

**REIMBURSABLE MAINTENANCE AGREEMENT**

**BETWEEN THE STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

**AND**

**PETERSBURG MUNICIPAL POWER & LIGHT  
FOR THE MAINTENANCE AND MANAGEMENT OF THE  
ILLUMINATION AND SIGNAL SYSTEM AS DESCRIBED BELOW**

This Intergovernmental REIMBURSABLE ILLUMINATION SYSTEMS AGREEMENT ("Agreement") is entered into between the State of Alaska, Department of Transportation and Public Facilities ("State"), and the Petersburg Borough, d/b/a Petersburg Municipal Power & Light ("Petersburg Municipal Power & Light"), a municipality organized and existing under the laws of the State of Alaska (State and Petersburg Municipal Power & Light are collectively referred to as "Parties" herein).

**WHEREAS,** The State has management and maintenance responsibility for the Illumination Systems located on State of Alaska rights of way on Mitkof Island in in the Petersburg Borough;

**WHEREAS, The Petersburg Borough, d/b/a** Petersburg Municipal Power & Light, is a municipal entity having jurisdiction in Petersburg, Alaska;

**WHEREAS,** Petersburg Municipal Power & Light has requested permission from the State to assume the management and maintenance responsibilities for the subject illumination Systems, including all luminaires, poles and bases;

**WHEREAS,** the State has agreed to permit Petersburg Municipal Power & Light to perform the maintenance and repair of Unmetered and Metered State Street Lights and Petersburg Municipal Power & Light has agreed to accept the maintenance and repair responsibility for Unmetered and Metered State Street Lights under the following terms and conditions.

**NOW THEREFORE,** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the State and Petersburg Municipal Power & Light agree as follows;

**1) Authority for this Agreement:**

The authority for this Agreement is under AS 19.05.040.

## 2) Purpose and Term:

- a.) The purpose of this Agreement is to transfer the responsibilities for maintenance and management of the illumination system from the State to Petersburg Municipal Power & Light.

Petersburg Municipal Power & Light, Agrees:

To maintain and repair the present illumination and signal system and their controls, and to furnish the required electrical energy, for an annual fee not to exceed **\$30,222.00, which the State will pay in one lump sum payment promptly upon execution of this Agreement.**

- b.) **Term.** The term of this Agreement shall be for 1 year, with four (4) one-year renewal options unless sooner terminated by the State or Petersburg Municipal Power & Light. This Agreement will automatically renew unless Petersburg Municipal Power & Light provides the State at least 60 days advance written notice of termination.
- c.) **Effective Date.** The effective date of this Agreement is July 1, 2022, enabling the continuation of maintenance and management responsibilities of the State illumination system to Petersburg Municipal Power & Light and pending ADOT execution of the agreement and Petersburg Municipal Power & Light's certification that the Petersburg Borough Assembly took the appropriate measures to adopt any resolution, ordinance or any other document required by the Petersburg Borough's charter or state law.
- d.) **Termination.** Either party may terminate this agreement without cause through issuance of a termination letter to the appropriate Authorized Representative. The parties shall provide 60-day advanced notice of termination.

## 3.) Jurisdiction:

Alaska State Courts shall have exclusive jurisdiction over all civil and equitable actions under this Agreement. Any civil or equitable actions initiated by the Petersburg Municipal Power & Light or the State that arise under or are in any manner related to this Agreement shall be filed in the Alaska State Courts with venue in the First Judicial District at Juneau, Alaska. This Agreement shall be interpreted under the laws of the State of Alaska.

## 4.) Indemnification:

- a. The Borough agrees to defend, indemnify, and hold harmless the State of Alaska, its agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages, arising out of, in connection

with, or incident to any action or omission under this Agreement by the Borough, its agents, employees, contractors, subcontractors, or licensees, including attorney fees and litigation costs. The Borough assumes the risk and liability for its activities and those of its agents, employees, contractors, subcontractors, licensees, or invitees directly or indirectly related to this Agreement, including environmental and hazardous substance risk and liability. This provision shall be valid and enforceable only to the extent of the negligence or willful misconduct of the Borough, or the Borough's agents, employees, contractors, subcontractors, or licensees, the intent being that each party is responsible for its own negligent acts or omissions or willful misconduct, or that of its agents, employees, contractors, subcontractors, or licensees.

- b. This indemnification provision and its terms shall survive the termination of this Agreement and shall hold the State harmless for any unsafe or hazardous conditions occurring on State land interests defined in this Agreement resulting from the Borough's negligent acts or omissions or willful misconduct, or that of its agents, employees, contractors, subcontractors, or licensees.
- c.) Liability for claims and causes of action arising from injuries which occurred prior to the Effective Date, nor liabilities imposed by or claims or causes of action arising from or asserted under AS 46.03.822, shall not be governed by this paragraph.

**5) Incorporation Clause:**

Petersburg Municipal Power & Light shall comply with all applicable current Federal and State laws, regulations, executive orders, stewardship agreements, and applicable DOT&PF manuals and guidelines, including those provisions that would apply to the DOT&PF if the DOT&PF were to perform those tasks to be performed under this Agreement by Petersburg Municipal Power & Light. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement. If amendments to such laws, regulations, etc. are made after the effective date of this Agreement, and such amendment results in an increase in cost to be incurred by Petersburg Municipal Power & Light under this Agreement, the Parties agree to negotiate an equitable adjustment to the Annual Fee to be paid hereunder.

This obligation includes, but is not limited to, compliance with Federal and State uniform relocation assistance and real property acquisition policies; compliance with provisions of the Federal-Aid Policy Guide ("FAPG"); and compliance with the requirements of Title 23 of the United States Code and related implementing regulations, as set forth in the Code of Federal Regulations.

**6) Each Party is an Independent Contractor:**

For the purposes of this Agreement and all services to be provided hereunder, each party shall be, and shall be deemed to be, an independent contractor and not a partner, agent, or employee of the other party. Neither party shall have authority to make any statements, representations, or commitments of any kind, or to take any action, which

shall be binding on the other party, except as may be explicitly provided for herein or authorized by the other party in writing.

**7) Authorized Representatives:**

- a.) Each authorized representative below will have the responsibility to administer and, unless otherwise noted, serve as the main point of contact.
- b.) If and when there is a change in the main point of contact, the changing party shall provide written notification to the other.

<b>For Petersburg Municipal Power &amp; Light</b>	<b>For the State:</b>
Karl Hagerman, Utility Director	D. Lance Mearig, P.E.
P.O. Box 329	Regional Director
Petersburg, Alaska 99833	P.O. Box 112506
khagerman@petersburgak.gov	Juneau, Alaska 99801
	lance.mearig@alaska.gov

- c.) **Notice.** Any request, demand, authorization, direction, notice, consent or waiver provided or permitted to be made upon, given by, or furnished to, the State or Petersburg Municipal Power & Light shall be sufficient for every purpose hereunder if in writing and delivered by hand or by e-mail and shall be deemed delivered at the time of e-mail to the persons at their e-mail addresses noted above or mailed by certified or registered mail, return receipt requested, postage prepaid and addressed as noted above.

The foregoing addresses may be changed by either party by giving to the other party the same type of notice described above providing a substitute address. Any such notice or other document shall be deemed to be received upon delivery, if delivered by hand or by email, or as of five days after the date deposited in the mail, if mailed by certified or registered mail.

**8) Miscellaneous Provisions:**

- a.) **Amendment or modification of Agreement.** This Agreement may only be modified or amended by written agreement signed by authorized representatives for both Parties.
- b.) **The whole agreement.** This Agreement constitutes the entire agreement between the Parties. There are no other understandings or agreements between the Parties, either oral or memorialized in writing regarding the matters addressed in this Agreement.
- c.) **Assignment.** Without the written consent of the State, this Agreement is not assignable by Petersburg Municipal Power & Light either in whole or in

part.

- d.) **Duty of Cooperation.** Petersburg Municipal Power & Light agrees to provide access to relevant records relating to the illumination systems which are the subject of this Agreement, to any authorized representatives of the DOT&PF and further agrees to cooperate in good faith with inquiries and requests for information relating to its obligations under this Agreement.
- e.) **Necessary approvals.** In the event that any ordinance, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable Petersburg Municipal Power & Light to enter into this Agreement or to undertake its duties and obligations, or to observe, assume or carry out any of the provisions of the Agreement, Petersburg Municipal Power & Light will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.
- f.) **Joint drafting.** This Agreement has been jointly drafted by the Parties, and each party has had the ability and opportunity to consult with its legal counsel prior to signature. The Agreement shall not be construed for or against either party.
- g.) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. The counterparts shall together constitute but one agreement. Any signature on a copy of this Agreement or any document necessary or convenient thereto sent electronically or by facsimile shall be binding upon transmission and the electronic or facsimile copy may be utilized for the purposes of this Agreement.
- h.) **Waiver.** Failure to insist upon strict compliance with any term, condition, covenant, promise, or provision contained herein shall not be deemed a waiver of those or any other terms, conditions, covenants, promises, or provisions of this Agreement.
- i.) **Survival.** Any duty, liability or obligation arising hereunder, including without limitation, the obligation of indemnification, shall survive the termination of this Agreement and shall be legally enforceable until satisfied by performance or payment or until enforcement is legally precluded by lapse of time.
- j.) **Successors and assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the State and Petersburg Municipal Power & Light.

k.) **Recitals.** The recitals stated above are agreed to be true and correct and are incorporated herein as material provisions.

IN WITNESS WHEREOF, The Parties hereto have executed this Agreement as of the date signed below.

**PETERSBURG BOROUGH, D/B/A PETERSBURG MUNICIPAL POWER &  
LIGHT**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC  
FACILITIES**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_