

## Clerk Village of Pinckney

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**Subject:** FW: New DTE Contract  
**Attachments:** Revised DTE Master Street Lighting Agreement.pdf; Map of Locations.pdf

**From:** President Village of Pinckney <[President@villageofpinckney.org](mailto:President@villageofpinckney.org)>

**Sent:** Monday, May 13, 2019 12:37 PM

**To:** Brandon R Faron

**Subject:** [EXTERNAL] Village of Pinckney contract corrections

Hi, Brandon:

I'm sorry about the delay in reply about the municipal contract for the Village of Pinckney. It has been past our lawyers and our public works department. They and our Council have asked for several corrections to be made before the contract can be approved and signed. I promise, it is very close!

I'm going through the copy originally sent me a loooong time ago, and here are the questions raised, in the "Master Agreement:"

- This contract addresses the non-standard DDA lighting. Is there a current contract covering the rest of the Village, that is different?
  - The contract we are trying to execute is for the non-standard DDA. From previous communications, the Village of Pinckney wanted a new contract that stated that DTE would replace the existing 175 watt Metal Halide streetlights to LED upon failure. So, the contract attached is what this covers.
  - I am sure that there are many contracts for the other DTE street lighting throughout the Village of Pinckney. Whenever the Village of Pinckney makes the request to DTE to add new lighting, a new contract is created. This contract is signed by both parties and states the project scope, and construction costs.
- Several areas in the text describe maintenance, but it is not specifically defined -- light, yes, but painting for the poles, rusted base or skirt replacement, repair of banner arms?
  - There are many items under the term, 'Maintenance.' It could be cable replacement, pole/fixture/foundation replacement. But, as part of our maintenance program, our poles are inspected every 3yrs. Any type of maintenance needed must be performed by DTE or DTE contractor.
- Can/should the Village communicate directly with the subcontractor to make sure the needed work is being done, or does it all go through DTE?
  - The Village should communicate directly with DTE and NOT the contractor. Whenever an outage is reported to DTE, DTE will create the event that describes what our contractor needs to do. Communicating with DTE will also allow us to keep track of the outages.
- For new subdivisions (we will have one coming in soon), does it say no lighting :installed until the sub is 80% done? Is that the way to do it?
  - No, you can add lighting before the 80% occupancy. A large majority of new lighting projects for new residential developments are made when the developer is in the process of their construction. Allowing DTE to come in and install the conduit and cable early (before grass or landscaping is installed) reduces the amount of the construction costs to install the streetlights. This way, we can trench the conduit and cable in, as opposed to boring the conduit and cable it.

For the "Purchase Agreement" section:

- The map attachment does not include the several lights on Marion Street (misses the whole street), so they need to be added.
  - The lights on Marion St must already have an updated contract in place. These lights are already LED.
- So then we're not sure where the 114 number comes from
  - See attached map that shows the amount of "Single" and "Double" assemblies.
- In the table under #9, in what way does the lighting not meet IESNA recommended practices?
  - IESNA stands for the Illuminating Engineering Society of North America. The IESNA sets "Recommended Practices" for various types of lighting. If you wanted the street(s) to be illuminated to the IESNA recommended practices, then certain studies (pedestrian and automobile traffic) would have been needed in order for us to do a photometric report based on the studies.
- There was some question about the exact number of each inventory item we need to have on hand. Ten poles are noted, but we have two types. Do we need five of each, or ten of each?
  - We normally ask that 10% be kept in storage for spares. In this case, if you have 114 lights, then we would recommend that you keep 10 poles (plus the accessories) in storage.
- The address for the DPW, where the inventory is stored, is 1600 Patterson Lake Road (not 455 S. Howell). The contractor is already familiar with the place. Are the availability hours of 9:00am-4:00pm adequate (our crews are there longer)
  - Thank you for letting me know about this. This change has been made on the attached agreement.
- The paragraph at the bottom of page two raised some questions about costs to switch from LED back to some other kind of lighting, should there be too many LED failures. How many is too many? Are these to be expected?
  - Our engineering team does a pretty thorough job when selecting a streetlight as a DTE Stock Item. I do not believe that we have ever experienced this.
- Why is our lighting considered "experimental," as noted in section 12?
  - This section has been removed from our agreements. LED technology is not considered "Experimental" anymore.

We have lately purchased more of the required inventory so I'm not exactly sure how much we have of everything (but I think we do have enough to last a while). I will find that out for you.

If you are available for a phone call later today (after 2:00), or within the next few days, I would love to address any questions our questions have raised.

Since we started this contract work, we have had two poles replaced from our inventory as if this new contract were within place (and that is fine). Currently we have two poles down (they have been reported but no reply) that we would like to see repaired as soon as possible.

Thanks,  
Linda Lavey  
Village of Pinckney

**PINCKNEY SOM**  
**MAIN ST (M-36)**

**175W MH Granville Lum**  
**12 FT Wadsworth Post**



## MASTER AGREEMENT FOR MUNICIPAL STREET LIGHTING

This Master Agreement For Municipal Street Lighting ("Master Agreement") is made between DTE Electric Company ("Company") and the Village of Pinckney ("Customer") (collectively referred to as the "Parties") as of July 3, 2019.

### RECITALS

A. Customer may, from time to time, request the Company to furnish, install, operate and/or maintain street lighting equipment for Customer.

B. Company may provide such services, subject to the terms of this Master Agreement.

Therefore, in consideration of the foregoing, Company and Customer hereby agree as follows:

### AGREEMENT

1. Master Agreement. This Master Agreement sets forth the basic terms and conditions under which Company may furnish, install, operate and/or maintain street lighting equipment for Customer. Upon the Parties agreement as to the terms of a specific street lighting transaction, the Parties shall execute and deliver a Purchase Agreement in the form of the attached Exhibit A (a "Purchase Agreement"). In the event of an inconsistency between this Agreement and any Purchase Agreement, the terms of the Purchase Agreement shall control.

2. Rules Governing Installation of Equipment and Electric Service. Installation of street light facilities and the extension of electric service to serve those facilities are subject to the provisions of the Company's Rate Book for Electric Service (the "Tariff"), Rule C 6.1, Extension of Service (or any other successor provision), as approved by the Michigan Public Service Commission ("MPSC") from time to time.

3. Contribution in Aid of Construction. In connection with each Purchase Agreement and in accordance with the applicable Orders of the MPSC, Customer shall pay to Company a contribution in aid of construction ("CIAC") for the cost of installing Equipment ("as defined in the applicable Purchase Agreement") and recovery of costs associated with the removal of existing equipment, if any. The amount of the CIAC (the "CIAC Amount") shall be an amount equal to the total construction cost (including all labor, materials and overhead charges), less an amount equal to three years revenue expected from such new equipment. The CIAC Amount will be as set forth on the applicable Purchase Agreement. The CIAC Amount does not include charges for any additional cost or expense for unforeseen underground objects, or unusual conditions encountered in the construction and installation of Equipment. If Company encounters any such unforeseen or unusual conditions, which would increase the CIAC Amount, it will suspend the construction and installation of Equipment and give notice of such conditions to the Customer. The Customer will either pay additional costs or modify the work to be performed. If the work is modified, the CIAC Amount will be adjusted to account for such modification. Upon any such

suspension and/or subsequent modification of the work, the schedule for completion of the work shall also be appropriately modified.

4. Payment of CIAC Amount. Customer shall pay the CIAC Amount to Company as set forth in the applicable Purchase Agreement. Failure to pay the CIAC Amount when due shall relieve Company of its obligations to perform the work required herein until the CIAC Amount is paid.

5. Modifications. Subject to written permission of the respective municipality, after installation of the Equipment, any cost for additional modifications, relocations or removals will be the responsibility of the requesting party.

6. Maintenance, Replacement and Removal of Equipment. In accordance with the applicable Orders of the MPSC, under the Municipal Street Lighting Rate (as defined below), Company shall provide the necessary maintenance of the Equipment, including such replacement material and equipment as may be necessary. Customer may not remove any Equipment without the prior written consent of Company.

7. Street Lighting Service Rate.

a. Upon the installation of the Equipment, the Company will provide street lighting service to Customer under Option 1 of the Municipal Street Lighting Rate set forth in the Tariff, as approved by the MPSC from time to time, the terms of which are incorporated herein by reference.

b. The provision of street lighting service is also governed by rules for electric service established in MPSC Case Number U-6400. The Street Lighting Rate is subject to change from time to time by orders issued by the MPSC.

8. Contract Term. This Agreement shall commence upon execution and terminate on the later of (a) five (5) years from the date hereof or (b) the date on which the final Purchase Agreement entered into under this Master Agreement is terminated. Upon expiration of the initial term, this Agreement shall continue on a month-to-month basis until terminated by mutual written consent of the parties or by either party with thirty (30) days prior written notice to the other party.

9. Design Responsibility for Street Light Installation. The Company installs municipal street lighting installations following Illuminating Engineering Society of North America ("IESNA") recommended practices. If the Customer submits its own street lighting design for the street light installation or if the street lighting installation requested by Customer does not meet the IESNA recommended practices, Customer acknowledges the Company is not responsible for lighting design standards.

10. New Subdivisions. Company agrees to install street lights in new subdivisions when subdivision occupancy reaches a minimum of 80%. If Customer wishes to have installation occur prior to 80% occupancy, then Customer acknowledges it will be financially responsible for

all damages (knockdowns, etc.) and requests for modifications (movements due to modified curb cuts from original design, etc.).

11. Force Majeure. The obligation of Company to perform this Agreement shall be suspended or excused to the extent such performance is prevented or delayed because of acts beyond Company's reasonable control, including without limitation acts of God, fires, adverse weather conditions (including severe storms and blizzards), malicious mischief, strikes and other labor disturbances, compliance with any directives of any government authority, including but not limited to obtaining permits, and force majeure events affecting suppliers or subcontractors.

12. Subcontractors. Company may sub-contract in whole or in part its obligations under this Agreement to install the Equipment and any replacement Equipment.

13. Waiver; Limitation of Liability. To the maximum extent allowed by law, Customer hereby waives, releases and fully discharges Company from and against any and all claims, causes of action, rights, liabilities or damages whatsoever, including attorney's fees, arising out of the installation of the Equipment and/or any replacement Equipment, including claims for bodily injury or death and property damage, unless such matter is caused by or arises as a result of the sole negligence of Company and/or its subcontractors. Company shall not be liable under this Agreement for any special, incidental or consequential damages, including loss of business or profits, whether based upon breach of warranty, breach of contract, negligence, strict liability, tort or any other legal theory, and whether or not Company has been advised of the possibility of such damages. In no event will Company's liability to Customer for any and all claims related to or arising out of this Agreement exceed the CIAC Amount set forth in the Purchase Order to which the claim relates.

14. Notices. All notices required by the Agreement shall be in writing. Such notices shall be sent to Company at **DTE Electric Company, Community Lighting Group, 8001 Haggerty Rd, Belleville, MI 48111** and to Customer at the address set forth on the applicable Purchase Agreement. Notice shall be deemed given hereunder upon personal delivery to the addresses set forth above or, if properly addressed, on the date sent by certified mail, return receipt requested, or the date such notice is placed in the custody of a nationally recognized overnight delivery service. A party may change its address for notices by giving notice of such change of address in the manner set forth herein.

15. Representations and Warranties. Company and Customer each represent and warrant that: (a) it has full corporate or public, as applicable, power and authority to execute and deliver this Agreement and to carry out the actions required of it by this Agreement; (b) the execution and delivery of this Agreement and the transactions contemplated hereby have been duly and validly authorized by all necessary corporate or public, as applicable, action required on the part of such party; and (c) this Agreement constitutes a legal, valid, and binding agreement of such party.

16. Miscellaneous.

a. This Agreement is the entire agreement of the parties concerning the subject matter hereof and supersedes all prior agreements and understandings. Any amendment or modification to this Agreement must be in writing and signed by both parties.

b. Customer may not assign its rights or obligations under this Agreement without the prior written consent of Company. This Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and permitted assigns. This Agreement is made solely for the benefit of Company, Customer and their respective successors and permitted assigns and no other party shall have any rights to enforce or rely upon this Agreement.

c. A waiver of any provision of this Agreement must be made in writing and signed by the party against whom the waiver is enforced. Failure of any party to strictly enforce the terms of this Agreement shall not be deemed a waiver of such party's rights hereunder.

d. The section headings contained in this Agreement are for convenience only and shall not affect the meaning or interpretation thereof.

e. This Agreement shall be construed in accordance with the laws of the State of Michigan, without regard to any conflicts of law principles. The parties agree that any action with respect to this Agreement shall be brought in the courts of the State of Michigan and each party hereby submits itself to the exclusive jurisdiction of such courts.

f. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

g. The invalidity of any provision of this Agreement shall not invalidate the remaining provisions of the Agreement.

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Company and Customer have executed this Master Agreement as of the date first written above.

Company:

DTE Electric Company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Customer:

Village of Pinckney

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

 SIGN HERE


**Exhibit A to Master Agreement**

**Purchase Agreement**

This Purchase Agreement (this "Agreement") is dated as of July 3, 2019 between DTE Electric Company ("Company") and the Village of Pinckney ("Customer").

This Agreement is a "Purchase Agreement" as referenced in the Master Agreement for Municipal Street Lighting dated July 3, 2019 (the "Master Agreement") between Company and Customer. All of the terms of the Master Agreement are incorporated herein by reference. In the event of an inconsistency between this Agreement and the Master Agreement, the terms of this Agreement shall control.

Customer requests the Company to furnish, install, operate and maintain street lighting equipment as set forth below:

1. DTE Work Order Number:	TBD	
	If this is a conversion or replacement, indicate the Work Order Number for current installed equipment: N/A	
2. Location where Equipment will be installed:	[Various locations along M-36, S. Dexter St, and Howell St in the Village of Pinckney], as more fully described on the map attached hereto as <u>Attachment 1</u> .	
3. Total number of lights to be installed:	114	
4. Description of Equipment to be installed (the " <u>Equipment</u> "):	Upon failure, DTE Energy to replace the existing 175watt Metal Halide Granville Post Top fixtures to 39w LED stock Granville (or stock LED equivalent).	
5. Estimated Total Annual Lamp Charges	\$26,990.64	
6. Computation of Contribution in aid of Construction (" <u>CIAC Amount</u> ")	Total estimated construction cost, including labor, materials, and overhead:	\$0.00
	Credit for 3 years of lamp charges:	\$0.00
	<b>CIAC Amount (cost minus revenue)</b>	<b>\$0.00</b>
7. Payment of CIAC Amount:	Due promptly upon execution of this Agreement	
8. Term of Agreement	5 years. Upon expiration of the initial term, this Agreement shall continue on a month-to-month basis until terminated by mutual written consent of the parties or by either party with thirty (30) days prior written notice to the other party.	
9. Does the requested Customer lighting design meet IESNA recommended practices?	(Check One) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "No", Customer must sign below and acknowledge that the lighting design does not meet IESNA recommended practices <div style="text-align: right; margin-right: 50px;">_____ </div>	
10. Customer Address for Notices:	Village of Pinckney 220 S. Howell Pinckney, MI 48169 Attn: Linda Lavey	



11. Special Order Material Terms:

All or a portion of the Equipment consists of special order material: (check one)  YES  NO

If "Yes" is checked, Customer and Company agree to the following additional terms.

A. Customer acknowledges that all or a portion of the Equipment is special order materials ("SOM") and not Company's standard stock. Customer will purchase and stock replacement SOM and spare parts. When replacement equipment or spare parts are installed from Customer's inventory, the Company will credit Customer in the amount of the then current material cost of Company standard street lighting equipment.

B. Customer will maintain an initial inventory of at least 10 post assemblies and 0 luminaires and any other materials agreed to by Company and Customer, and will replenish the stock as the same are drawn from inventory. Costs of initial inventory are included in this Agreement. The Customer agrees to work with the Company to adjust inventory levels from time to time to correspond to actual replacement material needs. If Customer fails to maintain the required inventory, Company, after 30 days' notice to Customer, may (but is not required to) order replacement SOM and Customer will reimburse Company for such costs. Customer's acknowledges that failure to maintain required inventory could result in extended outages due to SOM lead times.

C. The inventory will be stored at 1600 Patterson Lake Rd, Pinckney, MI 48169. Access to the Customers inventory site must be provided between the hours of 9:00 am to 4:00 pm, Monday through Friday with the exceptions of federal Holidays. Customer shall name an authorized representative to contact regarding inventory: levels, access, usage, transactions, and provide the following contact information to the Company:

Name: Scott Mills Title: Director of Public Works

Phone Number: 734-878-0666 Email: DPW@villageofpinckney.org

The Customer will notify the Company of any changes in the Authorized Customer Representative. The Customer must comply with SOM manufacturer's recommended inventory storage guidelines and practices. Damaged SOM will not be installed by the Company.

D. In the event that SOM is damaged by a third party, the Company may (but is not required to) pursue a damage claim against such third party for collection of all labor and stock replacement value associated with the damage claim. Company will promptly notify Customer as to whether Company will pursue such claim.

E. In the event that SOM becomes obsolete or no longer manufactured, the Customer will be allowed to select new alternate SOM that is compatible with the Company's existing infrastructure.

F. Should the Customer experience excessive LED equipment failures, not supported by LED manufacturer warrantees, the Company will replace the LED equipment with other Company supported Solid State or High Intensity Discharge luminaires at the Company's discretion. The full cost to complete these replacements to standard street lighting equipment will be the responsibility of the Customer.

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Company and Customer have executed this Purchase Agreement as of the date first written above.

Company:

DTE Electric Company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Customer:

Village of Pinckney

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**Attachment 1 to Purchase Agreement**

**Map of Location**

[To be attached]