

## REQUEST FOR COUNCIL ACTION

**SUBJECT:** Rocky Mountain Power General Services Contract

**SUMMARY:** Approve two General Service Contracts, Work Order Numbers 6198965 & 6198978, with Rocky Mountain Power to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle in an amount not-to-exceed \$5,367.00.

**FISCAL AND/OR IMPACT:** The funds for this project are available from the Parks Capital Account.

**STAFF RECOMMENDATION:**

Staff recommends approval of two General Service Contracts, Work Order Numbers 6198965 & 6198978, with Rocky Mountain Power to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle in an amount not-to-exceed \$5,367.00.

**MOTION RECOMMENDED:**

"I move to adopt Resolution No. 16-126 authorizing the Mayor to execute two General Service Contracts, Work Order Numbers 6198965 & 6198978, with Rocky Mountain Power to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle in an amount not-to-exceed \$5,367.00.

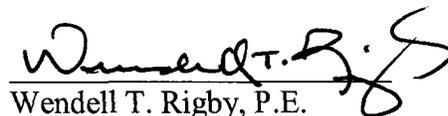
Roll Call vote required.

**Prepared by:**



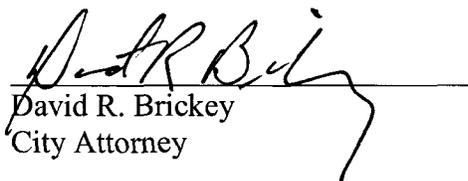
David Murphy P.E.  
Engineering Manager for CIP

**Reviewed by:**



Wendell T. Rigby, P.E.  
Director of Public Works

**Reviewed as to Legal Sufficiency:**



David R. Brickey  
City Attorney

**Recommended by:**



Mark R. Palesh  
City Manager

## **BACKGROUND DISCUSSION:**

Sunset Cove located along New Bingham Highway near 4800 West, and Teton Estates Park located at 4000 West near Bingham Creek, require permanent power to protect the new investments to be placed as part of the Parks Deficiency List upgrades. These upgrades include new sprinkler systems, trees and sod, and other plants and amenities. Rocky Mountain Power requires these service agreements to be able to allow their staff to complete designs and perform field construction for the new permanent power meter construction. Staff recommends approval of the service agreements.

### **Attachments:**

Resolution

Customer Requested Work Agreement (6)

**THE CITY OF WEST JORDAN, UTAH**  
A Municipal Corporation

RESOLUTION NO. 116-126

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
TWO GENERAL SERVICE CONTRACTS WITH ROCKY MOUNTAIN POWER

Whereas, the City Council of the City of West Jordan has reviewed the General Service Contracts (Work Order Numbers 6198965 and 6198978) with Rocky Mountain Power (attached as **Exhibit A**) to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle, in an amount not-to-exceed \$5,367.00; and

Whereas, the proposed contracts between the City of West Jordan and Rocky Mountain Power to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle, has been reviewed; and

Whereas, the City Council of the City of West Jordan has determined that the attached agreement with Rocky Mountain is acceptable.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH:

Section 1. After approval as to legal form by the City Attorney, the Mayor is hereby authorized to execute the General Service Contracts between the City of West Jordan and Rocky Mountain Power to provide electric service for sprinkler timers located at 4980 Sunset Cove Park and 9250 Colter Bay Circle.

Section 2. This Resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 10<sup>th</sup> day of August 2016.

CITY OF WEST JORDAN

ATTEST:

By: \_\_\_\_\_  
Mayor Kim V. Rolfe

\_\_\_\_\_  
MELANIE BRIGGS  
City Recorder

Voting by the City Council	"AYE"	"NAY"
Council Member Dirk Burton	_____	_____
Council Member Jeff Haaga	_____	_____
Council Member Zach Jacob	_____	_____
Council Member Chris McConnehey	_____	_____
Council Member Chad Nichols	_____	_____
Council Member Sophie Rice	_____	_____
Mayor Kim V. Rolfe	_____	_____

(UT Jun2015 - NoRfnd)  
Account #:25893946 006  
Service ID #:262511930 001  
Monthly

Pamela Bruner  
C/C: 11431  
Request #: 6198978  
Contract #:

**GENERAL SERVICE CONTRACT  
(1000 KVA OR LESS)  
between  
ROCKY MOUNTAIN POWER  
and  
WEST JORDAN CITY**

This General Service Contract ("Contract"), dated July 20, 2016, is between Rocky Mountain Power, an unincorporated division of PacifiCorp ("Company"), and **West Jordan City** ("Customer"), for electric service for Customer's sprinkler timer operation at or near 9250 Colter Bay Cir, West Jordan, Utah.

Company's filed tariffs (the "Electric Service Schedules" and the "Electric Service Regulations") and the rules of the Utah Public Service Commission ("Commission"), as they may be amended from time to time, regulate this Contract and are incorporated in this Contract. In the event of any conflict between this Contract and the Electric Service Schedules or the Electric Service Regulations, such schedule and rules shall control. They are available for review at Customer's request.

1. **Delivery of Power.** Company will provide 120/240 volt, single-phase electric service to the Customer facilities.
2. **Contract Demand.** The specified Demand in kVA that Customer requires to meet its load requirement and Company agrees to supply and have available for delivery to Customer, shall be 50 kVA (diversified, based on Customer's submitted load prior to the signing of this Contract). After 36 months of service the maximum demand Company is obligated to have available for delivery shall not be greater than the lesser of: the maximum recorded and billed demand in the previous 36 months, or, the above given diversified demand, unless otherwise agreed in writing in accordance with the terms of this Contract. Within fifteen (15) days of the written request for additional demand, Company shall advise Customer in writing whether the additional power and energy is or can be made available and the conditions on which it can be made available.
3. **Extension Costs.** Company agrees to invest \$247.00 (the "Extension Allowance") to fund a portion of the cost of the improvements (the "Improvements") as per tariff. Customer agrees to pay Company the estimated construction costs in excess of the Extension Allowance ("Customer Advance") in the amount of \$2,902.00, of which the Customer has paid \$0.00 for engineering, design, or other advance payment for Company's facilities. **The balance due is \$2,902.00.**
4. **Contract Minimum Billing.** Customer agrees to pay a contract minimum billing (the "Contract Minimum Billing") during the first sixty (60) months beginning from the date Company is ready to supply service. The Contract Minimum Billing shall be the greater of: (1) the **Customer's monthly bill**; or, (2) \$0.00 (the **monthly facilities**

charge) plus eighty percent (80%) of the **Customer's monthly bill**. Billings will be based on Rate Schedule No. 23 and superseding schedules. Company will reduce the minimum charges by the amount of the facilities charges associated with refunds due from additional applicants connecting to the Improvements.

5. **Effective.** This Contract will expire unless Customer signs and returns an original of this Contract along with any required payment to Company within ninety (90) days of the Contract date shown on page 1 of this Contract.
6. **Term.** This Contract becomes binding when both Company and Customer have signed it, and will remain in effect for ten (10) years following the date when Company is ready to supply service.

In the event Customer terminates service or defaults (which results in termination of service) within the first five (5) years of this Contract, Customer shall be responsible for paying the Contract Minimum Billing for the remainder of the five (5) years.

If Customer is not ready to receive service from Company within one-hundred fifty (150) days of the Customer signature date given on page five (5), then Company may unilaterally terminate this Contract. If Company has not installed Improvements, then such termination of this Contract shall not be treated as a Customer default and Customer shall not be responsible for paying the Contract Minimum Billing for the five (5) year term, only Customer's advance will be applied to Company costs incurred for design, permitting and other associated Contract costs. However, if Company has installed Improvements so that Company is ready to supply service, but Customer is not ready to receive service from Company within said one-hundred fifty (150) days, then the failure of Customer being ready to receive service from Company may be treated as a Customer default, and Customer shall be responsible for paying the Contract Minimum Billing for the five (5) year term.

7. **Customer Obligations.** Customer agrees to:
  - a) Provide legal rights-of-way to Company, at no cost to Company, using Company's standard forms. This includes rights-of-way on Customer's property and/or adjoining property and any permits, fees, etc. required to cross public lands;
  - b) Prepare the route to Company's specifications;
  - c) Install all Customer provided trench, conduit, equipment foundations, or excavations for equipment foundations within the legal rights-of-ways; and,
  - d) Comply with all of Company's tariffs, procedures, specifications and requirements.
8. **Special Provisions:**
9. **Underground Facilities.** If service is provided by an underground line extension, Customer will provide, or Company will provide at Customer's expense: all trenching and backfilling, imported backfill material, conduit and duct, and furnish and install all equipment foundations, as designed by Company. Company may abandon in place any underground cables installed under this Contract that are no longer useful to Company.

Customer warrants that all Customer provided trench and excavations for equipment foundations, and Customer installed conduit and equipment foundations are installed within legal rights-of-way, and conform to the specifications in Company's Electric Service Requirements Manual, and other specifications as otherwise provided by Company. In the event Customer fails to comply with the foregoing, Customer shall be liable for the cost to Company for relocating the facilities within a legal right-of-way, acquiring right-of-way for Company facilities, repair or replacement of improperly installed conduit or foundations, and paying costs for damages that may arise to any third party as a result of Company facilities being located outside of a legal right-of-way. The provisions of this paragraph 9 shall survive the termination of this Contract.

10. **Design, Construction, Ownership and Operation.** Company shall design, construct, install, and operate the Improvements in accordance with Company's standards. Company will own the Improvements, together with Company's existing electric utility facilities that serve or will serve Customer. Construction of the Improvements shall not begin until (1) both Company and Customer have executed (signed) this Contract, and (2) all other requirements prior to construction have been fulfilled, such as permits, payments received, inspection, etc. Any delays by the Customer concerning site preparation and right-of-way acquisition or trenching, inspection, permits, etc. may correspondingly delay completion of the Improvements.

Company warrants that its work in constructing and maintaining the Improvements shall be consistent with prudent utility practices. **COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, AND SIMILAR WARRANTIES.** Company's liability for breach of warranty, defects in the Improvements, or installation of the Improvements shall be limited to repair or replacement of any non-operating or defective portion of the Improvements or Company's other electric utility facilities. Under no circumstances shall Company be liable for other economic losses, including but not limited to consequential damages. Company shall not be subject to any liability or damages for inability to provide service to the extent that such failure shall be due to causes beyond the reasonable control of Company.

No other party, including Customer, shall have the right to operate or maintain Company's electric utility facilities or the Improvements. Customer shall not have physical access to Company's electric utility facilities or the Improvements and shall engage in no activities on or related to Company's electric utility facilities or the Improvements.

11. **Payments.** All bills shall be paid by the date specified on the bill, and late charges shall be imposed upon any delinquent amounts. Company reserves the right to require customer payments be sent by EDI or wire transfer. If Customer disputes any portion of Customer's bill, Customer shall pay the total bill and shall designate the disputed portion. Company shall decide the dispute within sixty (60) days after Customer's notice of dispute. Any refund Company determines Customer is due shall bear interest at the rate then specified by the Commission or, if no rate is specified, the then effective prime rate as established by the Morgan Guaranty Trust Bank of New York.

Company may request deposits from Customer to the extent permitted under the applicable Electric Service Regulations and the applicable Electric Service Schedule. In the event of a default by Customer in any of its obligations, Company may exercise any or all of its rights and remedies with respect to any such deposits.

12. **Furnishing Information.** Upon Company's request, Customer shall submit its year-end financial statements to Company, certified to be true and correct and in accordance with GAAP (General Accepted Accounting Principles). Furthermore, Customer shall submit additional information as Company may reasonably request from time to time in furtherance of the purposes of this Contract. Such information shall be deemed confidential. Company will base its decision with respect to credit, deposits or any other material matter on information furnished under this section by Customer, and shall reserve its rights with respect to such decisions should such information be inaccurate.
13. **Governing Law; Venue.** All provisions of this Contract and the rights and obligations of the parties hereto shall in all cases be governed by and construed in accordance with the laws of the State of Utah applicable to contracts executed in and to be wholly performed in Utah by persons domiciled in the State of Utah. Each party hereto agrees that any suit, action or proceeding in connection with this Contract may only be brought before the Commission, the Federal courts located within the State of Utah, or state courts of the State of Utah, and each party hereby consents to the exclusive jurisdiction of such forums (and of the appellate courts therefrom) in any such suit, action or proceeding.
14. **Assignment.** The obligations under this Contract are obligations at all times of Customer, and may not be assigned without Company's consent except in connection with a sale, assignment, lease or transfer of Customer's interest in Customer's facility. Any such assignment also shall be subject to (i) such successor's qualification as a customer under Company's policies, the Electric Service Regulations, and the applicable Electric Service Schedule, and (ii) such successor being bound by this Contract and assuming the obligation of Customer from the date of assignment, which may be evidenced by written agreement of such successor or other means acceptable to Company. Company may condition this assignment by the posting by the successor of a deposit as permitted under the applicable Electric Service Regulations and the applicable Electric Service Schedule.

Company may at any time assign its rights and delegate its obligations under this Contract to any: affiliate; successor in interest; corporation; or any other business entity in conjunction with a merger, consolidation or other business reorganization to which Company is a party.

15. **Remedies; Waiver.** Either party may exercise any or all of its rights and remedies under this Contract, the applicable Electric Service Regulations, the applicable Electric Service Schedule and under any applicable laws, rules and regulations. No provision of this Contract, the Electric Service Regulations, or the applicable Electric Service Schedule shall be deemed to have been waived unless such waiver is expressly stated in writing and signed by the waiving party.

16. **Attorneys' Fees.** If any suit or action arising out of or related to this Contract is brought by any party, the prevailing party or parties shall be entitled to recover the costs and fees (including, without limitation, reasonable attorneys' fees, the fees and costs of experts and consultants, copying, courier and telecommunication costs, and deposition costs and all other costs of discovery) incurred by such party or parties in such suit or action, including, without limitation, any post-trial or appellate proceeding, or in the collection or enforcement of any judgment or award entered or made in such suit or action.
17. **Waiver of Jury Trial.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.
18. **Entire Agreement.** This Contract contains the entire agreement of the parties with respect to the subject matter, and replaces and supersedes in their entirety all prior agreements between the parties related to the same subject matter. **This Contract may be modified only by a subsequent written amendment or agreement executed by both parties.**

**WEST JORDAN CITY**

By \_\_\_\_\_  
signature

\_\_\_\_\_  
NAME (type or print legibly)      \_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

Customer's Mailing Address for Executed Contract

Dave Murphy  
ATTENTION OF

8000 S Redwood Rd  
ADDRESS

West Jordan, UT 84088  
CITY, STATE, ZIP

**ROCKY MOUNTAIN POWER**

By \_\_\_\_\_  
signature

Kim Felice      Manager  
NAME (type or print legibly)      TITLE

\_\_\_\_\_  
DATE

Rocky Mountain Power's Mailing Address for Executed Contract

12840 Pony Express Rd  
ADDRESS

Draper, UT 84020  
CITY, STATE, ZIP

