

ADDENDUM TO MAINTENANCE 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 Agreement, for purposes of providing full service annual testing and inspection of five generators owned by Laramie County for a period of two years.

II. TERM

This Agreement shall commence on the date the last signature is affixed hereto and remain in full force and effect until terminated as provided herein.

III. PAYMENT

Payment for work performed shall be made at a rate to be 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. MODIFICATIONS

A. The first sentence in the fourth paragraph is modified to provide that "Power Systems West warrants its services to be free from defects in workmanship for 45 calendar days.

B. The paragraph entitled "Default," the sentence continuing with "including attorney's fees and all costs, whether or not an action is commenced, and including those as appellate level" is omitted and is of no force or effect.

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 "Schedule 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. 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 (5 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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LARAMIE COUNTY, WYOMING

By: _____ Date _____
K.N. Buck Holmes, Chairman, Laramie County Commissioners

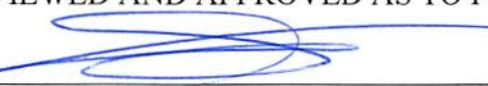
ATTEST:

By: _____ Date _____
Debra Lee, Laramie County Clerk

CONTRACTOR: Power Systems West

By:  _____ Date 7/20/18
Title: Manager

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  _____ Date 7/31/18
Gladys Ayokosok, Laramie County Attorney

**MAINTENANCE AGREEMENT
TERMS & CONDITIONS**

Agreement No: 18-C1459

**Bill To: Laramie County Government
309 W. 20th St
Suite 1900
Cheyenne, WY 82001
307-633-4341**

Date: 7/11/18

**Ship To: Various (see below)
Chris Wegner 307-631-8426
cwegner@laramiecounty.com**

The charges set for the service to be rendered, as set forth on Schedule A, & B, attached hereto, is based on average inspection times. If additional labor is required for repairs beyond the scope of **Agreement**, **Power Systems West** will gain Owner's consent before performing such work. Material, supplies and labor above the scope outlined in Schedule A & B will be billed at **Power Systems West** standard retail rates.

Emergency service between regular inspections will be provided at regular rates for labor and parts plus the established travel charges to the locations of the generator set. Incidental labor charges not specifically covered in the scope of the agreement shall be billed at **Power Systems West** retail rates. These include, but are not limited to, Owner/Manager requested standby time, and waiting for access.

It is understood by this **Agreement**, **Power Systems West** is not obligated to supply any parts, labor, or travel expenses, other than those specifically mentioned in schedule A & B. It does not include expenses to repair damages caused by abuse, accident, theft, acts of third party, 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 labor strikes and labor disputes.

Power Systems West warrants its service labor to be free from defects in workmanship for 30 calendar days. This warranty is expressly in lieu of any other warranties, expressed or implied including any warranty or merchantability or fitness for a particular purpose. Remedies under this warranty are expressly limited to repairs as specified above and any claims for loss arising out of failure of the product to operate for any period of time or from special, indirect or consequential damages or from other economic losses, are expressly excluded. In addition, the owner must have paid his account or be current before any Warranty work is done.

Payment: Applicant(s) agree to pay invoices in full within 30 days from invoice date. To pay service charges 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.

Default: If applicant(s) are in default, applicant(s) to pay all collection costs and expenses, including 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 **EC** 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 PSW**

on behalf of applicant(s), which maybe you. If other than applicant(s), signer represents that he/she is agent of and authorized to sign on behalf of applicant(s)

Signed _____ Date _____

Print name _____ Title _____

PLEASE CIRCLE ALL THAT APPLY:

RESIDENCE CORPORATION BRANCH DIVISION SOLE PROPRIETORSHIP PARTNERSHIP LLC

Name of parent company _____

EQUIPMENT TO BE SERVICED AND RATES

Make: Kohler

Unit Model #: 250ROZD

Unit Serial #: 355701

Location: 20th & Carey – Court House

1 Year "A" & "B"	2 Year "A" & "B"	
Schedule "A": \$1,178.00 each	\$1,071.00 each	1 Time Per Year <i>cw</i>
Schedule "B": \$495.00 each	\$450.00 each	1 Time Per Year

Optional Load Bank Test: \$640.00 2 Hour Resistive

Make: Cummins

Unit Model #: DGGD-7279377

Unit Serial #: K080219125

Location: 100 Central Ave

1 Year "A" & "B"	2 Year "A" & "B"	
Schedule "A": \$727.00 each	\$661.00 each	1 Time Per Year <i>cw</i>
Schedule "B": \$387.00 each	\$352.00 each	1 Time Per Year

Optional Load Bank Test: \$485.00 2 Hour Resistive

Make: Cummins

Unit Model #: DSHAD-6862750

Unit Serial #: D110209448

Location: Planning Building 3966 Archer Parkway

1 Year "A" & "B"	2 Year "A" & "B"	
Schedule "A": \$1,057.00 each	\$961.00 each	1 Time Per Year <i>cw</i>
Schedule "B": \$495.00 each	\$450.00 each	1 Time Per Year
Schedule "A" ONLY: \$1,023.00		1 Time Only

Optional Load Bank Test: \$640.00 2 Hour Resistive

Make: Cummins

Unit Model #: DSHAC-7503939

Unit Serial #: G11033582

Location: Juvenile Ctr 13794 Prairie Center Circle

1 Year "A" & "B"	2 Year "A" & "B"	
Schedule "A": \$1,178.00 each	\$1,071.00 each	1 Time Per Year <i>cw</i>
Schedule "B": \$495.00 each	\$450.00 each	1 Time Per Year

Optional Load Bank Test: \$640.00

2 Hour Resistive

Make: Generac

Unit Model #: 12978570100

Unit Serial #: 2110892

Location: Public Works 13797 Prairie Center Circle

	1 Year "A" & "B"	2 Year "A" & "B"	
Schedule "A": \$1,209.00 each	\$1,099.00 each	1 Time Per Year <i>cw</i>	
Schedule "B": \$495.00 each	\$450.00 each	1 Time Per Year	

Optional Load Bank Test: \$1,011.00

2 Hour Resistive

TOTAL:

One Year Agreement	\$7,716.00
Two Year Agreement	\$14,030.00

Initial One:
One Year
Two Year *cw*

Optional Load Bank Test: \$3,416.00 2 Hour Resistive
(In conjunction with an "A" or "B" Service. Please circle one.)

Initial:
cw

Each Service will be billed as performed.

Normal replenishment and replacement of fluids are included. All fuel and other parts are extra.
Incorporated in this **Agreement** and an integral part thereof, are the attached "A" & "B" Schedules.

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	\$130.00
Overtime Rate:	Monday - Friday, Before 8:00 A.M. or after 4:30 P.M.	\$195.00
Weekend Rate:	All times on Saturdays and Sundays	\$195.00
Holiday Rate:	All times on major holidays	\$250.00
Mileage Rate:	Round trip per mile	\$1.75

SCHEDULE "A"

MAJOR SERVICE ITEMS

- The entire unit will be lubricated and the oil changed if the hour meter indicates more than 100 hours of operation since the last oil change or when 12 months have lapsed (oil sample pulled and analyzed). All oil filters will be replaced.
- All fuel filters and sediment bowls will be cleaned or replaced.
- Fuel tanks and lines will be inspected for the purpose of determining if excessive sludge or rust is collecting. Fuel sample pulled and analyzed for visible solids and moisture, as requested by customer. ***

4. Cooling system will be checked. Belts and hoses will be changed at three (3) year intervals or sooner if necessary. ** (Antifreeze samples pulled for analysis).
5. All batteries will be checked, recharged, or replaced as necessary. **
6. Dry type air filter elements will be inspected and replaced if necessary. **
7. Generator will be checked for proper setting and operation. Voltage and frequency will be adjusted.
8. Safety shutdowns will be tested and adjusted when applicable.
9. All instruments will be checked for proper operation.
10. Check exhaust system components for deterioration, and repair as necessary. **
11. Automatic transfer switch will be checked for proper operation. If owner/operator will allow power to be shut off to the switch, technician will clean the contacts and lubricate moving parts as recommended. In addition the switch will be vacuumed and brushed out for dust removal and closely inspected for frayed wiring or other maintenance hazards.
12. Recalibrate voltage sensors, reset time delay modules, and adjust battery charger as needed.
13. Reset and test exercise clock, as well as, check hour meter for proper operation.
14. After all the above has been completed; **Power Systems West** service personnel will run generator set(s) and transfer generator power to building load. This is providing Owner/Operator will allow the transfer to the generator.
15. Owner's personnel will be instructed on operation and upkeep procedures to be followed by Owner between regular service inspections.
16. **Power Systems West** will submit a report to the Owner of the entire inspection.

** Parts and labor for these repairs are beyond the scope of Schedule "A" maintenance and will be accomplished with owner's consent at flat rate quoted pricing.

***Additional cost will be incurred for requested fuel samples.

Owner/Manager	Date
<i>Jennifer Schenderlein</i>	<i>7/11/18</i>

PSW Representative	Date
Local branch Phone Number	
303-360-7110	

SCHEDULE "B"

MINOR SERVICE ITEMS

Schedule "B" maintenance should be done at six (6) month intervals to Schedule "A" maintenance.

1. Fuel tanks and lines will be inspected for the purpose of determining if excessive sludge or rust is collecting.
2. Cooling system will be checked. Belts and hoses will be changed at three (3) year intervals or sooner if necessary. **
3. All batteries will be checked, cleaned, recharged, or replaced as necessary. **
4. Check lubricating oil and add as necessary.
5. Generator will be checked for proper setting and operation. Voltage and frequency will be adjusted.
6. Safety shutdowns will be tested and adjusted.

7. All instruments will be checked for proper operation.
8. Check exhaust system components for deterioration, and repair as necessary. **
9. Automatic transfer switch will be checked for proper operation.
10. Recalibrate voltage sensors, reset time delay modules and adjust battery charger.
11. Reset and test exercise clock, as well as, check hour meter for proper operation.
12. **Power Systems West** will submit a report to the Owner of the entire inspection.
13. After all the above has been completed; **Power Systems West** service personnel will run generator set(s) and transfer generator power to building load. This is providing Owner/Operator will allow the transfer to the generator.

**** Parts and labor for these repairs are beyond the scope of Schedule "B" maintenance and will be accomplished with owner's consent at flat rate quoted pricing.**

Owner/Manager	Date
Jennifer Schenderlein	7/11/18

PSW Representative	Date
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Local Branch Phone Number
303-360-7110

PORTLAND
6110 N Cutter Circle,
Portland, OR 97217
503.224.3823

SEATTLE
2004 48th Ave. Cl E
Fife, WA 98424
253.517.1701

BOISE
4499 Market St
Boise, ID 83705
208.342.6541

SALT LAKE CITY
3738 West 2340 S, Suite E
Salt Lake City, UT 84120
801.888.1424

DENVER
3233 Oakland St
Aurora, CO 80010
303.360.7110