

AGREEMENT FOR LAND LEASE, ACCESS AND WIND EASEMENT

THIS AGREEMENT FOR LAND LEASE, ACCESS AND WIND EASEMENT (hereinafter referred to as the "Wind Facilities Agreement") has been entered into and is made effective this ____ day of _____, 2009 by and between Basin Electric Power Cooperative (Basin Electric), a North Dakota electric cooperative corporation located at 1717 East Interstate Avenue, Bismarck, North Dakota 58503; and _____

 (hereinafter referred to as "Landowner"), whose address is _____

 _____.

Basin Electric and Landowner are sometimes referred to hereinafter collectively as the "Parties".

R E C I T A L S :

Basin Electric is engaged in the business of generation and sale of electric power and energy and is actively pursuing the development of a wind facilities project in Ward County, North Dakota. The purpose of this Wind Facilities Agreement is to set forth the terms and conditions upon which Landowner will (1) **Lease** to Basin Electric certain real property for use by Basin Electric in studying, designing, erecting and operating wind turbine generators (referred to hereafter as the "Leased Premises", the legal description of which is attached hereto as Exhibit "A"); (2) grant to Basin Electric a **Wind Easement** entitling Basin Electric to use of the wind flowing across the Leased Premises for purposes of generating electric power and energy; and (3) grant to Basin Electric an **Access Easement** over that certain real property described on Exhibit "B" (attached hereto and incorporated herewith) for use by Basin Electric for purposes of obtaining ingress and egress to and from the Leased Premises.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth below, the Parties do hereby covenant and agree as follows:

ARTICLE I. LEASE OF REAL PROPERTY

Section 1 General

- a. Landowner hereby lets and leases to Basin Electric the Leased Premises for the sole purpose of studying, designing, constructing, installing, operating, and maintaining, repairing and replacing wind energy conversion turbines, wind flow measurement devices, supporting structures, foundations and pads, footings, electrical transformers, fixtures, electric distribution, collector and transmission lines, telecommunications facilities, access roads, interconnection facilities, and any related facilities and equipment (hereinafter called "Wind Facilities") on the Leased Premises on the terms and conditions set forth herein. For purposes of clarity, Basin Electric activities as described above will be grouped together and identified as "Phase One" activities and "Phase Two" activities. Phase One activities generally will consist of activities relating to the study and design of Wind Facilities to be located on the Leased Premises, and will include (although will not necessarily be limited to) survey, geotechnical evaluation, topographical evaluation, wind flow measurement and other similar activities relating to evaluation of feasibility and optimal design of the wind facilities. Phase Two activities generally will consist of (although will not necessarily be limited to) construction, erection, installation, operation, maintenance, repair and replacement of turbine generators and related facilities for the sole purpose of the Wind Facilities.
- b. Basin Electric will use the Leased Premises only for the Phase One and Phase Two activities as described above. For example, Basin Electric will be entitled to build any roads deemed appropriate to serve the Wind Facilities, and any appurtenant equipment and electrical power lines over the entire "Leased Premises", as may be reasonably necessary to access a public roadway, electrical grid or electrical distribution/transmission system. Telecommunications facilities that are part of the Wind Facilities may be used by Basin Electric for other telecommunications purposes.
- c. At all times during the Primary Term of this Agreement and any Renewal Term (both of which are defined below), Landowner will retain the right to use the Leased Premises in any reasonable manner that does not interfere with Basin Electric's Phase One and Phase Two activities as described above. Landowner and Basin Electric will cooperate, communicate and coordinate in good faith to optimize their mutual use of the Leased Premises.

ARTICLE II. WIND EASEMENT

Landowner hereby grants to Basin Electric a Wind Easement for the Leased Premises. Basin Electric and Landowner agree that Basin Electric shall have the exclusive right to use, utilize and convert all of the wind resources on the Leased Premises. Landowner shall not enter into agreements with others for any wind easements or wind rights for the Leased Premises. Landowner may not take any action that would materially interfere with the wind speed or wind reaction on or adjacent to the Leased Premises. Such actions would include

placing or planting any trees, structures or improvements on the Leased Premises after the date of this Agreement which may, in Basin Electric's sole judgment, impede or interfere with the flow of wind to any Leased Premises or Wind Facilities, unless Landowner has received approval from Basin Electric for any such trees, structure or improvement. It is understood that agricultural farming, excluding tree farms, are allowed around the Wind Facilities and need no approval of Basin Electric and are in no way to be interpreted as obstructing the free flow of wind. This Wind Easement benefits the Leased Premises upon which the Wind Facilities are located.

ARTICLE III. ACCESS EASEMENT

Landowner hereby grants unto Basin Electric the right to use that certain property (hereinafter referred to as "Access Easement") described on Exhibit "B" to this Wind Facilities Agreement for purposes of access (i.e. ingress and egress) to the Leased Premises for all purposes relating to Phase One and Phase Two activities as described above. Said right shall include the right to construct such improvements (including but not limited to a road) on the Access Easement as Basin Electric determines, in the exercise of its sole discretion, might be necessary or helpful to support its Phase One and Phase Two activities. Any and all improvements made by Basin Electric on the Access Easement shall be at its own expense. Landowner may use any roads constructed by Basin Electric.

ARTICLE IV. GENERAL TERMS AND CONDITIONS

Section 1 Term and Termination

- a. The Primary Term of this Agreement (and all leasehold rights and easements granted herein) shall be forty-five (45) years commencing upon the effective date of this Agreement as first stated above.
- b. Basin Electric has the right, but not the obligation, to renew this Wind Facilities Agreement for an additional term (Renewal Term) of ten (10) years upon payment of Four Thousand Dollars (\$4,000) for each wind turbine.
- c. Basin Electric shall have the unilateral right to early terminate this Wind Facilities Agreement at any time during the Primary Term or Renewal Term hereof. Such early termination shall be made by not less than 30 days' advance, written notice to the Landowner, and from and after the early termination date, neither Basin Electric nor the Landowner will have any further obligation or liability to one another with the sole exception of the following:
 - i) Basin Electric shall, within a reasonable time after the early termination date specified in the notice, disassemble, dismantle and remove from the Leased Premises all personal property, fixtures and improvements placed or constructed thereon by Basin Electric. Basin Electric also shall, in accordance with generally accepted industry practices, reclaim and re-establish the Leased Premises to a condition substantially similar to its condition prior to Phase One and Phase Two activities, unless otherwise directed by Landowner;

ii) Basin Electric shall, on a pro rata basis, bring its rental, construction and crop damage payment obligations current to the date of early termination;

iii) Basin Electric will make all payments for crop damage (as described below) current—that is, will reimburse the Landowner for all such items up to completion of all removal and reclamation activities; and

iv) In the event that Basin Electric unilaterally terminates this Wind Facilities Agreement less than thirty (30) months from the effective date of this Agreement, Basin Electric will make all payments to Landowner that would have been made had the term of the Agreement been thirty (30) months.

Section 2 Annual Rental Payments, Construction Payments and Payments for Crop Damage

As stated above, Basin Electric's activities under this Wind Facilities Agreement will proceed in two phases. Phase One will extend for a period not to exceed four (4) years from the effective date of this Agreement. At the conclusion of its Phase One activities, Basin Electric will advise Landowner by written notice of its completion of Phase One activities and its decision (to be made in the sole exercise of Basin Electric's discretion) whether or not to proceed with Phase Two of the Project. Payments to be made to the Landowner under this Wind Facilities Agreement will be made as follows:

a. **Phase One Payments.** From the effective date of this Agreement until receipt by Landowner of written notice from Basin Electric that it has completed its Phase One activities, Basin Electric will make payments to the Landowner as follows:

(i) Upon execution and delivery of this Wind Facilities Agreement by Landowner, Basin Electric will make a one-time, lump sum payment equal to the sum of a) One Thousand Dollars (\$1,000), plus b) Ten Dollars (\$10) per acre of the acreage comprising the Leased Premises.

ii) If, after thirty (30) months from the effective date of this Agreement, Basin Electric has not delivered to the Landowner its written notice of its decision to proceed or not to proceed to Phase Two of the project, Basin Electric will make a second one-time, lump-sum payment to the Landowner in an amount equal to the sum of (a) One Thousand Dollars (\$1,000), plus (b) Six Dollars (\$6) per acre of the acreage comprising the Leased Premises. This payment will be made on or before the end of the 31st month from the effective date of this Agreement.

iii) In addition to the payments described immediately above, during Phase One of the project, Basin Electric will make a one-time, lump-sum payment to the Landowner in the amount of One Thousand Two Hundred Dollars (\$1,200) for each meteorological tower erected upon the Leased Premises at the time of the erection of each tower.

b. **Phase Two Payments.** From and after delivery to the Landowner of notice by Basin Electric of its decision to proceed with Phase Two activities, Basin Electric shall make payments to Landowner as follows:

i) **Construction Payment.** Upon initiating of construction of the turbine generators on the Leased Premises, Basin Electric will pay Landowner a one-time payment of \$4,000 for each wind turbine installed on Leased Premises within a twelve month (12) period. This payment shall be made on a per turbine basis at the time of the installation of each turbine.

ii) **Annual Rent.** Commencing on January 1 of the Calendar Year immediately following the calendar year in which the wind turbines are commissioned and placed into operation, Basin Electric will begin paying the Annual Rent in the amount of Four Thousand Dollars (\$4,000 per turbine), which will comprise the total rental compensation due and payable annually for all leasehold and easement rights granted to Basin Electric under this Agreement. Such amount will be increased annually by Two Percent (2%), for so long as the Agreement remains in effect. Such payments will be made no later than January 20 of each calendar year.

A partial payment of the Annual Rent will be made for the partial year in which the turbines are commissioned. Such partial Annual Rent will be pro-rated based on the number of months during which the turbine was actually in service in that year. Payment of the Annual Rent or partial Annual Rent will constitute full compensation to the Landowner for the use of the Leased Premises, access rights and Wind Easement described in this Agreement.

Additionally, a 25% premium will be added to the above Annual Rent payments for each turbine installed with a generation capacity of 2.0 Megawatts or larger.

iii) **Land for Maintenance Building or Substation.** Landowner understands that locations may be required for collector buildings or substations on the Leased Premises.

c) **Termination Upon Notice of Election Not to Proceed.** In the event that Basin Electric provides written notice to the Landowner that it has elected not to proceed with Phase Two, such notice will serve as notice of early Termination of this Agreement under Subsection 1.C., of this Article IV, and any remaining payments due under that Section will be made accordingly.

Section 3 Crop Damage

Basin Electric will pay for any damages to Landowner's growing crops, grasses, trees, shrubbery, unrepaired water courses, water impoundments, fences or other property of Grantor caused by the installation, construction, inspection, repair, replacement, removal, maintenance, decommissioning or operation of facilities on Leased Premises.

Section 4 Taxes, Assessments, and Utilities

- a. Landowner will pay, when due, all real property taxes and assessments levied against the Leased Premises and all personal property taxes and assessments levied against any property and improvements owned by Landowner and located on the Leased Premises. If Landowner fails to pay any such taxes or assessments when due, Basin Electric may, at its option, pay those taxes and assessments and any accrued interest and penalties, and deduct the amount of its payment from any Annual Rent otherwise due.
- b. Basin Electric will pay all personal property taxes and assessments levied against the Wind Facilities when due. If there is any increase in the amount of real property taxes or assessments assessed against the Leased Premises as a result of the installation or operation of the Wind Facilities or any other improvements thereon, the activities of Basin Electric on the Leased Premises pursuant to this Agreement, or any other acts of Basin Electric, including any reclassification of the Leased Premises, Basin Electric will pay or reimburse Landowner an amount equal to the increase no later than ten (10) days prior to the date each year on which the applicable real estate taxes are due to be paid (to realize any early payment discount), provided that Landowner provides Basin Electric with copies of the applicable current and past statements of real estate taxes payable for the Leased Premises and any related information demonstrating the reasons for any increase in real estate taxes.
- c. Either party may contest the validity or amount of any levied taxes, assessments or other charges for which each is responsible under this Agreement as long as such contest is pursued in good faith and with due diligence and the party contesting the tax, assessment or charge has paid the obligation in question or established adequate reserves to pay the obligation in the event of an adverse determination.
- d. Basin Electric will pay for all water, electric, telecommunications, and any other utility services used by the Wind Facilities or Basin Electric on the Leased Premises.

ARTICLE V. BASIN ELECTRIC'S COVENANTS

Basin Electric covenants, represents and warrants to Landowner as follows:

Section 1 Liens

Subject to liens created pursuant to Article VIII of this Agreement, Basin Electric will keep the Leased Premises free and clear of all liens and claims of liens for labor, materials, services, supplies, and equipment performed on or furnished to Basin Electric or any Wind Facility on the Leased Premises in connection with Basin Electric's use of the Leased Premises. Basin Electric may contest any such lien, but will post a bond or utilize other available means to remove any lien that is created during the contested proceeding. Basin Electric agrees to otherwise remove any lien or encumbrance for which it is responsible pursuant to this paragraph within sixty (60) days of the creation of any such lien or encumbrance.

Section 2 Permits and Laws

Basin Electric will at all times comply with all federal, state, and local laws, statutes, ordinances, rules, regulations, judgments, and other valid orders of any governmental authority with respect to Basin Electric's activities pursuant to this Agreement, and will obtain all permits, licenses and orders required to conduct any and all such activities at no cost to Landowner.

Section 3 Ownership of Basin Electric Improvements and Decommissioning

- a. All Wind Facilities constructed, installed or placed on the Leased Premises by Basin Electric pursuant to this Agreement will be and remain the sole property of Basin Electric, and Landowner will have no ownership or other interest in any Wind Facilities on the Leased Premises. Basin Electric will, at its sole cost and expense, maintain the Wind Facilities in good condition and repair, ordinary wear and tear excepted. All Wind Facilities constructed, installed or placed on the Leased Premises by Basin Electric pursuant to this Agreement may be moved, replaced, repaired or refurbished by Basin Electric at any time. Any wind or site information or data obtained by Basin Electric through its investigations and wind monitoring, or any knowledge gained by Basin Electric during operation of the Wind Facilities, such as operating data, shall be the sole property of the Basin Electric and may be kept proprietary and confidential by Basin Electric.
- b. Basin Electric may store, on the Leased Premises, any portion of topsoil that may be removed for the purposes of construction of the Wind Facilities. Upon termination, including any early termination, of the Agreement, Basin Electric will remove its above-ground Wind Facilities and return the property to a condition substantially similar to its condition prior to the Phase One and Phase Two activities within eighteen (18) months from the date the Agreement terminates. Additionally, Basin Electric will remove any foundations to a depth of four (4) feet below grade. Disturbed areas will be reseeded; or prepared for cultivation, if requested by the Landowner. If Basin Electric fails to remove any of the Wind Facilities within the required time period, such Wind Facilities will be considered abandoned by Basin Electric, and Landowner may remove these Wind Facilities and dispose of them in its sole discretion without notice or liability to Basin Electric. In the event Basin Electric fails to remove any of the Wind Facilities as required, and Landowner removes such Wind Facilities at Landowner's expense, Basin Electric will reimburse Landowner for all reasonable costs of removing those Wind Facilities, less any salvage value received by Landowner, within thirty (30) days after receipt of an invoice from Landowner.

Section 4 Hazardous Wastes

Basin Electric will not use, dispose of or release on the Leased Premises or cause or permit to exist or be used, stored, disposed of or released on the Leased Premises as a result of Basin Electric's activities, any substance which is defined as a "hazardous material", "toxic substance" or "solid waste" in any federal, state or local law, statute or ordinance, except in such quantities as may be required in its normal business operations, and only if such use is not harmful to the Leased Premises, crops grown on the Leased Premises, to Landowner and is in full compliance with all applicable laws.

Section 5 Insurance

Basin Electric, or related parties, will obtain and maintain in force policies of insurance covering the Wind Facilities and Basin Electric's activities on the Leased Premises at all times, including comprehensive general liability insurance with a minimum combined occurrence and annual limitation of Five Million Dollars (\$5,000,000.00). Such insurance coverage for the Wind Facilities and Leased Premises may be procured as part of a blanket policy which covers other wind facilities or properties as well.

ARTICLE VI. LANDOWNER COVENANTS

Landowner covenants, represents and warrants to Basin Electric as follows:

Section 1 Title and Authority

Except to the extent that may be otherwise stated in this Agreement, Landowner is the sole owner of the Leased Premises in fee simple and each person or entity signing the Agreement has the full and unrestricted authority to execute and deliver this Agreement and to grant the easements and leasehold rights granted herein. All persons having any ownership interest in the Leased Premises (including spouses) are signing this Agreement as Landowner. When signed by Landowner, this Agreement constitutes a valid and binding agreement enforceable against Landowner in accordance with its terms. There are no encumbrances or liens against the Leased Premises except as disclosed by Landowner to Basin Electric or which are reflected in an abstract or title report for the Leased Premises provided to Basin Electric prior to execution of the Agreement. Any cost of such title reports or abstract will be borne by Basin Electric.

Section 2 Quiet Enjoyment

As long as Basin Electric is not in default under this Agreement, Basin Electric will have the quiet, exclusive and peaceable use and enjoyment of all rights and interests set forth in the terms of this Agreement without any interference of any kind by Landowner or any person claiming through Landowner. Landowner and its activities on the Leased Premises and any grant of rights Landowner makes to any other person will not interfere with any of Basin Electric's activities pursuant to this Agreement. Landowner will not interfere or allow interference with the wind speed or wind direction over the Leased Premises or otherwise engage in activities which might impede or decrease the output or efficiency of the Wind Facilities. It is understood that normal crops and normal farming activities are not interference with Basin Electric's quiet enjoyment of the Leased Premises.

Section 3 Hazardous Materials

Landowner will not use, store, dispose of or release on the Leased Premises or cause or permit to exist or be used, stored, disposed of or released on the Leased Premises as a result of Landowner's operations, any substance which is defined as a "hazardous substance", "hazardous material", or "solid waste" in any federal, state or local law, statute or ordinance, except in such quantities as may be required in its normal business operations and only if such use is not harmful to Basin Electric and is in full compliance with all applicable laws.

Section 4 Cooperation

Landowner will cooperate with Basin Electric to obtain non-disturbance and subordination agreements from any person or entity with a lien, encumbrance, mortgage, lease or other exception to Landowner's fee title to the Leased Premises to the extent necessary to eliminate any actual or potential interference by any such lien holder with any rights granted to Basin Electric under this Agreement. Landowner will also cooperate with Basin Electric to obtain and maintain any permits needed for the Wind Facilities. Landowner will also provide Basin Electric with such further assurances and will execute any estoppel certificates, consents to assignments or additional documents that may be reasonably necessary for recording purposes or requested by Basin Electric or any of its lenders.

Each of the parties, without further consideration, agrees to execute and deliver such additional documents and take such action as may be reasonably necessary to carry out the purposes and intent of this Agreement and to fulfill the obligations of the respective parties.

Section 5 Noise

Basin Electric will take all reasonable measures to maintain audible noise levels from the Wind Facilities to seventy-one (71) dbA or less at a distance of 650 feet from the Wind Facilities. The above notwithstanding, the Landowner grants to Basin Electric, under this Agreement, the right to generate and maintain audible noise levels in excess of seventy-one (71) dbA on and above the Leased Premises at any time.

Section 6 Environmental Benefits

Basin Electric shall be entitled to all (i) federal and state production tax credits, investment tax credits and any other tax credits which are or will be generated by the Wind Facilities, (ii) cash payments or outright grants of money relating to the ownership, development, construction, expansion, operation, maintenance or financing of the Wind Facilities, and (iii) any renewable energy attributes or credits, rights, greenhouse gas reduction, green certificates, offsets, etc., as may result from the Wind Facilities or production thereof.

ARTICLE VII. INDEMNIFICATION

Each party (the "Indemnifying Party") agrees to defend, indemnify and hold harmless the other party and the other party's officers, directors, employees, representatives, mortgagees and agents (collectively the "Indemnified Party") against any and all losses, damages, claims, expenses and liabilities for physical damage to property and for physical injury to any person, including, without limitation, reasonable attorneys' fees and consequential damages, to the extent resulting from or arising out of (i) any operations or activities of the Indemnifying Party on the Leased Premises; (ii) any negligent or intentional act or omission on the part of the Indemnifying Party; or (iii) any breach of this Agreement by the Indemnifying Party. This indemnification will not apply to losses, damages, claims, expenses and liabilities to the extent caused by any negligent or intentional act or omission on the part of the Indemnified Party. This indemnification will survive the termination of this Agreement. Basin Electric will indemnify Landowner for any action brought by an adjacent landowner as a result of construction or operation of Wind Facilities on the Leased Premises.

ARTICLE VIII. ASSIGNMENT; ENCUMBRANCE OF AGREEMENT

Section 1 Right to Encumber

- a. Basin Electric may at any time mortgage, pledge, hypothecate or assign all or any part of its interest in the Agreement and rights hereunder and/or enter into a collateral assignment of all or any part of its interest in the Agreement or rights under this Agreement to any entity ("Lender") without the consent of Landowner. Any Lender will have no obligations under this Agreement until such time as it exercises its rights to acquire Basin Electric's interests subject to the lien of Lender's mortgage by foreclosure or otherwise assumes the obligations of Basin Electric directly.
- b. Landowner and Basin Electric agree that, once all or any part of Basin Electric's interests in the Agreement are mortgaged or assigned to a Lender, they will not modify this Agreement without the prior written consent of the Lender.
- c. Landowner agrees that any Lender will have the right to make any payment and to do any other act or thing required to be performed by Basin Electric under this Agreement, and any such payment, act or thing performed by Lender will be effective to prevent a default under this Agreement and any forfeiture of any of Basin Electric's rights under this Agreement as if done by Basin Electric itself.
- d. During the time all or any part of Basin Electric's interests in the Agreement are mortgaged or assigned to any Lender, if Basin Electric defaults under any of its obligations, and Landowner is required to give Basin Electric notice of the default, Landowner will also be required to give Lender notice of the default. If Landowner becomes entitled to terminate this Agreement due to an uncured default by Basin Electric, Landowner will not terminate this Agreement unless it has first given written notice of the uncured default and of its intent to terminate this Agreement to the Lender and has given the Lender at least thirty (30) days to cure the default to prevent termination of this Agreement. If within such thirty (30) day period the Lender notifies the Landowner that it must foreclose on Basin Electric's interest or otherwise take possession of Basin Electric's interest under this Agreement in order to cure the default, Landowner will not terminate this Agreement and will permit the Lender a reasonable period of time necessary for the Lender, with the exercise of due diligence, to foreclose or acquire Basin Electric's interest under this Agreement and to perform or cause to be performed all of the covenants and agreements to be performed and be observed by Basin Electric. The time within which Lender must foreclose or acquire Basin Electric's interest will be extended to the extent Lender is prohibited by an order or injunction issued by a court or the operation of any bankruptcy or insolvency law from commencing or prosecuting the necessary foreclosure or acquisition.
- e. The acquisition of all or any part of Basin Electric's interests in the Agreement by any Lender through foreclosure or other judicial or non-judicial proceedings

in the nature of foreclosure, or by any conveyance in lieu of foreclosure, will not require the consent of Landowner nor constitute a breach or default of this Agreement by Basin Electric, and upon the completion of the acquisition or conveyance Landowner will acknowledge and recognize Lender as Basin Electric's proper successor under this Agreement upon Lender's cure of any existing Basin Electric defaults and assumption of the obligations of Basin Electric under this Agreement prospectively.

- f. In the event this Agreement is rejected by a trustee or a debtor-in-possession in any bankruptcy or insolvency proceeding Landowner agrees, upon request by any Lender within sixty (60) days after the rejection or termination, to execute and deliver to Basin Electric or Lender a new Agreement that (i) will be effective as of the date of the rejection or termination of this Agreement; (ii) will be for a term equal to the remainder of the term of the Agreement before giving effect to such rejection or termination; and (iii) will contain the same terms, covenants, agreements, provisions, conditions, and limitations as are contained in this Agreement (except for any obligations or requirements which have been fulfilled by Basin Electric or Lender prior to rejection or termination). Prior to the execution and delivery of any such new agreement, Basin Electric, or Lender will (i) pay Landowner any amounts which are due Landowner from Basin Electric; (ii) pay Landowner any and all amounts which would have been due under this Agreement but for the rejection or termination from the date of the rejection or termination to the date of the new agreement; and (iii) agree in writing to perform and/or cause to be performed all of the other covenants and agreements to be performed by Basin Electric under this Agreement to the extent Basin Electric failed to perform them prior to the execution and delivery of the new agreement.

Section 2 Assignment

Basin Electric may assign, sublease, transfer or convey its interests in this Agreement without Landowner's consent provided that (i) any such assignment or conveyance will not be for a period beyond the term of this Agreement; (ii) the assignee or transferee will be subject to all of the obligations, covenants, and conditions applicable to Basin Electric; and (iii) Basin Electric will not be relieved from liability for any of its obligations under this Agreement by virtue of the assignment or conveyance unless Basin Electric assigns or conveys all of its interests under the Agreement to the assignee or transferee and the assignee or transferee demonstrates its ability to perform Basin Electric's obligations, covenants, and conditions, which would be solely related to the Wind Facilities, to the reasonable satisfaction of the Landowner.

Section 3 Continuing Nature of Obligations

The burdens of the wind easement access easement and all other leasehold rights granted to Basin Electric in this Agreement will run with the Leased Premises and will be a charge and burden thereon and will be binding upon and against Landowner and its successors, assigns, permittees, licensees, Basin Electric's employees, and agents. This Agreement and all rights hereunder will inure to the benefit of Basin Electric and its successors, assigns, permittees, and licensees.

ARTICLE IX. CONDEMNATION/FORCE MAJEURE

Section 1 Condemnation

If eminent domain proceedings are commenced against all or any portion of the Leased Premises, and the taking and proposed use of such property would prevent or adversely affect Basin Electric's construction, installation or operation of Wind Facilities, or enjoyment of any other rights set forth in this Agreement, the parties will either amend this Agreement to reflect any necessary relocation of the Wind Facilities which will preserve the value and benefit of the Agreement to Basin Electric, together with any corresponding payments, or, at Basin Electric's option, this Agreement will terminate in which event neither party will have any further obligations.

Section 2 Proceeds

All payments made by a condemner on account of a taking by eminent domain will be the property of the Landowner, except that Basin Electric will be entitled to any award or amount paid for the reasonable costs of removing or relocating any of the Wind Facilities or the consequential loss of any such Wind Facilities or the loss of use of the Leased Premises pursuant to the Agreement. Basin Electric will have the right to participate in any condemnation proceedings to this extent.

Section 3 Force Majeure

Neither Landowner nor Basin Electric will be liable to each other, or be permitted to terminate this Agreement, for any failure to perform an obligation of this Agreement to the extent such performance is prevented by a Force Majeure, which will mean an event beyond the control of the party affected and which, by exercise of due diligence and foresight, could not reasonably have been avoided.

ARTICLE X. DEFAULT/TERMINATION

Section 1 Events of Default

Each of the following will constitute an event of default that will permit the non-defaulting party to terminate this Agreement or pursue other remedies available at law or equity.

- i. any failure by Basin Electric to make payments due the Landowner under Section 3.1 of this Agreement, if the failure to pay continues for thirty (30) days after written notice from Landowner;
- ii. any other material breach of this Agreement by either party which continues for thirty (30) days after written notice of default from the non-defaulting party or, if the cure will take longer than thirty (30) days, the length of time necessary to effect cure as long as the defaulting party is making diligent efforts to cure during that time.

Section 2 Surrender

Upon the termination or expiration of this Agreement and completion of its removal and reclamation obligations, Basin Electric will peaceably surrender possession and release all rights hereunder to Landowner.

Section 3 Specific Performance

Landowner acknowledges and agrees that Basin Electric has no adequate remedy at law should Landowner breach any of its obligations hereunder or otherwise fail to permit Basin Electric to exercise any of the rights and privileges granted herein. Therefore, Basin Electric will have the right to seek specific enforcement of this Agreement.

ARTICLE XI. MISCELLANEOUS

Section 1 Conservation Programs

To the extent Landowner must remove any of the Leased Premises from participation in the Conservation Reserve Program or similar program to accommodate, or as a result of, the Wind Facilities, and Landowner incurs any penalties or reimbursement obligations as a consequence, Basin Electric agrees to reimburse Landowner the amount of such penalties and obligations or pay the amounts on behalf of Landowner. Landowner will notify Basin Electric of any such penalties or reimbursement obligations as soon as practicable upon becoming aware of those penalties or obligations.

Section 2 Notice

Notices, consents or other documents required or permitted by this Agreement must be given by personal delivery, telecopier or certified mail and will be sent to the respective parties as follows:

To Landowner: _____

Phone: _____

To Basin Electric: Attn: CEO and General Manager
Basin Electric Power Cooperative
1717 East Interstate Avenue
Bismarck, ND 58503-0564
(701) 223-0441
(701) 224-5336 (fax)

Section 3 No Third Party Beneficiaries

Except for the rights of Lenders set forth above, no provision of this Agreement is intended to nor will it in any way inure to the benefit of any third party so as to constitute any such person a third party beneficiary under this Agreement, or of any one or more of the terms of this Agreement, or otherwise give rise to any cause of action in any person not a party to this Agreement.

Section 4 Entire Agreement

It is mutually understood and agreed that this Agreement constitutes the entire agreement between Landowner and Basin Electric, and supersedes any and all prior oral or written understandings, representations or statements, and that no understandings, representatives or statements, verbal or written, have been made which modify, amend, qualify or affect the terms of this Agreement. This Agreement may not be amended except in a writing executed by both parties.

Section 5 Governing Law

This Agreement is made in North Dakota and will be governed by the laws of the state of North Dakota.

Section 6 Waiver

Neither party will be deemed to have waived any provision of this Agreement or any remedy available to it unless such waiver is in writing and signed by the party against whom the waiver would operate. Any waiver at any time by either party of its rights with respect to any rights arising in connection with this Agreement will not be deemed a waiver with respect to any subsequent or other matter.

Section 7 Relationship of Parties

The duties, obligations, and liabilities of each of the parties are intended to be several and not joint or collective. This Agreement will not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Landowner and Basin Electric or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either party. Landowner and Basin Electric will not have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act or be an agent or representative of, or to otherwise bind, the other party.

Section 9 Counterparts

This Agreement may be executed in two or more counterparts and by different parties on separate counterparts, all of which will be considered one and the same agreement and each of which will be deemed an original.

EXHIBIT A

LEGAL DESCRIPTION OF LEASED PREMISES

Township _____ North, Range _____ West, Ward County, North Dakota

Section _____: _____

Section _____: _____

Section _____: _____

Section _____: _____

Township _____ North, Range _____ West, Ward County, North Dakota

Section _____: _____

Section _____: _____

for a total of _____ acres more or less, herein defined as the Leased Premises.

EXHIBIT B

LEGAL DESCRIPTION OF ACCESS EASEMENT

No Access Easement at this time; to be filed at a later date.