Ivins City Staff Report
City Council Meeting 3/15/2018

Agenda Item: Memorandum of Understanding for cost sharing improvements to lowering powerline

Submitted by: Charles Gillette, P.E., Public Works Director/City Engineer

Recommended City Council Action:
Approve MOU and expenditure of $16,076.25 for cost sharing of improvements to 400 West adjacent to Santarra Estates

BACKGROUND:
Ivins City recognizes that the cost to lower power lines on small projects is high, in addition, the Rocky Mountain Power has indicated that it does not want to lower powerlines for very small segments and needs to lower larger segments to maintain a more reliable system. Therefore, staff has discussed this problem with Robert Ence, developer of Kay's Court Townhomes and has agreed to pay for a portion of the costs where the lowering is going beyond the project.

FINDINGS AND ANALYSIS:
Staff and Developer have agreed that the appropriate split on costs for the work is 37.5% City and 62.5% Developer. Ivins City will enter into the agreement with Rocky Mountain Power and the Developer will reimburse the City it's portion. The costs are split in accordance with the following table.

Description of Cost	Total	City Portion	Developer Portion
Rocky Mountain Power Costs	$ 27,870.00	**$ 10,451.25**	$ 17,418.75
Trenching,Boring, Conduit	$ 15,000.00	**$ 5,625.00**	$ 9,375.00
Totals:	$ 42,870.00	**$ 16,076.25**	$ 26,793.75
		City Pays Rocky Mountain Power	$ 27,870.00
		Developer Pays City	$ 11,793.75
		Developer Provides Trenching, Boring and Conduit	$ 15,000.00

SUPPORT MATERIALS:
- Memorandum of Understanding
- Exhibit A Rocky Mountain Power Proposal

FINANCIAL IMPACT:
The project will cost the City $16,076.25 paid with monies budgeted for undesignated street projects GL1060525.

Respectfully Submitted:

Charles Gillette, P.E., Public Works Director/City Engineer

Content Review:

Dale Coulam, City Manager

MEMORANDUM OF UNDERSTANDING
KAY'S COURT TOWNHOMES

This Memorandum of Understanding ("Agreement") is entered into effective the ____ day of March, 2018, by and between IVINS CITY, a municipality and political subdivision of the State of Utah, ("Ivins City" or the "City") and Robert Ence ("Owner" &/or "Developer"), collectively referred to as "the Parties."

RECITALS

WHEREAS, Owner/Developer is the owner of a certain parcel of property located at approximately 50 South 100 West in Ivins, Utah on which it proposes to develop a subdivision known as Santarra Estates; and

WHEREAS, the Parties desire to memorialize their understanding concerning the lowering of overhead power to underground which are improvements related to said subdivision, the costs thereof and how those costs are to be paid;

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

1. The foregoing recitals are incorporated herein and made part of this Agreement by this reference.
2. The Parties agree that the costs to lower overhead power to underground should be split 37.5% City, 62.5% Developer.
3. The costs are estimated at $15,000 for trenching, boring, and conduit installation and $27,807 to contract with Rocky Mountain Power to install wire and new transformers, and remove all old facilities associated with the overhead power lines in accordance with the proposed contract submitted by Rocky Mountain Power to Ivins City as Work Order #6471618, attached as Exhibit A.
4. The City agrees to enter into the contract with Rocky Mountain Power for $27,807.00.
5. The Developer agrees to provide all trenching, boring, and conduit or any other item required to complete the task to lower the power line that is not provided by the Rocky Mountain Power contract (estimated at a value of $15,000).
6. The Developer agrees to reimburse Ivins City $11,793.75 for its portion of the cost to Rocky Mountain Power.

IVINS CITY:

By: _____
Chris Hart, Mayor

Attest:

_____
Kari Jimenez, Ivins City Recorder

DEVELOPER/OWNER:

_____
ROBERT ENCE

MEMORANDUM OF UNDERSTANDING

KAY'S COURT TOWNHOMES

EXHIBIT A

ROCKY MOUNTAIN POWER
CUSTOMER REQUESTED WORK AGREEMENT
WORK ORDER #6471618

Ruston Jenson
Work Order #: 6471618
Cust. Acct. #:68627126 002

CUSTOMER REQUESTED WORK AGREEMENT

This Customer Requested Work Agreement (this "Agreement"), dated February 14, 2018 ("Agreement Date"), is between Rocky Mountain Power, an unincorporated division of PacifiCorp ("Company"), and **IVINS CITY**, ("Customer"), for work to be performed by Company for Customer at or near **50 South 100 West, Ivins** in **Washington** County, State of Utah.

Description:

Remove existing overhead facilities and replace with underground facilities to accommodate new townhome development.

The Customer will provide, all necessary trenching and backfilling, and will furnish and install all distribution transformer pads, conduit and duct required by Company. Company may abandon in place any underground cables installed under this Agreement that are no longer useful to Company.

Customer also agrees to:
a) Establish final grade for routing of circuits, placement of transformer pads, vaults, junction boxes and other underground facilities as required by Company.
b) Install and maintain property lines and survey stakes; and,
c) Make no permanent surface improvements, except curb and gutters, before Company completes installation of its facilities.
d) Provide legal rights-of-way to Company, at no cost to Company, using Company's standard forms.

If any change in grade, or property lines, or any surface improvements require Company to change its facilities, or causes additional cost to Company, Customer agrees to reimburse Company for such change or cost.

Third-Party Relocation Costs: This work does not include any third-party relocation costs. Customer shall be solely responsible for obtaining cost estimates from any third-parties attached to the existing facilities, and Customer shall be solely responsible for making all necessary arrangements to transfer third-party facilities to the replacement facilities, or any alternative arrangements to accommodate all such third-parties.

Payment to Company: In consideration of the work to be performed by Company, Customer agrees to pay the estimated costs of the work in advance, with the understanding that there will be no other charges or refunds for the above specified work. Customer has previously paid for design, permitting or other work in the amount of $0.00. The total advance for this work is $27,807.00, with a **balance due of $27,807.00. Estimated cost is valid for 90 days from the Agreement Date.**

Requested Date of Service: Spring 2018

Any correspondence regarding this work shall be directed to the appropriate party as shown below:

Ivins City
Chuck Gillette
55 N. Main Street
Ivins, UT 84738
Phone (435) 634-0689
Cellular ( )
Fax **(435) 656-2286**

Rocky Mountain Power
Ruston Jenson, Estimator
455 N. Old Hwy 91
Hurricane, UT 84737
Phone (435) 688-3708
Cellular ( )
Fax (435) 688-8351

This Agreement, upon execution by both Company and Customer, shall be a binding agreement for work performed by Company to accommodate Customer at the Customer's expense. The provisions of Appendix A, General Terms and Conditions, are an integral part of this Agreement.

IVINS CITY

By _____
Signature

Title _____

_____
Print name of Signing Officer

_____
Date

ROCKY MOUNTAIN POWER

By _____
Signature.

Title Manager

Lonnie Hoggard
Print name of Signing Manager/Officer

_____
Date

Appendix A
GENERAL TERMS AND CONDITIONS

LIABILITY AND INDEMNIFICATION

The Customer shall indemnify, defend and hold harmless Company to this Agreement and Company's officers, directors, agents, employees, successors and assigns from any and all claims, demands, suits, losses, costs, and damages of any nature whatsoever, including attorney's fees and other costs of litigation brought or made against or incurred by Company and resulting from, arising out of, or in any way connected with any act, omission, fault or negligence of the Customer, its employees or any officer, director, or employee or agent of the same and related to the subject matter of this Agreement. The indemnity obligation shall include, but not be limited to, loss of or damage to property, bodily or personal injury to, or the death of any person. The Customer's obligation under this provision of the Agreement shall not extend to liability caused by the sole negligence of Company.

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 agreement. 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.

WORK COMPLETION

Company agrees to use commercially reasonable efforts to begin performance of the work on the date(s) specified above. In those instances where by reason of unanticipated events or emergencies which cause power outages or threaten Company's ability to continuously provide electric service as it is required to do by law or by contract, then Company personnel assigned to perform the work may be withdrawn from the work until such time as the unanticipated event or emergency is concluded. In the event that Company personnel are removed from the work in response to such an event or emergency, then the time for completion of the work shall be extended by a period of time equal to that period from the time the personnel are removed from the work until they are available to complete the work plus 48 hours.

It is expressly agreed that Company and those persons employed by Company in connection with the work described herein are not employed by or employees of the Customer.

Company warrants that its work 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 work. Under no circumstances shall Company be liable for economic losses, costs or damages, including but not limited to special, indirect, incidental, punitive, exemplary or consequential damages.

The Customer may, at reasonable times and by written agreement with Company, request additional work within the general scope of the work as described in this Agreement or request the omission of or variation in the work, provided, however, that the Customer and Company agree to increase or decrease the amount the Customer is to pay Company and such changes in scope are reasonably acceptable to Company. Any such change to the scope of the work and the associated adjustment of costs shall be in writing and shall be submitted when obtained as an addendum to this agreement after being signed by both parties.

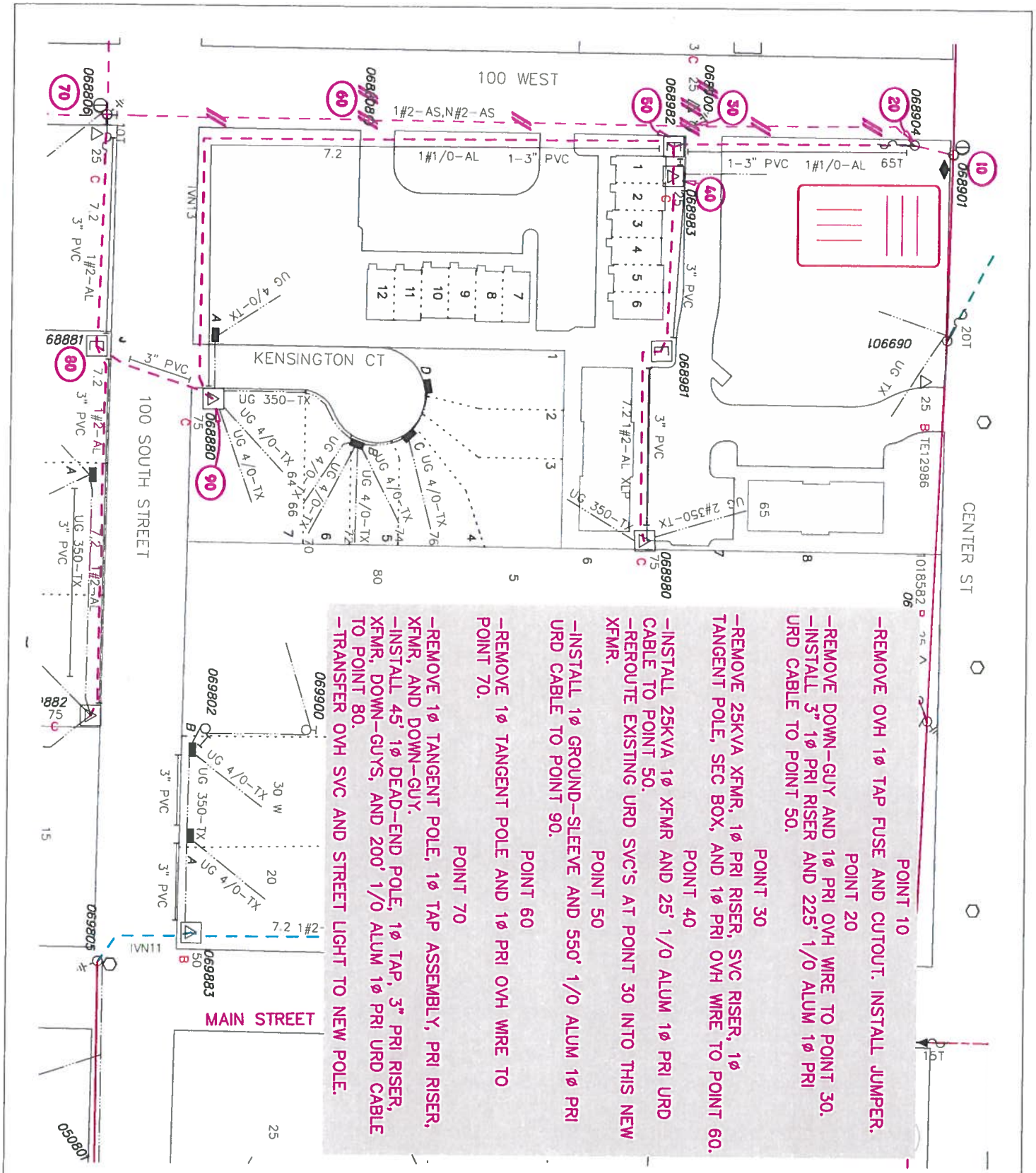
GENERAL

PAYMENTS: All bills or amounts due hereunder shall be payable to Company as set forth herein or on the 25th day following the postmarked date of the invoice if not otherwise specified. In the event that all or a portion of Customer's bill is disputed by Customer, Customer shall pay the total bill and shall designate that portion disputed. If it is later determined that Customer is entitled to a refund of all or any portion of the disputed amount, Company shall refund that portion of the amount of which Customer is found to be entitled. All billing statements shall show the amount due for the work performed.

COLLECTION: Customer shall pay all costs of collection, including court costs and reasonable attorney's fees upon default of customer, in addition to interest at a rate of 1.5 percent per month on any amounts not paid within thirty (30) day of invoice.

ASSIGNMENT: Customer shall not assign this Agreement to any successor without the written consent of Company, which consent shall not be unreasonably withheld. If properly assigned, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the party making the assignment.

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.



Foreman	Emp #	Job Start Date	
CC# 11391	WO# / REQ# 006471618	Map String 11342016.0	Job Comp Date
CUSTOMER : Ivins Ovh to Urd Conversion ADDRESS : 100 West 100 South Ivins, UT 84738		Circuit IVN13	Post Jobs ☐ RQII ☐ Posted ☐

PACIFICORP
A BERKSHIRE HATHAWAY ENERGY COMPANY

1 OF 1

EST ID#	Print Date	Scale
29606	02/20/18	1=100'