

Contract No.

United States of America  
Department of Energy  
Western Area Power Administration

Rapid City-Dry Creek Transmission Line and Access Road

#### CONTRACT AND GRANT OF EASEMENT

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, between City of Rapid City, (GRANTOR), whether one or more, and the UNITED STATES OF AMERICA, Department of Energy, Western Area Power Administration (UNITED STATES), represented by the officer executing this agreement, pursuant to the Reclamation Act, Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof and supplementary thereto, and the Department of Energy Organization Act, Act of August 4, 1977, 91 Stat. 565.

WITNESSETH:

That the parties hereto covenant and agree as follows:

1. The GRANTOR, for and in consideration of the sum of Ninety-one thousand four hundred dollars (\$91,400.00) and the provisions contained in this agreement, does hereby grant and convey to the UNITED STATES OF AMERICA, and its licensee, lessees, and assigns, a perpetual easement and right-of-way for electric power and transmission purposes in, upon, over, and under the land described in Exhibit A, attached hereto and made a part hereof.

2. The grant of easement shall include the unimpeded right to enter the above-described easement area and to locate, survey, construct, reconstruct, operate, maintain, repair, rebuild, upgrade, remove, permit the attachment of wires of others, and patrol transmission lines consisting of one line of poles or structures and appurtenances thereto, supporting conductors of one or more electric circuits of any voltage, as well as appurtenances for communication facilities. The grant shall also include the present and future right to cut down and clear away or otherwise remove any and all brush, timber, trees, fire hazards, unauthorized structures or any other materials deemed by the UNITED STATES to interfere with the safe operation and maintenance of the transmission line,

provided however, that growing crops, excluding orchards, shall not be considered to be fire hazards. The UNITED STATES may trim, cut, or remove trees or branches over or on or extending within the easement area. All materials so removed shall become the property of the UNITED STATES and shall be disposed of by the UNITED STATES in any manner it deems suitable.

3. The GRANTOR also grants and conveys to the UNITED STATES OF AMERICA, and its lessees and assigns, a perpetual non-exclusive easement for access road purposes in, upon, and across lands described in Exhibit B, attached and made a part hereof. The grant of easement shall include the right to enter and locate, construct, use, maintain, repair, and rebuild a road(s) together with cuts and fills as needed. The GRANTOR shall have the right to use said access road(s) described herein for any purposes which will not constitute a hazard to life or limb or interfere with any of the rights and privileges herein granted to the UNITED STATES.

4. The UNITED STATES shall agree to the relocation of said access road provided that GRANTOR furnishes such alternate easements, rights-of-way, and roads deemed satisfactory to the UNITED STATES.

5. The UNITED STATES shall exercise due care and diligence in the exercise of rights and privileges granted herein. The UNITED STATES agrees to repair or reasonably compensate the GRANTOR for damage to agricultural crops (excluding orchards), fences, irrigation systems, drainage systems or other improvements within the transmission line right-of-way that occurs as a result of the exercise of the rights granted herein.

6. The GRANTOR is the sole owner of the property over which this easement is granted, and has the lawful right to convey this easement interest.

7. The GRANTOR shall assist the UNITED STATES in procuring and recording all assurances of title and affidavits which the GRANTOR may be advised by the UNITED STATES are necessary. The UNITED STATES shall pay to record this instrument and for the procurement of abstracts or title insurance.

8. In the event that liens or encumbrances other than those expressly provided herein do exist, the UNITED STATES may, at its option, remove any and all such outstanding liens and encumbrances by reserving from the purchase price herein set forth the necessary amount and discharge same with the money so reserved, but this provision shall not be construed to authorize the incurrence of any lien or encumbrances as against this contract, nor an assumption of any lien or encumbrance by the UNITED STATES.

9. Should the UNITED STATES initiate court action to acquire good title from the GRANTOR to the above described easement, GRANTOR agrees that this instrument shall be evidence of fair market value for purposes of establishing value of the easement acquired by the UNITED STATES.

10. The GRANTOR shall have the right to cultivate, graze, use, occupy, and have access to and across the easement area described herein for any purposes which will not constitute a safety hazard or interfere with any of the rights and privileges herein granted to the UNITED STATES. The UNITED STATES will notify the GRANTOR in writing of any activity of the GRANTOR within the easement area that constitutes a safety hazard, or interferes with any of the rights and privileges herein granted to the UNITED STATES.

The following activities are prohibited within the easement area unless written permission is granted by the UNITED STATES.

(a) GRANTOR shall not erect any structures; by way of example, structures shall include, but are not limited to buildings, mobile homes, signs, light standards, storage tanks, septic systems, swimming pools, tennis courts, or similar facilities.

(b) GRANTOR shall not drill wells or conduct mining operations.

(c) GRANTOR shall not construct, install or operate above-ground mechanical irrigation facilities.

(d) GRANTOR shall not appreciably change the character of existing topography, normal farming practices excluded.

(e) GRANTOR shall not plant trees, orchards, shrubs, or bushes within the easement.

(f) GRANTOR shall not construct roads parallel to the transmission line.

Roads constructed across the easement area shall be in accordance with all applicable safety codes and shall be a minimum of 20 feet from any transmission line structure.

The UNITED STATES shall not unreasonably withhold permission, and it shall be the intention of the UNITED STATES to allow the GRANTOR a reasonable right to use and have access across the easement area when and where such use shall not interfere with the rights of the UNITED STATES as provided herein. If, however, GRANTOR proceeds without permission to conduct any of the prohibited activities named in this article, the UNITED STATES shall have the right, upon discovery of such activity, to take any action deemed appropriate to prevent such activity including the right to remove if necessary.

11. In the event of permanent abandonment of any or all rights to the easement granted herein to the UNITED STATES, said abandonment shall be effected by the execution and recording of a quitclaim deed by the UNITED STATES in favor of the GRANTOR, or his successors, and the easement granted herein, or any portions therein abandoned, shall terminate. The UNITED STATES, or its assigns, shall have the right to remove, within a reasonable time, all structures, facilities, and equipment placed on the easement by or on behalf of the UNITED STATES, from such abandonment area whether before or after execution of the quitclaim deed.

12. The provisions hereof shall inure to the benefit of and be binding upon the heirs, executors, personal representatives, administrators, successors, and assigns of the GRANTOR, and the licensees, lessees, and assigns of the UNITED STATES.

IN WITNESS WHEREOF, the parties hereto have signed their names, the day and year first above written.

GRANTOR  
CITY OF RAPID CITY

UNITED STATES OF AMERICA

By \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Steven W. Webber  
Lands Team Lead

ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA )  
COUNTY OF }

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014,  
by \_\_\_\_\_, the \_\_\_\_\_ of the City of  
Rapid City, on behalf of the City of Rapid City.

WITNESS my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public

My commission expires:\_\_\_\_\_