



# The Reciprocal

Insurance, Financial & Business Solutions

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## Street Lighting and Your Contractual Obligations

Do you provide street lighting maintenance for your city, town or municipality? Over the years MEARIE has been drawn into many significantly large personal injury claims related to streetlights, maintenance and contractual responsibilities. Here are some of the lessons MEARIE has learned and some best practices to help enlighten your policies and procedures.

The best practice is to have a written contract that has been reviewed by legal counsel. The contract should include the following:

- Exact name of parties to the contract
- Effective start and end date of contract
- Provide a detailed listing, description and definition of the specific services being provided under the contract ensuring they are within your company's Operations – describing the operations as "street lighting maintenance activities" is not advised
- Identification of who is responsible for inspection and outage notification
- Detailed description of service area including which side of streets for boundary roads
- Reporting and record keeping documentation requirements
- Indemnity and hold harmless agreements that are fair and equitable, where neither party is assuming liability for any activities outside of the scope of the respective operations and responsibilities

Each contract should be reviewed on a regular basis to ensure it complies with any changing industry standards and municipal expansion.



In regard to indemnity and hold harmless agreements, ensure to have legal counsel review these clauses carefully. It is possible contractual responsibilities are being assumed unintentionally and are not necessarily mitigated through insurance.

In the event of any claim, one of the best defenses is detailed documentation of work/service provided including: date, time, exact location and detailed description of work. Document, document, document is always considered a best practice, regardless of specific contract requirements.

By ensuring the specific details of the contract reflect the actual scope of the service to be provided, documenting the service and not contractually assuming the liability of others can go a long way to reducing your potential street light claims.

See over...

## Lessons Learned through MEARIE Claims

Based on street lighting claims MEARIE has received, here are some of the more common issues that have arisen, some that can lead to the assumption of liability, along with some suggested solutions:

Contract Issues	Best Practice
Verbal arrangements exist for services, including agreements made by former employees of the municipalities and LDCs	Secure a written contract for any services being performed/expected
Contracts contain indemnification provisions which favour the municipality	Ensure to include indemnity and hold harmless agreements are fair and equitable
Contracts include services the LDC may not be planning to perform, for example, street lighting design	Detailed description of the services expected – and if there is a service described, ensure your LDC is prepared to perform this service
Contracts do not provide sufficient detail of the services expected (for example, it may state the LDC agrees to provide maintenance, but it does not state if that includes ongoing monitoring)	Ensure specific, detailed language is used to elaborate the services being provided, including the full scope and frequency required
Contracts lack sufficient detail on the level of services the LDCs are to perform (i.e. monitoring but frequency thereof not specified)	
Performance of the service required by the contract is not documented once performed	Document and record all work and/or services delivered, regardless of specific contract requirements
Contracts do not clearly specify the service area (especially boundary roads) and do not provide for how the LDC is to be advised of changes to service area	Description of service area should be specific, including which side of streets for boundary roads
Street lighting standards change and there is no clarity as to who is responsible for monitoring such changes and ensuring compliance with them	Identify who is responsible for monitoring and ensuring compliance to standards

MEARIE is here to help. To discuss contractual liability and street light agreements please contact Gary Durie, Manager Risk Management & Underwriting Services, or Helmar Prent, VP Finance & Claims Services.

### Resources:

ESA – Guidelines for the Design, Installation, Operation & Maintenance of Street Lighting Assets

<http://www.esasafe.com/assets/files/esasafe/pdf/Guidelines/Streetlight-Guideline-Final-Ver2-May2015.pdf>

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