

**ROAD AND DRAINAGE EASEMENT, MAINTENANCE  
AGREEMENT AND DEVELOPMENT AGREEMENT  
Recorder's Cover Sheet**

**Preparer Information:** Jennifer Hodge Burkett  
(Name & Address of Preparer) 111 East Grand Avenue, Ste. .301  
Des Moines, IA 50309  
515-242-8900

**Taxpayer Information:** \_\_\_\_\_  
(Name & Address of Owner) \_\_\_\_\_  
\_\_\_\_\_

**Return Document To:** **Jennifer Hodge Burkett**  
111 East Grand Avenue, Ste. 301  
Des Moines, IA 50309

**Grantors:** Board of Supervisors of Worth County, Iowa and  
Board of Supervisors as Trustees of Drainage Districts in Worth County, Iowa

**Grantees:** Worthwhile Wind LLC

**Project Depiction:** See Exhibit A

**Document or instrument number of previously recorded documents:** N/A

**ROAD AND DRAINAGE EASEMENT, MAINTENANCE AGREEMENT,  
AND DEVELOPMENT AGREEMENT**

**THIS ROAD AND DRAINAGE EASEMENT, MAINTENANCE AGREEMENT, AND DEVELOPMENT** (this “Agreement”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and among Worthwhile Wind LLC, a Delaware limited liability company (“Worthwhile Wind”), the Board of Supervisors of Worth County, Iowa (“Board of Supervisors”, “Worth County” or “County”), and the Board of Supervisors of Worth County, Iowa as Trustees of Drainage Districts in Worth County, Iowa (“Trustees”) (to the extent the Drainage Districts in Worth County, Iowa are applicable, “Worth County” or the “County” shall include both the Board of Supervisors and the Trustees; Worthwhile Wind and County are sometimes referred to individually as a “Party” or collectively as the “Parties”).

**RECITALS:**

- A. Worthwhile Wind desires to develop, construct and operate a wind-powered electrical generating facility in Worth County (the “Project”) with all necessary associated facilities such as underground power collection lines and access roads, and that Worthwhile Wind has taken substantial development steps including significant expenditures, acquisition of land, conducting of studies, installation of meteorological towers and physical site work in furtherance of the development of the Project.
- B. The Parties agree that it is in the best interest of each to memorialize the rights, obligations, and responsibilities of the Parties with respect to Worthwhile Wind’s development of the Project and use of Worth County roads and rights-of-way during construction and operation of the Project, as well as potential repair of Worth County public drainage infrastructure.
- C. Worth County has an existing zoning ordinance (the “Zoning Ordinance”) for part of the County; the remainder of the County is currently unzoned. The Parties agree that Worthwhile Wind is in the public interest if it is built and operated in accordance with the existing zoning ordinance as of April 1, 2021, in those areas where the Zoning Ordinance applies, and in accordance with the development terms in this Agreement in both the zoned and unzoned portions of Worth County; and, with this Agreement, Worth County, acting in its proprietary capacity, agrees that any concurrent or subsequent zoning requirements relating to wind energy will not apply to any part of the Project.

**AGREEMENT:**

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement hereby stipulate and agree as follows:

1. **Planning**
  - a. **Preliminary Site Plan.** At least ninety (90) days prior to the start of construction of any turbine within Worth County, Worthwhile Wind shall meet with the County Engineer (the “pre-construction meeting”) to present a final plan for use of public roads (the “Haul Roads”), including temporary modifications to the roads such as widened intersections. Worthwhile Wind shall advise the County Engineer of plans for heavily-laden vehicles and/or equipment over Worth County’s public roads, and in the event the County Engineer identifies a reasonable safety concern regarding the load-bearing capacity of any road or structure, said road or structure shall not be used for the transportation of any heavily laden vehicles or equipment until the safety concern has been alleviated. Such alleviation can include a mutually agreeable alternate route or temporary upgrades to the deficient road or structure, and such alternates shall not be unreasonably conditioned or delayed.
  - b. **Initial Evaluation.** At the pre-construction meeting, the parties shall decide upon a scope of work for evaluating the condition of the roads and Drainage Infrastructure immediately prior to construction, which Worthwhile Wind shall carry out at its expense. Worthwhile Wind shall present a complete copy of the evaluation (the “Initial Evaluation”) to the County Engineer prior to starting construction.
  - c. **Later changes.** The parties recognize that despite good faith efforts, additional information may later reveal needs to modify some portions of the plans for use of public roads and crossing of Drainage Infrastructure and the parties agree to collaborate in good faith to address any changes necessary to such plans.
  - d. **Turbine Plan.** A Turbine plan is included as Exhibit B to this Agreement and includes the planned locations for all wind turbines proposed to be part of the Project, subject to final landowner input. Sites at which a turbine may be located are limited to those sites stated in this Exhibit B. Notwithstanding the number of potential sites described in Exhibit B, the maximum number of turbines permitted for construction and operation in the Project is 40. The exact location of turbines are subject to change if soil and/or subsurface testing, or the finding of cultural artifacts on site preparation, dictates that, in good faith, a turbine cannot be located exactly in accordance with Exhibit B. The parties agree that Worthwhile Wind may, in good faith, relocate a turbine within a reasonable distance from the location shown on Exhibit B, but that any such relocation must otherwise comply with each of the restrictions and provisions of this Agreement.
  - e. **Minimization of Impacts.** The Project will attempt to utilize the least impactful turbine locations to non-participating residences, to the extent reasonably practicable. Consistent with the other provisions of this

Agreement, including setback requirements, no wind turbine shall be finally located more than 300 feet in any direction from the location ultimately reflected in the Preliminary Site Plan, while maintaining the setback limits and other design standards set forth in this Agreement.

2. **Use of Rights-of-Way and Drainage Infrastructure**

a. Use. The Parties anticipate and acknowledge that in connection with the construction, operation and maintenance of electric collection lines, conductors, cables and other equipment appurtenant thereto (collectively, the “Facilities”), Worthwhile Wind will use Worth County road rights-of-way and the County grants Worthwhile Wind an easement to use such road rights-of-way as set forth in this Agreement. Notwithstanding the foregoing, no electric collection lines, conductors, or cables located in any Worth County road right-of-way may run parallel to any road, and no easement shall exist for such parallel running in any Worth County road-right-of-way without separate approval by the Board of Supervisors. It is further anticipated that all right-of-way crossings of paved roadways will be by underground borings perpendicular to the rights-of-way, plus or minus thirty (30) degrees. In the event a perpendicular crossing within the aforementioned thirty (30) degree margin of any Worth County road-right-of-way is not possible, Worthwhile Wind will present crossing details to the County for approval, whereas approval shall not be unreasonably withheld. All underground borings across any right-of-way shall commence and terminate outside of the right-of-way. No boring shall be made across a right-of-way at the intersection of rights of way. Trenching across gravel roadways may be approved with permission of the County Engineer. The County also grants Worthwhile Wind an easement to cross rights-of-way to walk heavy lift construction cranes from one turbine site to another, and the Trustees grant Worthwhile Wind an easement to maintain the Facilities along, over, through or across the public drainage infrastructure owned by drainage districts managed by the Worth County Board of Supervisors as Trustees (the “Drainage Infrastructure”). The parties intend that this agreement, and the grants contained herein, shall constitute an easement and shall satisfy the requirements for an easement in Iowa Code Chapter 468.

b. Ownership. The Facilities installed pursuant to this Agreement shall remain the property of Worthwhile Wind. Notwithstanding the foregoing, and subject to the provisions of paragraph 12 of this Agreement, Worthwhile Wind shall have the right to sell, assign, or lease all or portions of its Facilities to other parties and, in that event, such other parties shall, with Worthwhile Wind or, in the event of a total assignment or transfer, in lieu of Worthwhile Wind, have the right, in the manner and to the same extent above, to operate the Facilities in, along, under, and across said rights-of-way and Drainage Infrastructure. Worthwhile Wind, its successors or assigns, shall, at all times and at its sole cost and expense, maintain the Facilities in good condition and repair, ordinary wear and tear excepted.

c. Termination & Restoration. In the event the Project is terminated by Worthwhile Wind, Worthwhile Wind shall remove all the Facilities above four feet below grade in, along, and across certain rights of way in Worth County within twenty-four months of such termination and restore the land to a condition reasonably similar to pre-existing conditions.

### **3. Obligations of Worthwhile Wind**

a. Road Repair Obligations. Throughout the construction of the Project, Worthwhile Wind shall maintain public road infrastructure in a safe condition for passage by the public. At the conclusion of construction, Worthwhile Wind, at its expense, shall repair any damage to the Haul Roads due to any cause connected with the Project, but excluding repair caused by the County's negligence or intentional misconduct, to as-good or better than the condition they were in prior to construction, as documented in the Initial Evaluation (the "Road Repair Obligations"). The Parties shall rely upon the Initial Evaluation for purposes of determining the type of repair required. Upon completion of the repair, Worthwhile Wind and the County Engineer will jointly inspect the repair to determine if it has been completed in accordance with the standard set forth in this Section. In the event a hazardous road condition exists that presents a likely safety hazard to the motoring public (a "hazardous road condition") and is not promptly corrected by Worthwhile Wind after receipt of notice of the same, the County Engineer may make emergency road repairs or order emergency road repairs to be performed by qualified contractors, and Worthwhile Wind shall promptly reimburse Worth County for reasonable emergency road repair costs. Except in the case of emergency road repair, Worthwhile Wind shall notify the County Engineer's Office forty-eight (48) hours in advance of any road repair project and/or the closing or partial closing of any road in connection with the road repair project. Weather permitting, the final Road Repair Obligations shall be completed to the reasonable satisfaction of the County Engineer within six (6) months after the completion of construction of the Project as determined by Worthwhile Wind, or as soon thereafter as weather conditions permit, or as mutually agreed upon by the Parties. Road repair shall include restoration of original configuration (as documented in the Initial Evaluation) of ditches, slopes, embankments or fills within the right-of-way unless special circumstances dictate otherwise and specific approval has been requested by Worthwhile Wind and granted by the County Engineer. In the event it becomes necessary to remove or displace any traffic control device along the transportation routes, the same shall be reinstalled by Worthwhile Wind at their original locations and restored to their original condition. All materials and construction methods shall be equal to or better than the standards established by AASHTO for "utilities within highway right of way." All warning and work zone signs shall comply with the "Uniform Manual for Traffic Control Devices." Road closures shall only be allowed after notification to the County Engineer in person or by telephone.

b. Emergency Services. To the extent Worthwhile Wind's construction or operation of the Project results in an increase in expenses for emergency

services provided by Worth County (e.g., increased emergency personnel training and equipment), Worthwhile Wind agrees to pay directly to the County its allocable share of such increased expenses as determined in good faith by the Parties with reference to documentation supporting such increase in expenses. Having knowledge of the new Worth County emergency communications tower, Worthwhile Wind will site the Project in such a way to minimize interference with the effective and useful operation of the communications tower.

c. Drainage Infrastructure. If Drainage Infrastructure is damaged by Worthwhile Wind, Worthwhile Wind shall restore the Drainage Infrastructure to its Pre-existing Condition. Notwithstanding the foregoing, to the extent required by Iowa Code Section 468.186, if Worthwhile Wind's actions disturb or cause replacement of any portion of a tile drain less than twenty inches in diameter and a portion of such drain will remain wholly or partially exposed after the project has been completed, the portion which is to remain exposed and not less than three feet of such drain immediately on either side of the portion which is to remain exposed, shall be replaced either with steel pipe of not less than sixteen gauge or polyvinyl chloride pipe conforming to current industry standards regarding diameter and wall thickness. For the purposes of this Agreement, "Pre-existing Condition" shall mean the flow capacity existing immediately prior to Worthwhile Wind commencing construction of the Project. Worthwhile Wind is responsible for all expenses related to repairs, relocations, reconfigurations, and replacements to the Drainage Infrastructure in accordance with this Agreement.

**4. Obligations of Worth County.** Worth County agrees to furnish Worthwhile Wind with any and all road construction and maintenance records it has on the Haul Roads and any drainage district maps within sixty (60) days upon written notice from Worthwhile Wind. Worth County agrees to make the County Engineer or his designee available to perform his obligations as set forth herein. Worth County shall give timely notification to Worthwhile Wind of any conditions which come to its attention and may give rise to damage to the Drainage Infrastructure, a Road Repair Obligation or which would constitute a "hazardous road condition" as described in Paragraph 3(a) above. On a negotiated case by case basis, Worth County will perform snow removal on its Schedule B roads that are required to access wind turbine access roads.

## **5. Other Development Terms**

a. For the purposes of this Agreement, the following definitions shall apply:

(i) "Residence" shall mean a structure on a private parcel of real estate that is regularly used as a primary human dwelling place as of the date of this Agreement.

(ii) “Participating Landowner” shall mean the owner(s) of any parcel of real estate which is subject to any voluntary agreement between the owner(s) and Worthwhile Wind. A Participating Landowner includes, without limitation, the owner of any parcel on which any turbine is located or in which any Worthwhile Wind transmission, collection line, substation, or Operations & Maintenance building is located. A Participating Landowner will have entered into a voluntary easement or some other contract with Worthwhile Wind as it applies to at least one parcel of real estate owned by the Participating Landowner.

(iii) “Non-Participating Landowner” shall mean the owner(s) of any parcel of real estate which is not a Participating Landowner.

The same individual may be a Participating Landowner as it applies to one parcel of real estate and a Non-Participating Landowner as it applies to a different parcel of real estate. However, in the event the preponderance of the evidence suggests a landowner inadvertently failed to sign a voluntary agreement for one of the landowner’s several other parcels for which the landowner did sign a voluntary agreement, the inadvertently unsigned parcel shall be treated as Participating Landowner. The foregoing definitions shall be applied and construed as necessary by looking at or identifying a specific parcel of real estate.

b. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less than 1,600 feet from a Participating Landowner’s Residence, measured from the center of the turbine’s support tower to the nearest point of the residence. This setback may be waived in an easement or other written instrument, including a Good Neighbor Agreement, by the owner of the Residence located on a Participating Landowner’s real estate.

c. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less than 2,000 feet from a Non-Participating Landowner’s Residence, measured from the center of the turbine’s support tower to the nearest point of the residence. This setback may be waived in an easement or other written instrument, including a Good Neighbor Agreement, by the owner of the Residence located on a Non-Participating Landowner’s real estate.

d. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less than one mile from any portion of any of the following:

(i) Any eagle nest as shown on Exhibit C attached to this Agreement;

(ii) Silver Lake; and

(iii) Elk Creek Marsh.

e. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less 1.15 times the wind turbine tip height from established County roads, measured from the center of the turbine's support tower to the nearest edge of the road.

f. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less 1.5 times the wind turbine tip height from federal highways, measured from the center of the turbine's support tower to the most center point of the highway.

g. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be constructed less 1.1 times the wind turbine blade length from any and all non-participating property, measured from the center of the turbine's support tower to the non-participating parcel boundary line.

h. Worthwhile Wind agrees that no wind turbine that is part of the Project shall be greater in height than 600 feet. Height shall be measured from the surface level of the ground to the tip of the blade when it is at its maximum height.

i. Worthwhile Wind agrees to utilize turbines only from the specified list below:

- General Electric (GE) Sierra 3.4-140
- GE Sierra 2.8-127
- GE Cypress 5.8-158
- GE Cypress 6.0-164
- Vestas V150-4.5
- Vestas V136-3.6
- Siemens Gamesa (SG) 3.1-129
- SG 5.0-145
- SG 5.2-145

Worthwhile Wind warrants and represents that each of the foregoing listed turbine models, as erected, do not exceed the setback, height, sound, and shadow flicker restrictions specifically stated in this Agreement. To the extent any of the foregoing listed turbine models, as erected, exceed the setback, height, sound, and shadow flicker restrictions specifically stated in this Agreement, such turbine is not permitted in that specific location. For the avoidance of any doubt, the setback, height, sound, and shadow flicker restrictions specifically stated in this Agreement shall control over any ambiguity concerning permissible turbine models.

If Worthwhile Wind determines a different turbine model is preferable, it can



request permission from the Board of Supervisors to amend this list. If the requested model is substantially similar in dimensions and impacts, approval will not be unreasonably withheld. Approval is reasonably withheld if the facts and data suggest the proposed model, as erected, will exceed the setback, height, sound, and shadow flicker restrictions specifically stated in this Agreement. For the avoidance of any doubt, the Board of Supervisors shall have no obligation to permit use of a turbine model if the impacts on setback, height, sound, and shadow flicker exceed the restrictions specifically stated in this Agreement.

j. Worthwhile Wind agrees that in normal operation the sound from the Project at the exterior wall of any Residence in or adjacent to the Project will not exceed 48 dBA. This noise limit may be waived by the owner of the Residence in an easement or other written instrument. Compliance with this requirement shall be shown by Worthwhile Wind via pre-construction noise modeling and confirmed via a post-operation noise analysis.

k. Worthwhile Wind agrees that no Residence will experience more than 30 hours of shadow flicker per year. This limit may be waived by the owner of the Residence in an easement or other written instrument.

l. If any Non-Participating Landowner's Residence is expected to experience any shadow flicker based on a pre-construction shadow flicker report conducted by Worthwhile Wind ("Worthwhile Flicker Report"), Worthwhile Wind shall offer such affected Non-Participating Landowners a Good Neighbor Agreement. The payment amounts included in the Good Neighbor Agreements shall be determined on an individual basis for each affected Non-Participating Landowner expected to experience shadow flicker based on the Worthwhile Flicker Report, at a base rate of \$100.00 per hour of shadow flicker predicted to be experienced in a year with a minimum annual payment of \$500.00 per year. The Good Neighbor Agreement payment terms shall be paid on an annual basis and shall be prepaid for the year in which the shadow flicker will occur. Commencing on the first anniversary of the first Good Neighbor Agreement, such Good Neighbor payments shall be adjusted upwards by the greater of two percent (2%) per year on a compounded basis or by the percentage change, if any, in the GDPIPD for the preceding available four quarters. GDPIPD means the gross domestic product implicit price deflator, as computed and published quarterly by the U.S. Department of Commerce (Index 2000=100), as presented and revised from time to time in the "Gross Domestic Product: [applicable quarter] Quarter 'Final' Press Release" released periodically by the Bureau of Economic Analysis. The amounts payable hereunder for a calendar year shall be prorated for any partial years, except that for any Good Neighbor Agreements already signed. Worthwhile Wind shall not attempt reimbursement from any Non-Participating Landowner for any prepaid amount. This Agreement shall not be construed to define a Non-Participating Landowner as a Participating Landowner, based on the Non-Participating Landowner's acceptance of any payment as described in this provision.

(i) In the event any Non-Participating Landowner experiences more shadow flicker than is shown in the pre-construction Worthwhile Flicker Report, a new report shall be made after the first full-year of turbine operation and the payment rates shall be adjusted to reflect the actual amount of shadow flicker experienced by the Non-Participating Landowner.

m. Worthwhile Wind shall include as part of its lease or license of any land in Worth County on which its Windpower Facilities are located terms governing and providing financial assurance for decommissioning. Such terms shall include requirements substantially similar to the following:

On or by the fifteenth (15th) anniversary of the Operation Date, obtain and deliver to each Participating Landowner a bond, letter of credit, or similar financial assurance, in form and substance reasonably satisfactory to such Participating Landowner, securing performance of Worthwhile Wind's obligation to remove the Windpower Facilities located on the subject property (the "Removal Security"). The Removal Security shall be equal to the estimated amount, if any, (the "Net Removal Costs") by which the cost of removing the Windpower Facilities exceeds the salvage value of such Windpower Facilities. To the extent that the Net Removal Costs are zero (or negative), the Removal Security shall not be required on that part of Worthwhile Wind, provided, however that Worthwhile Wind shall re-evaluate the need for the Removal Security at least annually after the fifteenth (15th) anniversary of the Operations Date. Worthwhile Wind shall not be required to deliver such Removal Security to the Participating Landowner if Worthwhile Wind (i) is in the process of repowering or otherwise redeveloping the power generating units on the Property with new power generating units (or commits in writing with notice to Owner to do so within two (2) years after the fifteenth (15th) anniversary of the Operations Date), or (ii) has delivered such Removal Security, or similar financial assurance, in connection with the permitting of the subject property or any other portion of the Windpower Facilities for Worthwhile Wind's wind turbines. Once in place, Grantee shall keep such Removal Security, or similar financial assurance, in force throughout the remainder of the term of any lease with the Participating Landowner, as applicable. The Net Removal Costs shall be determined by Worthwhile Wind acting in good faith.

(i) For purposes of this section, "Operations Date" shall mean the Operations Date as defined or elected under each individual Owner's agreement with Worthwhile Wind.

(ii) For purposes of this section, "Participating Landowner" shall mean an owner of land in Worth County who has entered into an Agreement with Worthwhile Wind regarding interests in land in Worth County including but not limited to a lease, option, easement or other interest.

(iii) For purposes of this section, "Windpower Facilities" shall mean wind turbines, overhead and underground electrical and communications

lines (excluding transmission lines), electric transformers, energy storage facilities, telecommunications equipment, power generation facilities to be operated in conjunction with wind turbine installations, roads, meteorological towers and wind measurement equipment, and related facilities and equipment.

(iv) Worth County may, on reasonable request but no more often than annually, require Worthwhile Wind to provide documentation sufficient to confirm compliance with this decommissioning requirement.

n. The County agrees that it shall not, by permit, condition, ordinance or otherwise, impose any new or additional requirements on the Project that are greater than those set forth above.

o. Worthwhile Wind agrees that as part of its permit application in the zoned portion of the County, or prior to the beginning of commercial operation of the project in the currently unzoned portion of the County, Worthwhile Wind shall submit documentation demonstrating compliance with these Development Terms.

p. **Inspection.** Worthwhile Wind agrees that the County shall have the right to review plans and specifications for the contemplated wind turbines, as well as the right to inspect the wind turbines during and after construction, to ensure compliance with this Agreement. In reviewing, the County shall be permitted to hire a qualified individual or entity to review the wind turbines for structural soundness and compliance with the requirements of this Agreement. Worthwhile Wind agrees that it shall pay the reasonable costs of the County associated with a post-completion inspection and an additional inspection each five (5) years thereafter.

**6. Cooperation.** Worthwhile Wind and the County agree to communicate and cooperate in good faith concerning the safe construction and operation of the Project and preventing or correcting any hazardous road condition that may be created by the Project.

**7. Indemnification.** Worthwhile Wind agrees to defend, indemnify, and hold harmless Worth County and its supervisors, trustees, administrators, employees, and representatives (collectively the “Indemnified Party”) against any and all losses, damages, claims, expenses, including reasonable attorneys’ fees, and liabilities for physical damage to the property of Worth County and for physical injury to any person, to the extent the same is a result of any activities or operations of Worthwhile Wind, its agents and employees, on the property of the County for the performance or non-performance of its duties pursuant to this Agreement except to the extent caused by the negligence or intentional misconduct of the County. Furthermore, Worthwhile Wind agrees to defend, indemnify, and hold harmless the Indemnified Party from any third-party claims arising out of terms and conditions of this Agreement, except to the extent that such claims are caused by the negligence or intentional misconduct of the County. This indemnification obligation shall survive the termination of this Agreement.

**8. Insurance.** Worthwhile Wind shall at all times during construction and operation of the Project, carry: (i) Worker's Compensation insurance in accordance with the laws of the State of Iowa and Employer's Liability insurance, (ii) Commercial General Liability insurance with minimum limit of \$5,000,000 per occurrence, and (iii) Automobile Liability insurance with minimum limit of \$1,000,000 per occurrence. Certificates of insurance will be provided to County upon written request to Worthwhile Wind.

**9. Compliance with Laws.** Worthwhile Wind shall at all times comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, judgments, and other valid orders of any governmental authority with respect to Worthwhile Wind's activities associated with the Project and shall obtain all permits, licenses, and orders required to conduct any and all such activities.

**10. Entire Agreement.** It is mutually understood and agreed that this Agreement constitutes the entire agreement between the Parties 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 writing and executed by both Parties.

**11. Default.** Any failure by a Party to perform a material obligation hereunder which is not remedied within thirty (30) days after receipt by the defaulting Party of written notice of such failure shall be deemed a default under this Agreement and, in such case, the non-defaulting Party shall be entitled to pursue any remedies available at law or in equity, including terminating this Agreement and collecting reasonable attorneys' fees from the defaulting Party. Notwithstanding the foregoing, so long as the defaulting Party has initiated and is diligently working to cure, the defaulting Party's cure period shall extend for a time period reasonably sufficient for the default to be remedied. This provision shall be read in conjunction with paragraph 16(b) of this Agreement.

**12. Relationship of the Parties.** The duties, obligations, and liabilities of each of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or constructed to create an association, joint venture, fiduciary relationship, or partnership between the Parties hereto or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. The Parties shall 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 otherwise to bind, the other Party.

**13. Successors and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto, and their respective successors, assignees and legal representatives.

(i) **Assignment Requiring Consent.** This Agreement may not be assigned without the written consent of the other Parties and such consent shall not be unreasonably withheld, conditioned or delayed.

(ii) Permitted Assignment. Notwithstanding subparagraph (i) above, Worthwhile Wind shall be entitled to assign this Agreement, in whole or in part, without the prior written consent of the County to any affiliate of Worthwhile Wind, to any purchaser of any portion of the assets of Worthwhile Wind, to any person or entity providing financing to Worthwhile Wind or any such affiliate or any collateral agent or security trustee acting on behalf of any such person or entity, or to a public utility regulated by the Iowa Utilities Board (each a “Permitted Assignment”). Any such assignment that is a collateral assignment for financing purposes will not relieve Worthwhile Wind of its obligations under this Agreement. In the event of a Permitted Assignment, Worthwhile Wind shall, not more than sixty days after such assignment, provide written notice to the County of the name, address, entity type and state of incorporation of the assignee, as well as the name and address of the assignee’s registered agent in the State of Iowa. **It is understood, however that any assignee shall be bound by the terms and conditions contained within this agreement, and Worthwhile Wind will only assign by written instrument containing a requirement that the assignee agrees to adopt and be bound by the terms of this Agreement. In the event Worthwhile Wind fails to comply with its obligations in this provision, Worthwhile Wind shall remain liable for the performance of all obligations under all provisions of this Agreement, including but not limited to, paragraphs 7 and 11 until such time as the failure is cured.**

**14. Notices.** Notices, requests, demands, and other communications shall be sent to the following addresses:

*If to Worthwhile Wind:*

Worthwhile Wind LLC  
c/o INVENERGY WIND DEVELOPMENT LLC  
Attn: Mark D. Crowl  
1401 17th Street  
Suite 1100  
Denver, CO 80202  
mcrowl@invenergy.com  
918-237-6417

*and*

Worthwhile Wind LLC  
c/o INVENERGY WIND DEVELOPMENT LLC  
Attn: General Counsel  
One South Wacker Drive  
Suite 1900  
Chicago, IL 60606

*If to Worth County:*

Worth County Engineer Richard Brumm  
1000 Central Ave  
Northwood, IA 50459  
engineer@worthcounty.org  
641-324-2154

*and*

Worth County Board of Supervisors  
1000 Central Ave  
Northwood, IA 50459

*and*

William M. Reasoner  
Dickinson, Mackaman, Tyler & Hagen P.C.  
699 Walnut Street, Suite 1600  
Des Moines, IA 50309  
[wreasoner@dickinsonlaw.com](mailto:wreasoner@dickinsonlaw.com)

All notices shall be in writing. Any notice shall be deemed to be sufficiently given (i) on the date, if delivered in person; (ii) five (5) days after being sent by United States registered or certified mail, postage prepaid, return receipt requested; or (iii) on the next Business Day if sent by overnight delivery service (*e.g.* Federal Express) to the notified Party at its address set forth above. These addresses shall remain in effect unless another address is substituted by written notice. Notices may be sent via email transmission the email addresses provided, however, notice sent via email shall be followed by notice delivered by personal service or by registered or certified mail, return receipt requested, or by overnight delivery.

**15. Relevant Law.** Any and all disputes arising under this Agreement and/or relating to the actual development and/or construction of the Project shall be resolved pursuant to the laws of the State of Iowa.

**16. Disputes.**

- a. Should a dispute arise between the Parties on whether hazardous road conditions exist as defined in Section 3a, such determination shall be made by an independent civil engineer licensed in Iowa and selected by the mutual agreement of the Parties (the "Independent Engineer"). If the parties cannot agree on an independent engineer, they each shall select an independent engineer and the two independent engineers shall select a third independent engineer within thirty days, and this third independent engineer shall be the independent engineer for settling such disputes. Compensation for work performed by the Independent Engineer shall be shared equally by the Parties.

b. Should the County believe Worthwhile Wind is in non-compliance with any other Development Term in this Agreement, the County shall notify Worthwhile Wind in writing specifically describing the alleged non-compliance. Worthwhile Wind shall have 30 days to submit to the County either an explanation of why Worthwhile Wind is in fact compliant, or a plan including a timeline to remediate the non-compliance. If the County is not satisfied with the explanation or plan, the Parties will negotiate in good faith for no less than 30 days. Should Worthwhile Wind not submit, or fails to complete its submitted plan for remediation, or if the Parties cannot agree on such a plan or explanation of why no plan is necessary after the additional negotiation herein, the County may seek an injunction to require the specific non-compliant facility or facilities to stop operating and for the specific non-compliance to be remedied. Such remedies will not affect the balance of any compliant portions of the Worthwhile Wind project.

**17. Waiver of Breach.** No waiver of a breach of this Agreement shall be deemed a waiver of any subsequent breach.

**18. Severability.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to public policy or unenforceable for any reason, such finding shall not invalidate any other provision of this Agreement and such provision shall be replaced with a suitable and equitable provision in order to carry out, so far as may be valid and enforceable, the extent of such provision that has been found to be contrary to public policy or unenforceable.

**19. Binding Effect and Term.** Consistent with the provisions of paragraph 12, this Agreement shall bind the assigns and successors of the respective Parties hereto to the same full degree and extent as the Parties themselves are hereby bound. This Agreement shall remain in effect for a period of fifty (50) years from the date the Project achieves commercial operations.

**20. Mortgagee Protection.** In the event that any mortgage is entered into by Worthwhile Wind, then the mortgagee shall, for so long as its mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this section. Worthwhile Wind shall send written notice to Worth County of the name and address of any such mortgagee; provided that failure of Worthwhile Wind to give notice of any such mortgagee shall not constitute a default under this Agreement and shall not invalidate such mortgage, however it is understood that any successor in interest to Worthwhile Wind, be it a mortgagee, or other entity, shall be bound by the terms and conditions set forth in this agreement.

(a) Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A mortgagee of Worthwhile Wind shall have the absolute right: (i) to assign its security interest; (ii) to enforce its lien and acquire Worthwhile Wind's rights, including without limitation rights to the permit to install, construct, operate, repair, replace, remove, inspect and perpetually maintain the Facilities, by any lawful means; (iii) to take possession of and operate the

Facilities or any portion thereof, to exercise all of Worthwhile Wind's rights hereunder, and to perform all obligations to be performed by Worthwhile Wind hereunder, or to cause a receiver to be appointed to do so; and (iv) following exercise of its rights under applicable mortgage, to assign or transfer Worthwhile Wind's rights to a third party. The County's consent shall not be required for any of the foregoing.

(b) Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any default of Worthwhile Wind, the County shall give notice of Worthwhile Wind's failure to perform to each mortgagee, of which it has notice, concurrently with delivery of such notice to Worthwhile Wind. In the event the County gives such notice of failure to perform, the following provision shall apply:

i) The mortgagee shall have the same period after receipt of the notice of failure to perform to remedy the failure to perform, or cause the same to be remedied, as is given to Worthwhile Wind, plus, in each instance, sixty (60) days, provided that such 60-day period shall be extended for the time reasonably required to complete such cure, including the time required for the mortgagee to perfect its right to cure failure to perform by obtaining possession (including possession by a receiver) or by instituting foreclosure proceedings, and provided the mortgagee acts with reasonable and continuous diligence. The mortgagee shall have the absolute right to substitute itself for Worthwhile Wind and perform the duties of Worthwhile Wind hereunder for purposes of curing such failure to perform. The County expressly consents to such substitution, agrees to accept such performance, and authorize the mortgagee (or its employees, agents, representatives or contractors) to enter upon the County roads to complete such performance with all the rights, privileges and obligations of the original Worthwhile Wind hereunder.

(c) No Waiver. No payment made to the County by a mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Agreement; and a mortgagee, having made any payment to the County pursuant to the County's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.

**21. Sunset.** If construction of a wind turbine on a parcel identified in Exhibit A or B has not commenced within five (5) years of the last date on which this agreement is fully executed and duly approved by the County, then Worthwhile Wind agrees that Worthwhile Wind releases and forgoes any ability to claim that the wind turbine at issue is protected by any vested rights or any provisions of this agreement, and in such event, that the County may enforce any county regulations, including any zoning regulations, against the wind turbine.

[signature page to follow]



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

BOARD OF SUPERVISORS  
/

WORTHWHILE WIND LLC

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
County Clerk

BOARD OF SUPERVISORS, AS TRUSTEES OF  
DRAINAGE DISTRICTS IN WORTH COUNTY, IOWA

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
County Auditor

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of Worthwhile Wind Energy LLC, a Delaware limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA )  
 )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, Supervisor.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IOWA     )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_,  
20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage  
Districts in Worth County, Iowa.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires:\_\_\_\_\_

STATE OF IOWA     )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_,  
20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage  
Districts in Worth County, Iowa.

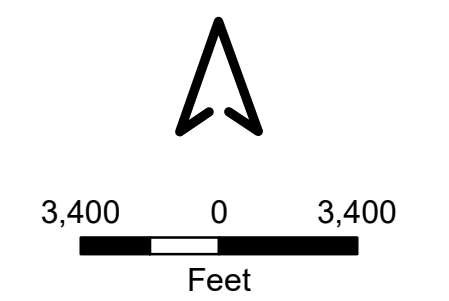
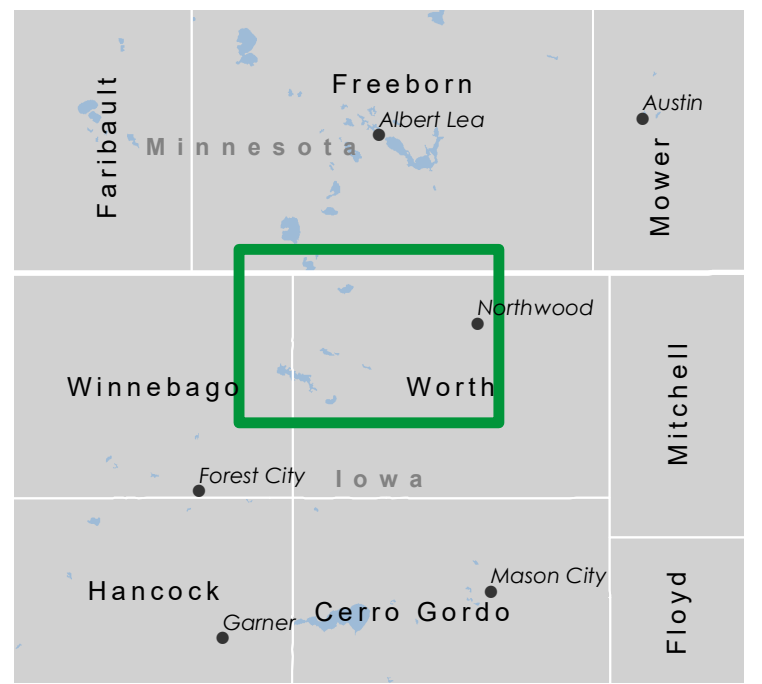
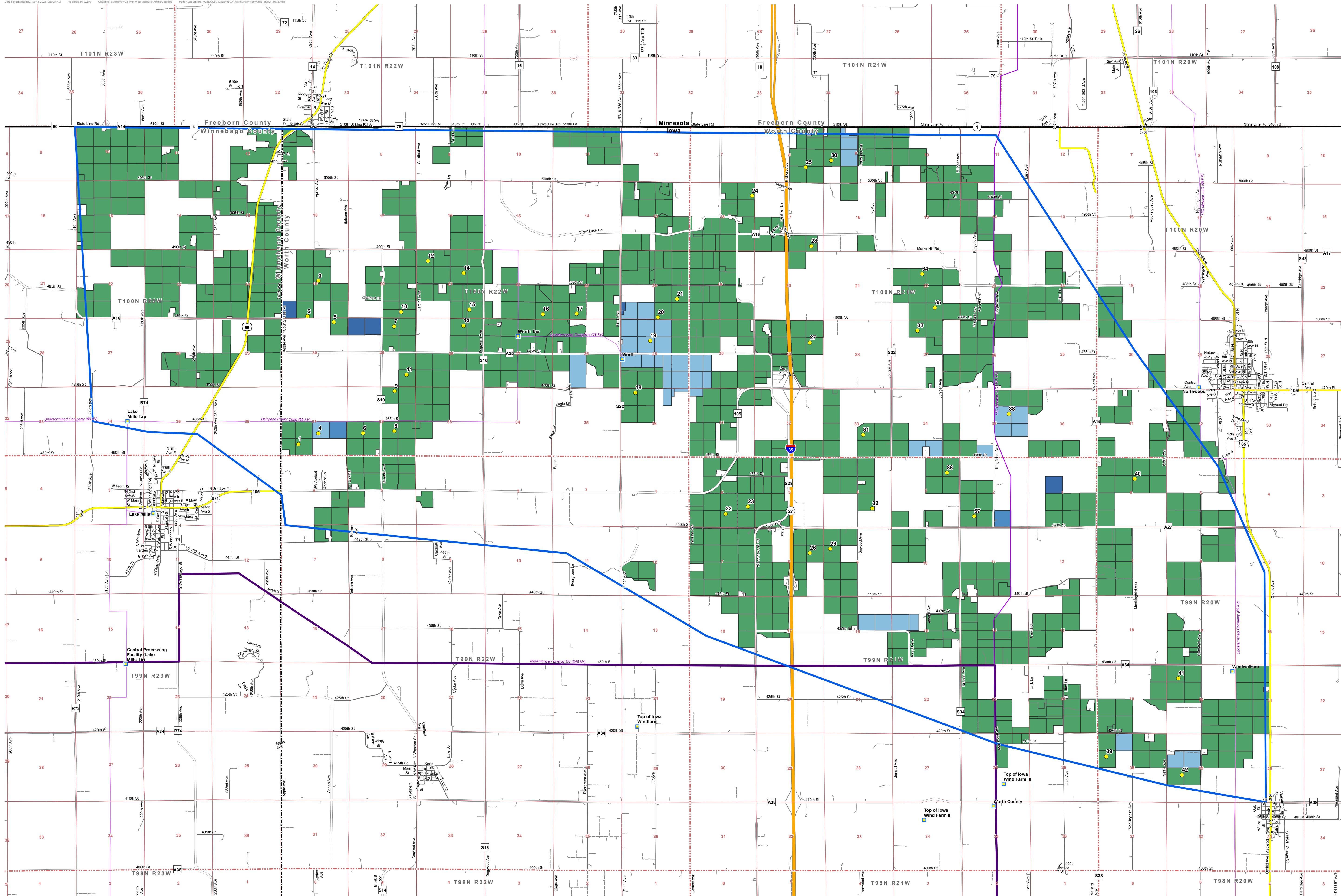
\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires:\_\_\_\_\_

STATE OF IOWA     )  
                                  )ss:  
COUNTY OF WORTH)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_,  
20\_\_ by \_\_\_\_\_, Supervisor, as Trustee of the Drainage  
Districts in Worth County, Iowa.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires:\_\_\_\_\_

**EXHIBIT A**  
**PROJECT DEPICTION**



- Legend**
- Turbine Location
  - Substation Location
  - Transmission Line**
  - Under 100 kV
  - 100 - 161 kV
  - 345 - 500 kV
  - Road Classification**
  - Interstate Highway
  - US/State Route
  - County Road
  - Local Road
  - Dirt/Unpaved Road
  - State Boundary
  - County Boundary
  - Township/Range Boundary
  - Section Line
  - Project Boundary
  - Landowner Parcel Status**
  - Participating - Wind Agreement
  - Participating - Other
  - Participating - Option
  - Participating - Transmission Agreement

# Project Layout

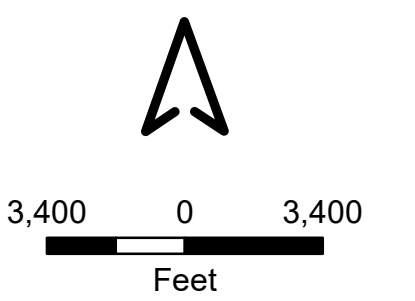
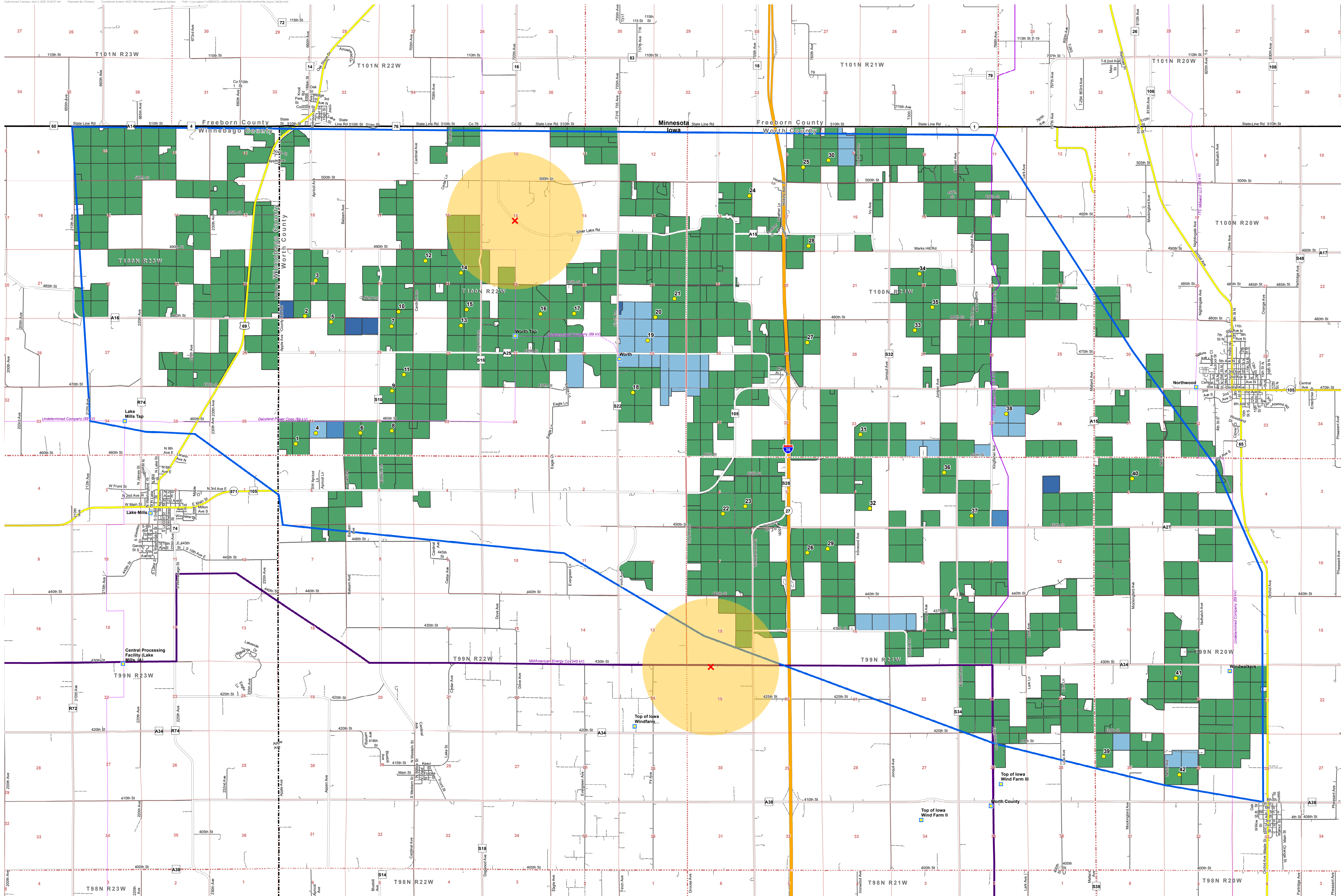
**EXHIBIT B**  
**TURBINE PLAN**

[turbine plan shall show the locations of the planned turbines by latitude and longitude]

<b>Turbine Number</b>	<b>Longitude</b>	<b>Latitude</b>
1	-93.49264042	43.43264724
2	-93.48995361	43.4595997
3	-93.486821	43.46706976
4	-93.48680171	43.43492836
5	-93.48235804	43.45836083
6	-93.47387396	43.43497214
7	-93.46480709	43.45746845
8	-93.46474162	43.43540701
9	-93.46467773	43.44382632
10	-93.46278294	43.46055287
11	-93.46123003	43.44726205
12	-93.45499159	43.47126798
13	-93.44467809	43.45761304
14	-93.44462989	43.46871371
15	-93.44303949	43.46098661
16	-93.42161177	43.46005407
17	-93.41182002	43.46013455
18	-93.39477356	43.44351424
19	-93.39045991	43.4544724
20	-93.38824299	43.45938818
21	-93.38270069	43.46324369
22	-93.36863751	43.41792432
23	-93.3621582	43.41947893
24	-93.36093983	43.48497251
25	-93.3453495	43.49098644
26	-93.34415129	43.40967981
27	-93.34414554	43.45403865
28	-93.34377516	43.47440773
29	-93.33822344	43.4105473
30	-93.33799189	43.49243226
31	-93.32871655	43.43461671
32	-93.32602549	43.41907817
33	-93.31295314	43.45658578
34	-93.31158161	43.46852807
35	-93.30784616	43.46144744
36	-93.30440583	43.42661992
37	-93.29646186	43.41746927
38	-93.28639086	43.43900581
39	-93.25812852	43.36670031
40	-93.24985986	43.42531874
41	-93.23720895	43.38324543
42	-93.23614869	43.36284333

**EXHIBIT C**  
**EAGLE NEST LOCATION INFORMATION**





- Legend**
- Turbine Location
  - ✕ Eagle Nest
  - Substation Location
- Transmission Line**
- Under 100 kV
  - 100 - 161 kV
  - 345 - 500 kV
- Road Classification**
- Interstate Highway
  - US/State Route
  - County Road
  - Local Road
  - Dirt/Unpaved Road
- Boundary**
- State Boundary
  - County Boundary
  - Township/Range Boundary
  - Section Line
  - Project Boundary
  - 1 Mile Eagle Nest Setback
- Landowner Parcel Status**
- Participating - Wind Agreement
  - Participating - Other
  - Participating - Option
  - Participating - Transmission Agreement

# Project Layout