

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION**

**North Loup Division  
Pick-Sloan Missouri Basin Program, Nebraska**

**Sale Agreement for  
Geranium Transmission and Distribution Line  
and Arrangement for Continued Project Use Power to  
Twin Loups Reclamation and  
Twin Loups Irrigation Districts**

THIS SALE AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, pursuant to the authority of the Act of Congress approved June 17, 1902 (32 Stat. 338), the Act of Congress approved December 22, 1944 (58 Stat. 887) (Flood Control Act), Federal Management Regulation Supplement 114S-47.3, 41 Code of Federal Regulations 102-75.365, 50 U.S.C. 1622 (d), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, acting by and through the Department of the Interior, Bureau of Reclamation, represented by the officer executing this Sale Agreement or a duly appointed successor, hereinafter called the "Contracting Officer" or "Reclamation", and the LOUP VALLEYS RURAL PUBLIC POWER DISTRICT, hereinafter call "Loup Valleys", a public power district duly organized, created and existing under and by the virtue of the laws of the State of Nebraska with its office and principal place of business at Ord, Nebraska, its successors and assigns, each sometimes hereinafter individually called "Party", and both sometimes hereinafter collectively called "Parties".

**WITNESSETH THAT:**

The following preliminary statements are made in explanation:

- a. WHEREAS, the United States has constructed the Pick-Sloan Missouri Basin Program (P-SMBP) pursuant to the Flood Control Act, and has constructed the North Loup Division, Nebraska, pursuant to the Act of October 20, 1972 (86 Stat. 969); and
- b. WHEREAS, pursuant to Contract No. 5-07-70-CR088 between Reclamation and Loup Valleys dated June 6, 1985, as amended and supplemented, hereinafter called the "1985 Contract", Loup Valleys has jointly constructed and jointly-owns with Reclamation a transmission and a distribution line described herein as "69-kilovolt (kV) transmission line and the 7.2/12.5-kV distribution line" as described in Exhibit A and hereinafter called the "Property" for delivery of P-SMBP Project Use Pumping Power

(PUP) for use by Twin Loups Reclamation and Twin Loups Irrigation Districts (Districts) at the Geranium Pumping Plant and Lateral 7.0 Pumping Plant; and

c. WHEREAS, Loup Valleys also uses the Property to serve the loads of other customers in the area; and

d. WHEREAS, approximately twelve (12) circuit miles of the 69-kV sub-transmission line is 83.58 percent owned by Reclamation, and approximately three (3) circuit miles of the 7.2/12.5-kV three-phase distribution line is 58.33 percent owned by Reclamation which is surplus to the needs of the United States; and

e. WHEREAS, Reclamation does not have the maintenance capability to operate, maintain and replace (OM&R) the Property and Loup Valleys has competent crews in the area and is willing to OM&R the Property; and

f. WHEREAS, pursuant to a letter dated December 2, 2008, from Loup Valleys to Reclamation, Loup Valleys has expressed an interest in purchasing Reclamation's share of the lines co-owned with Loup Valleys; and

g. WHEREAS, Reclamation has determined, pursuant to the Surplus Property Act of 1944 (50 U.S.C. 1622(d)), that the property is needful for and adaptable to the requirement of a public power cooperative and that Loup Valleys is an eligible agency under said Act and is willing to purchase the property; and

h. WHEREAS, upon execution of this Sale Agreement, Loup Valleys will assume full ownership of the Property as well as full OM&R responsibility of said lines; and

i. WHEREAS, Reclamation will ensure compliance with the National Environmental Policy Act of 1978 prior to the execution of this Sale Agreement.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed as follows:

**DEFINITION**

1. The Property shall mean and include 12 circuit miles of the 69-kV transmission line and 3 circuit miles of the 7.2/12.5-kV distribution line as described in Exhibit A.

**PURCHASER OF PROPERTY**

2. Reclamation, in consideration of covenants, conditions, restrictions, and reservations, hereinafter contained, and other good and valuable consideration by Loup Valleys to Reclamation, receipt of which is hereby acknowledged, has sold, transferred and conveyed unto Loup Valleys, hereunder and subject to the conditions hereinafter set

out, its right, title and interest in the Property more particularly listed in Exhibit “A”, and which is attached hereto and made a part hereof.

**LICENSE TO THE PURCHASER**

3. a. Reclamation hereby grants to Loup Valleys, free of any rental or similar charge, but subject to the limitations specified in this Sale Agreement, a license to enter upon the land administered by Reclamation, as listed in Subarticle 3.b., as necessary to operate and maintain a transmission and a distribution line referred to under Article 2 above, to cut and trim trees and shrubbery that may interfere with or threaten to endanger the OM&R of said line or system, and to remove said line or system upon termination of service. Loup Valleys will be allowed access to the facilities of Reclamation at suitable times to perform the obligations of Loup Valleys with respect to such facilities and coordinate such work with the Districts except in times of an emergency. It is expressly understood, however, that maintenance will be subject to the operation and maintenance of the North Loup Division, and the proper military or Governmental authority may limit or restrict the right of access herein granted in any manner considered by such authority to be necessary for national security. In accordance with the Standard Articles in Exhibit C of this Sale Agreement, Loup Valleys shall obtain all other necessary easements and permits to perform OM&R under this Sale Agreement.

b. United States fee title lands described as follows: A parcel of land located in Lots One (1) and Two (2), also known as the N1/2 of the NE1/4, and in the SE1/4 of the NE1/4 of Section 6, T19N, R15W, 6<sup>th</sup> P.M., Valley County, Nebraska; and United States lands held in easement described as follows: A parcel of land located in the W1/2 of the SW1/4, and the SW1/4 of the NW1/4 of Section 5, T19N, R15W, 6<sup>th</sup> P.M., Valley County, Nebraska.

c. In the event the Property listed in this Sale Agreement is abandoned or is disposed of, the license granted in Subarticle 3.a. will be hereby revoked.

**EFFECTIVE DATE AND TERMINATION OF 1985 CONTRACT**

4. This Sale Agreement shall become effective upon execution and on that date shall supersede and replace the 1985 Contract in its entirety.

**CONDITION OF SALE**

5. In consideration of this sale, Loup Valleys covenants and agrees:

a. To accept the Property, as described in Exhibit A, “as is” and “where is” without warranty or guarantee as to title, quality, quantity, character, condition, size, kind or that the same is in condition or fit to be used for the purpose specified herein.

b. To assume full responsibility for the care, protection and OM&R of the Property on and after the effective date of this Sale Agreement.

c. To wheel federal energy and electrical PUP to the Districts as described in Exhibit B, which is attached hereto and made a part hereof , without charge from the date of this Sale Agreement for a period of fifty (50) years in lieu of a payment of \$1,000,000.

d. Upon execution of this Sale Agreement the Contracting Officer will file a notice of divestiture of interest or release of easement with the appropriate County Clerk for any rights-of-way and/or easements no longer required for use by Reclamation as a result of the sale of the Property.

IN WITNESS WHEREOF, the Parties hereto have caused this Sale Agreement to be executed the day and year first above written.

THE UNITED STATES OF AMERICA

\_\_\_\_\_  
Michael J. Ryan  
Regional Director  
Great Plains Region  
Bureau of Reclamation

LOUP VALLEYS RURAL PUBLIC  
POWER DISTRICT

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

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

(CORPORATION SEAL)

Attest:

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

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

## **EXHIBIT A**

### **Transmission and Distribution Line Description**

This Exhibit A, made this \_\_\_\_ day of \_\_\_\_\_, 2009, to be effective under and as a part of the Sale Agreement No. 09XX6B0148, dated \_\_\_\_\_, 2009 (hereinafter called the “Sale Agreement”), shall become effective on the effective date of the Sale Agreement and shall remain in effect until superseded by another Exhibit A.

1. 69-kV Transmission Line – The 69-kV transmission line (operated at 34.5-kV) begins at the Loup Valleys Rural Public Power District (Loup Valleys) Ord Substation with switch #112 located on the first pole outside the station and travels westerly some 8 circuit miles to switches #132 and #131. From those switches, the line extends northerly some 3 circuit miles to the United States’ Geranium Canal Substation where it terminates at switch #1132. The transmission line is tapped at switches #131 and #132 and travels westerly 1 circuit mile to the Loup Valleys Geranium Substation where it terminates at switch #134. This sale includes all transmission line described and includes switches #131, #132, and #134.

2. 7.2/12.5-kV Distribution Line – The 7.2/12.5-kV distribution line begins at the Loup Valleys Geranium Substation at and including breakers #115, #116, and #117 and extends westerly approximately 3 circuit miles to the United States Lateral 7.0 Pumping Plant and terminates at the high side bushings of the transformers.

## **EXHIBIT B**

### **Transmission Path and Rate of Delivery and Delivery Conditions**

This Exhibit B, made this \_\_\_\_ day of \_\_\_\_\_, 2009, to be effective under and as a part of the Sale Agreement No. 09XX6B0148, dated \_\_\_\_\_, 2009 (hereinafter called the Sale Agreement), shall become effective on the effective date of the Sale Agreement and shall remain in effect until superseded by another Exhibit B.

1. Transmission Path:

The facilities of Reclamation's North Loup Division are not directly interconnected with the Integrated System managed by Western Area Power Administration (Western). Deliveries of Project Use Power are therefore made using the facilities of the Nebraska Public Power District (NPPD), and the facilities of Loup Valleys (jointly owned by the United States and Loup Valleys prior to execution of this Sale Agreement), and herein referred to as Property, and that Project Use Power is then delivered to the Twin Loups Reclamation and Twin Loups Irrigation Districts (Districts). The Districts' facilities are directly interconnected with facilities of Loup Valleys. Western has made transmission arrangements for use of the facilities of NPPD for delivery of power and energy to Loup Valleys. By this Sale Agreement arrangement has been made with Loup Valleys for delivery of federal power and energy to the Districts, a wheeling agreement will be put into place between Western and Loup Valleys.

2. Rate of Delivery and Delivery Conditions:

2.1 On and after the effective date of this Exhibit B, delivery rate shall be a maximum of four thousand one hundred (4,100) kilowatts each month during the months of May through October, exclusive, of each year for irrigation purposes.

2.2 During the non-season service months of November through April federal power and electric energy shall be delivered as required for testing and maintenance purposes.

## **EXHIBIT C**

### **STANDARD ARTICLES**

#### **A. SEVERABILITY**

Each provision of this Sale Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Sale Agreement shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions.

#### **B. HOLD HARMLESS**

Loup Valleys hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of Loup Valleys' activities under this Sale Agreement. Loup Valleys assumes all risk and liability associated with its operations and activities authorized under the terms of this Sale Agreement.

#### **C. OFFICIALS NOT TO BENEFIT**

No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

#### **D. ILLEGAL USE**

Any activity deemed to be illegal on Federal lands will be cause for immediate termination of the use authorization granted under Article 3 herein.

#### **E. HAZARDOUS MATERIALS**

1. Loup Valleys may not allow contamination or pollution of Federal lands, waters or facilities and for which Loup Valleys has the responsibility for care, operation, and maintenance by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticides containers, and any other pollutants.

2. Loup Valleys shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or

hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in Federal lands, waters or facilities.

3. "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

4. Upon discovery of any event which may or does result in contamination or pollution of Federal lands, waters or facilities, Loup Valleys shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to the Contracting Officer. Reporting may be within a reasonable time period: a reasonable time period means within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

5. Violation of any of the provisions of this Article, as determined by the Contracting Officer, may constitute grounds for termination of this contract. Such violations require immediate corrective action by Loup Valleys and shall make Loup Valleys liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

6. Loup Valleys agrees to include the provisions contained in paragraphs (1) through (5) of this Article in any subcontract or third party contract it may enter into pursuant to this contract.

7. Reclamation agrees to provide information necessary for Loup Valleys using reasonable diligence, to comply with the provisions of this Article.

## **F. CIVIL RIGHTS**

1. Loup Valleys hereby agrees as follows:

a. To comply with Title VI (Section 601) of the Civil Rights Act of July 2, 1964 (78 Stat. 241) which provides that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance," and to be bound by the regulations of the Department of the Interior for the effectuation thereof, as set forth in 43 CFR § 17.

b. To obligate its subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirements of this provision.

2. Loup Valleys hereby agrees
  - a. To comply with Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended which is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.
  - b. To obligate its subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirements of this provision.
3. Loup Valleys hereby agrees as follows:
  - a. To comply with the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101, et seq., and the general age discrimination regulations at 45 CFR § 90 which are designed to prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance, as set forth in 43 CFR §17.
  - b. To obligate its subcontractors, subgrantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirements of this provision.

#### **G. DISCOVERY OF CULTURAL RESOURCES**

Loup Valleys shall immediately provide an oral notification to Reclamation's authorized official of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on Reclamation lands. Loup Valleys shall follow up with a written report of their finding(s) to Reclamation's authorized official within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this authorization. Loup Valleys shall immediately cease the activity in the area of the discovery, make a reasonable effort to protect such discovery, and wait for written approval from the authorized official before resuming the activity. Protective and mitigative measures specified by Reclamation's authorized official shall be the responsibility of Loup Valleys.

## **H. PEST CONTROL**

1. Loup Valleys shall not permit the use of any pesticides on Federal lands without prior written approval by Reclamation. Loup Valleys shall submit to Reclamation for approval an Integrated Pest Management Plan (IPMP) thirty (30) days in advance of pesticide application.

2. All pesticides used shall be in accordance with the current registration, label direction, or other directives regulating their use (State Department of Agriculture, Department of Ecology, OSHA, etc.) and with applicable Reclamation policy and directives and standards. Applicators will meet applicable State training or licensing requirements. Records maintenance shall be in accordance with State requirements. Records maintenance shall be in accordance with State requirements and such records shall be furnished to Reclamation not later than five (5) working days after any application of a pesticide.

3. Any equipment, tools, and machines used for pesticide application shall be in good repair and suitable for such use. Equipment shall be calibrated prior to the spraying season and as deemed necessary by Reclamation.

4. Mixing, disposal, and cleaning shall be done where pesticide residues cannot enter storm drains, sewers, or other non-target areas.

5. Loup Valleys shall initiate any necessary measures for containment and clean up of pesticide spills. Spills shall be reported to the Contracting Officer with full details of the actions taken. Reporting may be within a reasonable time period: a reasonable time period means within twenty-four (24) hours of the spill if it is an emergency or by the first working day if it is a nonemergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

6. Aerial application of pesticides is prohibited without prior written consent by Reclamation's designated representative.

7. Loup Valleys agrees to include the provisions contained in paragraphs (1) through (7) of this Article in any subcontract or third-party contract it may enter into pursuant to this Sale Agreement.

## **I. COMPLIANCE WITH EXISTING LAWS AND REGULATIONS**

1. Loup Valleys agrees to keep the lands in a neat and orderly condition at all times and shall comply with all municipal, County, State, and Federal laws, rules, and regulations, including any environmental compliance measures, applicable to its operations under this Sale Agreement. Loup Valleys shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of fires.