

ADDENDUM TO SERVICE AGREEMENT
Between
LARAMIE COUNTY and POWER SYSTEMS WEST

THIS ADDENDUM is made and entered into by and between Laramie County, Wyoming, P. O. Box 608, Cheyenne, Wyoming 82003-0608, ("COUNTY") and Power Systems West 3233 Oakland St., Aurora, CO 80010 (CONTRACTOR.) The parties agree as follows:

I. PURPOSE

The purpose of this Addendum is to modify the Power Systems West Service Agreement, for purposes of providing full service testing and maintenance of emergency standby generator sets owned by Laramie County, and incorporated into this Addendum by this reference As "Attachment A."

II. TERM

This Agreement shall commence on the date the last signature is affixed hereto and remain in full force and effect from August 2022 through August 2025, unless it is terminated as provided herein.

III. PAYMENT

Payment for work performed shall be made at the rate described in Exhibits A and B of the Service Agreement, and approved by the Director of Laramie County Maintenance. CONTRACTOR shall submit estimates for any service required or requested by the Director of Maintenance who shall, in his/her sole discretion, decide whether to accept or reject said estimate and whether to assign said job to CONTRACTOR.

COUNTY shall pay CONTRACTOR upon receipt of the CONTRACTOR'S invoice to the COUNTY. No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended).

IV. RESPONSIBILITIES OF CONTRACTOR

A. CONTRACTOR shall perform the services and inspections in accord with Attachment A, specifically including but not necessarily limited to those services described in "Exhibits A and B" incorporated by reference herein, or as otherwise agreed upon between the Director of Maintenance Department and CONTRACTOR. CONTRACTOR shall be available at the request of the Director to perform services and inspections as needed.

B. CONTRACTOR agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. CONTRACTOR agrees to permit access by the COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific Agreement for purposes including but not limited to audit,

examination, excerpts, and transcriptions. It is agreed that finished or unfinished documents, data or reports, prepared by CONTRACTOR under this contract shall be considered the property of the COUNTY and upon completion of the services to be performed, or upon termination of this Agreement for cause, or for the convenience of the COUNTY, will be turned over to the COUNTY.

V. MODIFICATIONS

A. In the section entitled **Payment/Default** the language "30 days" is stricken and replaced with "45 days" and the final sentence of that section is stricken and of no force or effect.

VI. GENERAL PROVISIONS

A. Independent Contractor: The services to be performed by CONTRACTOR are those of an independent contractor and not as an employee of COUNTY. CONTRACTOR is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. CONTRACTOR assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. CONTRACTOR is free to perform the same or similar services for others.

B. Acceptance Not Waiver: COUNTY approval of the reports, and work or materials furnished hereunder shall not in any way relieve CONTRACTOR of responsibility for the technical accuracy of the work. COUNTY approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by COUNTY upon notice to CONTRACTOR, (c), by CONTRACTOR, with thirty (30) days' prior written notice to the other party; or (d) upon mutual written agreement by both parties.

D. Entire Agreement: The Agreement (6 pages) and this Addendum (5 pages) represent the entire and integrated agreement and understanding between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

E. Assignment: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

F. Modification: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.

G. Invalidity: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable

any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

H. Applicable Law and Venue: The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to CONTRACTOR and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

I. Contingencies: CONTRACTOR certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

J. Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

K. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

L. Governmental/Sovereign Immunity: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

M. Indemnification: To the fullest extent permitted by law, CONTRACTOR agrees to indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf of CONTRACTOR for COUNTY except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees. CONTRACTOR shall carry liability insurance sufficient to cover its obligations under this provision and provide COUNTY with proof of such insurance.

N. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

O. Conflict of Interest: COUNTY and CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement

described herein. No staff member of CONTRACTOR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

P. Force Majeure: Neither party shall be liable to perform under this Agreement if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

Q. Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CONTRACTOR at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision.

R. Notices: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

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ADDENDUM TO SERVICE AGREEMENT
Between
LARAMIE COUNTY and POWER SYSTEMS WEST

LARAMIE COUNTY, WYOMING

By: _____ Date _____
Troy Thompson, Chairman, Laramie County Commissioners


ATTEST:

By: _____ Date _____
Debra Lee, Laramie County Clerk

CONTRACTOR: Power Systems West

By:  _____ Date 6/20/22
Title: Manager

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  _____ Date 7/7/22
Mark Voss, Laramie County Attorney

Agreement No: 22-C6000096
Bill To: Laramie County Government
309 W 20th St, Suite 1500S
Cheyenne, WY 82001
307-633-4341

Date: 4/29/22
Ship To: Various (see below)
Jerry Pribble 307-633-4341
jpribble@laramiecounty.com

PowerSyste

SERVICE AGREEMENT
8/2022 – 8/2025

This Service Agreement is Entered into by Power Systems West and the generator set Owner for the purpose of setting forth the terms and conditions governing Power Systems West obligations to service Owner's emergency standby generator set(s) and associated equipment.

Upon acceptance of the Agreement, by Owner, Power Systems West will render the following services only. It will be inspected during normal business hours at least **two (2) times** each year this agreement remains in effect. This Agreement will be reviewed and/or updated annually. These inspections will include:

1. Ignition system and components will be inspected and replaced as needed.
2. The entire equipment will be lubricated and the oil changed when 1 year have lapsed.
3. Fuel system will be inspected for deterioration or rust collection. All fuel filters will be replaced annually
4. Cooling system will be checked. When replacement of belts and hoses is recommended a quote will be provided.
5. All batteries will be checked, cleaned, or replaced bi-annually or as needed.
6. All air cleaners will be inspected and will be replaced or quoted as needed.
7. Safety shutdown system will be inspected and tested if applicable
8. Exhaust system components will be checked for deterioration, and quote will be provided as necessary.
9. All instruments will be checked for proper operation.
10. The generator will be checked for proper setting and operation. Voltage and frequency will be adjusted, brushes will be inspected if applicable.
11. Automatic transfer switch will be inspected, cleaned and adjusted as required.
12. Reset and test exercise clock. Check hour meter for proper operation.
13. Genset and transfer switch will be checked and wiped down as needed.
14. Personnel will be instructed on operation and upkeep procedures to be followed by OWNER between regular calls by POWER SYSTEMS WEST service personnel.
15. After all the above has been completed, service personnel will run generator set(s) and conduct tests under Owner's load providing Owner makes such load available and it is practical to run the tests concerned.
16. Power Systems West will submit a report to the Owner of the entire inspection and will advise customer of any repairs needed.



The charges for the service to be rendered, as set forth on "Exhibit A" attached hereto, are based upon average inspection times.

It is understood that by this Agreement, Power Systems West is not obligated to supply any parts, labor or traveling expenses, other than those specifically mentioned above. It does not include expenses to repair damages caused by abuse, accident, theft, acts of third person, and forces of nature or altering the equipment. Power Systems West shall not be responsible for failure to render the service for causes beyond its control, including strikes and labor disputes.

This Agreement is not assignable without the consent of both parties and will remain in force until cancelled by either party through 30 days written notice to the other.

Should either party breach the written Agreement and should legal action be instituted to enforce the right or duties herein set forth, then the Court concerned may award attorney's fees to the successful party litigant.

Incorporated in the Agreement and an integral part thereof, are the attached Exhibits described as:

"Exhibit A" Equipment to be Serviced and Rates
"Exhibit B" Additional Charges

"Exhibit A" Of Service Agreement

Equipment to be Serviced and Rates

Unit Make: Kohler

Unit Model #: 250ROZD

Unit Serial #: 355701

Location: 20th & Carey – Court House

Major Service Per Visit: \$1,261.00

Inspection Service Per Visit: \$615.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$1,044.00

Unit Make: Cummins

Unit Model #: DGGD-7279377

Unit Serial #: K080219125

Location: 100 Central Ave

Major Service Per Visit: \$779.00

Inspection Service Per Visit: \$476.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$682.00

Unit Make: Cummins

Unit Model #: DSHAD-6862750

Unit Serial #: D110209448

Location: Planning Building 3966 Archer Parkway

Major Service Per Visit: \$1,106.00

Inspection Service Per Visit: \$482.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$1,044.00

POWER SYSTEMS

WEST

PowerSyste

Unit Make: Cummins

Unit Model #: DSHAC-7503939

Unit Serial #: G11033582

Location: Juvenile Ctr 13794 Prairie Center Cir

Major Service Per Visit: \$1,261.00

Inspection Service Per Visit: \$615.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$1,044.00

Unit Make: Generac

Unit Model #: 12978570100

Unit Serial #: 2110892

Location: Public Works 13797 Prairie Center Cir

Major Service Per Visit: \$1,356.00

Inspection Service Per Visit: \$630.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$1,467.00

Unit Make: Generac

Unit Model #: SG0070

Unit Serial #: 3004527091

Location: Fairgrounds Facility 3801 Archer Pkwy

Major Service Per Visit: \$740.00

Inspection Service Per Visit: \$476.00

Optional 2hr Load Bank Test (once a year performed w/inspection or major service): \$682.00

Service Agreement Rate per Visit – Major Service - **\$6,503.00**

Service Agreement Rate per Visit – Inspection Service - **\$3,294.00**

(2hr load bank test once a year performed w/inspection or major service) - **\$5,963.00**

Fuel can be provided during the inspection or major service; fuel will be a separate charge.

Fuel to be provided on as needed basis will be billed in addition to the cost of the PM.

ADDITIONAL CHARGES

Charges for additional labor for troubleshooting and repair including travel time from **Power Systems West** to location and return will be billed at these discounted labor rates. These rates are per man, per hour.

Regular Rate:	Monday - Friday, 8:00 A.M. - 4:30 P.M.....	\$155.00
Overtime Rate:	Monday - Friday, Before 8:00 A.M. or after 4:30 P.M.	\$232.50
Weekend Rate:	All times on Saturdays and Sundays.....	\$232.50
Holiday Rate:	All times on major holidays	\$310.00
Mileage Rate:	Round trip per mile.....	\$2.00



PowerSystem

Exhibit B” Of Service Agreement

Additional Charges

Emergency service between regular inspections will be provided at regular rates for labor and parts, plus the established travel charges to location of the generator set(s). Standard labor rates are set forth on

“Exhibit B”

Charges for additional labor time and mileage will be billed at the posted labor rates.

Oil and coolant samples are included in the major pm service. Fuel samples are available at an additional charge.

Surcharges included on all invoices:

- Fuel Surcharge \$20.00
- Shop Surcharge \$22.00
- Oil Surcharge per qt/gal \$0.40/\$1.60
- Coolant Surcharge per gal \$1.60

Notes for specific contracts



Payment/Default: Upon Credit Approval, Applicant(s) agree: To pay invoices in full within 30 days from invoice date; To pay service charges of 1.5% per month (18% per year) or maximum permitted by law, whichever is less, on all past due amounts. If any amount owed to Power Systems West is not paid when due, Power Systems West may at its option: place the account on C.O.D., terminate any unfilled orders, or discontinue any service until the account is current. If applicant(s) are in default, applicant(s) to pay all collection costs and expenses, including collection agency fees, attorney's fees and all costs, whether or not an action is commenced, and included those at any appellate level.

Miscellaneous: Any change in applicant(s) business structure shall not affect applicant(s) obligations under this agreement unless **Power Systems West** agrees otherwise in writing. By signing here you **AGREE TO ALL TERMS OF THIS AGREEMENT AND ALL TERMS OF ANY SALES OR SERVICE AGREEMENTS PREPARED BY Power Systems West** on behalf of applicant(s), which may be you. If other than applicant(s), signer represents that he/she is an agent of, and authorized to sign on behalf of applicant(s).

Signed _____ Date _____

Print name _____ Title _____

Email _____

PLEASE CIRCLE ALL THAT APPLY:

RESIDENCE CORPORATION BRANCH DIVISION SOLE PROPRIETORSHIP
PARTNERSHIP LLC

Name of Parent Company

Power Systems West of Colorado
3233 Oakland St
Aurora, CO 80010
303-360-7110

Customer: Laramie County Government
309 W 20th St, Suite 1900
Cheyenne, WY 82001
307-633-4341

Service Agreement

It is mutually understood that this four-page proposal set forth constitutes the entire AGREEMENT

Jennifer Schenderlein

By _____ By _____

Service Coordinator

Title



Title

PowerSyste

4/29/22

Date

Date