is determined, shall be applicable thereto and due and payable forthwith whether or not Licensor permits Licensee to continue the placement of the Attachment.

12.0 LIABILITY, INDEMNIFICATION AND DISCLAIMER

12.1 Licensor reserves to itself, its successors and assigns, the right to locate and maintain its Structures and to operate its facilities in conjunction therewith in such a manner as will best enable Licensor to fulfill its service obligations and requirements. Licensor shall not be liable to Licensee for any interruption of Licensee's service or for interference with the operation of Licensee's services arising in any manner out of the use of Licensor's Structures, except to the extent caused by Licensor's negligence or to the extent otherwise required by Licensor's tariffs.

12.2 Licensee shall be liable for any damages it causes to the facilities of Licensor and of others attached to Licensor's Structures, and Licensee assumes all responsibility for any and all loss from such damage caused by Licensee or any of its agents, contractors, servants or employees. Licensee shall, without waiving the protections of M.G.L. c. 258, make an immediate report to Licensor and any other user of the occurrence of any such damage and agrees to

reimburse the respective parties for all costs incurred by Licensor and/or Other Licensee in making repairs to their respective facilities.

12.3 Except to the extent caused by the negligence of Licensor, Licensee shall, to the full extent allowed by law, without waiving the provisions of M.G.L. c. 258, and to the extent of Licensee's insurance coverage (under which Licensor shall be named an additional insured), and shall cause any party performing work in connection with this Agreement on behalf of Licensee to, defend, indemnify and save harmless Licensor, against and from any and all liabilities, claims, suits, fines, penalties, damages, losses, fees (including reasonable attorneys' fees), costs and expenses (including reasonable costs and expenses incurred to enforce this indemnity), (hereinafter "Claims") to the extent arising from or in connection with Licensee's installation, operation, maintenance, or removal of Facilities and/or Attachments including, but not limited to, those Claims which may be imposed upon, incurred by or asserted against Licensor, by reason of:

(a) any work or action done upon or in the Structures licensed hereunder or any part thereof performed by Licensee or any of its agents, contractors, servants, or employees;

(b) any use, occupation, condition, operation of said Structures or any part thereof by Licensee or any of its agents, contractors, servants, or employees;

(c) any act or omission on the part of Licensee or any of its agents, contractors, servants, or employees, for which Licensor may be found liable;

(d) any accident, injury (including, but not limited to, death) or damage to any person or property occurring upon or in said Structures or any part thereof or arising out of any use thereof by Licensee or any of its agents, contractors, servants, or employees, except where such work is performed by Licensor;

(e) any failure on the part of Licensee to perform or comply with any of the covenants, agreements, terms or conditions contained in this Agreement,

(f) any payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits arising out of any use of the Structures by Licensee or any of its agents, contractors, servants, employees, or;

(g) by the installation, operation, maintenance, presence, use, occupancy or removal of Licensee's Attachments by Licensee or any of its agents, contractors, servants or employees or by their proximity to the facilities of other parties attached to Licensor's Structures, including without limitation, taxes, special charges by others, and from and against all claims and demands for demands for infringement of patents with respect to the manufacture, use, and operation of Licensee's Attachments in combination with Licensor's Structures, or otherwise.

12.4 The Licensor makes no warranties, representations, guarantees or promises in connection herewith or therewith, whether statutory, oral, written, express, or implied as to the present or future strength, condition, or state of any Structures, Facilities, wires, apparatus or otherwise in connection with any Attachment, the Facilities or this Agreement. To the extent applicable, the Licensee, or its contractors, agents and representatives performing any Attachment work, shall be responsible and liable for testing or observing the Structures to determine whether the Structures are safe to utilize, support or access. If the Licensee questions the integrity or safety of any Structures or if the Structure is marked as unsafe, the Licensee shall refrain from utilizing or accessing the Structure in any manner whatsoever and shall notify or confirm said condition with Licensor. Should the Licensee, or its contractor, agent or representative decide, in its sole judgment, to utilize or access a Structure (including, without limitation, Structures which are marked unsafe or appear to be unsafe), the Licensee, not Licensor or its affiliates, shall assume all risk of loss, liability and damages (including injury to any person(s) (including death) or property), and the Licensee shall indemnify, defend, release and hold harmless Licensor, its affiliates, and the Licensor's and its affiliate's successors, assigns, officers, agents, representatives as indicated herein.

12.5 Licensor, the Licensor's affiliates, and their respective officers, directors, employees, representatives and contractors shall not be liable to Licensee for any indirect, consequential, punitive, incidental, special, or exemplary damages in connection with any Attachment, the Structures, the Facilities, or the Attachments owned by Licensee contemplated herein, including, without limitation, the condition, design, engineering, installation, maintenance, construction, location, operation of, or failure of operation of, the Facilities, under any theory of law that is now or may in the future be in effect, including without limitation: contract, tort, strict liability, or negligence.

12.6 The provisions of this Article 12.0 shall survive the expiration or earlier termination of this Agreement or any license issued under this Agreement.

13.0 INSURANCE

13.1 Licensee shall carry insurance issued by an insurance carrier satisfactory to Licensor to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in Article 12.0 *supra*. The Licensee may elect to self-insure provided that the Licensor consents and Licensee provides written notice and evidence of self-insurance to the Licensor prior to transfer of the Facilities and execution of the Agreement of Sale.

13.2 Comprehensive or Commercial General Liability Insurance, including Contractual Liability and Product/Completed Operations Liability covering all insurable operations required

under the provisions of this Agreement and, where applicable, coverage for damage caused by any explosion or collapse with the following minimum limits of liability:

Bodily Injury Liability	\$5,000,000
Property Damage Liability	\$5,000,000

If a combined single limit is provided, the limit shall not be less than \$5,000,000 per occurrence. Licensee's insurance requirements for General Liability or Automobile Liability may be satisfied through any combination of excess liability and/or umbrella. Coverage shall include contractual liability with this Agreement and all associated agreements with respect to the Licensee's ownership of the street lights being included.

13.3 Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of \$500,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act and the Jones Act. Proof of qualification as a self-insurer may be acceptable in lieu of a Workers' Compensation Policy.

13.4 Automobile Liability covering all owned, non-owned and hired vehicles used in connection with the work or services to be performed under this Agreement with minimum limits of:

Bodily Injury & Property Damage Combined Single Limit - \$1,000,000
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13.5 All insurance must be effective before Licensor will authorize Licensee to make Attachments to any Structure and shall remain in force until such Attachments have been removed from all such Structures. Licensee accepts the obligation to inform Licensor of changes in insurance or insurance carrier and/or policy on a prospective basis.

13.6 Licensee shall submit to Licensor certificates of insurance including renewal thereof, by each company insuring Licensee to the effect that it has insured Licensee for all liabilities of Licensee covered by this Agreement; and that such certificates will name Licensor as an additional insured under the General Liability and Automobile Liability policies and that it will not cancel or change any such policy of insurance issued to Licensee except after the giving of not less than thirty (30) days' written notice to Licensor. Licensee shall also notify and send copies to Licensor of any policies maintained under this Article 13.0 written on a "claims-made" basis. The following language shall be used when referencing the additional insured status of Licensor: National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be named as additional insureds.

13.7 Licensee shall require all of its contractors to carry insurance which meets the requirements specified under this Article 13.0 of this Agreement, and to name Licensor as an additional insured. Contractor shall waive all rights of recovery against the Licensor and their directors, officers and employees, for any loss or damage covered under those policies

referenced in this insurance provision, or for any required coverage that may be self-insured by the contractor.

14.0 AUTHORIZATION NOT EXCLUSIVE

14.1 Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to Licensee. Licensor shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any Structure subject to this Agreement.

15.0 ASSIGNMENT OF RIGHTS

15.1 Licensee shall not assign or transfer this Agreement or any authorization granted hereunder, and this Agreement shall not inure to the benefit of Licensee's successors, without the prior written consent of Licensor.

15.2 In the event such consent or consents are granted by Licensor, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

15.3 Structure space licensed to Licensee hereunder is for Licensee's exclusive use only and is licensed to Licensee for the sole purpose of permitting Licensee to place or retain existing Facility Attachments upon Licensor's aboveground Structures or retain the placement of existing Facility Attachments within Licensor's underground Structures. Licensee shall not lease, sublicense, share with, convey, or resell to others any such space or rights granted hereunder. Licensee shall not allow a third party, including affiliates, to place Attachments or any other equipment anywhere within or upon Licensor's Structures, including, without limitation, the space within or upon Licensor's Structures licensed to Licensee for Licensee's Attachments, without the prior written consent of Licensor. Such consent shall not be unreasonably withheld unless otherwise restricted by this Agreement or required by law and may be contingent upon the Licensor entering into a separate but mutually agreed upon license agreement with the third party.

15.4 No contract between the Licensee and any other party regarding the maintenance, modification, or repair of the Facilities shall be considered an assignment or transfer under Article 15.0.

16.0 FAILURE TO ENFORCE

16.1 Failure of Licensor to enforce or insist upon compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a general waiver or relinquishment of any term

or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

17.0 TERM OF AGREEMENT

17.1 Unless terminated in accordance with Article 19.0, this Agreement shall remain in effect for a term of five (5) years from the date hereof and shall continue indefinitely thereafter until terminated by either party with at least six (6) months written notice to the other party.

17.2 Termination of this Agreement or any licenses issued hereunder shall not affect Licensee's liabilities and obligations incurred hereunder prior to the effective date of such termination, nor Licensor's and Licensee's rights pursuant to the laws, ordinances, regulations, and rulings governing the subject matter of this Agreement, including but not limited to, MGL c. 164, § 34A, and DTE 98-76, 98-89, and 01-25.

18.0 TERMINATION OF LICENSE

18.1 Any license issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority pursuant to any laws, ordinances, regulations, and rulings, including but not limited to MGL c. 164, § 34A and DTE 98-76, 98-89, and 01-25, to construct, operate, and/or maintain its Attachments on the public or private property at the location of the particular Structure covered by the license.

18.2 Licensee may at any time terminate a license for specific Attachment(s) provided written notice of such termination is received by Licensor no less than fifteen (15) days prior to the proposed removal of the Attachment(s) from the specific Structure(s) (APPENDIX II, Form D). Terms and conditions of Articles 8.0 and 20.0 of this Agreement shall govern the removal of Licensee Attachments. Following such removal, installation of an Attachment(s) to such aboveground Structure(s) shall not be made again until Licensee has first complied with all of the provisions of this Agreement as though no such installation of Attachment(s) to such aboveground Structure(s) had ever been made.

18.3 Licensor may at any time terminate a license for specific Attachment(s) provided written notice of such termination is received by Licensee no less than fifteen (15) days prior to proposed actions causing conflict with the existing Attachment(s). Licensor may exercise its Removal Rights requiring Licensee to remove its Attachment(s), at Licensee's expense, from any of the designated Licensor's Structure(s) within fifteen (15) days after termination of the license covering such Attachment(s). If Licensee fails to remove its Attachment(s) within such fifteen (15) day period, Licensor shall have the right to remove such Attachment(s) at Licensee's expense. Terms and conditions of Articles 8.0 and 20.0 of this Agreement shall govern the removal of Licensee Attachments.

19.0 TERMINATION OF AGREEMENT

19.1 If Licensee fails to materially comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement, or if Licensee's facilities or Attachments are maintained or used in violation of any law and Licensee shall fail within thirty (30) days after written notice from Licensor to correct such default or noncompliance, Licensor may, at its option, terminate this Agreement and all authorizations granted hereunder, or the authorizations covering the Structures as to which such default or noncompliance shall have occurred.

19.2 If, at any time, an insurance carrier notifies Licensor that any policy or policies of insurance, acquired pursuant Article 13.0 *supra*, will be canceled or changed so that the requirements of Article 13.0 will no longer be satisfied, then this Agreement shall terminate automatically unless prior to the effective date of the cancellation or change in the insurance policy(ies), Licensee furnishes to Licensor new certificates of insurance providing insurance coverage in accordance with the provisions of Article 13.0 *supra*.

19.3 In the event of termination of this Agreement, and to the extent Licensor is exercising Licensor's Removal Rights, Licensor may require Licensee to remove its Attachments, Licensee shall within thirty (30) days of the date of termination of this Agreement submit a plan and schedule to Licensor pursuant to which Licensor (or its agents) will remove Licensee's Attachments from Licensor's underground Structures and Licensee (or its agents) will remove Licensee's Attachments from Licensor's aboveground Structures within six (6) months from the date of termination, unless otherwise agreed to by both parties; provided, however, that Licensee shall be liable for and pay all fees and charges due to Licensor pursuant to the terms of this Agreement until Licensee's Attachments are removed from Licensor's Structures.

20.0 REMOVAL RIGHTS

20.1 The Removal Rights as designated within this article shall apply in all cases where either Licensee or Licensor terminates a License or this Agreement or in the course of normal operation or maintenance of Attachments to Structures and as authorized pursuant to any laws, ordinances, regulations, and regulatory rulings, including but not limited to MGL c. 164, § 34A and DTE 98-76, 98-89, and 01-25.

20.2 In the course of daily operation or maintenance, should the existing underground Attachment require replacement, relocation or other Material Change, the Attachment is to be relocated outside the underground Structure and the license is to be modified or terminated. The Licensee is responsible for the construction of the proposed relocated Facilities and the removal of existing Facilities outside of Licensor's underground Structures where applicable. For

Attachments within Licensor's Structures or co-existing within a singular common Structure which is also utilized by Licensor's electric distribution system, the provisions of Article 8.0 (Make-Ready Work) shall apply to all work proposed or planned and is to be performed by Licensor at Licensee's expense.

20.3 Licensor may exercise its Removal Rights and require Licensee to remove its Attachments, and Licensee, at the Licensee's sole expense, shall remove or have removed in accordance with this Agreement its Attachments from any of Licensor's Structures within fifteen (15) days of notice. If Licensee (or its agents) fails to remove Licensee's Attachments from Licensor's Structures within the applicable time period, Licensor shall have the right to remove the Attachments at Licensee's expense and without any liability on the part of Licensor for damage or injury to Licensee's Attachments. If Licensor exercises its Removal Rights to remove the Attachments, Licensor shall have the option to sell or otherwise dispose of the removed Attachments to cover the expense of the removal. If the sale of the Attachments does not cover the entire expense of the removal, Licensee shall be liable for the remaining expense. Licensee shall be liable for and pay all fees pursuant to the terms of this Agreement to Licensor until such Attachments are removed from Licensor's Structures.

20.4 Notwithstanding any other provision of this Agreement, this Agreement is not intended to, and does not by its terms, broaden or expand Licensor's Removal Rights.

21.0 CHOICE OF LAW

21.1 This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to the conflict of laws principles contained therein.

22.0 SEVERABILITY

22.1 In the event that any provision or part of this Agreement or the application thereof to any party or circumstance is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions or parts hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

23.0 NOTICES

23.1 All written notices required under this Agreement shall be given by posting the same via first class mail as follows:

- (a) **To Licensee:** All correspondence related to Licensee's street and area lighting including but not limited to; this Agreement, Application for Underground Served

Street Light Attachment License(s), Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Underground Served Street Light Attachment License(s) to Licensee's office at:

Town of Andover
36 Bartlet Street
Andover, MA 01810

(Municipality Contact Name)

(Title of Municipal Contact)

(Municipality Department Name)

(b) **To Licensor:** Application for Underground Served Street Light Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Underground Served Street Light Attachment License, and a copy of all certificates of Insurance to Licensor's district office at:

Massachusetts Electric Company d/b/a National Grid
Attention: Manager, Community & Customer Management
1101 Turnpike Street
North Andover, MA 01845

All original certificates of Insurance to:

National Grid USA Service Company, Inc.
Attn: Risk Management, B-3
300 Erie Boulevard West
Syracuse, NY 13202

A copy of all applications, notices, authorizations and certificates to:

Massachusetts Electric Company d/b/a/ National Grid
Attention: Outdoor Lighting and Attachments
40 Sylvan Road
Waltham, MA 02451-1120

(c) Each party has the right to add, modify, change or remove contact information as presented herein provided such corrections are communicated in writing to the other party and made part of this Agreement.

24.0 ENTIRE AGREEMENT

24.1 The parties have freely entered into this Agreement and agree to each of its terms without reservation. Paragraph headings are for the convenience of the parties only and are not to be construed as binding under this Agreement. This Agreement constitutes the entire Agreement between Licensor and Licensee, and all previous representations either oral or written, (including, but not limited to any and all previous license agreements for underground

structures insofar as Licensee is concerned except as to liabilities accrued, if any) are hereby annulled and superseded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first above written.

Massachusetts Electric Company d/b/a National Grid

By: _____

Name: Christopher Kelly

Title: Acting Senior Vice President, Electric Process and Engineering

Town of Andover

By: _____

Name: Andrew P. Flanagan

Title: Town Manager

APPENDIX I

SCHEDULE OF FEES AND CHARGES **UNDERGROUND SERVED STREET LIGHT ATTACHMENTS**

(A) Attachment

To the extent that the MDPU may, in the future, allow Licensor to charge fees for the use of its Structures by Licensee's Attachments, Licensee agrees to pay such fees.

(B) Field Survey

Whenever a Field Survey is required under this Agreement, Licensee shall pay Licensor for the expense thereof. The current standard charge assessed to Licensee and all Other Licensees for the Field Survey is \$126.21 per Attachment and is based on Licensor's current estimated cost to perform and complete the Field Survey. Specific to each occurrence, any actions required by the Licensor to remedy a Structure ingress or egress condition in compliance with applicable laws, regulations, codes and company policies and procedures is considered to be in addition to the Field Survey function. The Licensee shall be responsible for the associated costs which will be predefined as an estimate in addition to the aforementioned fee.

(C) Make-Ready Work

Whenever Make-Ready Work is required under this Agreement, Licensee shall pay Licensor for the expense thereof. Make-Ready Work may include, but is not limited to, the modification or replacement of the Structure within which Licensee's Attachments will be placed to safely accommodate Licensee's Attachments, and such other changes in the existing facilities within or upon such Structure as accommodating Licensee's Attachments may require. Make-Ready Work expenses charged by Licensor may also include the following:

- (1) The net loss to Licensor on the replaced Structure based on its reproduction cost less depreciation, plus cost of removal;
- (2) Transferring Licensor's Attachments from the old Structure to the new Structure; and
- (3) Any other rearrangements and changes necessary by reason of Licensee's proposed or existing Attachments.

(D) Other Charges and Fees

Licensee shall be subject to and responsible for all other charges and fees under the applicable tariff.

(E) Payment Date

Failure to pay all authorized fees and charges within 30 days after presentment of the bill therefore or on the specified payment date or as otherwise provided in the applicable tariff, whichever is later, shall constitute a default of this Agreement with respect to the Facilities in question.

For bills rendered by Licensor, the following shall be applicable:

Interest shall accrue and be payable to Licensor at the rate set by the Commissioner of Internal Revenue pursuant to Internal Revenue Code, Section 6621; Treasury Regulations Section 301.6621-1, from and after the payment date of any payment required by this Agreement. The payment of any interest shall not cure or excuse any default by Licensee under this Agreement.

APPENDIX II

ADMINISTRATIVE FORMS AND NOTICES

INDEX OF ADMINISTRATIVE FORMS

APPLICATION FOR UNDERGROUND SERVED STREET LIGHT ATTACHMENT LICENSE / UNDERGROUND SERVED STREET LIGHT ATTACHMENT LICENSE	A-1
UNDERGROUND SERVED STREET LIGHT ATTACHMENT DETAILS	A-2
ESTIMATE FOR FIELD SURVEY / AUTHORIZATION FOR FIELD SURVEY	B-1
MAKE-READY WORK ESTIMATE / AUTHORIZATION FOR MAKE-READY WORK	B-2
ITEMIZED MAKE-READY WORK	C
NOTIFICATION OF DISCONTINUANCE OF USE FOR STREET LIGHT ATTACHMENT	D
IDENTIFICATION LABELS	E
LIGHTING SOURCE IDENTIFICATION LABELS	F
ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS	G

Agreement Number: 8412
Application Number: _____ (to be provided by Licensor)

Form A-1

APPLICATION FOR
UNDERGROUND SERVED STREET LIGHT ATTACHMENT LICENSE

DATE _____

LICENSEE _____

Street Address _____

City, State, Zip Code _____

In accordance with the terms and conditions of the Underground Served Street Light Attachment License Agreement between us, dated _____, 2016 application is hereby made for a license(s) to make _____ Attachments to Structures as indicated on the attached Form A-2.

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

UNDERGROUND SERVED STREET LIGHT ATTACHMENT LICENSE

Underground Served Street Light Attachment License(s) is hereby granted to make the Attachments described in this application, identified as License No(s): _____ as Attachments to Structures as indicated on the attached Form A-2.

DATE _____

LICENSOR _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

NOTES:

1. Applications shall be submitted to Licensor.
2. Applications to be numbered in ascending order by Licensor.
3. Licensor will process in order of application received from Licensee.

Agreement Number: 8412
Application Number _____ (to be provided by Licensor)

Form A-2

UNDERGROUND SERVED STREET LIGHT ATTACHMENT DETAILS

LICENSEE _____

City/Town _____

<u>Location Reference</u>	<u>Structure Type Reference</u>	<u>Attachment Description (including nominal wattage)</u>
---------------------------	---------------------------------	---

_____ (Yes/No)

LICENSEE HEREBY REQUESTS LICENSOR TO PROVIDE AN ITEMIZED ESTIMATE OF MAKE READY WORK REQUIRED AND ASSOCIATED CHARGES (APPENDIX II FORM C).

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

Agreement Number 8412
Application / Request No. _____

Form B-1

ESTIMATE FOR FIELD SURVEY

Town of Andover
(Licensee)

In accordance with the License Agreement for Underground Electrical Service and Attachments to Utility Structures for Street and Area Lighting, dated _____, _____, the following is a summary of the charges which will apply to complete a field survey covering Application / Request Number _____.

	<u>Unit Quantity</u>	<u>Rate / Unit</u>	<u>Total</u>
Field Survey	_____	_____	\$ _____
Ancillary Services	_____	_____	\$ _____
Administrative Compensation		_____ %	\$ _____
TOTAL			\$ _____

If you wish us to complete the required field survey, please sign this copy below and return with an advance payment in the amount of \$ _____.

DATE _____

LICENSOR _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

AUTHORIZATION FOR FIELD SURVEY

The required field survey covering Application / Request Number _____ is authorized and the costs therefore will be paid to Licensor in accordance with Appendix I to License Agreement for Underground Electrical Service and Attachments to Utility Structures for Street and Area Lighting.

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

Agreement Number: 8412
Application / Request No.: _____

Form B-2

MAKE-READY WORK ESTIMATE

Town of Andover
(Licensee)

Field survey work associated with your Application / Request Number _____ dated _____, for Attachment to Structures has been completed. The following is a summary of the charges which will apply to complete the required Make-Ready Work.

TOTAL MAKE-READY CHARGES \$ _____

Attached as requested, is an itemized description (Form C) of required Make-Ready Work. A cost estimate of associated Make-Ready Work is also attached. If you wish us to complete the required Make-Ready Work, please sign this copy below and return with an advance payment in the amount of \$_____.

DATE _____

LICENSOR _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

AUTHORIZATION FOR MAKE-READY WORK

The Make-Ready Work associated with Application / Request Number _____ is authorized and the costs therefore will be paid to Licensor in accordance with Appendix I to License Agreement.

DATE _____

LICENSEE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

NOTIFICATION OF DISCONTINUANCE OF UNDERGROUND SERVED STREET LIGHT ATTACHMENT

LICENSEE _____
Street Address _____
City, State, Zip Code _____

In accordance with the terms and conditions of the Agreement dated _____, notice is hereby given that specific Attachments to Structures, as listed below, in the municipality of _____, covered by permit number _____ were removed on _____.

<u>Attachment License No.</u>	<u>Location Reference Street Address</u>	<u>Structure Ref. Type</u>	<u>Attachment Description</u>	<u>Removal Date</u>
-------------------------------	--	----------------------------	-------------------------------	---------------------

Total quantity of Attachments to Structures to be discontinued is _____.

DATE _____
By (Print Name) _____
Signature _____
Title _____

ACKNOWLEDGMENT OF DISCONTINUANCE OF UNDERGROUND SERVED STREET LIGHT ATTACHMENT

Use of Structures has been discontinued as above.

DATE _____
LICENSOR _____
By (Print Name) _____
Signature _____
Title _____

OWNERSHIP IDENTIFICATION LABELS**(A) GENERAL**

This Appendix describes ownership Identification Labels to be installed and maintained by Licensee on its luminaires, cables and other apparatus to allow Licensor to readily identify the owner of such luminaires, cables and apparatus.

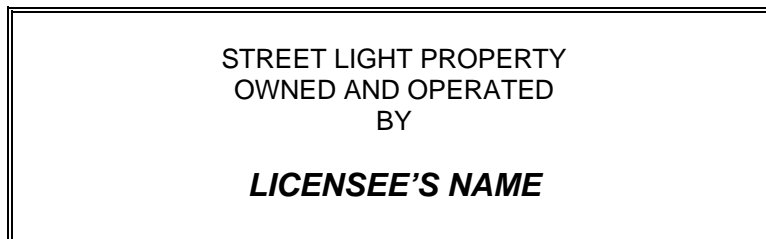
(B) DESCRIPTION OF OWNERSHIP IDENTIFICATION LABELS

FIGURE 1: Ownership Identification Label

The labels shall be yellow with black lettering. Licensee shall be responsible for maintaining the legibility of identification labels at all times.

The ownership Identification Label shall be placed on Licensee's facilities including, but not limited to, luminaires, cables, guys, terminals, terminal closures, and cabinets. The Identification Label shall read as follows: "STREET LIGHT PROPERTY OWNED AND OPERATED BY" and clearly display Licensee's name. Licensee's name may be printed on the label using indelible ink.

(C) PROCUREMENT OF LABELS

It shall be the responsibility of Licensee to obtain, place, and maintain Identification Labels.

(D) INSTALLATION OF IDENTIFICATION LABELS - UNDERGROUND APPLICATIONS

When required by Section 5.5, ownership Identification Labels shall be installed at the following locations:

- (1) On each luminaire, on the bottom of the luminaire so that it is visible from the ground.
- (2) On cables at each manhole or handhole, on the top of the cable so that it is visible from outside the manhole or handhole.
- (3) At terminal or Connection Point locations.
- (4) Within cabinets or other equipment where appropriate.

LIGHTING SOURCE IDENTIFICATION LABELS

The Licensee is required to provide and affix to each luminaire a clear, legible and comprehensive lighting source identification label consistent with ANSI-NEMA Standards for Roadway and Area Lighting Equipment – Field Identification of High Intensity Discharge Lamps and Luminaires, (ANSI/NEMA C136.15-2009, latest revision) or other industry standard compliant with the specific lamp or lighting source, as applicable.



ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS

The Town of Andover hereby acknowledges and agrees to the following:

1. Massachusetts Electric Company, d/b/a National Grid (hereinafter "National Grid") expects the use of electrically-qualified personnel as required by OSHA in 29 CFR 1910.269 for all work associated with the LICENSE AGREEMENT FOR UNDERGROUND ELECTRICAL SERVICE AND ATTACHMENTS TO UTILITY STRUCTURES FOR STREET AND AREA LIGHTING BETWEEN MASSACHUSETTS ELECTRIC COMPANY D/B/A NATIONAL GRID and TOWN OF ANDOVER DATED JUNE __, 2016 (hereinafter "TOWN OF ANDOVER LICENSE AGREEMENT").
2. The Town of Andover hereby agrees that any work being done pursuant to TOWN OF ANDOVER LICENSE AGREEMENT will be done by qualified electrical workers as defined by OSHA in 29 CFR 1910.269 and in accordance with all relevant laws, regulations, codes, and industry standards.
3. The Town of Andover understands and agrees that any injuries to persons or property arising out of or related to this work, including without limitation as a result of a failure to comply with this ACKNOWLEDGMENT, will be the sole responsibility of the Town of Andover pursuant to Article 12.0 of TOWN OF ANDOVER LICENSE AGREEMENT, except to the extent attributable to the negligence or willful misconduct of National Grid.

TOWN OF ANDOVER

BY: _____

NAME: Andrew P. Flanagan

TITLE: Town Manager

DATE: __/__/2016



SERVICE AGREEMENT
FOR
UNDERGROUND
ATTACHMENTS TO
UTILITY STRUCTURES
FOR
STREET AND AREA LIGHTING

BETWEEN

MASSACHUSETTS ELECTRIC COMPANY
D/B/A NATIONAL GRID
("COMPANY")

AND

TOWN OF ANDOVER
("CUSTOMER")

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This Service Agreement for Underground Attachments to Utility Structures for Street and Area Lighting, ("Agreement"), is made this ____ day of, June, 2016, by and between Massachusetts Electric Company d/b/a National Grid, a corporation organized and existing under the laws of Massachusetts, having its principal office at 40 Sylvan Road, Waltham, Massachusetts 02451, (hereinafter referred to as the "Company"), and Town of Andover, having its principal office at 36 Bartlet Street, Andover, Massachusetts, 01810 (hereinafter referred to as the "Customer").

RECITALS

WHEREAS, the Customer owns unmetered street and area lighting facilities in the Town of Andover, Massachusetts; and

WHEREAS, the Company presently provides unmetered street and area lighting services pursuant to multiple Massachusetts Electric Company tariffs approved by the Massachusetts Department of Public Utilities ("MDPU"); and

WHEREAS, the Company provides street and area lighting services to the Customer, pursuant to Massachusetts Electric Company, Street and Area Lighting – Customer Owned Equipment S-5, Retail Delivery Service Tariff ("S-5 Tariff").

NOW THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1.0 DEFINITIONS

Whenever used in this Agreement with initial capitalization, the terms shall have the following meanings:

1.1 "Attachment" shall have the same meaning as Lighting Equipment, defined below, that is physically installed on the Pole or connected in or upon the Structure.

1.2 "Conduit" shall mean a Structure containing one or more Ducts.

1.3 "Connection Point" shall have the meaning, as further defined herein, to be where the Lighting Equipment is energized from the electric distribution system or similarly referenced as the point of ownership demarcation. The Company shall own the electric distribution system up to and including the Connection Point and the Customer shall own the Lighting Equipment from the Connection Point. To the extent there is any uncertainty or conflict with respect to the Connection Point, the Company, at its sole discretion, shall define the Connection Point.

1.5 “Duct” shall mean a single enclosed raceway or pipe in which wires or cables are enclosed.

1.6 “Field Survey” shall mean an on-site audit and/or office asset record review, requested by the Customer, of the Structure(s) in or upon which the Customer proposes to: (i) make a new attachment(s) of Lighting Equipment, (ii) relocate existing Lighting Equipment, or (iii) Materially Change existing Lighting Equipment, performed by the Company in order to determine if the Structure can safely accommodate the requested Lighting Equipment.

1.8 “Identification Labels” shall mean markings, labels, tags, decals or other displays that indicate ownership and function of the Lighting Equipment.

1.9 “Joint Owner” or “JO” shall mean a person, firm, or corporation sharing an ownership interest in a Pole and/or anchor rod with the Company.

1.10 “Joint User” shall mean any other entity, which shall now or hereafter have the right to use any of the Company’s Poles or Structures as authorized by the Company and/or Joint Owner and which may also be the Customer upon the execution of this Agreement. The term “Joint User” shall not include the Customer within this Agreement. However, upon execution of the Agreement the Customer may also be considered a Joint User.

1.11 “Lighting Equipment” shall mean the street and area lighting components or equipment having the sole purpose and function to provide outdoor illumination of streets or areas, including without limitation; (i) any single luminaire and its supporting bracket, owned by the Customer, and used for providing street or area lighting of public ways or public lands and/or (ii) any wire, conductor, circuitry, conduit, or duct owned by the Customer, limited to the specific wiring of an individual luminaire and/or a conductor span from a Customer owned pole or structure, and connected to the distribution system at the Connection Point for which it is used solely for delivering electrical energy to such luminaire.

1.12 “Make-Ready Work” shall mean the work identified through the Customer requested Field Survey, required to safely accommodate Customer’s requested Lighting Equipment upon or within the Structure(s), including the reconfiguration and/or transfer of existing facilities upon or within a Structure, the replacement of a Structure, or any other modifications or upgrades required to accommodate the Lighting Equipment safely upon or within the Structure(s).

1.13 “Material Change”, “Materially Change” or “Materially Changed” shall mean any alteration, modification or replacement made to the Lighting Equipment that changes its characteristics associated with the specifications or description, mode of operation or maintenance, physical attributes, use of Structures by the Company or Other

Customers, attributes related to billing, and/or financial reporting considered as a capital investment.

1.14 “MDPU” shall mean the Massachusetts Department of Public Utilities.

1.15 “OSHA” shall mean the Occupational Safety and Health Act as it may be amended from time to time as administered by the Occupational Safety and Health Administration within the U.S. Department of Labor.

1.16 “Other Customer” shall mean any entity, other than the Customer as defined herein or a Joint User, to whom the Company has extended or hereafter shall extend the privilege of attaching equipment or facilities upon or within the Structure(s).

1.17 “Pole” shall mean any vertically oriented utility structure constructed predominately of treated wood, including metal, composites and concrete used to support electrical conductors and other utility equipment necessary to facilitate the operation of an electric distribution system and used for Lighting Equipment.

1.18 “Qualified Electrical Worker” shall mean any worker, electrical worker, contractor or other designated individual having successfully achieved a specified minimum level of training and/or experience including, but not limited to all applicable federal, state, and local work rules and Company requirements, including compliance with OSHA 29 CFR 1910.269 as it may be amended from time to time.

1.19 “Removal Rights” shall refer to the rights pursuant to this Agreement or to applicable laws granting the Company certain legal rights and/or recourse to request or perform the removal of certain Attachments.

1.20 “Structure” shall mean, but not be limited to, the Duct, Conduit, vault, manhole, handhole, foundation, standard and other utility equipment or infrastructure necessary to facilitate the operation of an underground electric distribution system or underground sourced street and/or area light(s) owned by Company and used for Attachments.

1.21 “Sole Owner” or “SO” shall mean a person, firm, or corporation having and maintaining a singular ownership interest in a Structure.

2.0 SCOPE OF AGREEMENT

2.1 Subject to the provisions of this Agreement, the Company agrees to grant to the Customer, revocable, nonexclusive rights authorizing the Customer to attach its Lighting Equipment upon or within the Structures or other infrastructure of the Company within the Town of Andover, for the sole purpose of providing street or area lighting of public ways or public lands. The Agreement shall: (1) authorize existing and future Attachments within or upon Structures; (2) define individual Lighting Equipment through

the designation of a unique identification reference; (3) utilize the identification reference as the individual agreement reference; (4) recognize Lighting Equipment that are considered Attachments based solely upon the extended use of the Connection Point; and (5) require the Customer to periodically provide the Company with an inventory of Lighting Equipment for billing administration purposes. This Agreement shall govern the Customer's existing or future Attachments. The application for Attachments or listing of current Attachments shall be in the form attached hereto as APPENDIX II, Form A-1 (Application for Underground Served Street Light Attachment) and A-2 (Underground Served Street Light Attachment Details), respectively.

2.2 No use, however extended, of the Structure(s) or the payment of any fees or charges by the Customer as required under this Agreement shall create or vest in the Customer any ownership or property rights in such Structure(s) or any property owned by the Company. Neither this Agreement nor any attachment granted hereunder shall constitute an assignment of any of the Company's rights to use the public or private property at the location of the Structure(s). Nothing herein shall be construed as a grant of any exclusive authorization, right, or privilege to the Customer. The Company shall have the right to grant, renew, and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use any Structure(s) subject to this Agreement.

2.3 Nothing contained in this Agreement shall be construed to compel the Company to construct, retain, extend, place or maintain any Structure or other facilities not needed for the Company's own service requirements. This paragraph is not intended to limit the obligation of the Company to provide electric service to Attachments pursuant to the Company's tariffs.

2.4 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against the Company with respect to the Company's rights or any agreement(s) and arrangement(s) that the Company has heretofore entered into, or may in the future enter into, with Other Customers not party to this Agreement regarding the Structures covered by this Agreement. The rights of the Customer shall at all times be subject to any such existing and future agreement(s) or arrangement(s) between the Company and any Joint Owner(s), Joint User(s) or Other Customers of the Structures. Notwithstanding any provision to the contrary in this Agreement, nothing in this Agreement shall be construed to grant, and the Company makes no representations or warranties with respect to, and is not purporting to provide, any third-party or Joint Owner attachment rights, licenses or consents for or in connection with the Attachments. The Customer shall be and remain solely responsible for obtaining all necessary and appropriate attachment rights or consents required in connection with the Attachments. The Customer is solely responsible to seek out the necessary parties to obtain such attachment rights, including, without limitation, the owners or Joint Owners of the applicable Structures or other assets to which the Attachments are or will be attached.

2.5 Nothing contained in this Agreement shall be construed to grant any rights to the Customer to include any wired or wireless hardware, equipment, apparatus, or

device as part of any Attachment authorized by the Company under the terms of this Agreement.

2.6 Except as otherwise provided herein, the Company and the Customer hereby agree that this Agreement shall govern with respect to the Attachments in or upon Structures.

3.0 FEES AND CHARGES

3.1 The Customer shall pay to the Company the fees and charges, calculated in accordance with appropriate state and/or federal rules and regulations and in accordance with the terms and conditions of APPENDIX I, Schedule of Fees and Charges, attached hereto and incorporated herein by reference, Article 4.0, Article 8.0, and APPENDIX II, Forms B-1 (Estimate for Field Survey/Authorization for Field Survey) and B-2 (Make-Ready Work Estimate/Authorization for Make-Ready Work).

3.2 The provision and billing of electric service to the Attachments is governed by the Company's applicable tariffs as approved by the MDPU and is not a part of this Agreement. All existing and new Lighting Equipment must comply with the Company's applicable tariffs and policies. All lighting or illumination sources (i.e., lamps) will be compliant with the energy consumption schedules and defined hours of operation as set-forth in the tariffs. The Customer acknowledges and agrees that, in the event that the Customer seeks to convert, replace or otherwise use a lighting or illumination source other than those provided in the Company's applicable tariffs, or operate such Lighting Equipment in a manner other than as stated in the Company's applicable tariff, ("Non-Compliant Lighting Equipment"), the Company shall be under no obligation to permit or provide service to such Non-Compliant Lighting Equipment. In the event the Company elects, in its sole discretion, to accommodate such Non-Compliant Lighting Equipment, a separate agreement between the Customer and the Company shall be executed. Such agreement shall be subject to applicable regulatory consent or approval prior to the application of the agreement.

3.3 Nonpayment of any amount due under this Agreement shall constitute a default of this Agreement, and the Company shall be entitled to exercise all of its rights and remedies under this Agreement, including but not limited to, termination rights under Article 18.0.

3.4 The Company may change the amount of fees and charges specified in APPENDIX I by giving the Customer no fewer than sixty (60) days' written notice prior to the date the change becomes effective. Notwithstanding any other provision of this Agreement, the Customer may terminate this Agreement at the end of such sixty (60) day notice period if the change in fees and charges is not acceptable to the Customer, provided that the Customer gives the Company no fewer than thirty (30) days written notice of its election to terminate this Agreement prior to the end of such sixty (60) day period. Upon said termination, the Customer shall be responsible for the removal of all

Attachments unless otherwise specified in accordance with and to the extent authorized by Article 18.0.

4.0 PAYMENTS

4.1 As described in Section 8.2, a Field Survey is required for each Structure within or upon which the Customer requests to install an Attachment or upon or within which the Customer proposes to relocate or Materially Change an existing Attachment. The current standard charge assessed to the Customer and all Other Customers for the Field Survey can be found in APPENDIX I, Schedule of Fees and Charges. In addition to the standard charge, the Company's estimated total costs shall include applicable permits, work zone protection and other functions which may be required to perform the Field Survey at any specific location. For each Application for Underground Served Street Light Attachment, the required Field Survey shall not be conducted until the total cost amount of the Field Survey has been specified by the Company, the Field Survey has been authorized by the Customer, and the Customer has made advance payment to the Company in the amount specified by the Company.

4.2 Prior to the Company's performance of any required Make-Ready Work, the Customer shall authorize the Company, in accordance with Article 8.0, to perform such required Make-Ready Work, and the Customer shall make advance payment to the Company in the amount specified by the Company. Such specified amount shall be sufficient to cover the Company's estimated cost to perform the required Make-Ready Work. The parties agree that upon completion of the Make-Ready Work by the Company, no adjustment of the Make-Ready Work costs paid by the Customer shall be made to reflect the Company's actual costs to perform the Make-Ready Work, whether or not the Company's actual costs are more or less than the estimated costs paid by the Customer.

4.3 The Customer shall pay the fees and charges for the purposes and as described in APPENDIX I to this Agreement.

5.0 SPECIFICATIONS

5.1 The Attachments shall be placed, maintained, and removed in accordance with the applicable requirements and specifications of the most recent editions of the National Electrical Code (NEC); the National Electrical Safety Code (NESC); the rules, regulations, and provisions of OSHA; and any governing authority having jurisdiction over the subject matter of this Agreement, as each may be amended from time to time. In addition, upon the performance of a Customer requested Field Survey, the Attachments, which are the subject of the Field Survey, shall be placed, maintained, and removed in accordance with all safety-related requirements and specifications of the most recent edition of the Company's engineering standards, as may be amended from time to time, in effect at the time the Field Survey for such Attachments is performed. The Customer

shall participate, at the Customer's sole cost, in any forum, group or organization, and utilize any designated common information management system established to facilitate communications, priority, schedule and any other functions necessary to manage, locate or identify the Attachments and actions of all the customers and facility owner(s). This includes, but is not limited to, the coordination of transferring Attachments when Pole(s) or Structure(s) have been replaced requiring Company or Joint Owners, Customer, Joint Users and Other Customers to relocate their attachments. At the time of this Agreement, the system in use is National Joint Use Notification System.

5.2 To the extent authorized by Article 18.0, if the Attachments or any part(s) thereof are not placed, maintained, and removed in accordance with Section 5.1, the Company may, upon ten (10) days' written notice to the Customer and in addition to any other remedies the Company may have hereunder, remove the Attachments from any or all of the Structures or perform such other work and take such other action in connection with said Attachments that the Company deems necessary or advisable to provide for the safety of the public or the Company's employees or performance of the Company's service obligations, at the cost and expense of the Customer and without any liability incurred by the Company to the Customer therefore; provided, however, that when in the reasonable judgment of the Company such a condition may endanger the safety of the Company's employees, contractors, other persons or property, or interfere with the performance of the Company's service obligations, the Company may take such action, in its sole discretion, without liability and without prior notice, written or otherwise, to the Customer.

5.3 If the Company reasonably determines that an emergency condition exists, the Company may rearrange, transfer, de-energize or remove the Attachments on the Structures at the cost and expense of the Customer and without any liability incurred by the Company to the Customer for loss of service and/or damage or injury to the Attachments.

5.4 The Customer shall install in-line fuse assemblies or another form of Company approved physical disconnect device to function as an electrical separation between the Company's and the Customer's systems and to provide a designated level of electrical system protection. This disconnect device shall be located in a Customer installed secure structure, such as a handhole and in close proximity to the energizing source Connection Point, accessible to both the Company and the Customer, installed in conformance with the Company's Customer Owned Outdoor Lighting Construction Standard and be connected to the electrical distribution system's energized lead of the underground cable designated by the Company for use by the street or area light(s). The installation of these disconnect devices shall occur during each application of circuit maintenance, circuit or other Material Change or prior to each Company connection or reconnection. All existing underground sourced Attachments shall be so equipped within ten (10) years following execution of this Agreement. For avoidance of doubt, the Company shall own the electric distribution system from and including the Connection Point and the Customer shall own the street lighting equipment from the Connection Point. To the extent there is any uncertainty or conflict with respect to the Connection

Point, the Company shall, in its sole discretion, determine the applicable demarcation point with respect to the electric distribution equipment and the Lighting Equipment.

5.5 The Customer shall place ownership Identification Labels on all Attachments which shall include the name of the Customer. The Company, in its sole discretion, shall have the right to approve or reject all ownership Identification Labels that vary from those described in APPENDIX II, Form E.

5.6 Joint use of Duct by the Customer for new Lighting Equipment shall not be permitted. Such Lighting Equipment (i.e. street lighting cables) and other systems (i.e. wired fire alarm monitoring, traffic control, or surveillance systems) must exist prior to this Agreement.

5.7 The installation of equipment, splice boxes and coiled cables in Structures is discouraged but may be allowed if specifically authorized in the Authorization for Underground Served Street Light Attachment. Where splice boxes are allowed, cable slack shall be installed to allow the splice box to be lifted clear of the Structure to allow maintenance and splicing.

5.8 Clearances between communications, electric distribution system and street lighting cables shall be compliant with applicable codes, standards and Company requirements to adequately allow for proper maintenance, repair and reconfiguration of electric distribution system, street lighting and communications cables.

5.9 For Material Changes to existing Attachments upon or within the Company's underground served aboveground Structures, the Customer shall obtain an Authorization for Underground Served Street Lighting Attachment for each Attachment including the request for a new Connection Point to the Company's underground electric distribution system. In general, the Lighting Equipment referenced herein shall include the luminaire, support component (i.e. arm) and associated wiring including the disconnect device to be sourced within the base of the Structure (i.e. standard or pole).

5.10 The Customer shall maintain applicable National Electric Manufacturers Association (NEMA) or other industry standard labeling upon each luminaire, in a clear and legible condition, to identify the type of light source and associated wattage or lumen output.

5.11 For aboveground Lighting Equipment as applicable, the Customer shall utilize the Company's pole location identification reference or shall maintain an appropriate means of light location identification (i.e., numbering system) in conjunction with and/or coordinated to the Company's pole location identification reference to maintain a unique reference which shall be clear, legible, comprehensive and visible from the street side of the Lighting Equipment. The Customer shall provide to the Company an inventory list at the end of each calendar quarter that identifies any Lighting Equipment on which a new identification reference per luminaire location has been assigned and the street address. Any number identification system used by the Customer must be clear, comprehensive and approved by the Company.

6.0 LEGAL REQUIREMENTS

6.1 The Customer shall be responsible for obtaining from the appropriate public and/or private authority any authorizations required to construct, operate, and/or maintain its Attachments on the public and private property at the location of the Structures for which the Customer has been granted Authorization for Underground Served Street Light Attachments under this Agreement and shall submit to the Company evidence of such authorizations before making Attachments on such public and/or private property.

6.2 The provisions of this Agreement are subject to, and the parties hereto shall at all times observe and comply with, all laws, ordinances, regulations, and rulings that in any manner affect the rights and obligations of the parties hereto, so long as such laws, ordinances, regulations or rulings remain in effect.

6.3 No Attachment granted under this Agreement shall extend to any of the Structures where the placement of the Lighting Equipment would result in a forfeiture of the rights of the Company or Joint Users to occupy the property on which such Structures are located. If placement of the Attachments would result in a forfeiture of the rights of the Company or Joint Users, or both, to occupy such property, the Customer agrees to remove its Attachments forthwith; and the Customer agrees to pay the Company or Joint Users, or both, all losses, damages, and costs incurred as a result thereof.

6.4 Neither this Agreement nor the payment of any fees under this Agreement shall be used by any party hereto as evidence that the space occupied by the Attachments is either usable or unusable space.

7.0 GRANTING OF ATTACHMENTS

7.1 The Company agrees that it will authorize the Application for Underground Served Street Light Attachment(s), attached as APPENDIX II, Form A-1 hereto, simultaneously with the execution of this Agreement.

7.2 Prior to the placement, relocation, or Material Change by the Customer of any Attachment to any Structure of the Company, the Customer shall make application for and shall have received an agreement therefore from the Company in the form of APPENDIX II, Forms A-1 (Application for Underground Served Street Light Attachment) and A-2 (Underground Served Street Light Attachment Details).

7.3 For the Company to provide and to maintain quality assurance of the billing records, the Customer shall issue to the Company within 15 days of the beginning of each calendar year, and as otherwise requested by the Company, a complete and

detailed listing of all Lighting Equipment in-service as of December 31 of the preceding calendar year. The minimum detail to be provided shall meet the requirements designated for the Application for Underground Served Street Light Attachment Details (as defined in APPENDIX I, Form A-1, A-2). The Customer shall provide to the Company a similar list of Lighting Equipment which are in-service upon request by the Company. Such requests shall be limited to no more than one every 90 days. The Customer shall be capable of providing the list of Lighting Equipment in a form approved by the Company. The Company may perform random field audits of the Lighting Equipment for the purpose of quality assurance of the information on the list provided by the Customer. To the extent there are any differences between the Customer's list of Lighting Equipment and the Company's list of Attachments which cannot be reconciled to the satisfaction of the Company, such differences shall be resolved through compliance with the terms and conditions of this Agreement, including but not limited to, the exercise of the Company's Removal Rights in accordance with Article 19.0.

8.0 MAKE-READY WORK

8.1 All new, Materially Changed or reconfigured Lighting Equipment which the Customer requests to be connected to the Company's electrical distribution system in or upon the Company's underground Structures must meet the requirements of the Company's engineering standards and other designated design configurations for customer-owned lighting equipment pursuant to Article 5.0 of this Agreement; the Company may elect not to connect any new, Materially Changed or reconfigured Lighting Equipment that fails to meet such standards. The Customer shall be responsible for the installation of all new Lighting Equipment, Material Changes, replacements or reconfiguration of existing Lighting Equipment at a location external to the Structures. For Attachments authorized by the Company, the Customer will comply with the Company's engineering standards and designated design configuration requirements to facilitate appropriate ingress/egress of the Lighting Equipment to the Structures, including but not limited to, the application of a physical disconnect in close proximity to the Connection Point, and to assure compatibility of the Lighting Equipment for the purpose of connections to the Company's electric distribution system, respectively.

8.2 A Field Survey may be required for each Structure within or upon which the Customer proposes an Attachment having a new electrical connection or, reconfiguration, Material Change or replacement of existing Attachments. Reconfiguration, Material Change or replacement of Lighting Equipment within underground Structure(s) may result in the required removal of an existing Attachment so as to relocate the Lighting Equipment external to the Structure(s). The Company acknowledges that the Customer will not request a Field Survey if the Customer replaces existing aboveground Lighting Equipment with new aboveground Lighting Equipment having the same physical and operational characteristics and in the same location and orientation as the existing aboveground Lighting Equipment being replaced, (in-kind replacement). The Customer is to provide the Company a written request for each Field Survey providing appropriate description and engineering detail to define the proposed

Attachment. The Company shall provide the Customer a Field Survey estimate representing all anticipated costs. The Company shall perform the Field Survey following receipt of the Customer's written authorization to proceed and the advance payment of the estimated total cost amount specified by the Company for all Field Survey work in accordance with the provisions of Article 4.0.

8.3 In the event the Company determines that a Structure upon or within which the Customer has existing Attachment(s) requires the reconfiguration of the existing Lighting Equipment therein to accommodate electric distribution system changes, the Company will indicate on the Authorization for Make-Ready Work (APPENDIX II, Form B-2) the cost of the required Make-Ready Work and will send the Authorization for Make-Ready Work to the Customer.

8.4 Any required Make-Ready Work will be performed following receipt by the Company of the completed Authorization for Make-Ready Work and the Customer's advance payment in the amount specified by the Company. The Customer shall pay the Company for all Make-Ready Work in accordance with the provisions of Article 4.0, and shall also reimburse the owner(s) of other facilities attached within or upon said Structures for any expense incurred by such owner(s) of other facilities in transferring or rearranging such facilities to accommodate installation, reconfiguration or removal of the Attachments. The Customer shall not be entitled to reimbursement of any amounts paid to the Company for Structure replacements or capacity upgrades, or for rearrangement of Attachments in the Structures by reason of the use by the Company or other authorized user(s) of any additional capacity resulting from such replacement or rearrangement. Any federal, state or local taxes incurred on the Company's receipt of these amounts from the Customer will be added to the Customer's Make-Ready Work costs on a grossed-up basis, as applicable and determined by the scope of work being performed.

8.5 The Company reserves the right to refuse to grant an Underground Served Street Light Attachment to the Customer or refuse authorization for the relocation, Material Change or replacement of Attachments on an aboveground Structure when the Company reasonably determines that: (i) refusal is necessary in order to maintain the safe operation of the Company's distribution system, (ii) such Structure may not be replaced to accommodate the Customer's proposed Attachment, (iii) the existing Facilities on such Structure may not be rearranged to accommodate the Attachments, or (iv) the proposed Customer Lighting Equipment will negatively impact other customer services provided by the Company. For the avoidance of doubt, the parties understand and agree that the list of above-mentioned conditions is not an exhaustive list as other conditions may exist that would require the Company to refuse to grant a license.

8.6 If the Company, for its own service requirements, needs to attach additional facilities or make changes to existing facilities upon or within any Structure(s) where the Customer has Lighting Equipment attached, the Customer shall within fifteen (15) days of receipt of written notice from the Company; authorize the Make-Ready Work necessary to either reconfigure its Attachment(s) upon or within the Structure(s) as determined by the Company, or transfer its Attachment(s) to a designated Customer

Structure(s) so that the additional facilities of the Company may be attached. When such reconfiguration or transfer is required to facilitate additional attachments of the Company, the Customer shall assume the expense of such reconfiguration or transfer of the Lighting Equipment and the Customer shall reimburse the Company for all Make-Ready Work performed by the Company within the Structure(s) to accommodate such reconfiguration or transfer. This paragraph also applies to circumstances under which: (i) an agency of government, whether local, state or federal, requires the removal, relocation, or modification of a Structure affecting the Attachment(s) or (ii) a Structure must be repaired or replaced for any reason, including when such repair or replacement is performed to accommodate the Company's additional attachments. In the event of Customer's failure to reconfigure, rearrange or transfer its Attachments within the fifteen (15) day period as required herein, the Company may perform or have performed such reconfiguration or transfer of the Attachments to accommodate additional Attachment, modifications, rearrangements, replacements or relocations of the Company's attachments. The Customer shall reimburse the Company for all expenses incurred for Make-Ready Work performed by the Company.

8.7 When reconfiguration, transfer or removal of the Lighting Equipment is required to facilitate attachments of Other Customers or third parties within or upon the Structure(s), the Customer shall, within fifteen (15) days of receipt of written notice from the Company, be responsible for the expenses of such reconfiguration, transfer or removal performed by the Company on behalf of the Customer in accordance with the provisions of Article 4.0. The Customer has sole responsibility for the recovery of the costs of the reconfiguration, transfer or removal of the Attachments from such Other Customer(s) or third party(ies).

8.8 The Customer further acknowledges and agrees that any new outdoor lighting Attachments proposed and/or constructed within an underground residential distribution (URD) area shall be placed only in the name of the Customer as opposed to being placed in the name of the developer or other third party.

8.9 The Company may, when it reasonably deems an emergency to exist, reconfigure, transfer, de-energize or remove the Attachments from upon or within the Structure(s), at the Customer's expense, and without any liability on the part of the Company for loss of service provided by the Customer or any damage or injury to the Attachments.

8.10 The Company will endeavor to perform all Make-Ready Work to accommodate the Attachments as a part of its normal, scheduled workload.

9.0 CONSTRUCTION, MAINTENANCE AND REMOVAL OF ATTACHMENTS

9.1 The Customer shall, at its own expense and in accordance with the terms and conditions set forth in this Agreement, construct and maintain its Attachments within or upon the Structures in a safe condition and in a manner that does not: (i) interfere with

the Company's operation of its electric distribution system, (ii) conflict with the use of the Structures by the Company or by any authorized user of the Structures, nor (iii) electrically interfere with the Company's facilities attached therein.

9.2 The Company shall specify the point or area of attachment within or upon each of the Structures to be occupied by the Attachments.

9.3 The Customer shall provide specific written authorization for the Company to perform construction, maintenance repairs, reconfiguration, relocation, connection/disconnection or removal of its Attachments within or upon the Structure(s) as may appropriately apply, in accordance with Articles 4.0 and 8.0 of this Agreement.

9.4 For aboveground Attachment(s), the Customer shall obtain specific written authorization from the Company before any relocation or Material Change to its Attachment(s), other than an in-kind replacement on Pole(s), in accordance with Article 7.0 of this Agreement.

9.5 All Attachment work performed upon Poles by the Customer and its contractors or agents shall be performed by a Qualified Electrical Worker. The Customer shall execute the Acknowledgement For the Use of Qualified Electrical Workers (as set forth in Appendix II, Form G) affirming that any person(s) under contract with and/or the direction of the Customer and performing the installation, maintenance, and/or removal of Attachments upon Poles is/are qualified to perform such work in accordance with the requirements of OSHA and Articles 5.0, 7.0, 8.0 and 9.0 of this Agreement. Customer shall further ensure completion and documentation of any required training, except where such work is performed by the Company.

9.6 In the event the Customer cannot confirm that its employee, contractor and/or agent performing work on its behalf is a Qualified Electrical Worker in accordance with this Article, the Customer is required to comply with appropriate clearance distances and only perform work on the aboveground Attachments in a de-energized condition. If a disconnect device is not installed, the Customer shall schedule a disconnect service request with the Company prior to performing any Attachment work. Following the completion of the work, the Customer shall schedule a connection service request with the Company to re-energize the Attachment.

9.7 The Customer and its employees, contractors, agents and any persons acting on Customer's behalf shall not perform or make any connections (permanent or temporary) to, disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Company's electric distribution system or assets, in whole or in part, nor shall the Customer permit or cause any third party (including without limitation, the Customer's employee, agent or contractor) to do so. The Company shall be the sole party with authority to perform or make any and all (permanent and temporary) connections to or disconnections from the Company's electric distribution system or other assets for the purpose of providing electric service to the Attachments. If and to the extent the Customer has a need for a connection or disconnection associated with the

Company's electric distribution system or assets, the Customer shall contact the Company by making a connection/disconnection request through normal customer contact channels and the Company shall make the necessary connection/disconnection, provided, that the Company determines, in its sole discretion, that such connection is appropriate under the terms of applicable codes, standards, laws, regulations and the Company's practices and policies.

9.8 The Customer or its contractors are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Company's enclosed or underground primary or secondary electric distribution system infrastructure, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears. The Customer and its contractors shall comply with all applicable codes, standards, laws, regulations, and the Company's practices and policies when accessing any overhead electric distribution system infrastructure. If and to the extent the Customer needs access or ingress to any of the Company's underground or overhead electric distribution system infrastructure, the Customer shall contact the Company and the Company shall respond to the Customer's request, provide required support, and/or perform the necessary work as requested following its normal work order scheduling protocol, provided, that, the Company determines, in its sole discretion, that such connection/disconnection or other requested work is appropriate under the terms of applicable codes and agreements. The Customer further agrees to compensate the Company for all work performed by the Company associated with each Attachment consistent with the charges or fees as set forth in this Agreement and/or as defined in the applicable tariff.

9.9 The Customer may (or may explicitly authorize the Company, its employees or third parties acting on the Customer's behalf to) access or enter the Structures for the purpose of asset verification, inventory, inspection and/or other engineering or asset management functions provided the Customer provides sufficient advanced notice to the Company to accommodate all aspects of scheduling. A representative of the Company shall be present and all parties are to be properly qualified and outfitted for the physical, environmental and electrical conditions to be encountered. Where the Customer has been granted access as provided above, the Company may halt the Customer's activities if the Customer's activities threaten the safety of any individuals or property and the integrity or reliability of the Company's electrical distribution system.

9.10 Any materials removed, or caused to be removed, from within the Structures by the Company on behalf of the Customer shall be managed, tested, treated, transported, stored and disposed of by the Company in accordance with applicable rules, regulations or statutes at the Customer's expense.

9.11 The Customer shall be responsible for its own underground cable locating and for any participation in the "One Call System(s)" responsible for providing one-call notifications within the the Customer's operating service area. The One Call System is an independent association which, in compliance with federal, state and local requirements, facilitates the location identification of underground utility infrastructure through a notification/communication process between excavators and underground facility owners. The contact information for the One Call System responsible for a

specific geographic area within the United States can be obtained by calling 811 nationally. At the time of this Agreement, Dig Safe System, Inc. is this association.

9.12 Some of the Attachments are currently installed or otherwise coexist (“Coexisting Facilities”), in whole or in part, upon or within the Company’s conduit, vaults, or other Company facilities, assets or infrastructure (“Joint-Use Structures”). Such Coexisting Facilities and/or the Joint Use Structures may, from time to time, require change or replacement. If the Company elects, in its sole discretion, to modify/change or replace any Joint Use Structure, including, without limitation, to upgrade such Joint Use Structure or associated the Company assets, the Company shall provide the Customer with written notice of such work (“Company Notice”) and the Customer agrees to separate and relocate the Customer’s Coexisting Facilities associated with such Joint Use Structure within six (6) months following the date of the Company Notice, at the Customer’s expense and in compliance with all applicable laws, rules, regulations, codes and standards, as if such Coexisting Facilities were new Attachments. The Company Notice shall be provided by the Company within a reasonable period of time after commencing such work and provide a brief description of the separation or relocation that will be required with respect to the Coexisting Facilities.

10.0 INSPECTIONS OF CUSTOMER’S ATTACHMENTS

10.1 The Company reserves the right, at its sole discretion, to make inspections of any part of the Attachments at any time, at the Company's expense, provided the Customer complies with all terms required to gain access to the Structures if needed to witness the Attachments, unless the inspection performed reveals any of the following, in which case the expense of the inspection shall be borne by the Customer:

- (a) Attachments for which no license has been issued by the Company pursuant to Article 7.0 *supra*,
- (b) Discrepancy in type, style or size of installed street light luminaire and or lamp as compared with the Company’s records, or
- (c) Attachments that have been installed in violation of Article 5.0 *supra*.

10.2 Any charge imposed by the Company for such inspections shall be in addition to any other sums due and payable by the Customer under this Agreement. No act or failure to act by the Company with regard to said charge or any unlicensed use by the Customer shall be deemed as a ratification or the licensing of the unlicensed use; and if any authorization should subsequently be issued, said authorization shall not operate retroactively or constitute a waiver by the Company of any of its rights or privileges under this Agreement or otherwise.

11.0 UNAUTHORIZED ATTACHMENTS

11.1 To the extent authorized by Article 17.0, if any of the attachments for which no authorization is outstanding is found attached upon or within the Structures, the Company, without prejudice to its other rights or remedies under this Agreement (including termination) or otherwise, may impose electric delivery service and other charges, pursuant to Section 11.2, and require the Customer to submit in writing, within fifteen (15) days after receipt of written notification from the Company of the unlicensed attachment(s), an Application For Underground Served Street Light Attachment. If such application is not received by the Company within the specified time period, the Customer shall remove its unauthorized attachment(s) within fifteen (15) days of the final date for submitting the required attachment application, or the Company may remove the unauthorized attachment(s) at the cost and expense of the Customer and without any liability incurred by the Company to the Customer for loss of service or any damage or injury to the Customer's unauthorized attachment(s).

11.2 Any unauthorized attachment discovered by the Company will be charged as of the date upon which it is identified by the Company and shall be applicable thereto and due and payable forthwith whether or not the Company permits the Customer to continue the placement of the attachment.

12.0 LIABILITY, INDEMNIFICATION AND DISCLAIMER

12.1 The Company reserves to itself, its successors and assigns, the right to locate and maintain its structures and to operate its facilities in conjunction therewith in such a manner as will best enable the Company to fulfill its service obligations and requirements. The Company shall not be liable to the Customer for any interruption of the Customer's service nor for interference with the operation of the Customer's Lighting Equipment arising in any manner out of the use of the Structures, except to the extent caused by the Company's negligence or to the extent otherwise required by the Company's tariffs.

12.2 The Customer shall be liable for any damages it causes to the facilities of the Company and of others attached to the Structures, and the Customer assumes all responsibility for any and all loss from such damage caused by the Customer or any of its agents, contractors, servants or employees. The Customer shall, without waiving the provision of M.G.L. c.258, make an immediate report to the Company and any Joint Users of the occurrence of any such damage and agrees to reimburse the respective parties for all costs incurred by the Company and/or Joint Users in making repairs to their respective facilities.

12.3 Except to the extent caused by the negligence of the Company, the Customer shall, to the full extent allowed by law, without waiving the provisions of M.G.L. c. 258, and to the extent of the Customer's insurance coverage (under which the Company shall be named an additional insured), and shall cause any party performing work in connection with this Agreement on behalf of the Customer to indemnify, save harmless, and defend the Company, its affiliates and their respective officers, directors,

employees, agents, contractors, representatives, successors and assigns against and from any and all liabilities, claims, suits, fines, penalties, damages, losses, fees (including reasonable attorneys' fees), costs, and expenses (including reasonable costs and expenses incurred to enforce this indemnity), (hereinafter "Claims") to the extent arising from or in connection with the Customer's installation, operation, maintenance, or removal of Lighting Equipment and/or Attachments including, but not limited to, those Claims which may be imposed upon, incurred by, or asserted against the Company, by reason of:

- (a) any work or action done upon or within the Structures authorized hereunder or any part thereof performed by the Customer or any of its agents, contractors, servants, or employees;
- (b) any use, occupation, condition, operation of said Structures or any part thereof by the Customer or any of its agents, contractors, servants, or employees;
- (c) any act or omission on the part of the Customer or any of its agents, contractors, servants, or employees, for which the Company may be found liable;
- (d) any accident, injury (including, but not limited to, death) or damage to any person or property occurring upon or in said Structures or any part thereof or arising out of any use thereof by the Customer or any of its agents, contractors, servants, or employees, except where such work is performed by the Company;
- (e) any failure on the part of the Customer to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Agreement;
- (f) any payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits arising out of any use of the Structures by the Customer or any of its agents, contractors, servants, employees, or;
- (g) by the installation, operation, maintenance, presence, use, occupancy or removal of the Attachments by the Customer or any of its agents, contractors, servants, or employees or by their proximity to the facilities of other parties attached upon or within the Structures, including without limitation, taxes, special charges by others, and from and against all claims and demands for demands for infringement of patents with respect to the manufacture, use, and operation of the Attachments in combination with the Structures, or otherwise.

12.4 The Company makes no warranties, representations, guarantees or promises in connection herewith or therewith, whether statutory, oral, written, express, or implied as to the present or future strength, condition, or state of any Structures, facilities, wires, apparatus or otherwise in connection with any Attachment, the Lighting Equipment or this Agreement. The Customer, or its contractors, agents and representatives performing any attachment work, shall be responsible and liable for testing or observing the Structures to determine whether the Structures are safe to utilize, support or access. If the Customer questions the integrity or safety of any Structure or if

the Structure is marked as unsafe, the Customer shall refrain from utilizing or accessing, or handling the Structure in any manner whatsoever and shall notify or confirm said condition with the Company. Should the Customer, or its contractor, agent or representative decide, in its sole judgment, to utilize or access a Structure (including, without limitation, Structures which are marked unsafe or appear to be unsafe), the Customer, not the Company or its affiliates, shall assume all risk of loss, liability and damages (including injury to any person(s) (including death) or property), and the Customer shall, to the extent permitted by law, indemnify, defend, release and hold harmless the Company, its affiliates and the Company's and its affiliate's successors, assigns, officers, agents, and representatives.

12.5 The Company, the Company's affiliates, and their respective officers, directors, employees, representatives and contractors shall not be liable to the Customer for any indirect, consequential, punitive, incidental, special, or exemplary damages in connection with any attachment, the Structures, the Lighting Equipment, or the Attachments owned by the Customer contemplated herein, including, without limitation, the condition, design, engineering, installation, maintenance, construction, location, operation of, or failure of operation of, the Lighting Equipment, under any theory of law that is now or may in the future be in effect, including without limitation: contract, tort, strict liability, or negligence.

12.6 The provisions of this Article 12.0 shall survive the expiration or earlier termination of this Agreement or any granting of an Attachment under this Agreement.

13.0 INSURANCE

13.1 The Customer shall carry insurance issued by an insurance carrier satisfactory to the Company to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in Article 12.0.

13.2 Comprehensive or Commercial General Liability Insurance, including Contractual Liability and Product/Completed Operations Liability covering all insurable operations required under the provisions of this Agreement and, where applicable, coverage for damage caused by any explosion or collapse with the following minimum limits of liability:

Bodily Injury Liability	\$5,000,000
Property Damage Liability	\$5,000,000

If a combined single limit is provided, the limit shall not be less than \$5,000,000 per occurrence. The Customer's insurance requirements for General Liability or Automobile Liability may be satisfied through any combination of excess liability and/or umbrella. Coverage shall include contractual liability with this Agreement and all associated

agreements with respect to the Customer's ownership of the Lighting Equipment being included.

13.3 Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of \$500,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act and the Jones Act. Proof of qualification as a self-insurer may be acceptable in lieu of a Workers' Compensation Policy.

13.4 Automobile Liability covering all owned, non-owned and hired vehicles used in connection with the work or services to be performed under this Agreement with minimum limits of:

Bodily Injury & Property Damage
Combined Single Limit - \$1,000,000

13.5 All insurance must be effective before the Company will authorize the Customer to make Attachments to any Structure and shall remain in force until such Attachments have been removed from all such Structures. The Customer accepts the obligation to inform the Company of changes in insurance or insurance carrier and/or policy on a prospective basis.

13.6 The Customer shall submit to the Company certificates of insurance including renewal thereof, by each company insuring the Customer to the effect that it has insured the Customer for all liabilities of the Customer covered by this Agreement; and that such certificates will name the Company as an additional insured under the General Liability and Automobile Liability policies and that it will not cancel or change any such policy of insurance issued to the Customer except after the giving of not less than thirty (30) days' written notice to the Company. The Customer shall also notify and send copies to the Company of any policies maintained under this Article 13.0 written on a "claims-made" basis. The following language shall be used when referencing the additional insured status of the Company: National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be named as additional insured.

13.7 The Customer shall require all of its contractors to carry insurance which meets the requirements specified under this Article 13.0 of this Agreement, and to name the Company as an additional insured. Contractor shall waive all rights of recovery against the Company and their directors, officers and employees, for any loss or damage covered under those policies referenced in this insurance provision, or for any required coverage that may be self-insured by the contractor.

14.0 ASSIGNMENT OF RIGHTS

14.1 The Customer shall not assign or transfer this Agreement or any authorization granted hereunder, and this Agreement shall not inure to the benefit of the Customer's successors, without the prior written consent of the Company.

14.2 In the event such consent or consents are granted by the Company, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

14.3 Structure space authorized to the Customer hereunder is for the Customer's exclusive use only and is authorized to the Customer for the sole purpose of permitting the Customer to place or retain existing Lighting Equipment upon the Company's aboveground Structures or retain the placement of existing Lighting Equipment upon or within the Company's underground Structures. The Customer shall not lease, sublicense, share with, convey, or resell to others any such space or rights granted hereunder. The Customer shall not allow a third party, including affiliates, to place Attachments or any other equipment anywhere within or upon the Structures, including, without limitation, the space within or upon the Structures authorized to the Customer for the Attachments, without the prior written consent of the Company. Such consent shall not be unreasonably withheld unless otherwise restricted by this Agreement or required by law and may be contingent upon the Company entering into a separate but mutually agreed upon agreement with the third party.

15.0 FAILURE TO ENFORCE

15.1 Failure of the Company to enforce or require compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a general waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

16.0 TERM OF AGREEMENT

16.1 Unless terminated in accordance with Article 18.0, this Agreement shall remain in effect for a term of five (5) years from the date hereof and shall continue indefinitely thereafter until terminated by either party with at least six (6) months written notice to the other party.

16.2 Termination of this Agreement or any Attachments granted hereunder shall not affect the Customer's liabilities and obligations incurred hereunder prior to the effective date of such termination, nor the Company's and the Customer's rights pursuant to the laws, ordinances, regulations, and rulings governing the subject matter of this Agreement.

17.0 TERMINATION OF ATTACHMENT

17.1 Any authorization to attach granted pursuant to this Agreement shall automatically terminate when the Customer ceases to have authority pursuant to any laws, ordinances, regulations, and rulings, to construct, operate, and/or maintain its Attachments on the public or private property at the location of the particular Structure covered by the authorized Attachment.

17.2 The Customer may at any time terminate the authorization to attach upon or within a Structure for specific Attachment(s) provided written notice of such termination is received by the Company no less than fifteen (15) days prior to the proposed removal of the Attachment(s) from the specific Structure(s) (APPENDIX II, Form D). Terms and conditions of Articles 9.0 and 19.0 of this Agreement shall govern the removal of the Attachments. Following such removal, installation of an Attachment(s) to such Structure(s) shall not be made again until the Customer has first complied with all of the provisions of this Agreement as though no such installation of Attachments to such Structure(s) had ever been made.

17.3 The Company may at any time terminate the authorization to attach upon or within a Structure for specific Attachment(s) provided written notice of such termination is received by the Customer no less than fifteen (15) days prior to proposed actions causing conflict with the existing Attachment(s). The Company may exercise its Removal Rights requiring the Customer to remove its Attachment(s), at the Customer's expense, from any of the designated Structure(s) within fifteen (15) days after termination of the license covering such Attachment(s). If the Customer fails to remove its Attachment(s) within such fifteen (15) day period, the Company shall have the right to remove such Attachment(s) at the Customer's expense. Terms and conditions of Articles 8.0 and 19.0 of this Agreement shall govern the removal of the Attachments.

18.0 TERMINATION OF AGREEMENT

18.1 If the Customer fails to materially comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement, or if the Customer's facilities or Attachments are maintained or used in violation of any law and the Customer shall fail within thirty (30) days after written notice from the Company to correct such default or noncompliance, the Company may, at its option, terminate this Agreement and all authorizations granted hereunder, or the authorizations covering the Structures as to which such default or noncompliance shall have occurred.

18.2 If, at any time, an insurance carrier notifies the Company that any policy or policies of insurance, acquired pursuant to Article 13.0, will be canceled or changed so that the requirements of Article 13.0 will no longer be satisfied, then this Agreement shall terminate automatically unless prior to the effective date of the cancellation or change in the insurance policy(ies), the Customer furnishes to the Company new certificates of insurance providing insurance coverage in accordance with the provisions of Article 13.0.

18.3 In the event of termination of this Agreement, and to the extent the Company is exercising the Company's Removal Rights, the Company may require the Customer to remove its Attachments, the Customer shall within thirty (30) days of the date of termination of this Agreement submit a plan and schedule to the Company pursuant to which the Company (or its agents) will remove the Attachments from the Company's underground Structures and the Customer (or its agents) will remove the Attachments from the Company's aboveground Structures within six (6) months from the date of termination, unless otherwise agreed to by both parties; provided, however, that the Customer shall be liable for and pay all fees and charges due to the Company pursuant to the terms of this Agreement and for electric service pursuant to the Company's applicable tariffs, until the Attachments are removed from the Structures and the Company is properly notified of same.

19.0 REMOVAL RIGHTS

19.1 The Removal Rights as designated within this Article 19.0 shall apply in all cases where either the Customer or the Company terminates an authorization for an Attachment or this Agreement or in the course of routine operation or maintenance of Attachments upon or within Structures and as authorized pursuant to any laws, ordinances, regulations, and regulatory rulings.

19.2 In the course of daily operation or maintenance, should the existing Attachment require replacement, relocation or other Material Change, the Attachment is to be relocated outside the underground Structure and the license is to be modified or terminated. The Customer shall be responsible for the proposed construction to facilitate the replacement, relocation or removal of the Lighting Equipment outside of the Company's underground Structures where applicable. For Attachments within the Structures or co-existing within a singular common Structure which is also utilized by the Company's electric distribution system, the provisions of Article 8.0 (Make-Ready Work) shall apply to all work proposed or planned and is to be performed by the Company at the Customer's expense.

19.3 The Company may exercise its Removal Rights and require the Customer to remove its Attachments, and the Customer, at the Customer's sole expense, shall remove or have removed in accordance with this Agreement its Attachments from any of the Structures within fifteen (15) days of notice. If the Customer (or its agents) fails to remove the Attachments from the Structures within the applicable time period, the Company shall have the right to remove the Attachments at the Customer's expense and without any liability on the part of the Company for damage or injury to the Attachments. If the Company exercises its Removal Rights to remove the Attachments, the Company shall have the option to sell or otherwise dispose of the removed Attachments to cover the expense of the removal. If the sale of the Attachments does not cover the entire expense of the removal, the Customer shall be liable for the remaining expense. The

Customer shall be liable for and pay all fees pursuant to the terms of this Agreement to the Company until such Attachments are removed from the Structures.

19.4 Notwithstanding any other provision of this Agreement, this Agreement is not intended to, and does not by its terms, broaden or expand the Company's Removal Rights.

20.0 CHOICE OF LAW

20.1 This Agreement shall be construed in accordance with the laws of the Commonwealth of Massachusetts without reference to principles of conflict of laws, and is subject to any lawful regulatory jurisdiction of the Massachusetts Department of Public Utilities.

21.0 SEVERABILITY

21.1 Any provision hereof found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of this Agreement.

22.0 NOTICES

22.1 All written notices required under this agreement shall be given by posting the same via first-class mail as follows:

(a) **To the Customer:** All correspondence related to the Lighting Equipment including but not limited to; Application for Underground Served Street Light Attachment, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Underground Served Street Light Attachment to the Customer's office at:

_____ (Entity Contact Name)
_____ (Title of Contact)

Town of Andover
36 Bartlet Street
Andover, MA 01810

(b) **To the Company:** Application for Underground Served Street Light Attachment, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Underground Served Street Light Attachment, and a copy of all certificates of Insurance to the Company's district office at:

Massachusetts Electric Company d/b/a National Grid
Attention: Manager, Community & Customer Management
1101 Turnpike Street
North Andover, MA 01845

All original certificates of Insurance to:

National Grid USA Service Company, Inc.
Attn: Risk Management, B-3
300 Erie Boulevard West
Syracuse, NY 13202

A copy of all applications, notices, authorizations and certificates to:

Massachusetts Electric Company d/b/a/ National Grid
Attention: Outdoor Lighting and Attachments
40 Sylvan Road
Waltham, MA 02451-1120

(c) Each party has the right to add, modify, change or remove contact information as presented herein provided such corrections are communicated in writing to the other party and made part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first above written.

Massachusetts Electric Company d/b/a National Grid

By: _____

Name: Christopher Kelly

Title: Acting Senior Vice President, Electric Process and Engineering

Town of Andover

By: _____

Name: Andrew P. Flanagan

Title: Town Manager

Town of Andover
 Transition of Service from S-3, Option B to S-5 for Customer Owned and Maintained Street and Area Lighting Service

Exhibit A, Description of Facilities to Service Agreement
 Summary of Shawsheen Village Lighting Inventory as of October 9, 2015

Count of Bill Print and Tariff Description		Account No	Bill Print and Tariff Description	Component Type	
Customer Name				Luminaire	Pole
TOWN OF ANDOVER		40448-40006	LUM HPS RWY 250W	1	
			LUM MV POST 100W	63	
			POLE METAL =>25FT		64
		40448-40006 Total		64	64
TOWN OF ANDOVER Total				64	64

Bill Print and Tariff Description
HPS = High Pressure Sodium
LUM = Luminaire, or fixture
METAL = Aluminum or Cast Iron
MV = Mercury Vapor
POST = Post top style luminaire
RWY = Roadway style luminaire

APPENDIX I

SCHEDULE OF FEES AND CHARGES UNDERGROUND SERVED STREET LIGHT ATTACHMENTS

(A) Attachment

To the extent that the MDPU may, in the future, allow the Company to charge fees for the use of its Structures by the Attachments, the Customer agrees to pay such fees.

(B) Field Survey

Whenever a Field Survey is required under this Agreement, the Customer shall pay the Company for the expense thereof. The current standard charge assessed to the Customer for each Field Survey is \$126.21. Specific to each occurrence, any actions required by the Company to remedy a Structure ingress or egress condition in compliance with applicable laws, regulations, codes and company policies and procedures is considered to be in addition to the Field Survey function. The Customer shall be responsible for the associated costs which will be predefined as an estimate in addition to the aforementioned fee.

(C) Make-Ready Work

Whenever Make-Ready Work is required under this Agreement, the Customer shall pay the Company for the expense thereof. Make-Ready Work may include, but is not limited to, the modification or replacement of the Structure within or upon which the Attachments exists or will be placed to accommodate the Attachments, and such other changes in the existing facilities within or upon such Structure as accommodating the Attachments may require. Make-Ready Work expenses charged by the Company may also include the following:

- (1) The net loss to the Company of the replaced Structure based on its installed cost less depreciation, plus cost of removal;
- (2) Transferring the Company's Attachments from the old Structure to the new Structure; and
- (3) Any other rearrangements and changes necessary by reason of the Customer's proposed or existing Attachments.

(D) Other Charges and Fees

The Customer shall be subject to and responsible for all other charges and fees under the applicable tariff.

(E) Payment Date

Failure to pay all authorized fees and charges assessed to the Customer by the operation of this Agreement, with the exception of charges and fees associated with electric service pursuant to the Company's applicable tariffs, within 30 days after presentment of the bill therefore or on the specified payment date or as otherwise provided in the applicable tariff, whichever is later, shall constitute a default of this Agreement with respect to the specific Attachment(s) in question.

For bills rendered by the Company for the fees and charges specific to this Agreement, the following shall be applicable:

Interest shall accrue and be payable to the Company at the rate set by the Commissioner of Internal Revenue pursuant to I.R.C. § 6621 and 26 C.F.R. §301.6621-1, from and after the payment date of any payment required by this Agreement. The payment of any interest shall not cure or excuse any default by the Customer under this Agreement.

APPENDIX II

ADMINISTRATIVE FORMS AND NOTICES

INDEX OF ADMINISTRATIVE FORMS

APPLICATION FOR UNDERGROUND SERVED STREET LIGHT ATTACHMENT /
AUTHORIZATION FOR UNDERGROUND SERVED STREET LIGHT
ATTACHMENT A-1

UNDERGROUND SERVED STREET LIGHT ATTACHMENT DETAILS A-2

ESTIMATE FOR FIELD SURVEY / AUTHORIZATION FOR FIELD SURVEY B-1

MAKE-READY WORK ESTIMATE / AUTHORIZATION FOR MAKE-READY
WORK B-2

ITEMIZED MAKE-READY WORK C

NOTIFICATION OF DISCONTINUANCE OF UNDERGROUND SERVED STREET
LIGHT ATTACHMENT D

OWNERSHIP IDENTIFICATION LABELS E

LIGHTING SOURCE IDENTIFICATION LABELS F

ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS G

Agreement Number: 8412S
Application Number: _____ (to be provided by Company)

Form A-1

**APPLICATION FOR
UNDERGROUND SERVED STREET AND AREA LIGHT ATTACHMENT**

DATE _____

CUSTOMER _____

Street Address _____

City, State, Zip Code _____

In accordance with the terms and conditions of the Service Agreement for Underground Served Street and Area Light Attachment between us, dated _____, application is hereby made for an authorization(s) to make _____ Attachments to Structures located as indicated on the attached Form A-2.

CUSTOMER _____

By (Print Name) _____

Signature _____

Title _____

Telephone No. / Email Address _____

AUTHORIZATION FOR UNDERGROUND SERVED STREET LIGHT ATTACHMENT

Underground Served Street Light Attachment is hereby granted by the Company to make the Attachment(s) described in this application, as _____ (number of) Attachments to Structures as indicated on the attached Form A-2.

DATE _____

COMPANY _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

NOTES:

1. Applications shall be submitted to the Company.
2. Applications to be numbered in ascending order by the Company.
3. The Company will process in order of application numbers assigned by the Customer.

Agreement Number: 8412S
Application Number _____(to be provided by Company)

Form A-2

UNDERGROUND SERVED STREET LIGHT ATTACHMENT DETAILS

CUSTOMER _____

(Note: Provide separate sheets for each municipality)

<u>Reference</u> (Pole or Structure)	<u>Location</u>	<u>Attachment Description (including nominal wattage)</u>
---	-----------------	---

_____ (Yes/No)

THE CUSTOMER HEREBY REQUESTS THE COMPANY TO PROVIDE AN ITEMIZED ESTIMATE OF MAKE READY WORK REQUIRED AND ASSOCIATED CHARGES (APPENDIX II, FORM C).

DATE _____

CUSTOMER _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

Agreement Number 8412S
Application / Request No. _____

Form B-1

ESTIMATE FOR FIELD SURVEY

(Customer)

In accordance with the Service Agreement for Underground Electrical Service and Attachments to Utility Structures for Street and Area Lighting, dated _____, the following is a summary of the charges which will apply to complete a field survey covering Application / Request Number _____.

<u>Total</u>	<u>Unit Quantity</u>	<u>Rate / Unit</u>	<u>Total</u>
Field Survey	_____	_____	\$ _____
Ancillary Services	_____	_____	\$ _____
Administrative Compensation		_____ %	\$ _____
TOTAL			\$ _____

If you wish us to complete the required field survey, please sign this copy below and return with an advance payment in the amount of \$ _____.

DATE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

AUTHORIZATION FOR FIELD SURVEY

The required field survey covering Application / Request Number _____ is authorized and the costs therefore will be paid to Company in accordance with Appendix I to the Service Agreement for Underground Electrical Service and Attachments to Utility Structures for Street and Area Lighting.

DATE _____

CUSTOMER _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

Agreement Number: 8412S
Application / Request No.: _____

Form B-2

MAKE-READY WORK ESTIMATE

(Customer)

In accordance with the Service Agreement for Underground Attachments to Utility Structures for Street and Area Lighting, dated _____, a Field Survey associated with your Application / Request Number _____ dated _____, for Attachment to Structures has been completed. The following is a summary of the charges that will apply to complete the required Make-Ready Work.

TOTAL MAKE-READY CHARGES \$ _____

Attached as requested, is an itemized description (Appendix II, Form C) of required Make-Ready Work. A cost estimate of associated Make-Ready Work is also attached. If you wish us to complete the required Make-Ready Work, please sign this copy below and return with an advance payment in the amount of \$ _____.

DATE _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

AUTHORIZATION FOR MAKE-READY WORK

The Make-Ready Work associated with Application / Request Number _____ is authorized and the costs therefore will be paid to the Company in accordance with Appendix I to the Service Agreement for Attachments to Utility Structures for Street and Area Lighting.

DATE _____

CUSTOMER _____

By (Print Name) _____

Signature _____

Title _____

Telephone No./E-mail Address _____

Agreement Number: 8412S

Form D

NOTIFICATION OF DISCONTINUANCE OF UNDERGROUND SERVED STREET LIGHT ATTACHMENT

CUSTOMER _____
Street Address _____
City, State, Zip Code _____

In accordance with the terms and conditions of the Service Agreement for Attachments to Utility Structures for Street and Area Lighting dated _____, notice is hereby given that specific Attachments to Structures, as listed below, in the municipality of the Town of Andover, covered by Agreement number _____ were removed on _____.

<u>Attachment No.</u>	<u>Street Name</u>	<u>Pole No. or Structure Ref.</u>	<u>Description of Attachment</u>
-----------------------	--------------------	-----------------------------------	----------------------------------

Total number of Attachments to Structures to be discontinued is _____. Said authorization is to be canceled in its entirety/partially (circle one).

DATE _____
By (Print Name) _____
Signature _____
Title _____

ACKNOWLEDGMENT OF DISCONTINUANCE OF UNDERGROUND SERVED STREET AND AREA LIGHT ATTACHMENT

Use of Structures has been discontinued as above.

DATE _____
By (Print Name) _____
Signature _____
Title _____

OWNERSHIP IDENTIFICATION LABELS**(A) GENERAL**

This Appendix describes identification labels to be installed and maintained by the Customer on its cables, luminaires and other apparatus to allow the Company to readily identify the owner of such cables, luminaires and apparatus.

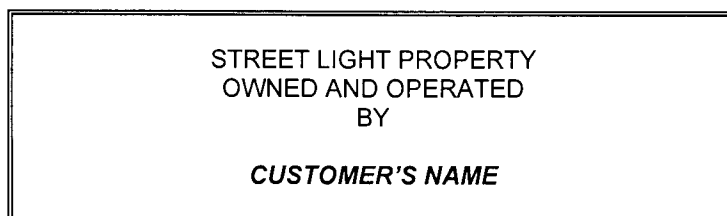
(B) DESCRIPTION OF IDENTIFICATION LABELS

FIGURE 1: Ownership Identification Label

The labels shall be yellow with black lettering. The Customer shall be responsible for maintaining the legibility of identification labels at all times.

The ownership Identification Label shall be placed on the Customer's facilities including, but not limited to, cables, luminaires, Guy Strands, terminals, terminal closures, and cabinets. The ownership Identification Label shall read as follows: "STREET LIGHT PROPERTY OWNED AND OPERATED BY" and clearly display the Customer's name. The Customer's name may be printed on the label using indelible ink.

(C) PROCUREMENT OF LABELS

It shall be the responsibility of the Customer to obtain, place, and maintain ownership Identification Labels.

(D) INSTALLATION OF OWNERSHIP IDENTIFICATION LABELS - UNDERGROUND APPLICATIONS

When required by Section 5.5, ownership Identification Labels shall be installed at the following locations:

- (1) On cables at each manhole or handhole, on the top of the cable so that it is visible from outside the manhole or handhole.
- (2) At terminal or Connection Point locations.
- (3) Within cabinets or other equipment where appropriate.

(E) INSTALLATION OF OWNERSHIP IDENTIFICATION LABELS - AERIAL APPLICATION

When required by Section 5.5, ownership Identification Labels shall be installed at the following locations:

- (1) On each luminaire, on the bottom of the luminaire so that it is visible from the ground.
- (2) On cables at each pole, on the bottom of the cable so that it is visible from the ground.
- (3) On cable risers at each pole, on the riser conduit approximately 6' above ground.
- (4) At anchor and guy locations:
- (5) Between the device used to secure the strand (i.e., strand vise, guy grips or clamps) and the eye of the rod, or
- (6) If a guy shield is in place, at the top of the guy shield on the strand.
- (7) At terminal locations, at the neck of the terminal.
- (8) At cabinets, on the front of the cabinet.

LIGHTING SOURCE IDENTIFICATION LABELS

The Customer is required to provide and affix to each luminaire a clear, legible and comprehensive lighting source identification label consistent with ANSI-NEMA Standards for Roadway and Area Lighting Equipment – Field Identification of High Intensity Discharge Lamps and Luminaires, (ANSI/NEMA C136.15-2009, latest revision) or other industry standard compliant with the specific lamp or lighting source, as applicable.

ACKNOWLEDGEMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS

The Town of Andover hereby acknowledges and agrees to the following:

1. Massachusetts Electric Company, d/b/a National Grid (hereinafter "National Grid") expects the use of electrically-qualified personnel as required by OSHA in 29 CFR 1910.269 for all work associated with the SERVICE AGREEMENT FOR UNDERGROUND ELECTRICAL SERVICE AND ATTACHMENTS TO UTILITY STRUCTURES FOR CUSTOMER-OWNED STREET AND AREA LIGHTING BETWEEN MASSACHUSETTS ELECTRIC COMPANY D/B/A NATIONAL GRID AND TOWN OF ANDOVER dated June ___, 2016 (hereinafter "Town of Andover Service Agreement").
2. The Town of Andover hereby agrees that any work being done pursuant to Town of Andover Service Agreement will be done by qualified electrical workers as defined by OSHA in 29 CFR 1910.269 and in accordance with all relevant laws, regulations, codes, and industry standards.
3. The Town of Andover understands and agrees that any injuries to persons or property arising out of or related to this work, including without limitation as a result of a failure to comply with this Acknowledgement, will be the sole responsibility of the Town of Andover pursuant to Article 12.0 of Town of Andover Service Agreement, except to the extent attributable to the negligence or willful misconduct of National Grid.

Town of Andover

BY: _____

NAME: Andrew P, Flanagan

TITLE: Town Manager

DATE: ___/___/2016

PURCHASE AND SALE AGREEMENT

Agreement made as of this ____ day of _____, 2016, by and between Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust, created u/d/t dated July 2, 2007 and recorded with the North Essex District Registry of Deeds in Book 10832, Page 255, with an address c/o The Gutierrez Company, 200 Wheeler Road, Burlington, MA 01803, (together with their heirs, successors and assigns, hereinafter called "SELLER") and The Inhabitants of the Town of Andover, a Massachusetts municipal corporation, with an address at 36 Bartlet Street in Andover, Massachusetts 01810 (hereinafter called "BUYER").

1. Description.

SELLER agrees to sell and BUYER agrees to buy the premises in Andover, Essex County, Massachusetts, known as 5 Campanelli Drive, Andover, MA and the fee in the private way known as Campanelli Drive and shown on Plan No. 10256 recorded at the North Essex District Registry of Deeds and described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "the Premises") and shown on Town of Andover Assessors Map 142, Lot 6, as described in a deed recorded with the North Essex District Registry of Deeds in Book 10858, Page 119.

2. Deed.

The Premises are to be conveyed by a good and sufficient Quitclaim deed running to BUYER, said deed shall be in the form attached hereto as Exhibit B and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- a. Provisions of existing building and zoning laws and subdivision laws;
- b. Such Town of Andover real estate taxes for the fiscal year ending June 30, 2017 as are not due and payable on the date of the delivery of such deed (real estate taxes shall be apportioned as of the date of closing);
- c. Any liens for municipal betterments assessed after the date of this Agreement; and
- d. Easements and restrictions of record insofar as the same will not, in the judgment of the Buyer, adversely interfere with the use of the Premises for purposes of a municipal town yard, subject to the provisions of Paragraph 7 hereof (a-d shall hereinafter be deemed "Permitted Encumbrances").

3. Purchase Price.

The agreed Purchase Price for the Premises is Two Million Two Hundred Fifty Dollars (\$2,250,000), which shall be payable upon the delivery and recording of the deed to the Buyer.

At least fifteen (15) days prior to the Escrow Closing Date set forth in Paragraph 4 below, the SELLER shall execute the deed in the form attached hereto as Exhibit B and deliver the same in escrow to the Andover Town Counsel for the purpose of the same being brought forward to the Andover Board of Selectmen for a vote to approve such Deed and an Order of Taking substantially in the form attached hereto as Exhibit B and Exhibit G, respectively.

Notwithstanding any other provision of this Agreement, SELLER acknowledges that if the Andover Board of Selectmen do not vote to approve and execute the Deed tendered by the SELLER in performance of SELLER's obligations under in Paragraph 2 hereof, Buyer shall immediately notify Seller whereupon this Agreement shall be terminated all other obligations of all parties thereto shall cease and this Agreement shall be void and without recourse to the parties hereto.

4. Closing.

Subject to the approval of the Board of Selectmen, the Deed, Order of Taking, Purchase Price and other Closing Deliveries are to be delivered by the parties on or before July 1, 2016 ("Escrow Closing Date"), to Marsh, Moriarty, Ontell & Golder ("Escrow Agent") in accordance with the general provisions of the usual form of escrow agreement then in use by Escrow Agent (with such special provisions inserted in said escrow agreement as may be required to conform with the terms and conditions of this Agreement) and/or pursuant to closing instructions provided by the parties and all of which shall be mutually acceptable to Buyer and Seller (an "Escrow Closing", or at times "Closing"). In the event of an Escrow Closing, (a) Seller shall deposit or cause to be deposited with Escrow Agent the Seller Deliveries (as defined in Section 18 herein); and (b) Buyer shall deposit with Escrow Agent the Buyer Deliveries (as defined in Section 18 herein). At the Closing, Escrow Agent shall disburse all monies in strict accordance with the closing statement, record the Deed and any other required documents or plans, and deliver to the appropriate parties all other closing documents. It is agreed that Escrow Agent shall have no liability to Seller or Buyer for the performance of its services herein, except in the event of Escrow Agent's gross negligence

and/or willful misconduct. In either case, the term "Closing" shall mean the consummation of the purchase and sale of the Premises in accordance with the terms of this Agreement, and including the recording of the Deed. The Deed is to be recorded and proceeds disbursed to Seller on the Escrow Closing Date or, in no event later than three (3) business days after the Escrow Closing Date, provided Escrow Agent has not reported any problems outside of Escrow Agent's control. Notwithstanding anything to the contrary contained herein or in any escrow agreement or closing escrow instructions, the Buyer, Town Counsel or Escrow Agent shall not release or authorize release of the Deed, or any Seller Deliveries from escrow for recording until such time as the Escrow Agent is holding the Purchase Price in good and collected funds.

5. Closing Expenses and Prorations.

Real Estate taxes and other municipal charges shall be prorated as of the date of Closing based upon the latest available bills. BUYER shall pay all costs associated with the recording of the deed and such fees and recording costs as are customarily paid by the BUYER, and the SELLER shall pay such fees and recording costs as are customarily paid by the SELLER. Each party shall pay its own legal expenses.

6. Possession and Condition of Premises.

Full possession of the Premises, free of all tenants and occupants, is to be delivered on the Escrow Closing Date or Extended Closing Date.

7. Extension to Perfect Title and Satisfy Conditions.

BUYER shall notify SELLER by giving written notice on or before June 15, 2016 (i) as to any title matters that will materially interfere with the intended use of the Premises pursuant to Paragraph 2(d) above, and (ii) as to any title defects or other conditions of BUYER's obligation to purchase which SELLER may be unable to perform or satisfy on the Escrow Closing Date. Any matters not objected to by Buyer and set forth in said notice to Seller shall be deemed a Permitted Encumbrance(s). If SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises, or to satisfy BUYER's conditions under Paragraph 14, or the Premises do not conform with the provisions hereof, all as herein stipulated, then SELLER shall use reasonable efforts, the cost of which shall not exceed Ten Thousand Dollars (\$10,000.00), inclusive

of legal fees, to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, or, if possible, to satisfy BUYER's conditions under Paragraph 14, as the case may be, and the date for closing shall be extended for a period of up to, but not exceeding 30 days (the "Extended Closing Date"). If on the Extended Closing Date SELLER, having used such efforts, shall have failed so to remove any defects in title, deliver possession, or, if possible, to satisfy BUYER's conditions under Paragraph 14, or to make the Premises conform, as the case may be, all as herein agreed, then, at BUYER's option, this Agreement shall be terminated and all other obligations of all parties thereto shall cease and this Agreement shall be void and without recourse to the parties hereto.

If on the Escrow Closing Date or the Extended Closing Date, SELLER is able to give title, make conveyance, deliver possession, and make the Premises conform but one or more conditions precedent to BUYER's obligation to purchase are unsatisfied and BUYER elects not to proceed, SELLER's obligation shall be limited to a return to BUYER of all payments, if any, made hereunder together with all interest accrued thereon, and this Agreement shall be terminated and all other obligations of all parties thereto shall cease and this Agreement shall be void and without recourse to the parties hereto.

8. Buyer's Election to Accept Title.

BUYER shall have the election, at the Escrow Closing Date or the Extended Closing Date, to accept such title as SELLER can deliver to the Premises in their then condition, in which case SELLER shall convey such title, except that, in the event of such conveyance in accordance with the provisions of this Paragraph 8, if the Premises shall have been damaged by fire or casualty insured against, then SELLER shall, unless SELLER has previously restored the Premises to their former condition, with the delivery of the deed, pay over to BUYER and assign to BUYER all moneys, recovered or recoverable on account of such insurance, less any amounts reasonably expended by SELLER for any partial restoration (up to the Purchase Price), and BUYER shall pay the agreed Purchase Price without deduction.

9. Acceptance of Deed.

The acceptance of a deed by BUYER or BUYER's nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained

or expressed, except such as are, by the terms hereof, and specifically those under Paragraph 23 hereof, to be performed after the Escrow Closing Date or the Extended Closing Date and except representations, warranties, and indemnities under Paragraphs 12 and 13, which shall survive the Escrow Closing Date or the Extended Closing Date for a period equal to three (3) years from Closing, with the exception of those warranties, representations and indemnification by the SELLER contained in Paragraph 12.f. and 12.g. and 12.h., which shall not be limited in time.

10. Use of Purchase Money.

To enable SELLER to make conveyance as herein provided, SELLER may, at the Escrow Closing Date or the Extended Closing Date, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests and shall use whatever portion of the purchase money as is necessary to satisfy or discharge of record any mortgages or other monetary liens placed on the Premises by SELLER, or any of SELLER's predecessors and assumed by SELLER, and any real estate taxes or other municipal charges and liens then due and payable provided that all instruments so procured are recorded simultaneously with said deed (except as permitted under Massachusetts Real Estate Bar Association Standards as applicable) and title to the Premises conforms to the provisions and standards of Paragraph 2, above.

11. Default.

a. If BUYER shall fail to fulfill BUYER's agreements herein, including without limitation BUYER's failure to pay the agreed Purchase Price on the Escrow Closing Date or the Extended Closing Date, this Agreement shall be terminated and all obligations of all parties hereto shall cease and this Agreement shall be void and without recourse to the parties hereto.

b. In the event the SELLER shall be in default hereunder, BUYER shall have the exclusive option to (i) terminate this Agreement or (ii) seek specific performance of this Agreement. In no event shall Seller be liable for consequential, special or punitive type of damages for a Default as described in this Paragraph 11.

12. Seller's Warranties and Indemnity.

SELLER warrants and represents to BUYER as follows:

- a. SELLER has full right, power and authority to enter into and become bound by this Agreement and to consummate the transactions contemplated hereby; that the person executing this Agreement has been duly authorized by all necessary action and has full right, power and authority to execute and deliver this Agreement on behalf of SELLER. This Agreement shall be binding on the Seller, and their heirs, successors, assigns, and beneficiaries.
- b. To the best of Seller's knowledge and belief, the Premises and their present uses are not in violation in any respect of applicable zoning, building and subdivision laws and regulations.
- c. Seller has received no written notice that there are any suits, actions or proceedings pending against the Premises or against Seller and affecting the Premises before any court or administrative agency which, if adversely determined, would have an adverse effect upon the operation or condition of the Premises, nor to Seller's actual knowledge are any such suits, actions or proceedings currently being threatened against the Premises or Seller and affecting the Premises.
- d. To the best of Seller's knowledge and belief, Seller is not in default with respect to, nor has Seller violated any agreements affecting the Premises, nor is Seller in default under any judgment, order, writ, injunction, rule or regulation of any court or governmental agency or officer to which Seller is subject affecting the Premises or the transaction contemplated hereby. Seller has not received any notices of violations of the foregoing.
- e. Neither this Agreement nor the performance of any of Seller's obligations hereunder violates or conflicts with any other agreement or document by which Seller is bound.
- f. To the best of SELLER's knowledge and belief (i) the Premises are not in violation in any respect of the following (herein collectively called the "Environmental Laws"): Massachusetts General Laws Chapter 21E ("c. 21E"); the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. s. 6901, et seq., as amended, see Solid Waste Disposal Act; the Comprehensive Environmental Response, Compensation and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. s. 9601 et seq.; and any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards,

order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous substance, hazardous waste, hazardous materials, oil, asbestos, Urea Formaldehyde Foam Insulation and the group of organic compounds known as polychlorinated biphenyls (“PCBs”) (collectively “hazardous substances”); (ii) there are no liens on or affecting the Premises imposed by any Environmental Laws, (iii) there is no actual, asserted or threatened, liability or obligation of SELLER, related to the Premises, under any Environmental Laws and (iv) there are no hazardous substances on the Premises, nor have hazardous substances been generated, discharged, treated, stored, or disposed of, or otherwise deposited in or located on, or released on or to the Premises, including, without limitation, the surface and subsurface waters of the Premises.

- g. SELLER has not engaged in any activity on the Premises, and to the best of SELLER’s knowledge and belief, there is no other person who has engaged in any activity on the Premises which would cause (i) the Premises to be hazardous waste treatment, storage or disposal facility within the meaning of or otherwise bring the Premises within the ambit of the RCRA, as amended, or any similar state law or local ordinance or other Environmental Law; (ii) the discharge of hazardous substances, pollutants or effluent into any water source or system, or the discharge into the air of any emissions at any time or which would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. s. 1251, et seq., or the Clean Air Act, 42 U.S.C. s. 7401, et seq., or any similar state statute, regulation, local ordinance or any other Environmental Law. As used herein, the terms “hazardous”, “disposal”, and “solid waste” shall have the meanings specified in CERCLA, RCRA, and c. 21E, provided, in the event any Environmental Law is amended during the term of this Agreement so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment, and provided further, to the extent that one such Environmental Law established a meaning for such terms which is broader than that specified or other state environmental laws, such broader meaning shall apply; and no hazardous substances have been used in the construction, renovation, maintenance, repair or replacement of any portion of any improvements on the Premises.

- h. SELLER represents to the best of their knowledge and belief that there are no underground storage tanks under or on the Premises.

SELLER agrees that if BUYER pays the agreed Purchase Price to SELLER and records a deed to the Premises, SELLER shall indemnify and hold BUYER harmless from and against, and shall reimburse BUYER with respect to any and all claims, demands, causes of action, loss, damage, liabilities, out-of-pocket costs and expenses (including reasonable attorneys' fees and court costs) asserted against or incurred by BUYER by reason of or arising directly out of a breach of any representation or warranty of SELLER as set forth in this Paragraph, so long as the same arises during the three (3) year period set forth in Paragraph 9 above and notice is provided to Seller during such time period, with the exception that SELLER's indemnification obligations with regard to Paragraphs 12.f., 12.g. and 12.h. shall not be limited in time.

13. Buyer's Warranties.

BUYER warrants and represents to SELLER that BUYER has full right, power and authority to enter into and become bound by this Agreement and that the person executing this Agreement has been duly authorized by all necessary action and has full, right, power and authority to execute and deliver this Agreement on behalf of BUYER.

14. Condition of Purchase.

It shall be a condition of BUYER's obligation to purchase the Premises that on the Escrow Closing Date or Extended Closing Date, the following conditions have been satisfied, such satisfaction not to affect SELLER's representations and warranties under this Agreement:

- a. Seller has executed and filed the Disclosure of Beneficial Interest Form required by G.L. c. 7, Section 40J in the form of Exhibit E.
- b. BUYER has determined it will be able to obtain all licenses or other permits and approvals, which are necessary to the purchase and use of the Premises for a Town Yard, including without limitation approvals from the Board of Selectmen, Planning Board, Conservation Commission and Board of Health of the Town of Andover.
- c. BUYER has determined that there are available to the Premises adequate access and utilities for BUYER's proposed uses of the Premises.

- d. SELLER's warranties and representations under paragraph 12 are true and correct in all material respects at the Escrow Closing Date or Extended Closing Date.
- e. The Premises comply with applicable zoning, building and subdivision laws and regulations.
- f. Andover Town Meeting has approved the appropriation of funds sufficient to purchase the Premises and the Board of Selectmen have accepted and executed the Deed tendered by the Seller under Paragraph 3.

15. Representation as to Brokers.

BUYER and SELLER each represents to the other that it has not dealt with any broker or any other person in connection with this purchase of the Premises. and agree that each will hold harmless and indemnify the others from any loss, cost, damage, liability, claim or expense, including reasonable attorney's fees, incurred by BUYER or SELLER, as the case may be, for a commission or finder's fee as a result of the falseness of this representation.

16. Notices.

Any notices required to be made, pursuant to this Agreement shall be effective and deemed duly given if in writing and either delivered in hand or sent by (a) registered first class mail, postage prepaid, return receipt requested, (b) overnight express courier or (c) facsimile, to:

if to BUYER: - Andrew Flanagan, Town Manager
 Andover Town Hall
 36 Bartlet Street
 Andover, MA 01810

with a copy
 sent in the
 same manner to: - Urbelis & Fieldsteel, LLP
 155 Federal Street
 Boston, Massachusetts 02110-1727

if to SELLER: - Arthur J. Gutierrez, Jr., President
 The Gutierrez Company

200 Wheeler Road
Burlington, MA 01803

with a copy
sent in the

same manner to: - Gloria Gutierrez, Esq.
The Gutierrez Company
200 Wheeler Road
Burlington, MA 01803

17. Buyer's Investigation and Use of Premises.

Until the Escrow Closing Date or Extended Closing Date BUYER and its agents, employees and contractors shall have the right, from time to time, at BUYER's sole cost, expense, risk and hazard to enter upon the Premises in accordance with, and subject to, the terms and conditions under the Access Agreement by and between the BUYER and SELLER dated April 25, 2016 (the "Access Agreement") a copy of which is attached as Exhibit I, for all purposes provided for within said Access Agreement . If the Buyer is not satisfied with the results of such inspection(s), the BUYER may terminate this Agreement by giving written notice thereof to Seller on or before the Escrow Closing Date and by furnishing copies of all written reports stating the results of such inspection(s) to the SELLER and thereupon this Agreement shall be terminated and all other obligations of all parties hereto shall terminate and this Agreement shall be void and without recourse to the parties hereto.

18. Closing Documents.

(A) At the Escrow Closing Date or Extended Closing Date, SELLER shall execute and deliver to BUYER (or Escrow Agent pursuant to Paragraph 4 above) the following documents (collectively, "Seller Deliveries"):

- a. The deed called for in Paragraph 2;
- b. The Certificates of Seller in the forms attached as Exhibits C, D, E, and F.
- c. The Release in the form attached as Exhibit H;
- d. Trustees' Certificate as to authority of Trustees and Consent of Beneficiaries;
- e. Affidavit of Seller setting forth Seller's U.S. Taxpayer Identification Number and Foreign Investment and Real Property Tax Act (FIRPTA) Affidavit;

- f. Owners affidavits regarding parties in possession and indemnities regarding mechanics liens in such form and content as is necessary to induce Buyer's Title Insurance to delete the "standard exceptions" pertaining to parties in possession and mechanics' liens and to permit Buyer to obtain title insurance on the Premises subject only to the Permitted Encumbrances or subject to standard exception contained in the policy including any so-called "preprinted exceptions" acceptable to Buyer;
- g. An executed Closing Statement in form and substance reasonably acceptable to Seller, Buyer and Escrow Agent;
- h. A copy of the Disclosure Notice which has been filed pursuant to Chapter 7(c), Section 38 with the Division of Capital Asset Management and Maintenance;
- i. A copy of the latest real estate tax bill paid by Seller;
- j. Such other instruments as BUYER and/or Title Company may reasonably and customarily have requested for the purpose of carrying out the transaction contemplated by this Agreement, including, without limitation, documents for the purpose of confirming proper and lawful execution of closing documents in accordance with this Agreement and applicable law, and documents required by the Buyer's title insurer as a condition to the issuance of title insurance as provided in Paragraph 19 hereof.

(B) At Closing, Buyer shall execute and/or deliver to Seller or Escrow Agent the following items (collectively, "Buyer Deliveries"): (i) a closing statement, (ii) the Purchase Price, (iii) certified copy of the Town Meeting Vote Authorizing Purchase of Land, (iv) such other instruments and documents as Seller and/or the Title Company may reasonably request, including, without limitation, documents for the purpose of confirming the proper and lawful execution and delivery of closing documents in accordance with this Agreement and applicable provisions of Massachusetts law, provided that any documents requiring execution by the Buyer shall be delivered by the Seller to the Andover Town Counsel by at least 15 days prior to the Escrow Closing Date or Extended Closing Date.

19. Title Insurance.

BUYER's performance hereunder is also conditioned upon title to the Premises being insurable at regular rates on a standard ALTA Form B Owner's Insurance Policy, without exception for any matter not objected to by BUYER by a title company qualified to do business in Massachusetts and acceptable to BUYER.

20. No Other Agreements.

SELLER hereby represents, warrants and covenants that the Premises are not and will not be the subject of any outstanding agreements with any party pursuant to which any such party may acquire any interest herein, and that there are no contracts or agreements to which SELLER is a party, including any tenancy or occupancy agreements, which affect the Premises (except for Seller's prior agreement(s) with Buyer) and which will survive the Escrow Closing Date or Extended Closing Date.

21. REBA Standards.

Any manner of practice arising under or relating to this agreement which is the subject of a title standard or a practice standard of the Massachusetts Real Estate Bar Association at the Original Closing Date or Extended Closing Date shall be governed by said title standard or practice standard to the extent applicable.

22. Disclaimer of Warranties and Representations.

The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has the BUYER relied upon any warranties or representations not set forth or incorporated in this Agreement

23. Buyer's Authorization

The parties further acknowledge that notwithstanding anything to the contrary contained herein, this Agreement shall not be considered a binding agreement until Buyer has fully complied with the thirty (30) day publication period set forth in G.L. c. 30B, Section 16(e)(2), the Disclosure of Beneficial Interests form required by G.L. c. 7A, Section 40J (in the form set forth in Exhibit E) has been executed and filed by the Seller, until the purchase of the Premises has been authorized by

Andover Town Meeting and until this Agreement has been authorized by the Board of Selectmen. The provisions of this paragraph shall survive delivery of the deed provided herein.

24. Other Documents.

At the time SELLER executes this Agreement, SELLER shall also sign and deliver to BUYER the certificates and disclosures of SELLER attached hereto as Exhibits C, D and E, and this Agreement shall not be valid until and unless SELLER has so signed and delivered same, except for Exhibit E which Seller shall sign and file with DCAMM per the terms of Exhibit E with a copy of the filed form being provided to Buyer.


25. Governing Law.

This Agreement shall be governed by Massachusetts law.

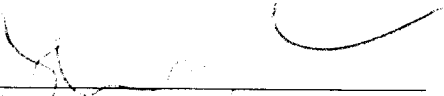
INHABITANTS OF TOWN OF ANDOVER

SELLER: Andover Realty Trust

By: BOARD OF SELECTMEN

By: 

Arthur J. Gutierrez, Jr., Trustee, and
Not Individually



Gloria M. Gutierrez, Trustee, and
Not Individually

I hereby certify that funds are available for the
purpose set forth in this Agreement.

Town Accountant

APPROVED AS TO FORM:

Town Counsel

EXHIBIT A

LEGAL DESCRIPTION

Real property in the Town of Andover, Essex County, Commonwealth of Massachusetts shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., recorded with the Essex North Registry of Deeds as Plan No. 10256, being bounded and described as follows:

LOT 3

Southerly by Old River by nine courses measuring 70.34 feet, 68.20 feet, 65.30 feet, 136.78 feet, 17.85 feet, 76.43 feet, 64.25 feet, 155.90 feet and 68.03 feet;

Easterly by land now or formerly of John S. Godek and Nancy Ann Godek and Stanley J. Godek and Edna B. Godek, 657.10 feet;

Southerly by land now or formerly of Stanley J. Godek and Edna B. Godek by two courses measuring 214.71 and 319.96 feet;

Easterly by land now or formerly .of Greater Lawrence Regional Vocational Technical High School District by three courses measuring 315.35 feet, 242.86 feet and 69.15 feet;

Northerly by Lot 2 on said Plan, 465.00 feet;

Northwesterly by said Lot 2, 85.69 feet;

Westerly by Campanelli Drive as shown on said Plan by a curve measuring 171.14 feet; and

Northwesterly again by said Campanelli Drive by five courses measuring 47.02 feet, 108.30 feet, 214.01 feet, 553.83 feet and 45.75 feet.

CAMPANELLI DRIVE

Southwesterly by River Road, 104.16 feet;

Easterly by Lot 3 on said Plan by six courses measuring 45.75 feet, 553.83 feet, 214.01 feet, 108.30 feet, 47.02 feet and 171.14 feet by a curved line;

Northerly by Lot 2 on said plan by a curved line measuring 50.00 feet;

Northerly and
Northwesterly by Lot 1 on said Plan by six courses measuring 61.39 feet, 47.02 feet,
108.30 feet, 237.79 feet, 536.02 feet and 42.19 feet.

Together with the appurtenant right to use that certain sewer line easement granted by the Trustees of Phillips Academy to Bailey L. Allen, et al., dated December 15, 1978 and recorded with said Deeds in Book 1361, Page 753 and that certain Sewer Easement granted by Marriott Corporation dated August 26, 1986 and recorded with said Deeds in Book 2288, Page 11.

Less and except Taking for River Road by the Commonwealth of Massachusetts Department of Highways, recorded in Book 3632, Page 122.

EXHIBIT B

QUITCLAIM DEED

Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust, created u/d/t dated July 2, 2007 and recorded with North Essex District Registry of Deeds in Book 10832, Page 255, with an address c/o The Gutierrez Company, 200 Wheeler Road, Burlington, MA 01803 (“Grantor”) for consideration paid and in full consideration of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) grants to the Inhabitants of the Town of Andover, a Massachusetts municipal corporation (“Grantee”), with QUITCLAIM COVENANTS, the real property in Andover, Essex County, Massachusetts, described in Exhibit A attached hereto.

WITNESS the execution hereof under the seal this ____ day of _____, 2016.

By: _____
Arthur J. Gutierrez, Jr., Trustee and
Not Individually

Gloria M. Gutierrez, Trustee and
Not Individually

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

_____, 2016

On this day, before me, the undersigned notary public, personally appeared Arthur J. Gutierrez, Jr., Trustee and not Individually, and Gloria M. Gutierrez, Trustee and Not Individually, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires: _____

Post Office Address of Grantee:

Andover Town Offices
36 Bartlet Street
Andover, MA 01810

Street Address of Property:

5 Campanelli Drive
Andover, MA 01810

ACCEPTANCE BY BOARD OF SELECTMEN

The Board of Selectmen of the Town of Andover hereby accepts the foregoing conveyance to the Town of Andover.

EXECUTED as an instrument under seal this ____ day of _____, 2016

Town of Andover Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2016

On this day, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose, as _____ of the Town of Andover.

Notary Public
My Commission Expires: _____

EXHIBIT C

CERTIFICATE OF COMPLIANCE WITH TAX LAWS

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, we certify under the penalties of perjury that Andover Realty Trust has filed all Massachusetts state tax returns; has complied with all Massachusetts laws relating to taxes; and has paid all Massachusetts state taxes required under law; and that the Federal Identification number for the Andover Realty Trust is 81-0924364.

Dated: _____, 2016

ARTHUR J. GUTIERREZ, JR., TRUSTEE AND
NOT INDIVIDUALLY

GLORIA M. GUTIERREZ, TRUSTEE AND
NOT INDIVIDUALLY

EXHIBIT D

CERTIFICATE OF NON-COLLUSION

The undersigned certify under the penalties of perjury that the foregoing Agreement has been obtained in good faith and without collusion or fraud with any other person (as used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals).

Dated: _____, 2016

ARTHUR J. GUTIERREZ, JR., TRUSTEE AND
NOT INDIVIDUALLY

GLORIA M. GUTIERREZ, TRUSTEE AND
NOT INDIVIDUALLY

EXHIBIT E

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7(C), s. 38 (formerly M.G.L. c. 7, s. 40J)**

INSTRUCTION SHEET

NOTE: The Division of Capital Asset Management and Maintenance (DCAMM) shall have no responsibility for insuring that the Disclosure Statement has been properly completed as required by law. Acceptance by DCAMM of a Disclosure Statement for filing does not constitute DCAMM's approval of the Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7(C), s. 38 which is reprinted in Section 7 of the Disclosure Statement.

Paragraph (1): Identify the real property, including its street address, and city or town. If there is no street address then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

Paragraph (2): Identify the type of transaction to which the Disclosure Statement pertains --such as a sale, purchase, lease, etc.

Paragraph (3): Insert the exact legal name of the disclosing party. Indicate whether the disclosing party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the disclosing party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

Paragraph (4): Indicate the role of the disclosing party in the transaction by checking one of the blanks. If the disclosing party's role in the transaction is not covered by one of the listed roles then describe the role in words.

Paragraph (5): List the names and addresses of **every** legal entity and **every** natural person that has or will have a **direct or indirect** beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in section 7 of the Disclosure Statement form. If the disclosing entity is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the disclosing party is a non-profit with no individual persons having any beneficial interest then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into paragraph 5.

Paragraph (6): Write "none" in the blank if none of the persons mentioned in paragraph 5 are employed by DCAMM. Otherwise list any parties disclosed in paragraph 5 that are employees of DCAMM.

Paragraph (8): Make sure that the Disclosure Statement is signed by the correct person. If a disclosing party is a corporation, please make sure that the Disclosure Statement is signed by a duly

authorized officer of the corporation as required by the statute reprinted in paragraph 7 of the Disclosure Statement.

The completed and signed Disclosure Statement should be mailed or otherwise delivered to:

Deputy Commissioner for Real Estate
Division of Capital Asset Management and Maintenance
One Ashburton Place, 15th Floor, Boston, MA 02108

**DISCLOSURE STATEMENT
PARTY TO REAL PROPERTY TRANSACTION WITH A PUBLIC AGENCY
M.G.L. c. 7(C), s. 38 (formerly M.G.L. c. 7, s. 40J)**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) REAL PROPERTY:

The parcel of land at 5 Campanelli, Andover, MA as described in Exhibit A attached.

(2) TYPE OF AGREEMENT, TRANSACTION, or DOCUMENT:

Purchase and Sale Agreement

(3) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY (IF PARTY IS NOT AN INDIVIDUAL):

Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust

(4) ROLE OF PARTY (Check appropriate role):

_____ Lessor/Landlord _____ Lessee/Tenant

___X___ Seller/Grantor _____ Buyer/Grantee

_____ Other (Please describe):

(5) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the

conditions specified in M.G.L. c. 7(C), s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

Andover Realty LLC (sole beneficiary),
a Massachusetts limited liability company,
c/o The Gutierrez Company, 200 Wheeler
Road, Burlington, MA 01803. Said LLC
has two (2) members only –

Arturo J. Gutierrez

153 Newton Street
Weston, MA 02493

John A. Cataldo

94 Ridge Street
Arlington, MA 02174

- (6) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert “none” if none):

NONE

- (7) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7(C), Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee’s interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide

arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(8) This statement is hereby signed under penalties of perjury.

DATE

Arthur J. Gutierrez, Jr., Trustee and not
Individually

Gloria M. Gutierrez, Trustee and not
Individually

EXHIBIT A

LEGAL DESCRIPTION

Real property in the Town of Andover, Essex County, Commonwealth of Massachusetts shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., recorded with the Essex North Registry of Deeds as Plan No. 10256, being bounded and described as follows:

LOT 3

- Southerly by Old River by nine courses measuring 70.34 feet, 68.20 feet, 65.30 feet, 136.78 feet, 17.85 feet, 76.43 feet, 64.25 feet, 155.90 feet and 68.03 feet;
- Easterly by land now or formerly of John S. Godek and Nancy Ann Godek and Stanley J. Godek and Edna B. Godek, 657.10 feet;
- Southerly by land now or formerly of Stanley J. Godek and Edna B. Godek by two courses measuring 214.71 and 319.96 feet;
- Easterly by land now or formerly .of Greater Lawrence Regional Vocational Technical High School District by three courses measuring 315.35 feet, 242.86 feet and 69.15 feet;
- Northerly by Lot 2 on said Plan, 465.00 feet;
- Northwesterly by said Lot 2, 85.69 feet;
- Westerly by Campanelli Drive as shown on said Plan by a curve measuring 171.14 feet; and
- Northwesterly again by said Campanelli Drive by five courses measuring 47.02 feet, 108.30 feet, 214.01 feet, 553.83 feet and 45.75 feet.

CAMPANELLI DRIVE

- Southwesterly by River Road, 104.16 feet;
- Easterly by Lot 3 on said Plan by six courses measuring 45.75 feet, 553.83 feet, 214.01 feet, 108.30 feet, 47.02 feet and 171.14 feet by a curved line;
- Northerly by Lot 2 on said plan by a curved line measuring 50.00 feet;

Northerly and
Northwesterly by Lot 1 on said Plan by six courses measuring 61.39 feet, 47.02 feet,
108.30 feet, 237.79 feet, 536.02 feet and 42.19 feet.

Together with the appurtenant right to use that certain sewer line easement granted by the Trustees of Phillips Academy to Bailey L. Allen, et al., dated December 15, 1978 and recorded with said Deeds in Book 1361, Page 753 and that certain Sewer Easement granted by Marriott Corporation dated August 26, 1986 and recorded with said Deeds in Book 2288, Page 11.

Less and except Taking for River Road by the Commonwealth of Massachusetts Department of Highways, recorded in Book 3632, Page 122.

EXHIBIT F

CERTIFICATE OF SELLER

The undersigned hereby certifies, to the best of their actual knowledge, that the warranties and representations contained in Paragraph 12 of a certain Purchase and Sale Agreement for the sale of property known as 5 Campanelli Drive, in Andover, Massachusetts, executed on _____, 2016, a copy of which is attached hereto, are true and correct in all material respects and that we have performed or complied with all of the agreements of the undersigned to the extent such performance or compliance is required prior to or on the Escrow Closing Date under said Purchase and Sale Agreement.

Dated: _____, 2016

ARTHUR J. GUTIERREZ, JR., TRUSTEE AND
NOT INDIVIDUALLY

GLORIA M. GUTIERREZ, TRUSTEE AND
NOT INDIVIDUALLY

EXHIBIT G

ORDER OF TAKING
5 CAMPANELLI DRIVE

WHEREAS, THE INHABITANTS OF THE TOWN OF ANDOVER voted in favor of a motion made under Article 31 at the Annual Town Meeting held on May 2, 2016 which motion provided:

ARTICLE 31.

Upon motion made and duly seconded it was VOTED to appropriate the sum of \$2,250,000 from Free Cash to pay the costs of the purchase of approximately 15.16 acres of land at 5 Campanelli Drive, and the private way known as Campanelli Drive shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., which plan is recorded with the Essex North Registry of Deeds as Plan No. 10256, and which plan is on file with the Town Clerk's Office and as further shown on Assessors Map 142, Lot 6, and to authorize the Selectmen to acquire the foregoing land by gift, option, purchase or eminent domain, upon terms and conditions deemed by the Board of Selectmen to be in the best interest of the Town and all other costs incidental and related thereto.

NOW, THEREFORE, the Board of Selectmen of the Town of Andover, acting pursuant to the authority granted to it by the aforesaid vote of the Town Meeting, and in accordance with the provision of Massachusetts General Laws, Chapter 79 and all other power and authority to it granted or implied, **DOES HEREBY TAKE BY EMINENT DOMAIN IN FEE SIMPLE**, for the purposes set forth in said vote of the Town Meeting, the parcels of land shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., recorded with the Essex North Registry of Deeds as Plan No. 10256 and recorded, and more particularly described in Appendix A attached hereto and incorporated by reference herein, together with all easements and rights appurtenant thereto, including the trees standing thereon and excluding any and all easements for public and private utilities and excluding any and all easements for public highways and public travel in and to any and all streets and public ways included within and/or contiguous or adjacent to said area.

The amount of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) has already been paid to Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust.

This Order of Taking is to clear any title issues, if any, with regard to the Town's acquisition of said land.

The Selectmen of the Town of Andover, on behalf of The Inhabitants of the Town of Andover, hereby execute this Taking on this _____ day of _____, 2016.

THE INHABITANTS OF THE
TOWN OF ANDOVER

By and through its
BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Essex, ss:

, 2016

On this _____ of _____, 2016, before me, the undersigned notary public, personally appeared _____, who is personally known to me and who is person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose,

Notary Public
My commission expires:

ORDER OF TAKING

APPENDIX A

LEGAL DESCRIPTION

Real property in the Town of Andover, Essex County, Commonwealth of Massachusetts shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., recorded with the Essex North Registry of Deeds as Plan No. 10256, being bounded and described as follows:

LOT 3

Southerly	by Old River by nine courses measuring 70.34 feet, 68.20 feet, 65.30 feet, 136.78 feet, 17.85 feet, 76.43 feet, 64.25 feet, 155.90 feet and 68.03 feet;
Easterly	by land now or formerly of John S. Godek and Nancy Ann Godek and Stanley J. Godek and Edna B. Godek, 657.10 feet;
Southerly	by land now or formerly of Stanley J. Godek and Edna B. Godek by two courses measuring 214.71 and 319.96 feet;
Easterly	by land now or formerly .of Greater Lawrence Regional Vocational Technical High School District by three courses measuring 315.35 feet, 242.86 feet and 69.15 feet;
Northerly	by Lot 2 on said Plan, 465.00 feet;
Northwesterly	by said Lot 2, 85.69 feet;
Westerly	by Campanelli Drive as shown on said Plan by a curve measuring 171.14 feet; and
Northwesterly	again by said Campanelli Drive by five courses measuring 47.02 feet, 108.30 feet, 214.01 feet, 553.83 feet and 45.75 feet.

CAMPANELLI DRIVE

Southwesterly	by River Road, 104.16 feet;
Easterly	by Lot 3 on said Plan by six courses measuring 45.75 feet, 553.83 feet, 214.01 feet, 108.30 feet, 47.02 feet and 171.14 feet by a

curved line;

Northerly by Lot 2 on said plan by a curved line measuring 50.00 feet;

Northerly and

Northwesterly

by Lot 1 on said Plan by six courses measuring 61.39 feet, 47.02 feet, 108.30 feet, 237.79 feet, 536.02 feet and 42.19 feet.

Together with the appurtenant right to use that certain sewer line easement granted by the Trustees of Phillips Academy to Bailey L. Allen, et al., dated December 15, 1978 and recorded with said Deeds in Book 1361, Page 753 and that certain Sewer Easement granted by Marriott Corporation dated August 26, 1986 and recorded with said Deeds in Book 2288, Page 11.

Less and except Taking for River Road by the Commonwealth of Massachusetts Department of Highways, recorded in Book 3632, Page 122.

EXHIBIT H

RELEASE

Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust, in consideration of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000.00), hereby release the Town of Andover from all claims for damages, pursuant to Massachusetts General Laws, Chapter 79, or otherwise due to the taking by eminent domain for public purposes, and hereby consent to said taking of the land in Andover, Essex County, Massachusetts more particularly described in Exhibit A attached hereto.

Witness the execution hereof this ____ day of _____, 2016.

Arthur J. Gutierrez, Jr., Trustee and
Not Individually

Gloria M. Gutierrez, Trustee and
Not Individually

EXHIBIT A

Real property in the Town of Andover, Essex County, Commonwealth of Massachusetts shown as "Lot 3" and "Campanelli Drive" on a plan entitled "Definitive Subdivision Plan, River Road Business Center, Andover, Mass.," dated February 5, 1986, drawn by Bradford Saivetz & Associates, Inc., recorded with the Essex North Registry of Deeds as Plan No. 10256, being bounded and described as follows:

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Southerly	by land now or formerly of Stanley J. Godek and Edna B. Godek by two courses measuring 214.71 and 319.96 feet;
Easterly	by land now or formerly .of Greater Lawrence Regional Vocational Technical High School District by three courses measuring 315.35 feet, 242.86 feet and 69.15 feet;
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Northerly and Northwesterly	by Lot 1 on said Plan by six courses measuring 61.39 feet, 47.02 feet, 108.30 feet, 237.79 feet, 536.02 feet and 42.19 feet.

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Less and except Taking for River Road by the Commonwealth of Massachusetts Department of Highways, recorded in Book 3632, Page 122.

EXHIBIT I

[ATTACH ACCESS AGREEMENT]

ACCESS AGREEMENT

Agreement made as of this 25th day of April, 2016, by and between Arthur J. Gutierrez, Jr. and Gloria M. Gutierrez, Trustees of Andover Realty Trust, created u/d/t dated July 2, 2007 and recorded with the North Essex District Registry of Deeds in Book 10832, Page 255, with an address c/o The Gutierrez Company, One Wall Street, Burlington, MA 01803 (hereinafter called "the Company") owner of the property known as 5 Campanelli Drive, Andover, MA, as described in a deed recorded with said Registry of Deeds in Book 10858, Page 119 (hereinafter called the "Property") and the Town of Andover, a Massachusetts municipal corporation with an address of 36 Bartlet Street in Andover, MA 01810 (hereinafter called "Town").

The Company and the Town agree that beginning on the date of this Agreement and continuing until July 31, 2016, the Town and its agents, employees, consultants and contractors (collectively, the "Town's Contractors") shall have the right from time to time, at the Town's sole cost and expense and in all such manner as the Town may reasonably determine, without damage being imposed upon the Property, to enter upon the Property to make, or cause to be made, appraisals of the Property, engineering, and development findings in respect thereto, including (without limitation) surveying, conducting test borings in order to determine subsoil conditions of ledge, peat or other soft materials, the making of tests to determine the presence of oil or hazardous or toxic materials and, in general, conducting soil tests, analyses and studies of the Property. Such inspections may include, but are not limited to, the geographical and topographical conditions of the Property, the structural conditions of all systems in or upon the Property, the existence and condition of underground storage tanks, if any, the presence of hazardous materials in or on the Property or the likelihood of release of such hazardous materials on or from the Property, the presence of asbestos, the presence of urea formaldehyde foam insulation, the presence of lead based paint, plaster or other lead material, the presence of radon,

and the adequacy of any existing sewerage systems. The Town and the Town's Contractors shall have the right of access to the Property at reasonable times upon giving twenty-four (24) hours advance notice to the Company.


Notwithstanding anything herein to the contrary, the Town shall not perform any activities beyond a Phase I on the Property, without the Company's prior written consent, to be withheld in the Company's reasonable discretion. The Company shall have the right to have a representative present during all or any of the Town's and/or the Town's Contractors' inspections and tests.

The Town shall provide to the Company prior to its entry (or the entry by the Town's Contractors) on the Property certificates of liability insurance from the Town and/or the Town's Contractors (as applicable) insuring the Company in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) and shall require its Contractors to indemnify and hold the Company and the Town harmless from and against any and all loss, cost or damage to the Property arising out of damage to persons or property by the Town and/or the Town's Contractors in connection with the entry onto the Property and its activities hereunder. The Town shall promptly repair or cause its Contractors to repair all damage to the Property arising from any such inspections or tests and shall restore the Property to substantially the same condition existing immediately prior to such inspections and tests. The Town shall keep the Property free of any mechanics' or materialmans' liens arising out of its entry hereunder. In the event the Town discovers any matter during the course of its investigations and tests which may be reportable under applicable law, the Town acknowledges and agrees that it shall not undertake any such reporting, unless required by law to do so, but shall notify the Company immediately of any such discovery. In no event shall the Town have any obligation or liability for, or in

connection with, any claims arising from pre-existing conditions on or under the Property, or arising from the presence, discovery, or disturbance of any hazardous material, previously existing on the Property or in connection with the diminution in value of the Property due to the discovery of any hazardous material at, on or about the Property during the investigations hereunder. The repair and restoration obligations of the Town under this Access Agreement shall survive the termination of this Access Agreement.

Signed this 25th day of April, 2016.

ANDOVER REALTY TRUST

By 

Gloria M. Gutierrez, Trustee
and not Individually

TOWN OF ANDOVER

By 