

RESOLUTION NUMBER # 33 Fy 18/19

NOW on this 29th day of April, the matter of the formal confirmation and adoption of Union County Ordinance #73 (which provides for the general regulation of the development of Wind Energy Conversion Systems in Union County) comes to the attention of the Union County Board of Supervisors.

WHEREAS, the Union County Board of Supervisors is authorized by the provisions of Iowa Code Section 331.301 to establish legislation to protect and preserve the rights, privileges, and property of the county and its residents; and

WHEREAS, the Union County Board of Supervisors is authorized by the provisions of Iowa Code Section 331.301 to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents; and

WHEREAS, the Union County Board of Supervisors desires to provide an opportunity for economic growth and development by establishing fair and reasonable limitations upon the development of Wind Energy Conversion Systems in the unincorporated areas of Union County; and

WHEREAS, the Union County Board of Supervisors desires to protect the interests of the residents of Union County while providing an opportunity for economic development by balancing the alternative interests; and

WHEREAS, the Union County Board of Supervisors believes it is in the best interest of the citizens and wind development entities to adopt a general ordinance which provides for a balancing of the alternative interests; and

WHEREAS, the Union County Board of Supervisors has conducted multiple public hearings and multiple readings (March 17, 2019; March 21, 2019; and April 8, 2019) as required by Iowa Code Section 331.302; and

WHEREAS, the proposed ordinance has now been duly published in two (2) official newspapers of Union County on April 25, 2019, as required by Iowa Code Sections 349.3(1), 331.305, and 331.302; and

WHEREAS, the proposed ordinance included language indicating that the ordinance was effective upon publication;

BE AND IT IS HEREBY RESOLVED that Ordinance #73 be and is hereby formally confirmed and adopted and is in full force and effect in Union County. A complete copy of Ordinance #73 is on file with the Union County Auditor and is available on the Union County website.

MOTION by: *Ron Riley*

SECONDED by: *Rick Friday*

Approved by:

<u>Name</u>	<u>Aye</u>	<u>Nay</u>
Dennis J. Brown	<u>X</u>	
Rick Friday	<u>X</u>	
Ron Riley	<u>X</u>	



Chair, Dennis J. Brown
Union County Board of Supervisors



Attested: Secretary

Proposed UNION COUNTY ORDINANCE # 73_____

**AN ORDINANCE REGULATING THE PLACEMENT OF WIND
ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY
LOCATED IN THE UNINCORPORATED AREAS OF UNION COUNTY, IOWA**

BE IT ENACTED BY THE UNION COUNTY BOARD OF SUPERVISORS

SECTION 1. PURPOSE

The purpose of this Ordinance shall be to promote the public health, safety, comfort and general welfare, while facilitating economic opportunities, for rural residents and promoting a goal of increased energy production from renewable energy sources. In addition, this Ordinance will serve to establish guidelines for the siting, construction and operation of Wind Energy Conversion Systems (WECS) which generate electricity. The requirements of this Ordinance shall apply to all WECS constructed after the effective date of this Ordinance. No modification or alteration to an existing WECS shall be allowed without full compliance with this Ordinance.

SECTION 2. DEFINITIONS

For use in this Ordinance, certain words used herein shall be defined as follows:

Applicant: The person or entity submitting the application under this Ordinance, which is normally expected to be the owner or operator of a WECS, or the owner of the WECS development.

Commercial Wind Energy Conversion System (or C-WECS): A WECS which has a generating nameplate capacity of 100 kW or greater.

Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid. In the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS.

Meteorological Tower: For the purpose of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting and/or operating WECS.

Non-Commercial WECS (or Non C-WECS): A WECS which has a generating nameplate capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Operator: The entity responsible for the day-to-day operation and maintenance of the WECS.

Owner: The entity or entities with an equity interest in the WECS, including their respective successors and assigns. Owner does not mean (i) the property owner from whom a lease, easement or other property rights are acquired for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS at the earliest practical date.

Participating landowner: A landowner under lease, easement or other property agreements with the owner or operator of the WECS.

Non-participating landowner: Any landowner not under agreement with the owner or operator of the WECS.

Professional Engineer: A qualified individual who is licensed in the State of Iowa as a professional engineer.

Residence: A house, apartment or other shelter that is the abode of a person, family, or household and regularly occupied.

Rotor Diameter: The diameter of the circle described by the moving rotor blades of a WECS.

Setback: The minimum required distance from a certain object, structure or point to the center point of the foundation of the Wind Turbine at the natural ground level.

Structure: Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, residences, signs, storage tanks, towers, Wind Turbines and other similar objects.

Substation: The apparatus that connects the electrical connection system of the WECS and increases the voltage for connection with the utility's, transmission owner's or WECS owner's transmission lines.

Total Height: The total height of the Wind Turbine inclusive of rotor blades, as measured from the ground to the tip of the blade when fully extended.

Tower: The vertical structure that supports the electrical generator, nacelle, rotor blades, or meteorological equipment.

Transmission Line: Those electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electrical energy over medium to long distances rather than directly interconnecting and supplying electrical energy to customers.

Wind Energy Conversion System (WECS): All necessary devices that together convert wind energy into electricity, including Wind Turbines, electrical components, transformers, feeder lines, substation and meteorological towers.

Wind Turbine: A Wind Turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy, primarily made up of a foundation, tower, nacelle and rotors.

SECTION 3. WECS PERMIT APPLICATION REQUIREMENTS.

The applicant for the siting and construction of a WECS shall file an application with the County Engineer or his designee, accompanied by a fee of Two Hundred Fifty Dollars (\$250.00) per Wind Turbine that is a part of the application and payable to Union County, Iowa.

- A. All applications for WECS must include the following information (as applicable).
1. A WECS project summary, including, to the extent possible: (1) a general description of the project, including its approximate nameplate generating capacity; the equipment manufacturer and a general description of the Wind Turbines, and (2) a description of the applicant, owner and operator, including their respective business structures.
 2. The names of project applicant and project owner, including contact information.
 3. The general description of the location of the WECS.
 4. Total height and rotor diameter of the Wind Turbines.
 5. Site layout, including the location of the Wind Turbines and those items to which a setback applies. The site layout shall include distances and be drawn to scale, in order for the County to determine if the Wind Turbines meet the setback requirements of this Ordinance.
 6. Engineer's certification(s) of the Wind Turbines.
 7. Documentation of land ownership or legal control of the property.
 8. The latitude and longitude of individual Wind Turbines.
 9. Location of the public areas listed in the table in Section 4.12.f. which are potentially affected by the proposed Wind Turbines.

10. Affirmation that a sound study was completed showing expected maximum decibel levels produced by the Wind Turbines as measured at non-participating residences should not exceed fifty-five (55) decibels (dBA) for any period of time.
11. Affirmation that the applicant has applied for necessary and appropriate Federal Communication Commission (FCC) applications and Federal Aviation Administration (FAA) hazard applications (or FAA determinations of no hazard, if received).
12. Affirmation that the applicant has identified significant migratory flyways and nesting areas for birds, bats and endangered species within one (1) mile of the proposed Wind Turbine.

The WECS application shall contain the above information and be submitted to the Union County Engineer or his designee. Upon determination by the Union County Engineer that the requirements of this Ordinance have been satisfied, the completed WECS Application and any/all necessary supporting documentation shall be presented to the Union County Board of Supervisors for approval. The Union County Board of Supervisors, upon approval of an application, shall provide any necessary building permits for each Wind Turbine. If there are any changes to the information provided as part of the application in Section 3 that occur from the time of the application until the construction of the WECS, the applicant shall submit a new application (along with an application fee per Wind Turbine with changed information) together with the updated information for each Wind Turbine (with changes to the information required to be provided in Section 3) and any such change shall be in compliance with this Ordinance. The Union County Engineer shall present the amended and completed WECS Application and any/all necessary supporting documentation to the Union County Board of Supervisors using the process described above. Upon the issuance of any necessary FAA and FCC permits identified in this section, the applicant shall provide the Union County Engineer with documentation that the applications were approved.

SECTION 4. GENERAL REQUIREMENTS FOR C-WECS AND METEOROLOGICAL TOWERS.

As part of the siting, construction and operation of the C-WECS, the C-WECS owner must comply with following requirements:

1. **Color and finish.** Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective.
2. **Tower Configuration.** All Wind Turbines, which are part of a C-WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.
3. **Lighting.** Wind Turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority or for night time repairs/maintenance. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by FAA regulations.
4. **Signage.** Upon completion of the Wind Turbines, the C-WECS owner's name and/or logo and the phone number to contact in case of emergency shall be placed upon the base of the WECS Tower or the entrance to any enclosure fence. Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer, owner or operator of the WECS.
5. **Feeder Lines.** All communications and feeder lines, equal to or less than 34.5 kV, installed as part of a WECS shall be buried not less than forty-eight (48) inches deep.
6. **Waste Disposal.** Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site in a time period as established by local, state and federal regulations.
7. **Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
8. **Signal Interference.** The C-WECS shall not interfere with licensed microwave communication paths or those microwave paths planned to be used by Union County at the time of the application. The C-WECS owner shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any Wind Turbines. If, after construction of the C-WECS, the owner or operator receives a written complaint related to the above-mentioned interference, the owner or operator shall take reasonable steps to respond to the complaint.
9. **Federal Aviation Administration.** All Wind Turbines shall comply with FAA standards and regulations.
10. **Electrical Codes and Standards.** All WECS shall comply with the National Electrical Code and other applicable standards.
11. **Setbacks.** The following setbacks and separation requirements shall apply to all Wind Turbines and meteorological towers, as measured from the center of the object or

structure or closest point of items below marked by lines (as applicable) to the center point of the foundation of the Wind Turbine at the natural ground level:

a) **Inhabited Structures (non-participating landowners).** Each Wind Turbine and meteorological tower shall be set back from the nearest residence, which is able to be occupied, school, hospital, church or public library (which such residence, school, hospital, church or public library exist as of the date of the building permit issued by the County under this Ordinance for the WECS), a distance no less than (i) one point one times (1.1x) the total height or (ii) fifteen hundred (1500) feet, whichever is greater. An affected property owner may waive this setback requirement by executing a written waiver or agreement.

b) **Inhabited Structures (participating landowners).** Each Wind Turbine and meteorological tower shall be set back from the nearest residence, which is able to be occupied, school, hospital, church or public library (which such residence, school, hospital, church or public library exist as of the date of the building permit issued by the County under this Ordinance for the WECS), a distance no less than (i) one point one times (1.1x) the total height or (ii) twelve hundred fifty (1250) feet, whichever is greater. An affected property owner may waive this setback requirement by executing a written waiver or agreement.

c) **Property Lines.** Each Wind Turbine and meteorological tower shall be set back a distance of no less than one point one times (1.1x) the total height without securing an appropriate agreement from the adjoining property owners. An affected property owner may waive this setback requirement by executing a written waiver or agreement.

d) **Public Right-of-Way.** Each Wind Turbine and meteorological tower shall be set back from the public right-of-way a distance no less than one point one times (1.1x) the total height.

e) **Radio Communication Pathways.** Each Wind Turbine and meteorological tower shall be set back from licensed microwave radio communication paths, or those paths planned to be used by Union County at the time of the application, so that no part of the Wind Turbine interferes with the path's Fresnel zone.

f) **Public Areas and Areas under UCCB management.** Each Wind Turbine and meteorological tower shall be set back from the property line of designated public areas/publicly owned conservation areas and other publicly owned areas managed by the Union County Conservation Board as shown in the table below the minimum distances identified in the table below.

Designated Public Area	Setback Distance
State & Federal Parks	1.0 mile
Specially designated protected areas: a.) Three Mile Lake b.) Twelve Mile Lake c.) Talmadge Hill natural wildlife area d.) Mt. Pisgah historical site	1.0 mile
All other parks or areas	0.5 mile

g) Municipalities. Each Wind Turbine and meteorological tower shall be set back from the city limits of any incorporated municipality a distance no less than one (1) mile. An affected municipality may waive this setback requirement by executing a written waiver or agreement.

12. Safety.

- a)** All wiring between Wind Turbines and the substation shall be underground. If the applicant can demonstrate the need for an overhead line and the acceptance of landowners for this line, such option may be approved conditionally by the Union County Board of Supervisors.
- b)** Wind Turbines and meteorological towers shall not be climbable on their exterior up to fifteen (15) feet above ground level, except for stairs used to reach the access door used for entry into the Wind Turbines.
- c)** All access doors to Wind Turbines and meteorological towers and electrical equipment shall be locked when not being serviced.
- d)** Appropriate visible warning signage shall be placed on Wind Turbines, electrical equipment, and substation entrances.
- e)** For all guyed meteorological towers, visible and reflective objects, such as plastic sleeves, balls, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of twelve (12) feet above the ground.

SECTION 5. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE AND DECOMMISSIONING

1. **Roads.** The applicant or the C-WEC's owner shall enter into a road use agreement, substantially in the form attached to this Ordinance, with Union County prior to the start of construction of the WECS. Union County's approval and execution of the agreement shall not be unreasonably withheld.
2. **Drainage System.** The applicant or C-WEC's owner shall be responsible for prompt repair for damage to public drainage systems stemming from construction, operation or maintenance of the WECS. All bridge and culvert crossings must be preapproved by the Union County Engineer.
3. **Decommissioning.** The C-WEC's owner shall enter into a decommissioning agreement, substantially in the form attached to this Ordinance, with Union County prior to the start of construction of the C-WECS. Union County's approval and execution of the agreement shall not be unreasonably withheld.

SECTION 6. GENERAL REQUIREMENTS FOR NON-COMMERCIAL WECS (Non C-WECS).

1. **Non C-WECS are subject to the following standards.** In addition to satisfactorily addressing all other applicable requirements of this Ordinance, the applicant must provide documentation that the following requirements have also been met.
 - a) **Tower Height:** Non C-WECS Wind Turbines shall not exceed one hundred (100) feet in total height. Non C-WECS shall be subject to all height limitations as necessary to comply with other sections of this Ordinance and those imposed by FAA regulations.
 - b) **Setback:** No part of the Non C-WECS wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site. The distance of the base of the tower from any property line shall be a minimum of 115% of the total height of the tower. An affected property owner may execute a written waiver of this distance requirement.
 - c) **Noise:** Non C-WECS shall not exceed 55 dBA, as measured at the closest neighboring inhabited dwelling that exists as of the time of the application. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

d) Engineer Certification: Applications for Non C-WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

e) Compliance with Federal Regulations: Non C-WECS must comply with applicable Federal Communication Commission (FCC) applications and Federal Aviation Administration (FAA) applications, including but not limited to, necessary approvals for installations near airports.

f) Compliance with National Electric Code: Applications for Non C-WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information is frequently supplied by the manufacturer.

g) Utility Notification: No Non C-WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

h) Insurance: The owner seeking a permit to erect a Non C-WECS shall provide evidence, in the form of a certificate of insurance satisfactory to Union County, showing general liability coverage for the installation and operation of the Non C-WECS system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

SECTION 7. TRANSFER

Building permits and the associated decommissioning and road use agreements granted under this Ordinance may be transferred to another party subject to Union County Board of Supervisors approval, which approval shall not be unreasonably withheld. Any assignee of the building permits and associated decommissioning and road use agreements shall be subject to all the requirements in this Ordinance and the agreements.

SECTION 8. LIABILITY INSURANCE.

The owner or operator of any C-WECS subject to this Ordinance shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate.

SECTION 9. REPEALER.

All ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 10. SEVERABILITY.

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 11. PENALTY

Any person, persons, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance, shall be guilty of a simple misdemeanor as authorized by Iowa Code Section 331.302.

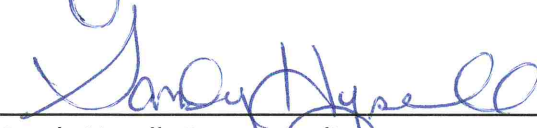
SECTION 12. EFFECTIVE DATE.

This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed and Approved this 29th day of April, 2019.



Dennis J. Brown, Chairperson
Union County Board of Supervisors

Attest: 

Sandy Hysell, County Auditor

04012019

**ROAD USE AGREEMENT
RELATING TO THE DEVELOPMENT
OF
(WIND FARM NAME) WIND FARM**

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THIS ROAD USE AGREEMENT (this "Agreement"), dated this ____ day of _____, 20__, between the BOARD OF COUNTY SUPERVISORS OF UNION COUNTY, IOWA, (hereinafter sometimes referred to as "County") and (COMPANY NAME) (hereinafter sometimes referred to as "Developer").

WITNESSETH:

WHEREAS, Developer intends the construction of wind turbine generators in Union County as part of one or more wind projects (including without limitation, the project known as the _____) (a "Wind Farm"); and

WHEREAS, Developer and County wish to formally document the expectations for road maintenance and restoration during and following construction of each Wind Farm in Union County; and

WHEREAS, County has fully considered the proposed development and improvement of the land and the requirements to be imposed upon other adjoining or neighboring properties by reason of the proposed development and improvement of the land; and

WHEREAS, County and Developer mutually acknowledge that the matters hereinafter described will be subject to all the requirements, terms and conditions of Union County, now in effect and other laws, rules, and regulations, as those are promulgated by statutes, resolutions, or otherwise; and

WHEREAS, County and Developer mutually acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by Union County, and that such matters are necessary to protect, promote, and enhance the public welfare; and

WHEREAS, it is further mutually acknowledged that Union County is entitled to other assurance that the matters hereinafter agreed to will be performed as agreed by Developer, and in that regard, Developer has made available to County it's most recent publicly filed financial statements indicating it to be of investment grade, assuring County that there are available funds to cover the estimated costs of performance of the matters hereinafter agreed to. Should Developer fail to maintain such investment grade, it may be required to post security to cover the estimated cost of performance. At no time will security in excess of \$500,000 per each Wind Farm be required.

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained it is agreed as follows:

PROJECT BOUNDARIES SUBJECT TO THIS AGREEMENT

1. The Wind Farm project boundaries subject to this Agreement are outlined in Exhibit A for the Wind Farm (and Exhibit A may be supplemented in the event any further Wind Farms are to be developed by Developer and approved by Union County or the boundaries attached to this Agreement in Exhibit A are modified in the future).

ROAD MAINTENANCE TO BE PERFORMED

2. During the period of Wind Farm construction, Developer and its contractors and sub-contractors will be responsible for maintaining the unpaved roads within the Wind Farm project boundaries. Maintenance of the unpaved roads during construction will consist of the following:

- Blading roads on a weekly or more frequent basis as needed due to construction traffic or weather.
- Placement of granular surfacing on road soft spots on a weekly or more frequent basis as needed due to construction traffic or weather.
- Shaping roads as necessary for drainage and safety on a weekly or more frequent basis as needed due to construction traffic or weather.
- Utilization of dust mitigation and control measures on road surfaces, including, but not limited to the use of magnesium chloride and water, to provide adequate site distance for vehicles and users of the unpaved road.

County may inspect the roads at any time and offer suggestions for maintenance to improve safety.

Developer's obligation to maintain specific unpaved roads within the Wind Farm project boundaries will cease at such time as the specific sections of unpaved roads are no longer required for transportation of wind turbine components for the initial construction of the Wind Farm and such specific road sections have been restored in accordance with this Agreement and

have received probationary acceptance. For the purposes of this Agreement, County road sections will be defined as encompassing the entire distance between road intersections.

ROAD RESTORATION TO BE COMPLETED

3. All road restoration contemplated by this Agreement shall be performed by Developer in a good and workmanlike manner and in accordance with applicable County standards, rules, and regulations governing such construction as reasonably determined by the Union County Secondary Roads Department. AASHTO Publications and Iowa DOT Standard Specifications shall be utilized as primary guidelines. A template of the typical unpaved road profile is attached to this Agreement as Exhibit B.

TIME OF COMPLETION

4. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be restored, constructed, or performed by Developer within one (1) year from the date of final wind turbine generator component delivery for the applicable Wind Farm project, provided however, that labor disputes, fire, unusual delays in transportation, unavoidable casualties, causes beyond the Developer's control or by any other cause which County may reasonably determine justifies the delay shall extend the said time period for performance of this Agreement as mutually agreed between the County and the Developer.

OWNERSHIP OF IMPROVEMENTS

5. Subject to the County's reasonable acceptance of road improvements for maintenance purposes, upon completion of road restoration work located in County right-of-way, all such completed road restoration work shall become the sole property of Union County, free and clear of all liens, encumbrances, and restrictions. Developer's underground collector lines, communications lines, or other Wind Farm facilities constructed in the right-of-way are expressly excluded from the definition of completed road restoration work. Developer shall furnish to County lien waivers and/or satisfactory proof that all claims and payments to be made in connection with construction of said road improvements have been satisfied. All other improvements referenced in this Agreement shall be owned and maintained by Developer and their successors and assigns.

FAILURE TO COMPLETE THE RESTORATION

6. In the event that any portion of road restoration work has not been made, installed, or performed within said one (1) year period, except as provided for in paragraph 4 above, then, and in that event, County may have such remaining road restoration work completed within a reasonable time by such means and in such manner, by contract with or without public letting, or otherwise, as it may deem advisable, at Developer's expense. County shall be entitled to reimbursement from Developer upon demand for any such documented reasonable costs incurred by County, plus 1.5% interest per month on unpaid balance.

PARTIAL RELEASE

7. In the event security has been provided in accordance with this Agreement, as road restoration work is completed, Developer may request in writing that County inspect such work and upon probationary acceptance corresponding reductions of such security will be granted. The procedures for completion of road improvements and work by County and payment to County therefore shall apply whether there be one or more defaults on the part of Developer in performing the terms, conditions, and covenants contained in this Agreement.

RELEASE

8. The County shall not release the Developer from its obligations with respect to a particular Wind Farm project until all road restoration work with respect to such Wind Farm project has been completed and the probationary period(s) has expired or when all deficiencies identified prior to the expiration of the probationary period have been corrected. Following expiration of the probationary period the County will provide Developer with an acknowledgement that the probationary period has expired.

PRESERVATION OF OTHER REMEDIES

9. The rights and remedies of the County provided in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law. Developer, in developing the applicable Wind Farm project shall fully comply with all applicable rules, regulations, standards, and laws of the County and other governmental agencies and bodies having jurisdiction.

STANDARDS FOR ACCEPTANCE

10. County shall accept the road restoration in County right-of-way as public improvements which are constructed under this Agreement for full maintenance in accordance with its regulations once

probationary acceptance has been granted for a road section under the following terms and conditions:

- A) As soon as all of the restoration in a road section which is covered by this Agreement has been completed in accordance with the terms of this Agreement, Developer shall send a letter to the County Engineer requesting probationary acceptance with the following statement included: "I hereby state that to the best of my knowledge, information and belief, the road section has been restored in substantial compliance with the Road Use Agreement Relating to the Development of (Wind Farm Name) Wind Farm." When improvements are determined to be constructed to the County's reasonable satisfaction, the County will send a letter to the Developer granting probationary acceptance of public improvements. The probationary period will terminate one year from the date of probationary acceptance unless one or more deficiencies is identified by the County prior to such termination.
- B) Prior to termination of the probationary period, the County may identify and provide a written list of deficiencies based on a physical inspection of the road sections subject to this Agreement. The Developer shall correct all of said deficiencies to the County's reasonable satisfaction within six (6) months from the date said deficiency list is issued. When all of said deficiencies on a specific road section have been corrected to the County's reasonable satisfaction, the road section will be deemed accepted and Developer will have no further obligations for restoration on said road section.

PLAN EXECUTION BY UNION COUNTY

- 11. The execution of this Agreement by the Board of County Supervisors of Union County in no way represents that the County will accept the public road restoration contemplated by this Agreement for title or maintenance purposes until said road restorations have been completed in compliance with this Agreement and with applicable Union County standards, rules and regulations.

RESPONSIBILITY FOR INSTALLING UTILITIES AND FOR THE PERMITTING OF THEIR INSTALLATION

- 12. Developer agrees to be responsible for contracting for installation of any or all utilities where required, including, but not limited to water, sewer, natural gas, and electricity. Union County, as the owner of public right-of-way and public easements in this Agreement, retains the right to issue utility permits to utility companies or to other persons, companies, corporations or organizations prior to the final acceptance of public road restorations, herein described.

STIPULATIONS

13. This Agreement in addition to the consideration of the premises, the mutual covenants herein contained, and the approval and execution, of this Agreement by Union County shall be and is subject to the following stipulations(s) and Developer agrees to the following:
- A) Developer shall be responsible for maintenance of unpaved roads within the Wind Farm project boundaries as described in this Agreement. This will include, but is not limited to blading, placing of granular surfacing, shaping, and dust control. Coordination with Union County will be necessary, including response to citizen concerns. Union County will not provide maintenance service to roadways within the Wind Farm project boundaries until the time of probationary acceptance.
 - B) Developer shall be responsible for an inspection of all County roadways within the Wind Farm project boundaries and subject to the Agreement prior to any major road improvement work being performed, as burden of proof of repairs and deficiencies is the responsibility of the Developer. Developer shall provide Union County with a video survey of all the roads in the Wind Farm project boundaries prior to start of construction of the Wind Farm. Developer shall be responsible for obtaining any and all permits, permissions, or compliances not covered in the provisions of this Agreement or those permitted by Union County.
 - C) Developer shall provide and maintain all traffic control as required for the safe and efficient movement of traffic as a result of its construction activities.
 - D) Should construction operations necessitate the crossing of an existing county roadway with a crawler crane, Developer shall adhere to the following requirements for each such crossing:
 - 1. Developer shall provide the County with a map identifying the total number of crossings along with coordinates of each crossing.
 - 2. Developer shall supply a traffic control plan for the crane crossing, traffic control, the time frame for all road closures, and how the closure will be handled with the County Engineer and County Law Enforcement. No roadway shall be closed without giving 24 hours² notice to the County Engineer and County Law Enforcement.
 - 3. Developer shall provide a detail of how the weight of the crane will be bridged over the roadway for approval by the County Engineer. Developer will repair

any damages to the roadway to the extent caused by such crane crossing over the roadway.

4. Developer must obtain the approval of the County Engineer to such crossing, such approval not to be unreasonably withheld if Developer complies with the requirements in this part D).

E) The following shall apply with respect to Level B roads:

1. Surfacing will be allowed on Level B roads; however, if Developer proposes to place granular surfacing on Level B roads, the Level B roads will need to be improved to meet or exceed the typical section as depicted in Exhibit B.
2. If Developer requests that the Board consider upgrading a Level B road to a Level A service road and the Board so approves, then Developer will be required to meet the minimum requirements as set forth in Exhibit B. There is no obligation on the part of the Board of Supervisors or in this Agreement that requires that the Board of Supervisors ~~to~~ accept the improved road into the County's Level A system.
3. In certain locations, existing right-of-way width for such Level B roads may not be adequate to accommodate the proposed cross section as depicted in Exhibit B; and in such locations the Union County Engineer will review each such location on a case by case basis and upgrade work will not be permitted in such locations until and unless a construction plan for such location is mutually agreed upon by the Union County Engineer and the Developer.

F) The following provisions shall also apply:

1. Any (metal) culverts proposed to be used by Developer will need to meet Union County minimum specifications (as described below), as Union County will be responsible for the future maintenance as provided herein. The minimum culvert specifications are as follows: minimum size in entrances is 18"; minimum size in roadway is 24"; minimum gauge for pipe 42" and smaller is 14 gauge; minimum gauge for pipe 48" to 66" is 14 gauge; culverts larger than 66" will need to be a minimum of 10 gauge; all metal culverts are to be aluminized and riveted; spiral pipe will not be allowed; plastic pipe will not be allowed; all pipe installations shall be approved (not to be unreasonably withheld) by the Union County Engineer prior to construction; and all pipe will be sized to meet the drainage area rather than just matching the existing pipe diameter.

2. No fabric or geotextiles are to be placed within 12" of the surface of any roadway entrance or on County roadways.
3. Seeding and erosion control of all disturbed areas is to be performed by Developer.
4. Developer will provide maintenance to the Level B roads where Developer has added granular surfacing.
5. Developer will be required to obtain applicable permits for all oversized loads on all county roads from the County (the issuance of such permits not be unreasonably withheld by the County).
6. Developer agrees to retain and provide for the benefit of the County, an individual (not an employee of the Developer and as agreed upon by the County) on a temporary part-time basis as needed, to assist the County in overseeing the administration of this Agreement for the Wind Farms.
7. Developer agrees to hire an outside engineering firm to review the potentially affected bridges and culverts within each Wind Park's project boundaries to verify the load capacities in respect to the expected loads from Developer's construction and delivery activities, with same outside engineering firm conducting a post-construction structural review of the same bridges and culverts to verify that load capacities remain the same as the initial review.

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SECTION HEADINGS

14. The section headings are inserted herein only for convenience of reference and in no way shall they define, limit or describe the scope or intent of any provisions of this Agreement.

ASSIGNMENT CLAUSE

15. Upon written notification to Developer by County, County may assign this Agreement in whole or in part, to any person or third party ("Assignee") that is a government entity that becomes responsible for the County roads. Notwithstanding the above, County may hire or retain an Assignee to perform remedial work on the county roads in the event Developer does not comply with its obligations under this Agreement. County's notification to Developer shall state the date of the assignment, the name of the Assignee, the percentage and or limits of the project being assigned, and if applicable work not completed to the County's reasonable satisfaction in accordance with this Agreement. Upon assignment, County shall be relieved of any liability or obligation under this Agreement. Upon written notification to the County by Developer,

Developer may assign this Agreement in whole or in part to another party subject to the Union County Board of Supervisors' approval, which approval shall not be unreasonably withheld, conditioned or delayed.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

For the Board of County Supervisors
Union County

By: _____

Name:

Title:

(COMPANY NAME)

By: _____

Name:

Title:

Attest:

EXHIBIT A
Wind Farm Project Boundaries

EXHIBIT B
Typical Section Rural Granular Road