

RESOLUTION NO. R22-15

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR TO EXECUTE THE INDEPENDENT CONTRACTOR SERVICE CONTRACT BY AND BETWEEN THE CITY OF LAUREL AND INTERSTATE POWER SYSTEMS

BE IT RESOLVED by the City Council of the City of Laurel, Montana,

Section 1: Approval. The Independent Contractor Service Contract, a copy attached hereto and incorporated herein, is hereby approved.

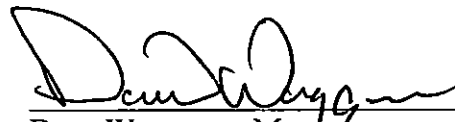
Section 2: Execution. The Mayor is hereby given authority to execute the Independent Contractor Service Contract on behalf of the City.

Introduced at a regular meeting of the City Council on the 12th day of April 2022, by Council Member Klose.

PASSED and APPROVED by the City Council of the City of Laurel the 12th day of April 2022.

APPROVED by the Mayor the 12th day of April 2022.


CITY OF LAUREL


Dave Waggoner, Mayor

ATTEST:


Bethany Keeler, Clerk-Treasurer

APPROVED AS TO FORM:


Michele L. Braukmann, Civil City Attorney

INDEPENDENT CONTRACTOR SERVICE CONTRACT

This Contract is made and entered into this 12th day of April 2022, between the City of Laurel, a municipal corporation organized and existing under the laws of the State of Montana whose address is P.O. Box 10, Laurel, Montana 59044, hereinafter referred to as "City" and Interstate Power Systems, a contractor licensed to conduct business in the State of Montana, whose address is 1140 Main Street, Billings MT 59105, hereinafter referred to as "Contractor".

SECTION ONE DESCRIPTION OF SERVICES

A. Purpose. City shall hire Contractor as an independent contractor to perform for City the services described in the Bid dated February 2, 2022, attached hereto as Exhibit "A" and by this reference made part of this contract.

B. Effective Date. This contract is effective upon the date of its execution by both Parties. Contractor shall complete the services within 60 days of commencing work. The parties may extend the term of this contract in writing prior to its termination for good cause.

C. Scope of Work. Contractor shall perform his/her work and provide services in accordance with the specifications and requirements of this contract, any applicable Montana Public Work Standard(s) and Exhibit "A".

SECTION TWO CONTRACT PRICE

Payment. City shall pay Contractor as set forth and itemized for Years 2022, 2023, and 2024 for the work described in Exhibit A. Any alteration or deviation from the described work that involves extra costs must be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree to extra payments or charges in writing. Prior to final payment, Contractor shall provide City with an invoice for all charges.

SECTION THREE CITY'S RESPONSIBILITIES

Upon completion of the contract and acceptance of the work, City shall pay Contractor the contract price, plus or minus any additions or deductions agreed upon between the parties in accordance with Sections one and two, if any.

SECTION FOUR CONTRACTOR'S WARRANTIES AND RESPONSIBILITIES

A. Independent Contractor Status. The parties agree that Contractor is an independent contractor for purposes of this contract and is not to be considered an employee of the City for any purpose hereunder. Contractor is not subject to the terms and provisions of the City's personnel policies or handbook and shall not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings, agreements or sub-contracts in any dealings between Contractor and any third parties. The City is interested solely in the

results of this contract. Contractor is solely responsible for all work and work product under this contract, including techniques, sequences, procedures, and means. Contractor shall supervise and direct the work to the best of his/her ability.

B. **Wages and Employment.** Contractor shall abide by all applicable State of Montana Rules, Regulations and/or Statutes in regards to prevailing wages and employment requirements. Contractor shall comply with the applicable requirements of the Workers' Compensation Act. Contractor shall maintain workers' compensation coverage for all members and employees of his/her business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA. Contractor understands that all contractors or subcontractors working on publicly funded projects are required to have withheld from earnings a license fee of one percent (1%) of the gross contract price if the gross contract price is Five Thousand Dollars (\$5,000) or more. This license fee is paid to the Montana Department of Revenue pursuant to Montana law.

C. Unless otherwise specified by the terms of this Agreement, all materials and equipment used by Contractor on the Construction Project shall be new and where not otherwise specified, of the most suitable grade for their intended uses.

D. All workmanship and materials shall be of a kind and nature acceptable to the City.

E. All equipment, materials, and labor provided to, on, or for the Contract must be free of defects and nonconformities in design, materials, and workmanship for a minimum period beginning with the commencement of the work and ending one (1) year from completion and final acceptance by the City. Upon receipt of City's written notice of a defective or nonconforming condition during the warranty period, Contractor shall take all actions, including redesign and replacement, to correct the defective or nonconforming condition within a time frame acceptable to the City and at no additional cost to the City. Contractor shall also, at its sole cost, perform any tests required by City to verify that such defective or nonconforming condition has been corrected. Contractor warrants the corrective action taken against defective and nonconforming conditions for a period of an additional one (1) year from the date of City's acceptance of the corrective action.

F. Contractor and its sureties are liable for the satisfaction and full performance of all warranties.

G. Contractor has examined the facilities and/or has made field examinations. Contractor has knowledge of the services or project sought under this Contract and he/she further understands the site conditions to be encountered during the performance of this Contract. Contractor has knowledge of the types and character of equipment necessary for the work, the types of materials needed and the sources of such materials, and the condition of the local labor market.

H. Contractor is responsible for the safety of the work and shall maintain all lights, guards, signs, temporary passages, or other protections necessary for that purpose at all times.

I. All work is performed at Contractor's risk, and Contractor shall promptly repair or replace all damage and loss at its sole cost and expense regardless of the reason or cause of the damage or loss; provided, however, should the damage or loss be caused by an intentional or negligent act of the City, the risk of such loss shall be placed on the City.

J. Contractor is responsible for any loss or damage to materials, tools, work product or other articles

used or held for use in the completion or performance of the Contract.

K. Title to all work, work product, materials and equipment covered by any payment of Contractor's compensation by City, whether directly incorporated into the Contract or not, passes to City at the time of payment, free and clear of all liens and encumbrances.

**SECTION FIVE
INDEMNITY AND INSURANCE**

Contractor shall indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or its agents or employees.

**SECTION SIX
COMPLIANCE WITH LAWS**

Contractor shall comply with all federal, state, local laws, ordinances, rules and regulations. Contractor shall either possess a City business license or shall purchase one, if a City Code requires a business license.

**SECTION SEVEN
NONDISCRIMINATION**

Contractor agrees that any hiring of persons as a result of this contract must be on the basis of merit and qualification and further that Contractor shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin.

**SECTION EIGHT
DEFAULT**

If either party fails to comply with any term or condition of this Contract at the time or in the manner provided for, the other party may, at its option, terminate this Contract and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law except for punitive damages. The Parties hereby waive their respective claims for punitive damages. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Contract.

**SECTION NINE
TERMINATION**

Either party may terminate the contract for their convenience upon thirty days written notice sent postage prepaid, to the addresses provided herein.

**SECTION TEN
GOVERNING LAW AND DISPUTE RESOLUTION**

The Parties agree that the laws of the State of Montana govern this Contract. The Parties agree that venue is proper within the Courts of Yellowstone County, Montana. If a dispute arises, the Parties, through a representative(s) with full authority to settle a dispute, shall meet and attempt to negotiate a resolution of the dispute in good faith no later than ten business days after the dispute arises. If negotiations fail, the Parties may utilize a third party mediator and equally share the costs of the mediator or file suit.

**SECTION ELEVEN
ATTORNEY FEES**

If any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all sums that either is ordered to pay, a reasonable sum for the successful party's attorney's fees and all costs charges and expenses related to the action.

**SECTION TWELVE
ENTIRE AGREEMENT**

This contract and its referenced attachment and Exhibit A contain the entire agreement and understanding of the parties and supersede any and all prior negotiations or understandings relating to this project. This contract shall not be modified, amended, or changed in any respect except through a written document signed by each party's authorized respective agents.

**SECTION THIRTEENTH
ASSIGNMENT OF RIGHTS**

The rights of each party under this Contract are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

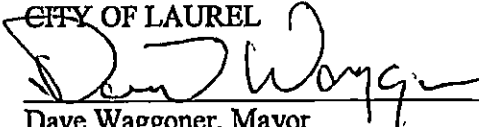
**SECTION FOURTEEN
SEVERABILITY**

Each provision, section, or subsection of this Contract shall stand separate and independent of every other. In the event that a court of competent jurisdiction shall find any provision, section, or subsection of this contract to be invalid, the remaining provisions, sections, and subsections of this contract shall remain in full force and effect.


**SECTION FIFTEEN
PARAGRAPH HEADINGS**

The titles to the paragraphs of this contract are solely for the convenience of the parties and shall not be used to explain, simplify, or aid in the interpretation of the provisions of this agreement.


SIGNED AND AGREED BY BOTH PARTIES ON THE 12th DAY OF APRIL 2022.

CITY OF LAUREL


Dave Waggoner, Mayor

CONTRACTOR


Interstate Power Systems

ATTEST:


Bethany Keeler, Clerk/Treasurer

Employer Identification Number

41-1634357



INTERSTATE Power Systems

City of Laurel- Public Works
Nathan Herman
115 West First Street
Laurel, MT 59044
Phone: 406-628-9024
nherman@laurel.mt.gov

February 2, 2022
VID: multiple units

Re: Preventive Maintenance Agreement

Thank You for the opportunity to allow *Interstate Power Systems* to quote your generator service inspection needs. We are sending you a (3) year service maintenance contract with the pricing for Annual Service, Semi-Annual Inspection, and Two-Hour Load Bank Test.

Kohler Generator – S/N: 0777268 – VID: 732512 – Water Treatment Plant

An Annual Service PM for 2022 -----\$ 1,148.00
An Annual Service PM for 2023 -----\$ 1,183.00
An Annual Service PM for 2024 -----\$ 1,220.00

Onan Generator – S/N: B060890387 – VID: 217643 – West Maryland

An Annual Service PM for 2022 -----\$ 685.00
An Annual Service PM for 2023 -----\$ 696.00
An Annual Service PM for 2024 -----\$ 706.00

Onan Generator – S/N: K070123536 – VID: 317259 – Walmart Lift Station

An Annual Service PM for 2022 -----\$ 513.00
An Annual Service PM for 2023 -----\$ 522.00
An Annual Service PM for 2024 -----\$ 532.00

Onan Generator – S/N: C100108531 – VID: 317308 – Village Lift Station

An Annual Service PM for 2022 -----\$ 480.00
An Annual Service PM for 2023 -----\$ 488.00
An Annual Service PM for 2024 -----\$ 496.00

Kohler Generator – S/N: SGM32GCRC – VID: 732454 – Elm Street Lift Station

An Annual Service PM for 2022 -----\$ 720.00
An Annual Service PM for 2023 -----\$ 740.00
An Annual Service PM for 2024 -----\$ 761.00

Kohler Generator – S/N: SGM32HPPB – VID: 732504 – New Intake

An Annual Service PM for 2022 -----\$ 510.00
An Annual Service PM for 2023 -----\$ 516.00
An Annual Service PM for 2024 -----\$ 521.00

Billings, MT | Bismarck, ND | Cedar Rapids, IA | Chicago, IL | Davenport, IA | Des Moines, IA
 Fargo, ND | Gary, IN | Gillette, WY | Grand Forks, ND | Iron Mountain, MI | Lincoln, NE | Minneapolis, MN
 Milwaukee, WI | Omaha, NE | Rockford, IL | Sioux Falls, SD | Waterloo, IA | Williston, ND

INTERSTATE Power Systems

Kohler Generator – S/N: 2275332 – VID: 732507 – Murray Street Booster
An Annual Service PM for 2022 -----\$ 440.00
An Annual Service PM for 2023 -----\$ 445.00
An Annual Service PM for 2024 -----\$ 451.00

Kohler Generator – S/N: SGM329KNX – VID: 129772 – Waste Water Treatment Plant
An Annual Service PM for 2022 -----\$ 890.00
An Annual Service PM for 2023 -----\$ 911.00
An Annual Service PM for 2024 -----\$ 934.00

The Annual would include the following procedures: change oil, change oil filters, change fuel filter, fluids topped off, hoses checked, belts checked, battery checked, sample the oil, sample the coolant, start and run unit to check functions. Document the procedure.

Kohler Generator – S/N: 0777268 – VID: 732512 – Water Treatment Plant
Two Hour Load Bank Test for 2022 -----\$ N/A
Two Hour Load Bank Test for 2023 -----\$ N/A
Two Hour Load Bank Test for 2024 -----\$ N/A

Onan Generator – S/N: b060890387 – VID: 217643 – West Maryland
Two Hour Load Bank Test for 2022 -----\$ 625.00
Two Hour Load Bank Test for 2023 -----\$ 625.00
Two Hour Load Bank Test for 2024 -----\$ 625.00

Onan Generator – S/N: K070123536 – VID: 317259 – Walmart Lift Station
Two Hour Load Bank Test for 2022 -----\$ 487.00
Two Hour Load Bank Test for 2023 -----\$ 487.00
Two Hour Load Bank Test for 2024 -----\$ 487.00

Onan Generator – S/N: C100108531 – VID: 317308 – Village Lift Station
Two Hour Load Bank Test for 2022 -----\$ 487.00
Two Hour Load Bank Test for 2023 -----\$ 487.00
Two Hour Load Bank Test for 2024 -----\$ 487.00

Kohler Generator – S/N: SGM32GCRC – VID: 732454 – Elm Street Lift Station
Two Hour Load Bank Test for 2022 -----\$ 491.00
Two Hour Load Bank Test for 2023 -----\$ 491.00
Two Hour Load Bank Test for 2024 -----\$ 491.00

Kohler Generator – S/N: SGM32HPPB – VID: 732504 – New Intake
Two Hour Load Bank Test for 2022 -----\$ 587.00
Two Hour Load Bank Test for 2023 -----\$ 587.00
Two Hour Load Bank Test for 2024 -----\$ 587.00

Billings, MT | Bismarck, ND | Cedar Rapids, IA | Chicago, IL | Davenport, IA | Des Moines, IA
 Fargo, ND | Gary, IN | Gillette, WY | Grand Forks, ND | Iron Mountain, MI | Lincoln, NE | Minneapolis, MN
 Milwaukee, WI | Omaha, NE | Rockford, IL | Sioux Falls, SD | Waterloo, IA | Williston, ND

INTERSTATE Power Systems

Kohler Generator – S/N: 2275332 – VID: 732507 – Murray Street Booster
Two Hour Load Bank Test for 2022 -----\$ 587.00
Two Hour Load Bank Test for 2023 -----\$ 587.00
Two Hour Load Bank Test for 2024 -----\$ 587.00

Kohler Generator – S/N: SGM329KNX – VID: 129772 – Waste Water Treatment Plant
Two Hour Load Bank Test for 2022 -----\$ 1,588.00
Two Hour Load Bank Test for 2023 -----\$ 1,588.00
Two Hour Load Bank Test for 2024 -----\$ 1,588.00

The Load Bank Testing would include the following: two-hour continuous load bank test with resistive load bank. Testing up to 100% of generator nameplate rating. Document the procedure.

Kohler Generator – S/N: 0777268 – VID: 732512 – Water Treatment Plant
Onan Generator – S/N: b060890387 – VID: 217643 – West Maryland
Onan Generator – S/N: K070123536 – VID: 317259 – Walmart Lift Station
Onan Generator – S/N: C100108531 – VID: 317308 – Village Lift Station
Kohler Generator – S/N: SGM32GCRC – VID: 732454 – Elm Street Lift Station
Kohler Generator – S/N: SGM32HPPB – VID: 732504 – New Intake
Kohler Generator – S/N: 2275332 – VID: 732507 – Murray Street Booster
Kohler Generator – S/N: SGM329KNX – VID: 129772 – Waste Water Treatment Plant

Semi-Annual Inspection for 2022 -----\$ 220.00 Individually
Semi-Annual Inspection for 2023 -----\$ 220.00 Individually
Semi-Annual Inspection for 2024 -----\$ 220.00 Individually

The Semi-Annual Inspection would include the following procedures: check oil, coolant, and battery levels. Start and observe the performance of the unit as it operates. Check all belts, hoses, and coolant for proper inhibitor level. Check switchgear for proper operation and run the generator under facility load if permissible. Verify generator controller instrument operation. Test emergency and failure shutdown and alarms. Document the procedure.

Any additional parts needed during the inspections/PM that are not covered under this agreement will be available at an additional cost. You will be notified when additional parts are necessary to maintain peak operating condition and these parts will only be replaced with your prior authorization.

PAYMENT TERMS: NET30. Interstate Power Systems Terms and conditions apply. This document is subject to the General Terms and Conditions and Code of Conduct, which are expressly incorporated

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 Fargo, ND | Gary, IN | Gillette, WY | Grand Forks, ND | Iron Mountain, MI | Lincoln, NE | Minneapolis, MN
 Milwaukee, WI | Omaha, NE | Rockford, IL | Sioux Falls, SD | Waterloo, IA | Williston, ND

INTERSTATE

Power Systems

herein by reference, and are available at: <http://www.lstate.com/about/terms-and-conditions> or in hard copy upon request.

Thank You in advance for your time and consideration. Should you have any questions please contact me.

**** Tax and environmental charges are not included****

This order accepted by:

Name: _____

Title: _____

Signature: _____

Date: _____

Thank you for your interest in the Services that we at Interstate have to offer.
Sincerely,

James Reso | Rental & Preventative Maintenance Sales | Interstate Power Systems
1140 Main Street | Billings, MT 59105
P: 406-252-4191 | Ext: 307559 | C: 406-200-2662 | F: 406-259-5270
www.lstate.com | james.reso@lstate.com
Pride in Service

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