

CUSTOMER AGREEMENT

This Customer Agreement (the "*Agreement*") is made and entered into effective as of _____, 2016 by and between NorthWestern Energy (the "*Company*") and the City of Billings, Montana (the "*Customer*"). Sometimes in this Agreement, Company and Customer are collectively referred to as "*Parties*" or individually as a "*Party*." Capitalized terms have the meaning set forth in NorthWestern Energy's Electric Tariff ("*Electric Tariff*"), which sets forth service, installation and contribution rules and regulations established by the Montana Public Service Commission (the "*MPSC*"). The Electric Tariff is available for review at <http://www.northwesternenergy.com/residential-services/how-to-read-your-bill/tariffs-and-rates/montana-tariffs-and-rates>.

RECITALS

WHEREAS, Customer is receiving electrical service from the Company, and desires to increase the load for the City of Billings Wastewater Treatment Plant situated at 725 US Highway 87 East, Billings, Montana (the "*Wastewater Treatment Plant*") served by the Company from existing distribution substations commonly referred to as the Billings Sewer No. 1 and No. 2 Substations (the "*Billings Sewer Substations*"); and

WHEREAS, in accordance with the Electric Tariff, Customer must execute an agreement and contribute to the cost of installing the facilities required to provide additional service to the Wastewater Treatment Plant;

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, the Parties agree as follows:

AGREEMENT

1. SERVICE AND CONTRIBUTION REQUIREMENTS.

- 1.1 The Company agrees to install, operate and maintain facilities at the Billings Sewer Substations to serve the Wastewater Treatment Plant in accordance with the requirements of this Agreement and the Electric Tariff. Customer agrees to comply with the terms and conditions of this Agreement and remit to Company a contribution in aid of construction, which may include a federal tax surcharge and administrative/engineering fees, as more fully described in Section 1.2.
- 1.2 Customer shall pay for the purchase of equipment, construction and development of the facilities described in Exhibit 1 (and such other facilities as NorthWestern may reasonably deem appropriate in connection with the Company's obligations under this Agreement). The estimated cost of the facilities, as set forth in Exhibit 2, is \$305,319. Based upon the expected load requirements referenced in Exhibit 3, the Company estimates a line extension revenue allowance toward construction costs in the amount of \$121,706 (as such amount may be adjusted after final true-up of actual costs). After applying the line extension revenue allowance and other charges as referenced in Exhibit 2, Customer shall pay a Contribution in Aid of Construction ("*CIAC*") in the anticipated amount of \$235,752. The CIAC is calculated to cover the costs of the facilities described in Exhibit 1, along with the

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normal operation and maintenance of the equipment and the taxes associated with such facilities.

At the end of the Term (or upon termination of this Agreement for any reason, including but not limited to termination of service in accordance with Electric Tariff Rule 13 – Termination of Service), NorthWestern shall compare Customer’s actual usage against the projections in Exhibit 3 to determine if sufficient revenues have been collected to support the Company’s initial investment. In the event of a shortfall, NorthWestern shall notify Customer of the shortfall in writing, within 45 days after the end of the Term or other termination of this Agreement. Customer shall reimburse the Company for the amount of the shortfall within 30 days of the above notification.

- 1.3 Customer (i) recognizes the potential for interrupted service in the event of a failure of the equipment until satisfactory replacement equipment (temporary or permanent) can be obtained and installed; (ii) understands that a delay may be encountered while Company attempts to acquire replacement equipment, and (iii) acknowledges the applicability of Electric Tariff Rule 8-2 – Continuity of Service in such instances.
- 1.4 COMPANY IS NOT LIABLE TO CUSTOMER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING FROM OR RELATED TO THE PERFORMANCE, ENFORCEMENT, BREACH OR TERMINATION OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, ANTICIPATED PROFITS, OR BUSINESS. The limitation set forth herein survives the expiration or termination of this Agreement.
- 1.5 The term of this Agreement commences upon the effective date set forth above and remains in effect for a period of 60 months after _____ (the “Term”). Upon completion of the Term, this Agreement shall expire and Customer shall receive electric service from Company in accordance with the Electric Tariff.
- 1.6 The point of interconnection between Company’s facilities and Customer’s facilities is the load side bushings of the primary metering cabinet. Company will own the primary metering cabinet along with the associated metering instruments within the cabinet. Customer will own the downstream conduit, cable and cable terminations that are necessary to connect to the primary metering load side bushings. It is understood that some of the conduit, cable, and cable terminations owned and maintained by Customer will be physically located inside the controlled access fence surrounding the Billings Sewer Substations.

In the future, Company will be conducting a follow up project where the entire substation will be rebuilt or removed including the high speed ground faults currently in place in Customer’s facility, as more fully illustrated in Exhibit 1. The Parties acknowledge and agree that nothing contained within this Agreement or this subsection shall modify or compromise the Parties respective litigating positions or defenses in the pending case of Exxon Mobile Corporation v. Northwestern Energy Coporation d/b/a Northwestern Energy v. City of Billings and General

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Electric International, Inc., Case No. 1:16-cv-00005-BMM, United States District Court, District of Montana, Billings Division.

Employees and agents of Customer are not allowed access to Customer's facilities located within the Billings Sewer Substations unless accompanied by an authorized personnel of the Company.

2. **CONDITIONS TO INSTALLATION.**

- 2.1 **Payment.** If any facilities are installed on Customer's property, Customer shall make payment of the CIAC prior to Company scheduling a construction start date. Company must receive payment and satisfactory evidence of required permits and right-of-way authority prior to ordering materials, scheduling crews or starting construction.
- 2.2 **Right-of-Way.** If any facilities are installed on Customer's property, Customer shall provide the right-of-way required for the installation of the Company's service facilities. Customer shall grant or obtain for the Company an easement along the route of the line extension in a form satisfactory to the Company.
- 2.3 **Permits.** If any facilities are installed on Customer's property, Customer shall provide all required permits from appropriate governmental agencies for the construction work and installation of the Company's facilities and Customer's equipment. Copies of all permits must be provided to the Company prior to commencement of the work.
- 2.4 **Additional Costs.** If the Customer requests facilities be installed in frozen, rocky or hard ground, the Customer may be responsible for additional charges for installation. The Company will notify the Customer of these charges prior to installation when feasible, and otherwise when encountered during the installation work. If the Company requires additional charges prior to installation, and the basis for such extra cost is not encountered during the performance of the work, Company shall refund such charges to Customer.
- 2.5 **Storm Water.** If any facilities are installed on Customer's property, Customer is solely responsible for compliance with all Montana Department of Environmental Quality storm water regulations. All soil disturbing activities deemed necessary by the Company for the installation, operation and maintenance of the facilities must be incorporated by Customer in the Storm Water Pollution Prevention Plan. Customer shall operate and maintain all storm water best management practices at all times.
- 2.6 **Underground Facilities.** Prior to construction, all customer-owned, rented or leased underground facilities (including but not limited to sprinkler systems, septic systems propane tanks and associated lines, and communication and electric lines) must be properly identified and physically marked by Customer if any facilities are installed on Customer's property. The Company is not responsible for damages resulting from mismarked or unidentified customer facilities. Contact the Company's Construction Department with questions related to appropriately marking Customer-owned facilities.
- 2.7 **Customer's Equipment.** Customer shall install Customer's facilities in accordance with the Company's "*New Service Guide*" and "*Electric Service Requirements & Guidelines.*" The

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location of Customer's meter must be approved by the Company prior to the installation of equipment owned by the Customer. Customer shall provide service entrance and termination points as specified by the Company's installation standards in effect at the time construction begins.

- 2.8 Restoration and Grading. If any facilities are installed on Customer's property, Company will make a reasonable attempt to preserve private roadways and landscaping, but Customer is responsible for final compaction and restoration of private roadways and landscaping, including the removal of excess spoil piles. The Company will install facilities with the understanding that ground-level is the final grade, unless otherwise directed in writing by Customer. Should changes to grade be made in the future that result in Company's facilities being raised or lowered, the Customer is responsible for the costs associated with this change.

3. GENERAL CONDITIONS.

- 3.1 All terms, prices and conditions set forth herein are subject to modification resulting from changes in applicable rules, Electric Tariff, regulations, ordinances or the scope of project, and laws that may be amended or enacted after the date of this Agreement.
- 3.2 The payment amounts set forth in this Agreement are effective for 4 months from the date of this Agreement. If Customer has not delivered the CIAC to Company within such period due to any action, omission or failure to act by Customer, the project will be reviewed for any changes in the cost. The Company will perform one line extension engineering cost estimate per year at Customer's location free of charge. If subsequent redesign estimates are requested within the one year period from the original quote, a charge of \$61.00/hour (minimum charge = \$61.00) will be assessed and is payable prior to delivery of the estimate to Customer. If Customer proceeds with installation, fees paid for estimates will be credited toward the contribution payment.
- 3.3 If the facilities required to serve Customer must be relocated or modified at the request of Customer after installation, the Customer shall pay the costs of moving Company facilities.
- 3.4 The Company agrees to initiate service within a reasonable period of time after the Customer's equipment passes all inspections by state and local authorities as are required by law. The Company will proceed with the survey, design and construction of its facilities in a normal manner using its existing work force (Company employees or contractors) and material supply sources. Installation will be performed during normal working hours and the Company may reschedule the work to achieve efficient workload of Company forces. Availability of materials, weather conditions, frozen ground, access, or obtaining permits from governmental agencies or railroads may cause delays beyond the control of the Company or the Customer. The Company anticipates completion of the work required by this Agreement by _____, 2017.
- 3.5 In the event of a conflict between the terms of this Agreement and the Electric Tariff, the terms of the Electric Tariff prevail.

3.6 Customer acknowledges that Company, as a public utility, is subject to regulation by the Commission and that Company may be required to submit to such regulatory authority necessary information, data or documents regarding this Agreement. Customer acknowledges that, notwithstanding anything herein to the contrary, the Company may submit a copy of this Agreement and any other information related herewith to the Commission as part of complying with any filing requirement, request, order or other regulatory proceeding. To the extent Customer wishes to seek a protective order for this Agreement or any other information to be submitted to the Commission, Customer is responsible for preparing and otherwise requesting any such protective order.

4. ADDITIONAL CONDITIONS.

4.1 Notices required or permitted to be given under this Agreement will be in writing and deemed to be properly given if (a) delivered in person, (b) sent electronically with confirmation, (c) deposited in the United States mail with first class postage prepaid certified mail, return receipt requested, or (d) delivered by private, prepaid courier and addressed to the appropriate Party at the address set forth below:

CUSTOMER

General Notices:

City of Billings
City Engineer – Public Works
2224 Montana Avenue
Billings, MT 59101
Phone: 406-657-3097
Attn: Debi Meling, PE

NORTHWESTERN

General Notices:

NorthWestern Energy
Director, Key Accounts & Customer Education
11 East Park Street
Butte, MT 59701
Phone: 406-497-3621
Email: rick.edwards@northwestern.com

Maintenance Notices Copy to:

NorthWestern Energy
Director of Operations, Billings Division
P.O. Box 80330
Billings, MT 59108
Phone: 406-655-2541

Notices delivered in person will be deemed to have been received by the close of the business day on which it was delivered (unless transmitted or hand delivered after closing in which case it will be deemed received at the close of the next business day). Notices delivered electronically are deemed received upon confirmation of receipt. A Party may change its address by providing notice of same in accordance with this Article.

4.2 This Agreement and the attached Exhibits constitute the entire agreement between the Parties. There are no prior or contemporaneous agreements or representations affecting

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the same subject matter other than those herein expressed. If amendments or modifications to this Agreement are required as a result of changes in operational conditions, construction, expansion, Commission or governmental decision, or for any other reason, the Parties shall work in good faith to amend this Agreement as is appropriate. No amendment, modification or change herein will be enforceable unless reduced to writing and executed by both Parties.

- 4.3 A waiver by either Party of any default or breach by the other Party of any covenants, terms or conditions of this Agreement shall not limit the right to enforce such covenants, terms or conditions or to pursue its rights in the event of any subsequent default or breach. If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall continue to be effective.
- 4.4 The headings used for the sections and articles in this Agreement are for convenience and reference purposes only and in no way affect the meaning or interpretation of the provisions of the particular agreement. This Agreement may be executed in several counterparts and by signatures transmitted electronically, each of which will be an original and all of which constitute one and the same instrument. Construction of Agreement: Both Parties have contributed to the drafting of this Agreement. Any ambiguities or uncertainties in the wording will not be construed for or against either Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed in duplicate as of the day and year first above written.

NORTHWESTERN ENERGY

CUSTOMER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT 1

DESCRIPTION OF FACILITIES

EXHIBIT 2

CONTRIBUTION IN AID OF CONSTRUCTION CALCULATIONS

CUSTOMER CONTRIBUTION IN AID OF CONSTRUCTION CALCULATIONS	
Total Estimated Construction Costs ¹	\$ 305,319
Total Revenue Requirement ²	\$ 659,341
Total NPV Revenue Requirement ³	\$ 326,708
Less - Net Present Value Incremental Additional Load Revenue Allowance ⁴	\$ (121,706)
Difference - Net Incremental Cost	\$ 205,002
Federal Tax Surcharge Adder (15%) ⁵	\$ 30,750
Total Contribution in Aid of Construction (CIAC)⁶	\$ 235,752

1. Construction costs are in 2016 dollar values and are subject to change due to inflation costs.
2. Revenue requirement based on a total revenue requirement calculated over 30 years.
3. Net present value (NPV) revenue requirement based on applying NPV calculation over 30 at the return rate of 7.92 percent.
4. Incremental Revenues calculated based on a 60 months period (anticipated June 2017 through May 2022) and reflects the projected duration the 730 kW additional load will be added to the Billings Wastewater Plant multiplied by GS-2 Substation Transmission/Distribution Demand rates effective September 1, 2016. See [Exhibit 3](#).
5. Federal tax surcharge is calculated at 15% based on the net amount paid to the Company. The amount received from Customer is taxable income to the Company.
6. As such amount may be adjusted after final true-up of actual costs.

EXHIBIT 3

ANTICIPATED REVENUE ALLOWANCE

City of Billings Wastewater Plant Substation Project Revenue Allowance ¹ - Account 100591

MONTH#	YEAR	MONTH	Baseload kW BEFORE		kW After Upgrades	Total Load Additions Allowed Towards Revenue Calculations ³	GS-2 Distribution-Demand Rates as 9/1/2016 per kW Incremental Revenue Allowance ⁴
			Substation Upgrade ²				
60	2022	MAY	1006	1736	730	\$ 3,944.90	
59	2022	APR	1093	1823	730	\$ 3,944.90	
58	2022	MAR	1080	1810	730	\$ 3,944.90	
57	2022	FEB	1162	1892	730	\$ 3,944.90	
56	2022	JAN	1153	1883	730	\$ 3,944.90	
55	2021	DEC	1136	1866	730	\$ 3,944.90	
54	2021	NOV	1114	1844	730	\$ 3,944.90	
53	2021	OCT	1131	1861	730	\$ 3,944.90	
52	2021	SEP	1136	1866	730	\$ 3,944.90	
51	2021	AUG	1109	1839	730	\$ 3,944.90	
50	2021	JULY	1110	1840	730	\$ 3,944.90	
49	2021	JUNE	1110	1840	730	\$ 3,944.90	
48	2021	MAY	1006	1736	730	\$ 3,944.90	
47	2021	APR	1093	1823	730	\$ 3,944.90	
46	2021	MAR	1080	1810	730	\$ 3,944.90	
45	2021	FEB	1162	1892	730	\$ 3,944.90	
44	2021	JAN	1153	1883	730	\$ 3,944.90	
43	2020	DEC	1136	1866	730	\$ 3,944.90	
42	2020	NOV	1114	1844	730	\$ 3,944.90	
41	2020	OCT	1131	1861	730	\$ 3,944.90	
40	2020	SEP	1136	1866	730	\$ 3,944.90	
39	2020	AUG	1109	1839	730	\$ 3,944.90	
38	2020	JULY	1110	1840	730	\$ 3,944.90	
37	2020	JUNE	1110	1840	730	\$ 3,944.90	
36	2020	MAY	1006	1736	730	\$ 3,944.90	
35	2020	APR	1093	1823	730	\$ 3,944.90	
34	2020	MAR	1080	1810	730	\$ 3,944.90	
33	2020	FEB	1162	1892	730	\$ 3,944.90	
32	2020	JAN	1153	1883	730	\$ 3,944.90	
31	2019	DEC	1136	1866	730	\$ 3,944.90	
30	2019	NOV	1114	1844	730	\$ 3,944.90	
29	2019	OCT	1131	1861	730	\$ 3,944.90	
28	2019	SEP	1136	1866	730	\$ 3,944.90	
27	2019	AUG	1109	1839	730	\$ 3,944.90	
26	2019	JULY	1110	1840	730	\$ 3,944.90	
25	2019	JUNE	1110	1840	730	\$ 3,944.90	
24	2019	MAY	1006	1736	730	\$ 3,944.90	
23	2019	APR	1093	1823	730	\$ 3,944.90	
22	2019	MAR	1080	1810	730	\$ 3,944.90	
21	2019	FEB	1162	1892	730	\$ 3,944.90	
20	2019	JAN	1153	1883	730	\$ 3,944.90	
19	2018	DEC	1136	1866	730	\$ 3,944.90	
18	2018	NOV	1114	1844	730	\$ 3,944.90	
17	2018	OCT	1131	1861		\$ -	
16	2018	SEP	1136	1866		\$ -	
15	2018	AUG	1109	1839		\$ -	
14	2018	JULY	1110	1840		\$ -	
13	2018	JUNE	1110	1840		\$ -	
12	2018	MAY	1006	1736		\$ -	
11	2018	APR	1093	1823		\$ -	
10	2018	MAR	1080	1810		\$ -	
9	2018	FEB	1162	1892		\$ -	
8	2018	JAN	1153	1883		\$ -	
7	2017	DEC	1136	1866		\$ -	
6	2017	NOV	1114	1844		\$ -	
5	2017	OCT	1131	1861		\$ -	
4	2017	SEP	1136	1866		\$ -	
3	2017	AUG	1109	1839		\$ -	
2	2017	JULY	1110	1840		\$ -	
1	2017	JUNE	1110	1840		\$ -	
Total Projected Revenues Before NPV						\$	169,636.02
Incremental Revenue Allowance After Applying Present Value						\$	121,706

ASSUMPTIONS:

1. Assume the City's additional 730 kW load is added October 2018 that would be reflected in November 2018 bill.
2. Based on additional load data provided by City of Billings Consultant.
3. Baseload starting kW is based on the most recent 12-month kW Peak Demand from July 2015 to June 2016
4. kW Demand rate based upon GSEDS-2 Tariff Distribution Rate of \$1.527037/kW plus ESS-1 Tariff Transmission Rate of \$3.876933 per kW Demand for a total rate of \$5.403970 per kW.