

TERM SHEET - DEVELOPER COMMITMENTS (Soldier Creek Wind Farm Project)

This Term Sheet (this "Term Sheet") confirms the principal terms agreed to with respect to the development, construction, and operation of the Soldier Creek Wind Energy Project (the "Project") by Soldier Creek Wind, LLC (the "Company") agreed to by and between the Company and the County Commission of Nemaha County, Kansas (the "County"). The material terms and commitments set forth in this Term Sheet shall be included in the Road Use and Maintenance Agreement (the "RUA") contemplated herein and the Definitive Agreements (defined below).

TERMS AND CONDITIONS

1. **LANDOWNER PARTICIPATION:**

All wind turbines and related structures within the County shall be located on property that is owned by Company, or an affiliate thereof, or property for which Company or its affiliate has or will have executed a lease, easement or other agreement with the applicable landowner.

2. **SITE PLAN, SETBACKS, AND EXCLUSION ZONES:**

a. **SITE PLAN:**

Company shall site, and the County hereby approves, wind turbines within 100 feet of the locations depicted on the site plan attached hereto as Exhibit A (the "Site Plan"), with GPS coordinates to be provided in the Definitive Agreements (defined below). If, after execution of this Term Sheet, Company wishes to move the location of any wind turbine greater than 100 feet from the locations depicted on the Site Plan, such re-location must be submitted to the County for review and approval. Despite the variance of 100 feet allowed by this paragraph, no wind turbine may be moved closer than the locations depicted on the Site Plan from an occupied residential non-participating dwelling or closer than 600 feet from a non-participating property line unless otherwise agreed by the non-participating landowner. The Project shall not exceed 300 MW and the

Company will certify the MW upon written request by the County.

b. PUBLIC ROADS:

All wind turbines shall be setback at least 1.1 times the height of the wind turbine (including tower, turbine and blades) from public roads, as measured from the base of the tower to the nearest point on any County, Township, State or Federal road located in the County, excluding private roads.

c. INCORPORATED MUNICIPAL BOUNDARIES:

All wind turbines shall be setback at least 1 mile from incorporated municipal boundaries, as measured from the base of the tower to the nearest point on such boundary line.

d. UNINCORPORATED MUNICIPALITY:

All wind turbines shall be setback at least 1 mile from the city-center of Kelly, Kansas.

e. EXCLUSION ZONES:

No wind turbines may be constructed within Exclusion Zones located in the County. Exclusion Zones are any area outside of the project boundary depicted on Exhibit A.

3. **COLLECTION LINES AND COMPANY-OWNED TRANSMISSION LINE TOWER SETBACKS:**

a. FROM ANY OCCUPIED RESIDENTIAL DWELLING LOCATED IN THE COUNTY:

1.5 times the height of the transmission line tower measured from base of the tower to the nearest outside wall of such structure.

b. MAXIMUM COMPANY-OWNED TRANSMISSION LINE TOWER HEIGHT:

130 feet.

c. COLLECTOR LINES:

Collection lines will be located within easements on participating landowner property, or located underground on public right of way crossings as approved by the County.

d. CONSENT:

Setbacks and height requirements can be modified with written consent of the County.

4. FOOTINGS:

Prior to construction, a structural professional engineer licensed in the State of Kansas agreed upon by both parties shall certify that the footing designs to be used to erect the wind turbines meet applicable industry safety standards.

5. SOUND LEVELS AND ICE THROW:

a. NON-PARTICIPATING DWELLINGS LOCATED IN THE COUNTY:

Unless otherwise agreed to by the landowner, sound levels are not to exceed 50 dBa Leq, measured at the nearest outside wall of a sensitive receptor (schools, hospitals, churches, or public libraries) or non-participating occupied residential dwellings.

b. PARTICIPATING DWELLINGS LOCATED IN THE COUNTY:

Unless otherwise agreed to by the landowner, sound levels are not to exceed 55 dBa Leq at the nearest external wall of a participating occupied residential dwelling.

c. Ice Throw: The Company will institute turbine control measures acceptable to the Third Party Engineer (defined below, and subject to the provisions of Section 9(e)) to mitigate ice shed ~~on non-participating property~~.

6. SHADOW FLICKER, ADVERTISING, FAA, AND COLOR:

a. AT NON-PARTICIPATING OCCUPIED RESIDENTIAL DWELLINGS LOCATED IN THE COUNTY:

Unless otherwise agreed to by the landowner, shadow flicker not to exceed a cumulative 30 hours/year.

b. ADVERTISING:

No logo or advertisement shall be located on turbines unless approved in advance by the County.

c. FAA; AIRFIELD AND COLOR:

Turbine coloring shall conform to aviation safety regulations and shall have a non-reflective matte finish.

7. COMPLAINT RESOLUTION AND REMEDIES:

a. CONTACT:

- i. Company or its affiliate will establish a “24/7” single point of contact for fielding and addressing Project claims or issues including road issues.
- ii. Notice of contact information for this single point of contact will be provided to the County and posted in public locations, including but not limited to the Project Operation and Maintenance Building, and the Project website.
- iii. Project representative shall make reasonable efforts to respond to inquiries from residents and businesses within 5 business days (during normal business hours) of receipt of an inquiry.
- iv. A record, including any complaints received, the resolution of such complaints, and any unresolved complaints, shall be maintained. The record will include steps implemented to resolve complaints.
- v. Any confirmed problems will be corrected as soon as practical. In cases where a resolution cannot be delivered within 30 days, a timeline and measures to be taken will be provided to the complainant and a copy sent to the County.

- b. County Action: At the request and cost of the County, the County may order a review of the unresolved complaint by a professional engineer licensed in the State of Kansas that has experience with wind turbines and wind projects, acceptable to ~~both parties~~ the County, to review the unresolved complaint (the “Reviewing Engineer”) and submit its report within 30 days. The Company will reasonably cooperate with a requested review of an unresolved complaint.

c. REPORTING:

A report of claims shall be delivered to the County:

- i. On an annual basis; or
- ii. Within thirty days of a written request by the County.

8. INSURANCE:

a. PRE-PROJECT ANALYSIS OF COVERAGE:

Insurance policy and coverage information (builder's risk, general liability, transportation and long term policies) to be produced for review to identify any gaps.

b. GENERAL LIABILITY:

Project Construction Commercial General Liability \$3,000,000.

c. ADDITIONAL INSURED:

Applicable insurance policies shall name the County as an additional insured.

d. INDEMNIFICATION OPTION: In lieu of such coverage, Company may at its option provide an indemnification agreement satisfactory to the County in the County's reasonable discretion.

9. DECOMMISSIONING: Terms for the decommissioning of the Project shall be set forth in a mutually agreeable "Decommissioning Agreement," which shall, at a minimum, include the following terms:

a. THIRD PARTY ENGINEER: The Company will reimburse the County for the reasonable cost of a third-party engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms that is acceptable to ~~both~~ the County ~~and~~ Company (the "Third-Party Engineer"), to assist the County with determining the amount of the Restoration Security (as defined below), evaluating and monitoring the decommissioning process, and certifying that the decommissioning process has been completed consistent with the terms of the Decommissioning Agreement.

b. SECURITY:

- i. On the earlier date of (i) May 1, 2020 or (ii) beginning construction of the Project, Company shall deliver to County a bond or letter of credit, naming County as a beneficiary, to secure Company's performance of the decommissioning obligations (the "Restoration Security"), which shall be issued by a creditworthy party or financial institution reasonably acceptable to the County. If construction is delayed, the Company may request an extension of the date set forth above.
- ii. The amount of the Restoration Security shall be the amount, as determined by the Third-Party Engineer (the "Secured Amount"). The Third-Party Engineer shall re-evaluate (at the cost of the Company) the Secured Amount upon each subsequent five year anniversary of the completion of construction of the Project until the decommissioning is certified complete by the Third-Party Engineer, and Company shall adjust the Restoration Security accordingly.
- iii. At least thirty (30) days prior to delivery of the Restoration Security to the County, the Company shall submit to the County the name of the Restoration Security provider and the documents governing the issuance of the Restoration Security for the County's review and approval, which shall not be unreasonably withheld.
- iv. The Restoration Security shall be maintained by Company until decommissioning is certified complete by the Third-Party Engineer.

c. DECOMMISSIONING AND RECLAMATION:

- i. Unless otherwise requested by the applicable landowner, decommissioning shall include materially returning any land disturbed or changed as a result of the Project to its pre-construction condition or the then-existing condition of the contiguous lands or roads, and completing all Company

obligations pursuant to the Decommissioning Agreement. ~~At~~Unless otherwise specified in an applicable landowner agreement, at a minimum, decommissioning and reclamation shall include, unless otherwise requested by the applicable landowner: (1) soil replacement, (2) revegetation and seeding, (3) noxious weeds removal, (4) dust control, and (5) removal of the wind turbine, tower, ~~and foundation to a depth of 48" foundation, and~~ such other improvements related to the project as are outlined in the Decommissioning Agreement.

ii. In the event the Company fails to fulfill its obligations to decommission in accordance with the requirements of the Decommissioning Agreement, the County may undertake the decommissioning process and/or make a claim on the Restoration Security to pay a third party to complete the decommission obligations of the Company. Any claim made by the County upon the Restoration Security shall be limited to such expenses incurred for decommissioning according to the standards set forth in the Decommissioning Agreement.

d. COMPLETION:

i. Decommissioning will commence upon the expiration of the Term (30 years), unless otherwise extended pursuant to the Decommissioning Agreement.

ii. Decommissioning and reclamation of any turbine located in the County shall be required upon the discontinuation of use of such turbine, which shall be deemed to occur upon the Company providing written notice to the County of the failure of such turbine to produce electricity for 12 consecutive months. The County may request the Company provide a response to an inquiry pertaining to any particular wind turbine(s) if the County believes it may not be producing electricity. The Company shall have 60 days to cure such failure or present a plan for approval by the

County outlining the steps and schedule for returning the turbine to service. If such failure is not cured or a plan is not approved within such 60 day period, the Company shall complete decommissioning and reclamation activities within one year.

- iii. Once decommissioning commences, Company will diligently, continuously and in good faith continue the decommissioning. If the Company's ability to operate the Project or performance of its obligations to decommission is prevented, delayed, or otherwise impaired at any time due to any of the following causes, then the time for performance shall be appropriately extended by the time of the delay actually caused by such circumstances: acts of God; extreme weather; war; civil commotion; riots; damage to work in progress by reason of fire or other casualty; strikes; lock outs or other labor disputes; terrorism; sabotage; or the effect of any law, proclamation, action, demand or requirement of any government agency.

e. ENGINEERING DISPUTES:

In the event that Company disputes any recommendation, requirement, action, omission, or decision of the Third Party Engineer or Reviewing Engineer, Company shall notify the County and the Third Party Engineer or Reviewing Engineer within 30 days of receipt of the recommendation of the Reviewing Engineer, and shall retain at its own expense a third-party engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms (the "Appealing Engineer") to review such recommendation, requirement, action, omission, or decision. The Third Party Engineer or Reviewing Engineer and the Appealing Engineer shall meet within 30 days of such notice and shall employ good faith efforts to try to resolve such dispute. If the Third Party Engineer or Reviewing Engineer and the Appealing Engineer are unable to resolve such dispute within 60 days of such notice, the Third Party Engineer or Reviewing Engineer and the

Appealing Engineer shall agree upon a third engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms, (the “Deciding Engineer”), to be paid for by Company, who shall have a ~~minimum~~maximum of 60 days to review such recommendation, requirement, action, omission, or decision and render a decision which shall be binding upon the parties. In the event the Deciding Engineer agrees with the Reviewing Engineer, then the Company will reimburse the County for its reasonable expenses related to the engagement of the Reviewing Engineer. Company shall then be given a minimum of 60 days to act upon such final decision but no later than a date determined by the Deciding Engineer to act on such final decision. For the avoidance of doubt, neither the Project nor any individual wind turbine will be required to cease operation due to any disputed condition until the full completion of the process described in this Paragraph 9(e) but the Company agrees to comply with the decision of the ~~Appealing~~Deciding Engineer.

10. ROAD USE AND MAINTENANCE:

a. ROAD USE AGREEMENT:

Terms for the use of County roads and rights of way shall be set forth in a mutually agreeable RUA, and shall include:

i. Pre-construction assessment by the Third Party Engineer:

1. Roads and County infrastructure

2. Project sites and soils

ii. Needed improvements to Roads and County infrastructure

iii. Ongoing monitoring

b. NEW ROADS:

Any new roads required for the Project will be private roads and the County will not be responsible for the construction and maintenance thereof unless agreed to in advance by the County.

11. EMERGENCY SERVICES, FIRE PROTECTION, AND HAZARDOUS MATERIALS:

a. EMERGENCY MANAGEMENT:

- i. Company or its affiliate will work in cooperation with the Nemaha County Director of Emergency Management to establish standards for fire protection and emergency response.
 - ii. Prior to construction, Company shall make a voluntary contribution of \$80,000 to the County specifically designated for the fire departments impacted by the Project.
- b. HIGHWAY PATROL AND PUBLIC SAFETY:
Company or its affiliate will work in cooperation with the Nemaha County Director of Emergency Management to establish standards for the proper storage and handling of hazardous materials.
- c. 911 ADDRESSES:
Company or its affiliate will work in cooperation with the County to establish 911 addresses for each wind turbine.

12. DISCLOSURE OF ENVIRONMENTAL STUDIES:

Company shall provide to the County (upon written request) copies of any non-confidential and publically available environmental studies conducted on the Project area, including those which address the following impacts, noise, illumination, wildlife, and, aviation safety which are submitted to a State or Federal Agency and which are available to the public.

13. REIMBURSEMENTS TO COUNTY:

- a. COMPANY OR ITS AFFILIATE WILL REIMBURSE THE COUNTY:
 - i. For fees related to the Third Party Engineer (or other engineers or professionals contemplated by this Term Sheet). If the County enters into a contract with the Third Party Engineer, then the Company will make payments on behalf of the County if the County so requests and the services are actually performed by the Third Party Engineer.
 - ii. For legal fees, not to exceed \$75,000.
 - iii. For repairs to roads and infrastructure related to the construction of the wind farm, limited to damages caused by Company or its

contractors during the construction or operation of the wind farm.

14. CONTRIBUTION AGREEMENT:

a. CONTRIBUTION AGREEMENT:

Upon execution of the RUA and receipt of all additional approvals from the County, if any, terms for an annual contribution to the County shall be set forth in a mutually agreeable Contribution Agreement (the “Contribution Agreement”) pertaining to the Project, and shall include:

- i. Company’s or its affiliate’s acknowledgement that the Project is subject to K.S.A. 79-201 *Eleventh*, which exempts all property actually and regularly used for the Project from taxation for the 10 taxable years following completion of the construction and installation of the Project and the commencement of operations, unless the project has obtained a CUP prior to December 31, 2016, in which case the project qualifies a lifetime property tax exemption.
- ii. In the event that the Kansas Board of Tax Appeals does not provide a certification of the lifetime exemption for the Project, the Project will be taxed according to the statutory tax regime and the Contribution Agreement, and all obligations thereunder, shall terminate except for the Initial Payment.

b. VOLUNTARY CONTRIBUTION PAYMENT:

- i. An initial payment shall be made by Company to the County upon the execution of the final, approved documents contemplated in this Term Sheet (the “Initial Payment”).
- ii. Subject to Section ~~1514~~(a)(ii) above, an annual contribution payment from Company or its affiliate for the Project (the “Annual Payment”) shall be due on or before December 31 of each year following commercial operation of the Project and continue thereafter for the Term.

c. VOLUNTARY CONTRIBUTION PAYMENT AMOUNT:

- i. The Initial Payment amount shall be \$1,250,000.
 - ii. The Annual Payment amount shall be in the amounts as set forth in Exhibit B attached hereto and incorporated herein by this reference.
- d. SECURITY; DEFAULT and REMEDIES RELATED TO PAYMENT.
 - i. If the Company fails to make a payment required under the Contribution Agreement, then the County may provide written notice of default to the Company and the Company shall have 60 days from the date of such notice to make its required Initial Payment and/or Annual Payment.
 - ii. If the County elects to provide a written notice of default to the Company, the parties shall meet within 60 days of such notice and shall employ good faith efforts to try to resolve such dispute. If the parties are unable to resolve such dispute within such 60 day time period, then the Company will make the disputed payment and may do so “under protest”. If the Company fails to make the payment either under protest or not within the time period set forth above, then the Company must cease operations for the entire Project until the Annual Payment and/or Initial Payment is paid that is in dispute. The County may seek an immediate injunction to cause the Project to cease operations and the Company consents to the jurisdiction of Nemaha County.

15. MANUFACTURER AND INTERCONNECTION SPECIFICATIONS:

- a. SPECIFICATIONS:
 - i. All wind turbines and related structures within the County shall be installed in material compliance with manufacturer recommended specifications. The maximum of height of all wind turbines of the Project for the Term shall be 500 feet. The Company may replace wind turbines as required or in the ordinary course, but any

replacement wind turbine shall comply with the height limitation as set forth in this paragraph.

- ii. The Project shall meet the applicable interconnection and operation requirements set forth in the electric utility's or regional transmission organization's then current service regulations, as well as state and federal laws pertaining to transmission or distribution of electricity, once the Project is connected to an electric transmission grid.

16. COMPLIANCE WITH LAWS:

- a. COMPANY AND ITS AFFILIATES SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS AND REGULATIONS APPLICABLE TO THE CONSTRUCTION AND OPERATION OF A WIND PROJECT, INCLUDING:

- i. Federal Aviation Administration statutes and regulations, including those pertaining to wind turbine lighting and the review of the impact of siting or modification of wind turbines and other structures air navigation;
- ii. Occupational Safety and Health Administration statutes and regulations;
- iii. United States Fish and Wildlife Service statutes and regulations, including those pertaining to impacts on endangered or threatened species or habitats;
- iv. U.S. Army Corps of Engineers statutes and regulations, including those pertaining to impacts on wetlands;
- v. Environmental Protection Agency statutes and regulations, including those pertaining to environmental impacts;
- vi. Federal Communication Commission (FCC) statutes and regulations, including those pertaining to wireless communications impacts;
- vii. Consultations with the Kansas Department of Wildlife, Parks, and Tourism, including those pertaining to impacts on endangered or

- threatened species or habitats;
- viii. Consultations with the Kansas Department of Health and Environment, including those pertaining to any environmental impacts;
 - ix. Consultations with the Kansas Historical Society pertaining to surveys of any historical sites that may be located within the Project area; and
 - x. Any other applicable regulations promulgated by these and any other federal and state agencies.

17. COMPLIANCE WITH WARRANTIES:

All wind turbines shall be installed and operated so as to maintain applicable turbine manufacturer warranties.

18. CONTACTS:

a. COUNTY:

The main point of contact for this Term Sheet will be Brad Lippert, County Attorney for Nemaha County, Kansas. Contact information is as follows:

Brad Lippert, Esq.
County of Nemaha, Kansas
607 Nemaha Street
P.O. Box 213
Seneca, KS 66538
785-+336-3526 OR 785-284-3805
bmlippert@rainbowtel.net

with a copy to:

James Neeld, Esq.
Sandberg Phoenix & von Gontard P.C.
4600 Madison Avenue
Suite 1000
Kansas City, MO 64112
Phone Number: (816) 714-1041

- b. COMPANY:
Contact information as follows:

Business Manager
Soldier Creek Wind, LLC
700 Universe Boulevard, FEW-JB
Juno Beach, FL 33408
Phone Number: (561) 694-3386

with a copy to:

Alan Claus Anderson, Esq..
Polsinelli PC
900 West 48th Place, Suite 900
Kansas City, Missouri 64112
Phone Number: (816) 572-4761

19. DEFINITIVE AGREEMENTS: As soon as reasonably practicable after the execution of this Letter, the Parties shall commence to negotiate definitive agreements (the “Definitive Agreements”) relating to Company’s construction of the Project. The Definitive Agreements would include the terms summarized in this Term Sheet and such other representations, warranties, conditions, covenants, indemnities and other terms that are customary for transactions of this kind and are not inconsistent with this Term Sheet.

20. TERM:

Unless extended by mutual agreement of the Parties, earlier terminated, or the Project ceases to be in commercial operation, the terms set forth in this Term Sheet and all County approvals relating thereto shall extend for a period of 30 years from the commercial operation date of the Project, at which point the parties shall enter into good faith negotiations to extend the terms of this Term Sheet.

21. SEVERABILITY: In the event that any term or provision of this Term Sheet is deemed to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Term Sheet. Upon a determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Term Sheet

to effect the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

22. **MISCELLANEOUS**: This Term Sheet may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement. The headings of the various sections of this Term Sheet have been inserted for reference only and shall not be deemed to be a part of this Term Sheet.

IN WITNESS WHEREOF, the parties have caused the Term Sheet to be executed in their respective names by their duly authorized officers and dated their signatures as shown below.

COMPANY:

[_____],
a Delaware limited liability company

By: _____ Date _____
Name: _____

THE COUNTY:

THE BOARD OF COUNTY COMMISSIONERS OF NEMAHA COUNTY, KANSAS

By: _____ Date _____
Name: _____
County Commissioner

By: _____ Date _____
Name: _____
County Commissioner

By: _____ Date _____
Name: _____
County Commissioner

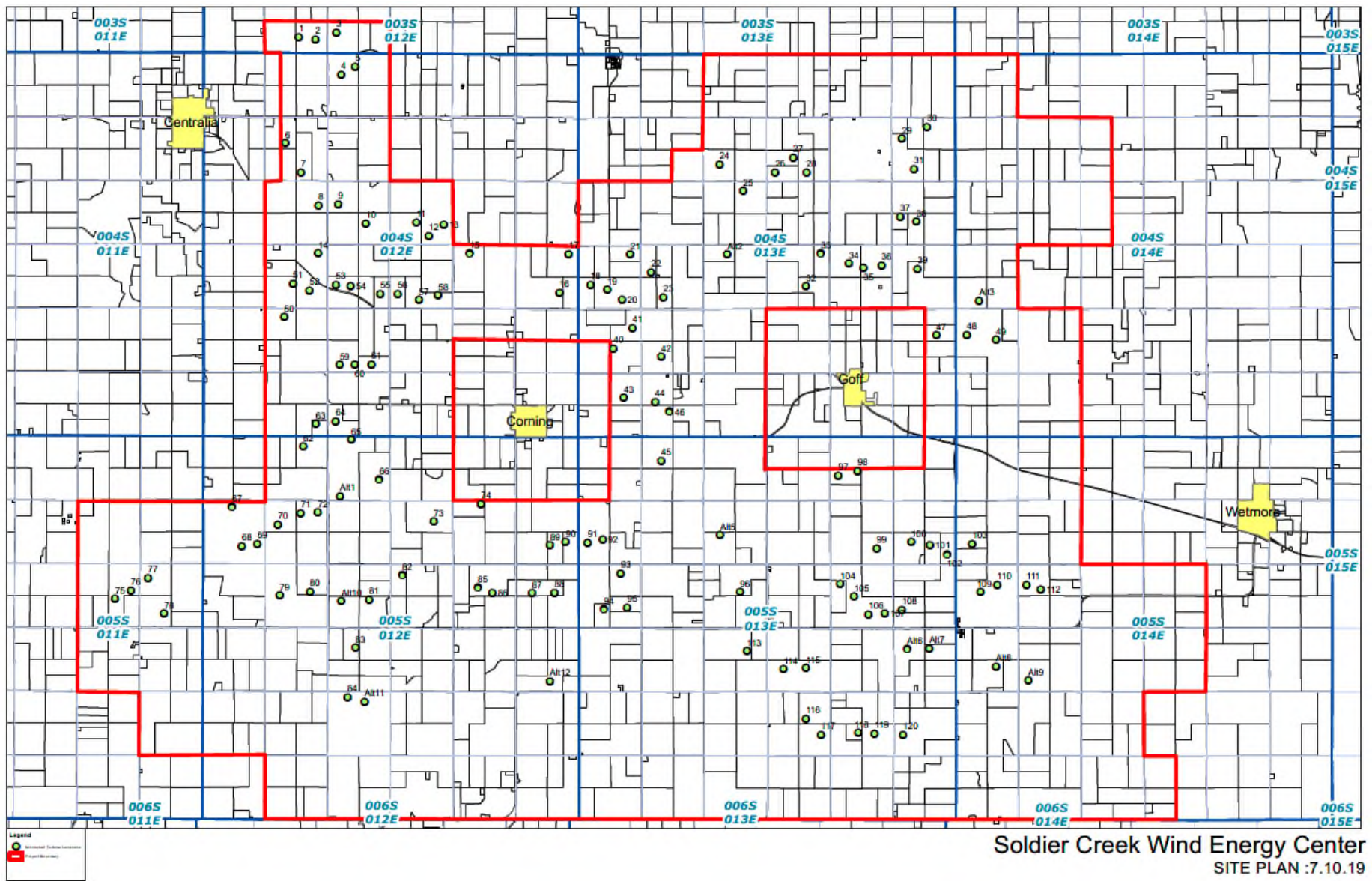
ATTEST:
By: _____ Date _____
County Clerk

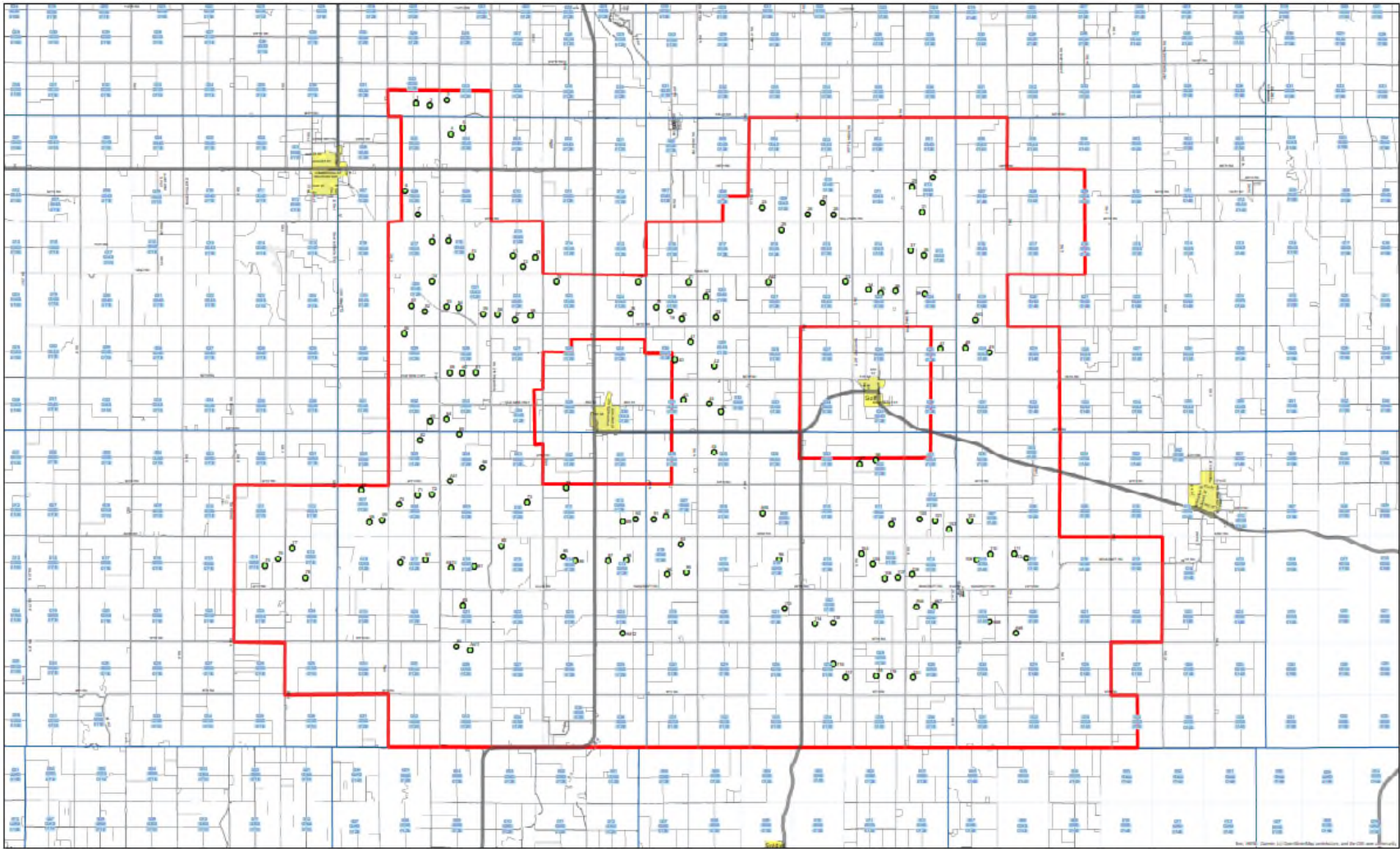
Reviewed and approved by:

By: _____ Date _____
County Attorney

EXHIBIT A
SITE PLAN

See following page.





Soldier Creek Wind Energy Center
SITE PLAN: 7.24.19

EXHIBIT B

Year	Contribution Amount
1	\$ 900,000.00
2	\$ 900,000.00
3	\$ 900,000.00
4	\$ 900,000.00
5	\$ 900,000.00
6	\$ 900,000.00
7	\$ 900,000.00
8	\$ 900,000.00
9	\$ 900,000.00
10	\$ 900,000.00
11	\$ 1,250,000.00
12	\$ 1,250,000.00
13	\$ 1,250,000.00
14	\$ 1,250,000.00
15	\$ 1,250,000.00
16	\$ 1,250,000.00
17	\$ 1,250,000.00
18	\$ 1,250,000.00
19	\$ 1,250,000.00
20	\$ 1,250,000.00
21	\$ 1,110,000.00
22	\$ 1,110,000.00
23	\$ 1,110,000.00
24	\$ 1,110,000.00
25	\$ 1,110,000.00
26	\$ 1,110,000.00
27	\$ 1,110,000.00
28	\$ 1,110,000.00
29	\$ 1,110,000.00
30	\$ 1,110,000.00

SUM

**Including Initial Payment
and
Fire Department Donation**

\$ 33,750,930,000.00