



June 24, 2014

Ms. Kate Whitney
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RE: Docket No. D2013.12.85
PPLM Hydro Assets Purchase
PSC Set 13 Data Requests (269-304)
Updated Response to PSC-281a

Dear Ms. Whitney:

Enclosed for filing is a copy of NorthWestern Energy's updated response to PSC-281a in PSC Set 13 Data Requests (269-304). A hard copy will be mailed to the most recent service list in this Docket this date. The Montana Public Service Commission and the Montana Consumer Counsel will be served by hand delivery this date. This updated response will also be e-filed on the PSC website and emailed to counsel of record.

Should you have questions please contact Joe Schwartzenberger at 406 497-3362.

Sincerely,

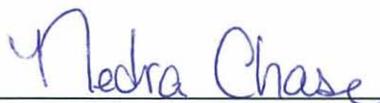
Nedra Chase
Administrative Assistant
Regulatory Affairs

NC/nc
CC: Service List

CERTIFICATE OF SERVICE

I hereby certify that a copy of NorthWestern Energy's updated response to PSC-281a in PSC Set 13 Data Requests (269-304) in Docket D2013.12.85, the PPLM Hydro Assets Purchase, has been hand delivered to the Montana Public Service Commission and to the Montana Consumer Counsel this date. This updated response will be e-filed on the PSC website and served on the most recent service list by mailing a copy thereof by first class mail, postage prepaid and will also be emailed to counsel of record.

Date: June 24, 2014



Nedra Chase
Administrative Assistant
Regulatory Affairs

**Docket No D2013.12.85
Hydro Assets Purchase
Service List**

Joe Schwartzenberger
NorthWestern Energy
40 E Broadway
Butte MT 59701

Patrick R Corcoran
NorthWestern Energy
40 E Broadway
Butte MT 59701

Nedra Chase
NorthWestern Energy
40 E Broadway
Butte MT 59701

Al Brogan
NorthWestern Energy
208 N Montana Ave Suite 205
Helena MT 59601

Sarah Norcott
NorthWestern Energy
208 N Montana Ave Suite 205
Helena MT 59601

Kate Whitney
Montana Public Service Commission
1701 Prospect Ave Box 202601
Helena MT 59620-2601

Robert A Nelson
Montana Consumer Counsel
111 North Last Chance Gulch Ste1B
Helena MT 59620-1703

John W Wilson
J W Wilson & Associates
1601 N Kent Ste 1104
Arlington VA 22209

Albert E Clark
2871 Conway Rd. 127
Orlando FL 32812

Michael J Uda
Uda Law Firm, P C
7W 6th Ave Suite 4E
Helena MT 59601

Roger Kirk/Ben Singer
Hydrodynamics Inc
825 W Rocky Creek Rd
Bozeman MT 59715-8693

Joe Hovenkotter Gen Counsel
Energy Keepers Inc
110 Main Street Suite 304
Polson MT 59860

Ranald McDonald
CSKT Tribal Legal Dept
P O Box 278
Pablo MT 59855

Thorvald Nelson
Holland & Hart LLP
6380 South Fiddlers Green Circle
Suite 500
Greenwood Village CO 80111

Nikolas Stoffel
Holland & Hart LLP
6380 South Fiddlers Green Circle
Suite 500
Greenwood Village CO 80111

Charles Magraw
501 8th Ave
Helena MT 59601

Dr Thomas Power
920 Evans
Missoula MT 59801

Fred Szufnarowski
Essex Partnership, LLC
65 Main St. Suite 22
Ivoryton, CT 06442

Monica Tranel
Montana Consumer Counsel
111 North Last Chance Gulch
Suite 1B
Helena MT 59620-1703

NorthWestern Energy
Docket D2013.12.85
PPLM Hydro Assets Purchase

Public Service Commission (PSC)
Set 13 (269-304)

Data Requests served May 2, 2014

PSC-281

Regarding: Independent Nature of HDR's Work
Witness: Miller parts a, d / Rhoads part b

- a. Please provide any agreement or contract between HDR and NWE for work performed in relation to the former's evaluation of the Hydros.
- b. What led NWE to decide to contract with another firm to review its due diligence work?
- c. How many conversations and exchanges of letters or emails did NWE and its employees or agents (including Shaw/CB&I) have with HDR during its work?
- d. How much has HDR been compensated for its work in this matter?
- e. NWE states that Mr. Miller is an independent expert. Please provide all written communications between NWE and its employees or agents (including Shaw/CB&I) and HDR.

RESPONSE:

- a. See Attachment.
- b. NorthWestern hired HDR to conduct a peer review of the testimony of William T. Rhoads, to provide a peer review of work produced by the Commission's engineering consultant, Essex, provide additional input as needed regarding industry practice, and evaluate the reasonableness of capital investment assumptions and the remaining life of assets in support of stakeholders involved in this docket. Please refer to the Prefiled Rebuttal Testimony of Rick Miller describing the qualifications of HDR to perform this work.
- c. NorthWestern does not have a record of the number of conversations held between NorthWestern and HDR. See part e below for emails.
- d. HDR began its support of NorthWestern on February 5, 2014, and has been compensated \$4,313.66. Feb (\$2,734.43) + March (\$1,579.23)
- e. NorthWestern objected to this data request to the extent that it requested privileged material. Please see the documents in the folder labeled "PSC-281e" on the attached CD. See also the attached privilege log detailing any documents withheld due to claims of privilege.

NorthWestern Energy
Docket D2013.12.85
PPLM Hydro Assets Purchase

Public Service Commission (PSC)
Set 13 (269-304)

Data Requests served May 2, 2014

PSC-281 cont'd

UPDATED RESPONSE: (June 24, 2014)

- a. The agreements and contracts between NorthWestern and HDR for work performed by HDR in relation to their evaluation of the Hydros are attached. The Original Response included a document that was under development at the time but was not used.

HDR Service Order
(for Hydro related services)

NorthWestern Energy requests the services of HDR for the scope of work as attached to this document. Services shall begin on February 5, 2014 and shall be completed on or before November 30, 2014. Due to the rigorous regulatory process, time is of the essence to meet stringent deadlines.

Services shall be completed and not to exceed 50,000.00. Invoices shall include, at a minimum, the individual's name, billing rate, and hours and additional information such as task.

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 by facsimile 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 Representative at the address set forth below:

Vendor:

HDR Engineering, Inc.
440 S. Church Street, Suite 1000
Charlotte, NC 28202-2075
Phone: (704) 248-3686
Attn: Rick Miller, PE - Senior Vice President Hydro Power Services

NWE:

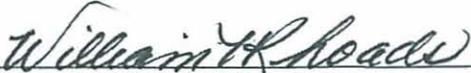
NorthWestern Energy
40 East Broadway
Butte, MT 59701
Phone: 406-497-3496
Attn: William T. Rhoads, PE - General Manager, Generation

NWE shall pay and Vendor shall accept, as full payment for all Services performed as described within the HDR Service Order.

All invoices shall be sent to:

NorthWestern Corporation
Attn: Accounts Payable
40 East Broadway
Butte, MT 59701

All invoices shall reference NWE Contract #CLM0001544, the NWE Service Purchase Order #402320, and the name of the individual requesting the services shall be William Rhoads, 40 East Broadway, Butte, MT 59701.



William T. Rhoads
2/6/14

Date



Richard R. Miller
February 6, 2014

Date



NWE ORIGINAL

Agreement #: CLM0001544
NWE SPO #402320

SERVICES AGREEMENT with Service Purchase Orders

THIS AGREEMENT is made this 1 day of July, 2010, by and between **HDR Engineering, Inc.**, 2913 Millennium Circle, Billings, MT 59102 (**Vendor**), and **NorthWestern Corporation**, a Delaware corporation, d/b/a **NorthWestern Energy**, 40 East Broadway, Butte, MT 59701 (**NWE**).

In consideration of their mutual covenants, the parties hereto set forth and agree as follows:

1. Services to be Performed

- 1.1. This Agreement shall constitute the basic agreement between the parties for the **Engineering Services for Retail Operations** as requested by NWE. The conditions set forth herein shall apply to all services or deliverables performed or provided by Vendor to NWE as requested by NWE and agreed upon between the parties.
- 1.2. Vendor acknowledges that it possesses the necessary professional skill and expertise to perform the Services contemplated hereunder.
- 1.3. Vendor acknowledges that it is responsible for obtaining information on conditions and circumstances that may affect its performance of the Services, that it has the duty to conduct any necessary site visits prior to commencement of the Services, and further that it has taken all steps necessary to ascertain the nature and location of the Services to be performed and the general and local conditions that can affect its performance of the Services and the cost thereof.

2. Materials, Equipment and Labor

Vendor shall furnish and pay for all materials, supplies, labor, transportation, tools, equipment, services and supervision necessary to perform the Services herein described.

3. Term and Schedule for Performance of Services

The term of this Agreement shall be a period commencing on July 1, 2010, and ending on June 30, 2012. Time is of the essence in the performance of each and every obligation by the Vendor.

4. Force Majeure

If either party is prevented in whole or in part from performing its obligations under this Agreement by unforeseeable causes beyond its reasonable control and without its fault or negligence, or orders or requests of state, local, or federal government agency or regulatory body for assistance in responding to an emergency order or disaster, then the party so prevented shall be excused from whatever performance is affected by such cause, to the extent the performance is actually affected; provided that the affected party provides written notice to the other party of the force majeure condition(s) within five (5) calendar days from the onset of such condition. Failure on the part of Vendor to give NWE timely notice shall constitute a waiver of the force majeure claim by Vendor.

5. Changes

NWE may, by written order to Vendor, at any time during the term of this Agreement and without invalidating the Agreement, make changes within the general scope of the Services or within any particular Service Order and Vendor agrees to perform such changed Services. If such change increases or decreases the cost of or time for performing the services hereunder, then NWE shall make an equitable adjustment in the payment to Vendor and/or the time for performance hereunder. Any adjustment to price shall be based on the reasonable expenditures and savings realized by Vendor in providing the Services, as changed, and take into account Vendor's reasonable profit for such Services. In connection therewith, Vendor shall maintain and upon NWE's request provide an itemized accounting of Vendor's costs and profits associated with the changed Services.

6. Quality of Service and Quality Assurance

- 6.1. Vendor, and each of its employees, agents, representatives and subcontractors, shall perform all Services with care, skill, and diligence, in accordance with all applicable professional standards currently recognized by such profession. Vendor shall employ only competent and skillful workers to perform the Services. Vendor's employees, agents, representatives and subcontractors shall have the qualifications to proficiently perform the Services following current industry-wide standards and required by all applicable governmental regulations.
- 6.2. Vendor, and each of its employees, agents, representatives and subcontractors shall conduct themselves in all matters involving NWE in a professional, ethical, moral and legal manner.
- 6.3. All Services and workmanship will be subject to inspection and examination by NWE at all times during this Agreement. If any Services specified herein are not in conformance with the requirements of this Agreement, NWE shall have the right to require Vendor to re-perform the Services immediately to conform to the requirements of this Agreement. If the Services to be performed are of such nature that the defect cannot be corrected by re-performance, NWE may reduce the compensation owed to Vendor to reflect the reduced value of services performed and/or terminate this Agreement.

7. Termination

- 7.1. NWE shall have the right to terminate this Agreement should NWE determine that Vendor has breached any of its warranties or obligations under this Agreement or that Vendor is failing to perform the Services in a timely manner or with the quality required by this Agreement. In the event NWE determines that the Vendor has breached any of its warranties or obligations under this agreement or that vendor is failing to perform the services in a timely manner or with the quality required by this agreement, NWE shall provide written notice to Vendor stating the nature of the unsatisfactory condition. Vendor shall have ten (10) business days after receipt of this written notice to either remedy the unsatisfactory condition or provide evidence, acceptable to NWE, that (i) proper corrective action is being taken to remedy the condition or (ii) that no breach has occurred. If Vendor fails to remedy, or to commence and thereafter with due diligence pursue resolution of the unsatisfactory condition with all due speed, then NWE shall have the right to terminate this Agreement without further notice.

- 7.2. If NWE so terminates this Agreement, NWE shall pay Vendor for services satisfactorily performed through the date of termination and NWE shall not be liable for any further payment to Vendor. Vendor shall be liable for any direct costs incurred by NWE as a result of the termination. NWE's rights herein are in addition to any other remedies it may have under this Agreement or under the law.
- 7.3. NWE shall also have the right, in its sole and absolute discretion, to terminate this Agreement for its convenience upon ten (10) calendar days written notice. In the event of such termination for convenience, Vendor shall be paid for all Services rendered through the termination date and for any direct costs (excluding any anticipated profits) incurred by Vendor as a result of the termination. Such payment shall constitute Vendor's sole right and remedy. NWE shall have the right to terminate for convenience even when a condition of force majeure exists.

8. Ownership of Documents

All technical or business information, documents, and reports, in whatever medium or format, including but not limited to, data, specifications, drawings, artwork, sketches, designs, plans, records, reports, proposals, software and related documentation, inventions, concepts, research or other information, originated or prepared by or for Vendor in contemplation of, or in the course of, or as a result of, Services performed hereunder ("Prepared Information"), shall be promptly furnished by Vendor to NWE in accordance with the terms of this Agreement or upon NWE's request. All such Prepared Information shall be the exclusive property of NWE and shall be deemed to be works for hire. Vendor hereby assigns to NWE all rights, title, and interest in and to such Prepared Information including rights to copyright in all copyright material and in and to all patents that may be issued thereon. All such Prepared Information shall be deemed proprietary information as defined herein. Neither party grants the other party any express or implied licenses under any patents, copyrights, trade secrets, trademarks, or other intellectual property rights, except to the extent necessary for each party to fulfill its obligations to the other under this Agreement.

9. Confidentiality and Conflicts of Interest

- 9.1. Without limiting Vendor's obligations in 6(b) above, each Party agrees to hold in strict confidence and not disclose to any third party any proprietary documents, Prepared Information, or other information, data, findings, results, or recommendations deemed to be confidential by either Party or obtained or developed by Vendor in connection with the Services under this Agreement (collectively "Confidential Information"); provided, however, a party may disclose Confidential Information ("Disclosing Party") of the other party ("Non-Disclosing Party") to judicial, regulatory, or governmental entities after giving the other party reasonable notice prior to such disclosure. The Disclosing Party shall take all reasonable steps to protect the Confidential Information through protective orders or the equivalent prior to its actual disclosure. Confidential Information shall not include information which: (i) is or becomes publicly available without fault of the receiving party; (ii) is independently developed by the receiving party without use of or access to the Confidential Information; and (iii) was known to the receiving party prior to its receipt of the Confidential Information and is not subject to other restrictions on disclosure or use.
- 9.2. In consideration of the mutual covenants contained in this Agreement, Vendor knowingly and voluntarily agrees that during the term of this Agreement, Vendor will not, except as otherwise expressly permitted herein, consult with, render services to,

or become employed by any person or entity which was the subject or beneficiary of any Services Vendor provided to or on behalf of NWE pursuant to this Agreement.

9.3. Vendor further warrants and agrees that it does not and will not have any conflicts of interest regarding the performance of services hereunder.

10. Compensation

10.1. NWE shall pay and Vendor shall accept, as full payment for all Services performed and all materials furnished, and for all costs and expenses incurred in the performance of the Services described herein, the sums specified in the applicable Service Purchase Order.

10.2. Progress payments will be made upon receipt and approval of Vendor's invoice for Services satisfactorily performed.

10.3. All invoices shall be sent to:

NorthWestern Corporation
Attn: Accounts Payable
40 East Broadway
Butte, MT 59701

10.4. All invoices shall reference NWE Contract #CLM0001544, the NWE Service Purchase Order #402320, and the name of the individual requesting the services. The invoice shall provide such detail as to allow NWE to compute the amount due for Services performed and/or deliverable(s) provided. Vendor understands that its failure to follow this requirement may result in delayed payments by NWE.

10.5. In the event of a dispute regarding an invoice, NWE shall pay the undisputed amount to Vendor pursuant to the terms of the compensation schedule and NWE shall further notify Vendor of the amount(s) in dispute and the basis for the dispute.

10.6. Vendor shall promptly pay when due all Vendor payrolls (including wages and taxes) related to its performance of the Services and shall promptly pay when due all costs for supplies and materials related to its performance of the Services. Vendor shall not file any lien, or permit any lien to be filed by any of its direct or indirect contractors or agents, with respect to any part of the Services or property of NWE. Upon NWE's request, Vendor shall furnish satisfactory evidence of payment of all wages, taxes, supplies and materials, and all other costs incurred in connection with the performance of the Services.

11. Indemnification, Warranty, Liability, Release and Limitation of Liability, Right to Repair

11.1. Indemnity

Except to the extent of NWE's negligence, Vendor shall indemnify NWE, its officers, directors and employees from any and all claims, demands, litigation, expenses or liabilities (including costs and attorneys' fees through final appeal) of every kind and character arising from or incident to the negligent performance of the Services by Vendor, its employees or subcontractors, including without limitation: all actions, suits, claims, demands or liability of any character whatsoever, brought or asserted for injuries to or

death of any person or persons, damages to property, contamination of or adverse effects on the environment, infringement of copyright, trademark, patent or other intellectual property rights, violation of federal, state or local governmental laws, regulations or ordinances, or other breach of legal duty arising from performance of the Services, the work products resulting from the Services and/or the use thereof, the presence of Vendor's employees or agents on NWE premises, or Vendor's breach of any term or obligation of this Agreement. Vendor's indemnification obligations shall not include, but are not limited to indemnity for all direct, indirect, incidental, consequential, special, exemplary, or punitive damages and attorneys fees and costs.

11.2. Representations

- 11.2.1. Vendor represents that any products, materials and/or services furnished by Vendor hereunder to NWE shall be delivered or performed free of any claim of any person by way of patent, trade secret, copyright, trademark infringement or any other proprietary right of any person. Vendor warrants and represents that: (i) Vendor has title to and is a lawful owner of all materials and supplies provided hereunder; (ii) such materials and supplies are free of any security interests, claims, liens or any other encumbrances whatsoever; (iii) Vendor has good right to assign, transfer and convey them; and (iv) Vendor will defend the title against all claims and demands of all persons.
- 11.2.2. Unless otherwise provided in this Agreement, all materials and equipment furnished by Vendor and incorporated into any work under this Agreement shall be new and where not specified, of the most suitable grade of their respective kind for their intended use and all workmanship shall be acceptable to NWE.
- 11.2.3. Vendor shall transfer directly to NWE all warranties from material and equipment suppliers.
- 11.2.4. The remedies provided herein shall be in addition to any other remedies that NWE may have under this Agreement or under applicable law.

11.3. Liability, Release and Limitation of Liability

- 11.3.1. Upon acceptance of final payment and other good and valuable consideration, Vendor hereby agrees to release and forever discharge NWE, its directors, officers, agents, servants and employees of and from any and all claims, demands, actions, causes of action, obligations, and liabilities of every kind and character whatsoever, in law or equity, which Vendor may have or assert against NWE, its directors, officers, agents, servants, and employees.
- 11.3.2. Neither party shall be liable the other party for (i) damages in excess of the amount paid by NWE under this Agreement; or (ii) any indirect, incidental, consequential, special, exemplary or punitive damages arising from or related to this Agreement, its performance, enforcement, breach or termination, such as, but not limited to, loss of revenue, anticipated profits, or business.

11.4. Right to Repair

- 11.4.1. NWE shall have the right to repair any and all defects if Vendor has previously authorized such action or, if in NWE's reasonable commercial judgment, Vendor is unable or unwilling to affect the repair. If NWE elects to repair, it may deduct from any amounts owing to Vendor the direct and incidental costs incurred in remedying the defect. NWE's action to repair or cure any defect shall not relieve Vendor of any obligations under this Agreement or the applicable Service Order.

12. Insurance

Without limiting any of Vendor's obligations hereunder, Vendor shall carry insurance coverage in accordance with the requirements stated in Exhibit X, Insurance Requirements of NorthWestern Energy, attached hereto and incorporated herein by reference. Before commencing any of the Services, Vendor shall deliver to NWE's Contract Administration Department in Butte, Montana, an insurance certificate evidencing the required coverage, limits and additional insured provisions as required by Exhibit Y, attached hereto and incorporated herein by reference.

13. Independent Contractor

It is specifically agreed and acknowledged that in the performance of the Services, Vendor is an independent contractor and not the employee, agent or representative of NWE.

14. Labor Relations

- 14.1. Vendor shall comply with all applicable federal, state and local statutes, regulations, and ordinances, concerning the employment of employees, working conditions, and payment of wages and benefits.
- 14.2. During the course of the work should labor problems of any type materialize which cause the construction to cease for any period of time, Vendor specifically agrees to take immediate steps, at its own expense and without expectation of reimbursement from NWE, to alleviate or resolve all labor problems which arise. Vendor shall bear all costs of any legal action and provide immediate relief so as to permit the work to proceed to completion in the time frame established between the parties to the Agreement, at no additional cost to NWE.
- 14.3. Vendor shall indemnify and hold harmless NWE from any and all claims, demands, costs, expenses, damages and liabilities arising out of, resulting from or occurring in connection with labor problems or the delays associated with these problems.

15. Laws and Regulations

- 15.1. Vendor shall comply fully with all applicable Workers' Compensation requirements and all other applicable federal, state and local laws, regulations, and ordinances.
- 15.2. Vendor shall strictly comply with all applicable environmental laws and regulations.
- 15.3. Vendor shall be responsible for payment of all taxes, assessments, and contributions, whether local, state, or federal in nature, in connection with the performance of the Services, including without limitation, all sales and use tax with respect to labor and materials used to provide the Services, and all social security,

Medicare and Medicaid, unemployment insurance, and workers' compensation, and other payroll taxes required to be paid with respect to employees, representatives and direct and indirect agents of Vendor. Vendor shall hold NWE harmless from any and all liability on account of any such taxes or assessments.

- 15.4. Vendor shall comply with the Americans With Disabilities Act and all Non-Discrimination, Affirmative Action and Utilization of Minority and Small Business Enterprises statutes, regulations, and ordinances.

16. Representative

NWE's Representative for the purposes of this Agreement shall be Dan Munson or such other person as NWE shall designate in the Service Purchase Order or in another writing. Whenever approval or authorization from or communication or submission to NWE is required by this Agreement or the Service Purchase Order, such communication or submission shall be directed to NWE's Representative and approvals or authorizations shall be issued only by such representative.

17. Access to Services; Use of Completed Portions

- 17.1. NWE at all times shall have access to the Services whenever it is in progress, provided NWE shall not interfere with nor direct the Services. Any questions involving scope, method or performance of the Services shall be reviewed and resolved with NWE Representative. All field data and notes are the property of NWE.
- 17.2. NWE shall have the right to take possession of or use any fully completed portions of any work notwithstanding that the time for completing the entire project or such portion may not have expired; but taking such possession and use shall not be deemed an acceptance of any work not fully completed in accordance with the Agreement documents.

18. Safety

- 18.1. NWE considers the safety and welfare of all persons, and the preservation of property, paramount in the conduct of business.
- 18.2. Vendor shall comply with the Occupational Safety and Health Act of 1970, as amended, the Montana Safety Culture Act of 1993, as amended, and all applicable laws, ordinances, rules and regulations bearing on the safety of persons or property or their protection from damage, injury or loss.
- 18.3. Vendor shall take all reasonably necessary precautions in performing the work hereunder to prevent injury to persons or damage to property.

19. Intellectual Property

Whenever Vendor is required to use any design, device, material, or process covered by letters, patent, trademark, or copyright, Vendor shall indemnify and save harmless NWE from any and all claims for infringement by reason of the use of such protected design, device, material or process in connection with the Agreement and shall indemnify NWE for any costs, expenses and damages which it may be obliged to pay by reason of such infringement at any time during the prosecution or after the completion of the Services; provided, however, that Vendor has no such liability for equipment, design, material or processes furnished by NWE.

20. Survival

Each of the terms, conditions and obligations set forth in Sections 2, 6(b), 8, 9, 11 and 22, and each of Vendor's indemnification and warranty obligations set forth in this Agreement shall survive the termination or expiration of this Agreement for the maximum period allowed under applicable law.

21. Examination of Vendor's Records

21.1. Upon reasonable notice, NWE or its representative shall have the right to examine any books, records, or other documents of Vendor directly relating to the performance of the Services and the costs thereof. Such examination will occur during normal business hours; however, should an emergency situation exist, immediate access will be granted.

21.2. Vendor shall cooperate in this effort and make employees, records and facilities reasonably available. NWE reserves the right to make extracts or copies of Vendor records, as NWE, in its sole discretion, deems necessary or desirable and at NWE's sole cost and expense.

22. Assignment

Vendor shall not assign this Agreement in whole or in part without the prior written consent of NWE, which consent shall not be unreasonably withheld.

23. Disputes, Forum and Applicable Law

23.1. This Agreement shall be governed in all respects by the laws of the State of Montana.

23.2. Dispute Resolution

23.2.1. When a Dispute has arisen and negotiations between the parties have reached an impasse, either party may give the other party written notice of the Dispute. In the event such notice is given, the parties shall attempt to resolve the Dispute promptly by negotiations between representatives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for the matter. Within ten (10) days after delivery of the notice, the receiving party shall submit to the other a written response. Thereafter, the representatives shall confer in person or by telephone promptly to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.

23.2.2. If the dispute has not been resolved by negotiation between the representatives within thirty (30) days of the notice, or if the parties have failed to confer within twenty (20) days after delivery of the notice, the parties shall endeavor to settle the dispute by non-binding mediation. The mediation shall consist of both parties agreeing to one neutral mediator, providing the mediator with simultaneous, non-shared written position statements, and day long mediation at the chosen mediator's desired location.

- 23.3. Should the mediation not lead to settlement of the dispute, then either party may proceed to a court of competent jurisdiction.
- 23.4. All negotiations and proceedings pursuant to this process are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law.
- 23.5. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against either of the parties in the courts of the State of Montana, or, if it has or can acquire jurisdiction, in the United States District Court for the District of Montana and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on either party anywhere in the world.

24. Notices

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 by facsimile 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 Representative at the address set forth below:

Vendor

HDR Engineering, Inc.
2913 Millennium Circle
Billings, MT 59102
Phone: 406-869-4937
Attn: Bill Barnhart

NWE

NorthWestern Energy
PO Box 20330
Billings, MT 59108-0330
Phone: 406-497-7520
Attn: Jim Krusemark

25. Subcontractors

Vendor may employ subcontractors to perform any work hereunder only with the prior written consent of NWE. Vendor shall be as fully responsible for the acts or omissions of any subcontractor as it is for its own acts or omissions.

26. Headings

The headings used in this Agreement are for convenience only and shall not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

27. Waiver

A waiver by NWE of any default or breach by Vendor of any covenants, terms or conditions of this Agreement shall not limit NWE's right to enforce such covenants, terms or conditions or to pursue NWE's rights in the event of any subsequent default or breach.

28. Severability

If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall continue to be effective.

29. Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties.

30. Amendments

This Agreement shall not be modified, amended or changed in any respect except by a written document signed by all parties.

31. Counterparts; Copies

This Agreement may be executed in counterparts, which together shall constitute one instrument. Copies of this fully executed instrument shall have the same force and effect as the original.

32. No Third Party Beneficiary

This Agreement is for the exclusive benefit of the parties and shall not constitute a third party beneficiary agreement and shall not be relied upon or enforced by a third party.

33. Authority

Each party represents that it has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to sign this Agreement.

34. Integration

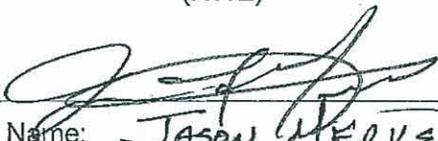
This Agreement constitutes the entire agreement of the parties. Covenants or representations not contained or incorporated therein shall not be binding upon the parties.

~~~~~

IN WITNESS WHEREOF, the parties hereto have caused this Agreement (reference NWE Contract #CLM0001544/NWE SPO #402320) to be executed in duplicate the day and year first above written.

NorthWestern Corporation d/b/a/  
NorthWestern Energy  
(NWE)

HDR Engineering, Inc.  
(Vendor)

By:   
Print Name: JASON M. EVERS  
Title: GM OPERATION - MT  
Date: 8/03/10

By:   
Print Name: William E. Benhart II  
Title: Vice President  
Date: 7-21-10

**EXHIBIT X**  
**Insurance Requirements of NorthWestern Corporation**  
**d/b/a NorthWestern Energy**

1. Prior to commencement of performance under this Agreement, Vendor shall secure and maintain all insurance required as evidenced by Exhibit Y (enclosed herein).
2. Vendor shall maintain in effect at all times during the performance of the work, insurance in accordance with the applicable laws relating to workers' compensation and employers' liability insurance, regardless of whether such coverage or insurance is mandatory or merely elective under the law.
3. Insurance coverage and limits shall be at a level deemed appropriate by Company (as shown on Exhibit Y, enclosed herein) for the risks associated with the project contemplated by this Agreement. Required insurance coverages are to be purchased at Vendor's own expense.
4. If the scope of work is significantly expanded, the Company reserves the right to increase the required coverage or require additional endorsements or policies of insurance.
5. Vendor shall notify the Company of any erosion of aggregate limits below the specified limits under any of the insurance policies, and if requested, purchase additional limits of coverage as may be deemed by the Company to satisfy Vendor's obligations under this Agreement.
6. Vendor shall maintain such insurance in full force and effect at all times until:
  - 6.1. all the Vendor's obligations under this Agreement have been fully performed, all of the work has been accepted by NorthWestern Corporation, and all operations by the Vendor and its subcontractors and suppliers (including but not limited to removal of equipment and other property) on or about the site of the work have been concluded;
  - 6.2. in the instance of completed operations and products liability coverage, until the expiration of one (1) year after all Vendor's obligations under this Agreement have been fully performed; and
  - 6.3. in the instance of professional liability coverage, two (2) years from project completion or three (3) years from acceptance of the services.
7. Vendor is obligated to ensure that any policies of insurance that Vendor carries as insurance against loss of or damage to Vendor's, subcontractors' and/or suppliers' property (including, but not limited to, tools, equipment, vehicles, watercraft and aircraft) or against liability for property damage or bodily injury (including death) shall:
  - 7.1. Be placed with such insurers having an A.M. Best rating of A-VII or better (not applicable to Professional Liability).
  - 7.2. With the exception of workers' compensation and employers' liability and professional liability insurance

- 7.2.1. be endorsed to name NorthWestern Corporation as an additional insured with respect to any liabilities assumed under this Agreement; and
    - 7.2.2. apply severally and not collectively to each insured against whom claim is made or suit is brought, except that the inclusion of more than one insured shall not operate to increase the insurance company's limits of liability as set forth in the insurance policy.
  - 7.3. Include within automobile coverage(s), owned, non-owned, hired and borrowed vehicles.
  - 7.4. Be primary insurance with respect to the interest of the Company as additional insured and any insurance maintained by Company is excess and not contributory insurance with the insurance required hereunder.
  - 7.5. Include a waiver of the insurer's right of subrogation against NorthWestern Corporation. Vendor also hereby waives all rights of subrogation against NorthWestern Corporation.
  - 7.6. Provide that the policies will not be canceled or their limits or coverage reduced or restricted without endeavoring to provide at least thirty (30) days prior written notice to the Contract Administration Department, NorthWestern Energy, 40 East Broadway, Butte, Montana 59701.
  - 7.7. Company will look to Vendor and thereby Vendor's insurer for coverage for claims arising from the negligent acts or omissions of Vendor or any subcontractor/supplier of Vendor's choosing.
8. Vendor shall instruct and require its insurance agent/broker to complete and return an insurance certificate, in an ACORD form, as evidence that insurance policies providing the required coverage, limits and additional insured provisions as outlined within this Exhibit X are in full force and effect. Vendor shall be fully responsible for all deductibles and self insured retentions related to insurance provided herein. Prior to commencement of work, the completed insurance certificate form is to be returned to the Contract Administration Department, NorthWestern Energy, 40 East Broadway, Butte, Montana 59701.
  9. The insurance requirements of this Agreement and acceptability to the Company of insurers and insurance to be maintained by Vendor, its subcontractors/suppliers, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the insured under this Agreement. Vendor is fully and solely responsible for the level of insurance coverage it requires of its subcontractors and suppliers. Company will look to Vendor and thereby Vendor's insurer for coverage for claims arising from the negligent acts or omissions of Vendor or any subcontractor/supplier of Vendor's choosing.



Agreement #:CLM0001544  
NWE SPO #402320

## EXHIBIT Y MINIMUM GENERAL REQUIREMENTS

On an ACORD Form, please provide evidence of the following coverages:

- \$1,000,000 General Liability
- \$1,000,000 Automobile Liability
- \$1,000,000 Professional Liability
- \$5,000,000 Excess Liability

- Statutory Workers' Compensation
- Employers' Liability - \$500,000 each accident; \$500,000 disease - policy limit; and \$500,000 disease – each employee

On the certificate, NorthWestern Corporation needs to be named as an additional insured with respect to automobile and general liability coverage. We will not accept the use of the following Additional Insured Endorsement - CG 2026 – Amendment of Insured Contract Definition.

Tasks for HDR Consultants:

The following tasks shall be undertaken at this time (2/5/14):

1. Review hydro regulatory filing, including exhibits by NWE
  - a. Focus on Rhoads testimony including exhibits to gain an understanding of due diligence associated with engineering assumptions including the estimate of longevity of assets, capital and expense estimates, dam safety, and the Owner's Dam Safety Program.
  - b. Review data requests and NWE responses.
2. Review MPSC engineering consultant's work (Essex), and participate in NWE, Essex, and MPSC calls or meetings. Participation should focus on clarification of points Essex is presenting.
  - a. Present a peer review of the Essex report.

The following tasks may be initiated at a later date:

3. Develop rebuttal testimony on issues as necessary.
  - a. Rebuttal testimony will require HDR as a witness throughout proceeding
4. Evaluate reasonableness of NWE assumed capital investment assumptions.
5. Evaluate reasonableness of NWE assumed expense assumptions.
6. Evaluate remaining life of assets assuming reasonable capital investment.

ORIGINAL

**MODIFICATION NO. 1  
To the Agreement between  
NorthWestern Corporation d/b/a NorthWestern Energy  
And  
HDR ENGINEERING INC**

**Contract #CLM0001544  
NWE SPO 402320**

Contract Date: 7/1/10

TO: Craig Jardine  
HDR Engineering, Inc.  
2913 Millennium Circle  
Billings, MT 59102

**CONTRACT DESCRIPTION:** Engineering and design services as requested by NWE

The above referenced contract is hereby modified as follows:

**DESCRIPTION OF CHANGE:** To extend the term of the agreement

**CONTRACT COMPLETION DATE ADJUSTMENT:** June 30, 2014

**PAYMENT ADJUSTMENT:** NA

**OTHER:** NA

The above adjustments constitute the entire and complete modification to the contract referenced herein. Except as modified by the above, all terms and conditions of NWE Contract #CLM0001544/NWE SPO 402320 shall remain in full force and effect.

**NORTHWESTERN CORPORATION  
d/b/a NORTHWESTERN ENERGY  
(Company)**

**HDR ENGINEERING INC  
(Contractor)**

By:   
Printed Name: JASON MEAKEL  
Title: GM - MT OPERATIONS  
Date: 8/06/12

By:   
Printed Name: Scott Hereim  
Title: Vice President  
Date: 7/9/12



*Contract Administration*  
*Telephone: (Stacey) (406) 497-2456*  
*Telephone: (Kathy) (406) 497-2209*  
*Facsimile: (406) 497-3135*  
*E-Mail: stacey.corbitt@northwestern.com*  
*E-Mail: kathy.sparks@northwestern.com*

NorthWestern Corporation  
d/b/a NorthWestern Energy  
40 East Broadway Street  
Butte, MT 59701  
Telephone: (406) 497-1000  
Facsimile: (406) 497-2535  
www.northwesternenergy.com

August 13, 2012

Craig Jardine  
HDR Engineering, Inc.  
2913 Millennium Circle  
Billings, MT 59102

Re: NWE Contract No. CLM0001544  
PO 402320

Dear Mr. Jardine:

Enclosed for your files, please find a fully executed original of Modification No. 1 to an Agreement between your company and NorthWestern Energy.

Please note that **PO 402320** should be on all invoices.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Kathy Sparks".

Kathy Sparks  
Expeditor

enc.