

Agreement Regarding County Roads and Drains

between

Hidalgo Wind Farm LLC

and

Hidalgo County, Texas

This Agreement Regarding County Roads and Drains (“Agreement”), dated as of February ___, 2016, is by and between Hidalgo Wind Farm LLC, a Delaware company admitted to do business in Texas (“Developer”) and Hidalgo County, Texas (“County”), (Developer and the County being referred to herein, collectively, as the “Parties” and, individually, as a “Party”).

Background

A. Developer desires to pursue the construction of a wind power project (the “Project”), consisting of wind turbines and related facilities, including, but not limited to, power collection and communication systems, site roads, pad-mount transformers, meteorological towers, an operation and maintenance building, electric substations, overhead transmission lines, switchyard, laydown yard, staging areas, and related facilities (collectively, the “Project Facilities”) for an approximately 204 megawatt development in the County, that may be constructed in more than one phase.

B. As part of the construction of the Project, Developer will use certain roads, bridges, rights-of-way, opened roads, unopened roads, opened easements, unopened easements and statutorily reserved roads, being county roads and not state or municipal roads, located in the County as shown on Exhibit A attached hereto (collectively, the “Roads”).

C. Developer's use of the Roads, including use by its contractors, subcontractors and suppliers, will include the operation of heavy trucks and other heavy equipment in excess of the weight or size of vehicles that customarily use the Roads to transport parts, components, facilities, materials, and equipment and to carry out other related activities during the construction of the Project.

D. The County, pursuant to Texas law, controls the roads and certain rights-of-way within the unincorporated areas of the County and may place reasonable restrictions on the use of roads and rights-of-way for the public's health, safety and welfare, including but not limited to weight or size restrictions and the placement of poles or other structures in the right-of-way.

E. In consideration of the benefits provided to the County by the Project, the County agrees to provide Developer (and its assigns) a right to use the Roads as provided herein.

NOW, THEREFORE, in consideration of the forgoing, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1. *Use of Roads.*

(a) The County hereby grants Developer and its contractors and subcontractors the right to use, cross, improve, upgrade, construct, and repair the Roads pursuant to the terms of this Agreement in the planning, construction, and operations phases of its planned Project to transport parts, facilities, materials, and equipment and to carry out other related activities, including the storage of certain equipment on certain closed roads and rights of way (collectively, “Developer Road Operations”). Developer Road Operations may include the operation of extremely heavy trucks and transports on the Roads. Notwithstanding the foregoing, Developer and its contractors and subcontractors, while utilizing vehicles over five (5) tons gross vehicle weight, shall not use any other roads or rights-of-way within the County for Developer Road Operations other than the Roads, or state highways, except in the case of an emergency where the prohibition on use will put the safety of persons or the property of citizens of the County at risk.

(b) Exhibit A attached hereto sets forth a depiction of (i) the Roads to be used by the Developer in Developer Road Operations and (ii) the Roads that shall be crossed by the Developer during Developer Road Operations. Developer shall coordinate all Developer Road Operations and all other matters set forth hereunder with a representative of the County designated by the County.

(c) Exhibit B attached hereto sets forth a transportation plan developed by an independent third-party of the Developer and signed and sealed by an engineer licensed to practice in the State of Texas (the “Transportation Plan”). County hereby agrees and acknowledges that it has reviewed such Transportation Plan and consents to the use of the Roads for Developer Road Operations pursuant to the terms of such Transportation Plan. In the event that Developer amends or otherwise updates said Transportation Plan, Developer shall present such amended and updated Transportation Plan to the County for its review and approval. This Agreement shall be amended to incorporate any amended or updated Transportation Plan agreed to by the Parties.

(d) Exhibit C attached hereto sets forth a sit layout plan for the Project (the “Plan”) that shows the proposed turbine sites, the access road entrances, the overhead and underground collection system, and the power transformer site. The Plan may be further amended from time to time; however, any changes shall not extend beyond the boundaries of the Project area served by the Roads, as shown on Exhibit A. Such amendments shall be at the request of Developer and, if such amendments affect the Developer’s use of the Roads, shall be subject to the approval of the County. All amendments shall be in writing.

(e) Exhibit D attached hereto sets forth a storm water pollution prevention plan developed by an independent third-party of the Developer (the “SWPP”) and Exhibit E attached hereto sets forth the notice of intent submitted to the Texas Commission on Environmental Quality (“TCEQ NOI”). County hereby agrees and acknowledges that it has reviewed such SWPP and TCEQ NOI and consents to the use of such SWPP with respect to Developer’s operations hereunder.

(f) The Parties hereby agree and acknowledge that the Parties entry into this Agreement is in lieu of any separate or additional permits issued by the County and that no permit shall be required by the County for the Developer Road Operations including, but not limited to, Developers use of all Roads, all crossing of Roads authorized hereunder and all Roads and Drainage Improvements.

(g) The Parties agree that initially this Agreement shall apply only to those Roads listed on Exhibit A; provided, however such Exhibit A may be amended by the written agreement of the Parties at any time during the period that this Agreement is effective in order to include any other county roads, bridges, rights-of-way, opened roads, unopened roads and statutorily reserved roads which Developer desires to use or to cross with the prior written agreement of the County in the construction, operation, maintenance, and repowering or decommissioning of the Project. Such amendments shall be at the request of Developer and subject to the approval of the County.

Section 2. ***Health, Safety, Security, and Environment.***

(a) Vehicles driven by Developer's employees, contractors and subcontractors will abide by local, state, and federal speed limit guidelines.

(b) In compliance with the then-current Texas Manual on Uniform Traffic Control Devices and all signs necessary for safe use of the Roads by Developer and third-parties, certain safety signs (as determined by the County in its discretion) ("Safety Signs") will be put up by Developer at all times within a reasonable distance of current construction activities when Developer's crews are working on the Roads in accordance with the Project's traffic control plan attached hereto as Exhibit F (the "TCP"). County hereby agrees and acknowledges that it has reviewed such TCP and consents to the use of such TCP with respect to Developer's operations hereunder.

(c) County acknowledges that track mounted equipment may be used on the Roads specified on Exhibit A hereto and for crossing the Roads set forth on Exhibit A hereto.

Section 3. ***Communication and Local Traffic Coordination.*** Developer will appoint a designated person to coordinate the following functions during construction of the Project Facilities (the "Transportation Coordinator"):

(a) In order to facilitate communication between the Developer, and its contractors and subcontractors, and the County, the Transportation Coordinator shall meet, at least once weekly, with a designated representative of the County to discuss planned work for the upcoming week ahead, as well as any issues regarding work done during the previous week. This meeting shall primarily be for information sharing purposes and to facilitate the fulfillment of the requirements in Section 3(c) and (d) below. Should weekly meetings not be mutually desired by a designated representative of the County and the Transportation Coordinator, they may arrange a mutually agreeable alternative method of sharing information related to the Project. Transportation Coordinator shall provide information and updates as necessary to the County.

(b) If there is a limited access to a Road, the Transportation Coordinator shall notify the County by fax, email or telephone (in increasing order of preference) at least two (2) business days prior to such limited access event. In the event it is necessary for Developer to perform an emergency road closure, the Transportation Coordinator shall notify the County as soon as such a need is identified, and Developer shall accommodate any reasonable conditions to such a road closure and shall comply with the TCP in all respects. Developer shall use its best efforts to make the limited access event as short as possible in duration. Any limited access events to a Road shall be approved in advance by the County, with the understanding that the limited access event will be likely and that the Developer shall be responsible for providing timely notice thereof as provided for in this paragraph.

(c) County, Developer and its contractors and subcontractors will monitor the construction of the Project Facilities for any road safety issues, road damage during construction that need immediate repairs, Safety Signs needing replacement, or other activity requiring actions to alleviate transportation restrictions on county roads. A designated representative of the County will communicate to the Transportation Coordinator any road safety issues, damages during construction that need immediate repairs, Safety Signs needing replacement, or other activity that needs to be resolved by Developer, its contractors and subcontractors and follow-up activities will be monitored by Developer.

(d) A designated representative of the County will communicate any necessary issues associated with this Agreement with the Transportation Coordinator. Transportation Coordinator will work with County to reach agreement on how to cure issues in a timely manner.

Section 4. Establishing Roads and Drainage Improvements Pre-Construction Condition; Post-Construction Condition. Prior to the start of construction of Project Facilities, at the expense of Developer, Developer shall have the right, but not the obligation, to create a detailed video visual record and summary textual narrative of the pre-existing condition of all Roads covered under this Agreement (“Road Condition Report”). The reasonable and necessary cost of the Road Condition Report shall be paid by the Developer. Such Road Condition Report should reflect the existing drainage system, including open ditches, bridges, small structures and culvert pipes (the “Drainage Improvements”), and the direction of current flow of storm water drainage. Developer shall consult with the County regarding the means and methods to be used to create the Road Condition Report prior to commencing such work. In connection with the Road Use Report, Developer shall have the right, but not the obligation, to bore and take core samples of the Roads and perform other testing as deemed appropriate by the Developer for the purposes of determining road condition and composition and shall repair any damage caused by such boring activities. In addition, within sixty (60) days after completion of construction of the Project, Developer shall, at its cost and expense, have the right, but not the obligation, to perform a detailed video visual record and summary textual narrative of the condition of the Roads that were used by the Developer, but were not set forth in the Road and Drain Upgrade and Restoration Schedule (the “Post-Construction Roadway Condition Report”). The Post-Construction Roadway Condition Report shall include videotaping, photography and such other testing as deemed appropriate by Developer. Developer shall have the right to include additional Roads in the Post-Construction Roadway Condition Report, at its sole discretion. Developer shall deliver a copy of the Post-

Construction Roadway Condition Report to the County. The Post-Construction Roadway Condition Report shall be used to determine what damage, if any, was caused by Developer, its agents, employees and contractors during the construction of the Project and what repairs are necessary due to repair any such damage to the Roads that were used by the Developer, but were not set forth in the Road and Drain Upgrade and Restoration Schedule.

Section 5. *Transportation Permits.* No over-weight or over-size permits will be required from the County for use of the Roads identified on Exhibit A by Developer or its contractors or subcontractors.

Section 6. *Driveways.* Developer will install driveways or entrances from certain Roads, including areas necessary for turning radii, on the driveway and road entrances set forth on Exhibit J, subject to the following:

- (a) All expenses for the construction of driveways or road entrances will be the responsibility of Developer.
- (b) Each driveway entrance from a Road will have a coordinate that will be transmitted in an electronic GIS format (ESRI shapefile or equivalent) to the County.
- (c) Each driveway shall be constructed as may be necessary to maintain proper drainage of the Roads, the right-of-way, and other adjoining property located outside the right-of-ways, including the installation of a culvert pipe upon request of the County.

Section 7. *Road Improvements and Improvements in Right of Way.* Developer shall improve designated areas of certain Roads and improve designated intersections of certain Roads, and upgrade the base thickness and surface of the Roads as required to meet or exceed the specifications set forth on Exhibit G (the “Specifications”), subject to the following:

- (a) Attached hereto as Exhibit H is Developer’s plan for the upgrade and restoration of the Roads to be used in the Developer Road Operations (the “Road and Drain Upgrade and Restoration Schedule”) which contains a schedule for the completion of the planned improvements to the Roads set forth on Exhibit A carried out pursuant to the Specifications (collectively, the “Roads and Drainage Improvements”) and any repairs required pursuant to Section 9 and Section 10. The County hereby agrees and acknowledges that it has reviewed such Road and Drain Upgrade and Restoration Schedule and consents to said Road and Drain Upgrade and Restoration Schedule. In the event that Developer amends or otherwise updates said Road and Drain Upgrade and Restoration Schedule, Developer shall present such amended and updated Road and Drain Upgrade and Restoration Schedule to the County for its review and approval. This Agreement shall be amended to incorporate any amended or updated Road and Drain Upgrade and Restoration Schedule agreed to by the Parties. Developer shall not have any obligation to perform any upgrades or restorations for any portion of the Roads not actually used by Developer, its agents, employees and contractors and set forth on the Road and Drain Upgrade and Restoration Schedule, except as is necessary for tapering. “Commencement of Construction” shall mean earlier of the excavation of the turbine foundations or the

commencement of construction of the turbine access roads (other than the Initial Project Access Roads (defined below)).

(b) The Parties hereby agree and acknowledge that certain Construction Material Testing (as such term is defined in the Specifications), shall be required during any Road and Drainage Improvements or any repairs carried pursuant to Section 9 and Section 10. Developer shall notify County at least forty-eight (48) hours prior to any such testing and a representative of the County shall be present during such testing. All reports of Construction Material Testing shall be provided to the County and County shall confirm in writing that such testing is in accordance with the Specifications.

(c) Following the completion of the Roads and Drainage Improvements, pursuant to Section 11 herein, the County Inspector shall inspect such Roads and Drainage Improvements to reasonably confirm that such Roads and Drainage Improvements meet or exceed the Specifications. In the event that the designated representative of the County reasonably determines that such Roads and Drainage Improvement do not meet or exceed the Specifications, Developer shall take such steps as necessary to bring such Roads and Drainage Improvements into compliance with the Specifications.

(d) Roads and Drainage Improvements required to provide material deliveries for a turbine foundation will be finished prior to construction of the turbine pads. These Roads and Drainage Improvements will be scheduled as a part of the Developer's daily plan for construction of the Project.

(e) Upon completion of construction of the Project Facilities, Roads and Drainage Improvements referenced in (a) and (c) above and any temporary culverts installed by Developer shall remain unless the County specifically requests, in writing, that such improvements be removed, or for turning radii and driveway entrances located on private property, the applicable landowner requests that the turning radii be removed.

(f) Separate permits or agreements from the County for wide-outs (turning radii) and improved corners of existing intersections are not required.

(g) Culverts across roads, in the right-of-way, and under driveways, that existed in the Project area prior to the Project and are removed during the Project activities, will be available to the County for salvage. Proper drainage shall be maintained at all times.

(h) After construction of the Project is complete, Developer shall, unless permitted otherwise, in writing, by the County, return drainage located within the public right-of-way, unopened roads and statutorily reserved roads to its existing condition as of the start of construction by repairing or replacing, as necessary, any culverts, pipes or other drainage facilities damaged in the public right-of-way and the reconstruction of any open ditches as required to provide proper drainage. The Parties acknowledge that the Developer shall address crop damage with landowners pursuant to the terms of the applicable lease.

(i) Nothing in this Agreement shall be construed as requiring County to exercise the power of eminent domain to acquire any right-of-way that Developer may need or desire.

Section 8. ***Road Crossings.*** :

(a) The Parties hereby acknowledge that the Developer shall submit a separate permit or permits to the County for approval of all of the crossings set forth on Exhibit I-1. Such permit or permits shall be the sole means governing the approval of the crossings set forth on Exhibit I-1.

(b) To the extent that the County has any rights to the Roads set forth on Exhibit I-2 or any rights to consent to the crossing of the roads set forth on Exhibit I-2, the County hereby irrevocably consents to, agrees, approves and acknowledges the underground and overhead crossing of such Roads as set forth on Exhibit I-2. The County hereby agrees and acknowledges that crossings set forth on Exhibit I-2 do not require further review, approval or bonding from the County.

(c) Developer, at its sole discretion, may cut an “open trench” across or bore under the Roads set forth on Exhibit I-2 and may bore under certain Drainage Improvements, and all trenches, boring pits and ditch excavation will be backfilled, compacted and raked to return it to the same of better condition to those prior to Commencement of Construction. Trenches shall comply with applicable OSHA standards and specifications. The County agrees that the right to cross of the Roads for transmission poles and transmission lines shall be irrevocable, but shall terminate in the event (i) the transmission lines supported by the transmission poles and underground transmission lines fail to transmit electricity for any purpose other than avoiding the loss of the rights provided by this Agreement for a period of twenty (24) consecutive months after initial operations and (ii) Developer defaults in its obligations to maintain such transmission poles and underground transmission lines in a safe condition; provided, however, that Developer shall have the opportunity to cure any default within a reasonable time after receipt of written notice from County, except in the event that such default relates to an emergency situation, in which case Developer shall immediately cure such default.

(d) Each trench, boring or cut across any Road or any Drainage Improvement will be identified by general location and also by centerline coordinate, and upon the completion of construction, Developer will provide an as-built location.

(e) Overhead crossing transmission lines will be designed in and installed in accordance with National Electric Safety Code (“NESC”) governing the clearance requirements above the roadway.

If, from time to time, County should determine, in its sole discretion, that it will widen a Road within the existing right of way, upon notice from County, Developer shall, at Developer’s sole cost, as soon as reasonably possible, relocate any of the transmission poles or underground transmission lines installed pursuant to this Agreement to the extent necessary for the widening. If the transmission lines supported by the transmission poles or the underground transmission lines fail to transmit electricity for any purpose other than avoiding the loss of the rights provided by this Agreement for a period of twenty (24) consecutive months after initial operations, or if Developer defaults and fails to cure its obligations to maintain such transmission poles or

underground transmission lines in a safe condition, then Developer shall promptly remove such poles or lines.

Section 9. Repairing Road, Drainage Improvements, and Sign Damage During Construction.

(a) During construction of the Project Facilities, Developer is responsible at its expense for repairing Roads, Drainage Improvements, regulatory signs and Safety Signs as necessary (to the extent of damage caused by it) to ensure the continued safe passage of the public and Developer vehicles while construction is ongoing. To the extent that a dangerous situation exists with respect to the Roads, Developer shall immediately address any necessary maintenance or repair issue. Repairs are not required to be to the Roads' pre-construction condition. With respect to damage that does not impose a danger to the safety of the public or traffic, if contacted by the County, Developer, its contractors, or subcontractors will commence the repairs required under this Section 9 within seven (7) days of notification from the County and complete such repairs within sixty (60) days. At the end of each day, the Developer shall check for damage to the Roads that were used that day and related Drainage Improvements. In the event that the damage imposes a danger to the safety of the public or traffic (i.e. damaged or removed Safety Signs), the repair and appropriate safety measures will commence as soon as possible but in no event later than ten (10) days and be completed as soon as possible upon notice from the County.

(b) During construction of the Project Facilities, Developer is responsible at its expense for dust control on Roads, where required and using commercially reasonable measures such as a dust palliative or such other dust preventative measures as reasonably required by the Developer. The County may request that dust control be applied, in which instance the measure shall be applied within fifteen (15) days. Upon expiration of the fifteen day (15) day period, the County may, without additional notice to Developer, apply the dust control at Developer's expense.

(c) If the necessary repair is not promptly undertaken by Developer within the timeframe required by this Agreement, the County may initiate the necessary repair under the terms of Sections 9, 10, and 12 of this Agreement. Developer shall pay to County amounts set forth under and the requirements of Sections 10, 11 and 12 of this Agreement with respect to any such repairs carried out by the County.

(d) Developer shall, upon request of the County or in any event, immediately upon actual notice, post necessary signs (in addition to Safety Signs) indicating unsafe conditions.

(e) All fines hereunder will be paid by the Developer within thirty (30) days of notice of a violation and request for payment from the County.

Section 10. Repair of Road and Drainage Damage after Construction Completion.
Upon completion of construction of the Project Facilities, Developer will, at its sole option, repair or reimburse the County for any and all costs including, but not limited to, material, materials testing, labor, engineering, equipment costs and inspect for the repair of all damage to the Roads and for the repair of all damage to Drainage Improvements resulting from Developer's use of the

Roads (but not other causes) during the construction of the Project Facilities based on the Road and Drain Upgrade and Restoration Schedule, set forth as Exhibit H. Such repairs shall include the replacement of any damaged section corner markers and shall meet or exceed the standards set forth in the Specifications. Developer shall reconstruct the Roads or, at its sole option, shall reimburse the County for the reconstruction of the Roads. For purposes of this Agreement, damage to any Drainage Improvements may also include damages occurring within the County's forty (40) foot maintenance right-of-way, if such damage either denies, impedes, or affects the County's ability to exercise drain maintenance within its right-of-way.

The County and Developer shall determine the start date for the repair based on the site conditions. Subject to weather conditions, the agreed upon start date shall be within thirty (30) days following the date of the completion of the Project Facilities. In the event Developer elects to carry out the repairs required under this Section 10, Developer will give notice to the County of the start date of repairs and shall make such repairs within ninety (90) days after such start date. In the event that Developer elects to reimburse the County for the repairs required under this Section 10, County shall make such repairs within ninety (90) days after the start date. County hereby agrees and acknowledges that all reimbursement payments made by Developer to County shall be solely used for the reimbursement of the repairs required pursuant to this Section 10.

Section 11. *County Inspector.*

(a) The County may retain an inspector ("County Inspector") during construction of the Project as a result of the process set out in (b) below. The County Inspector shall inspect Developer's upgrades and repairs set forth in the Road and Drain Upgrade and Restoration Schedule and provide written acknowledgement that such upgrades and repairs have been made in accordance with this Agreement, where such is the case or, where such is not the case, so inform Developer and the County and act as liaison between Developer and the County in order to see that such repairs are brought into compliance with this Agreement. The County Inspector shall inform Developer of any damage noted by the County Inspector in the performance of the County Inspector's duties.

(b) Prior to the Commencement of Construction, the Developer shall provide the County a construction schedule based upon which the parties shall mutually agree upon the estimated number of hours that will be required of the County Inspector. County agrees to not unreasonably withhold approval of the budgeted hours. County agrees that the person or persons retained by it shall not charge the Developer more than \$45 per hour. Upon agreement as to a budget for the County Inspector, Developer shall pay in advance the estimated amount of the expenses that the Developer will incur with respect to the retention of the County Inspector to perform such duties (the "Budgeted Amount"). The County agrees to deposit the Budgeted Amount in a separate account for the sole purpose of paying the fee of the County Inspector. The County shall promptly refund a portion of the advance payment to the Developer to the extent that the actual expenses incurred by the County are less than such advance payment, and the Developer shall pay to the County such an additional amount as is necessary to pay all expenses, to the extent that the actual amount of the expenses is more than the advance payment, provided, however, that such additional amount shall not exceed the Budgeted Amount by more than ten percent (10%), unless the additional cost is caused by the Developer.

(c) When Developer believes that all improvements to be carried out pursuant to Section 7 herein and as set forth in the Road and Drain Upgrade and Restoration Schedule have been completed. Not later than fifteen (15) days after receipt of such notice from Developer, the County Inspector shall inspect Roads and Drainage Improvements described in the notice from the Developer and provide written notice to Developer and the County of the County Inspector's determination that the Roads and Drainage Improvements have or have not been completed. A notice of the County Inspector's determination that the required improvements set forth in the Road and Drain Upgrade and Restoration Schedule have not been completed shall specify the additional work that still needs to be completed ("Punch List Items"). Developer may appeal this determination with respect to Roads to the County and with respect to Drainage Improvements to the County. Upon completion of the Punch List Items, Developer shall notify the County Inspector in writing and the County Inspector shall, within fifteen (15) days after receipt of notice of completion of the Punch List Items, the County Inspector shall inspect the Punch Lists Items described in the notice from the Developer and provide written notice to Developer and the County of the County Inspector's determination that the Punch List Items have or have not been completed. If Developer and the County Inspector disagree as to the completion of the Punch List Items, the Developer and the County Inspector will in good faith attempt to resolve the dispute. In the event the Developer and the County Inspector fail to resolve the dispute within thirty (30) days of the notice by the County Inspector to Developer, the Developer and County Inspector shall select a mutually agreed upon third-party neutral licensed engineer or licensed structural engineer, as applicable, to resolve the dispute within a five (5) day period. The costs of the intermediary will be paid equally by the Parties if an agreeable solution is proposed, or if not, the costs of the intermediary will be paid by the Party rejecting the intermediary-proposed solution. Either Party may reject the intermediary solution by written notice to the other Party within two (2) days after the date it is proposed by the intermediary in a writing delivered to both Parties. In the event either Party rejects such intermediary solution, either Party may propose further mediation or discussion between the Developer and the County Inspector provided, however, the Parties hereby agree and acknowledge that any further mediation or discussion shall be non-binding, neither Party shall be bound to continue such further mediation or discussion and each Party reserves all of its legal rights and remedies available to it.

The date on which the County Inspector provides notice to the County and Developer that all improvements under the Road and Drain Upgrade and Restoration Schedule have been completed pursuant to Section 7 of this Agreement shall constitute the "Completion Date" for the improvements to the Roads and Drainage Improvements for purposes of this Agreement.

Section 12. *Reserved.*

Section 13. *Warranty.* Developer warrants that all workmanship performed by Developer to satisfy its obligation to make improvements and repair damage to the Roads and the Drainage Improvements resulting from their use by Developer during the construction of the Project Facilities pursuant to Sections 7, 8, 9, and 10 of this Agreement will meet or exceed the Specifications and be free from defects for a period of, with respect to Roads and Drainage Improvements, two (2) years after the Completion Date (as defined in Section 11(c) of this Agreement). THE WARRANTY SET FORTH IN THIS SECTION 13 IS EXCLUSIVE AND IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CUSTOM, USAGE OR

OTHERWISE. EXCEPT AS SET FORTH IN THIS SECTION 13, THERE ARE NO OTHER WARRANTIES, AGREEMENTS OR UNDERSTANDINGS WITH RESPECT TO THE REPAIR OF THE ROADS AND NO OTHER WARRANTY, ORAL OR WRITTEN, WHICH MIGHT HAVE BEEN GIVEN BY AN EMPLOYEE, AGENT, OR REPRESENTATIVE OF DEVELOPER IS AUTHORIZED BY DEVELOPER. DEVELOPER IS NOT AND SHALL NOT BE HELD LIABLE FOR ANY ALLEGED BREACH OF THE WARRANTY GIVEN IN THIS SECTION 13 CAUSED BY OR ARISING OUT OF ORDINARY WEAR AND TEAR OR CAUSED BY A FORCE MAJEURE EVENT. Notwithstanding anything in this Agreement to the contrary, Developer shall be responsible for any damage that it or its employees, contractors, or subcontractors cause to the Roads that occur after completion of construction of the Project Facilities.

Section 14. *Imposition of Fines.*

(a) Upon written notice to Developer (given by fax and by e-mail directed to the fax number and e-mail address provided by Developer for such purpose with a copy to the address set forth below) of Developer’s default regarding the provisions of this Agreement as set out in (b) below and Developer’s failure or refusal to abate, correct, or otherwise remedy such default, the County may impose a fine upon Developer, as indicated in paragraph (b) below. Fines are imposed for each day of the same incident of default after expiration of the applicable notice/cure period as set forth below. Developer shall pay all fines to the County within thirty (30) days of receipt from the County of proper notice of and request for payment of a fine. Any issuance to the Developer of a notice of and request for the payment of a fine shall be approved in advance by the County.

(b) The provisions to which the default shall subject Developer to fines, the amount of such fines, applicable notice/cure requirements, and other relevant conditions shall be as follows:

<u>Section</u>	<u>Amount</u>	<u>Notice/Cure Period</u>
<u>2(b)</u> (signage)	\$300	24 hours for non-custom, non-specialty signs and 72 hours for custom or specialty signs; provided, that to the extent that a permanent sign is not available through the use of reasonable diligence, temporary signs are permissible and effective in avoidance of any fine that might otherwise be assessed.
<u>1</u> (unauthorized use of Roads)	\$300	Automatic upon notice from County; no cure period
<u>9(b)</u> (dust control)	\$300	Five (5) days from request made by County pursuant to <u>Section 9(b)</u>
<u>9(a)</u> (road or drain repair)	\$300	Reasonable time period under the circumstances, taking into account, among other factors, safety concerns, weather conditions, and nature of the repairs, but in the case of damage that does not impose a danger to the safety of the public or traffic, commencement of such repairs no more than seven

Section **Amount** **Notice/Cure Period**

(7) days after the notice from the County under Section 9(a) and completion of such repairs related to the Project not more than fifteen (15) days after such notice; if the damage poses danger to the safety of the public, the repair shall be immediate.

Section 15. *Miscellaneous.* Any material changes in the use of Roads must be approved by the County and will be subject to the terms of this Agreement. Any such changes materially affecting Drainage Improvements must also be approved by the County, in its reasonable discretion.

Section 16. *Assignment.*

(a) This Agreement shall (i) remain in full force and effect until the expiration or termination hereof; and (ii) be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

(b) Except as provided in Sections 16(c), 16(d), 16(e) and 16(f) below, no Party to this Agreement shall assign, transfer, delegate, or encumber this Agreement or any or all of its rights, interests, or obligations under this Agreement without the prior written consent of the other Party. In those instances in which the approval of a proposed assignee or transferee is required or requested: (i) such approval shall not be unreasonably withheld, conditioned, or delayed; and (ii) without limiting the foregoing, in the case of the County, the County's approval may not be conditioned on the payment of any sum or the performance of any agreement other than the agreement of the assignee or transferee to perform the obligations of the Developer pursuant to this Agreement.

(c) Developer may, without the consent of the County, but upon notice to County, assign or transfer this Agreement or any or all of its rights, interests, and obligations under this Agreement to any affiliate or subsidiary or a company that acquires substantially all the assets of Developer. Additionally, upon the prior written notice to the County and without consent of the County, Developer may assign this Agreement to a (i) public utility or (ii) a developer, provided in either instance such assignee shall have comparable experience in constructing and operating a wind project in the United States and a net worth of a minimum of \$25,000,000.00 as confirmed by audited financial statements as of the most immediately prior year end. County hereby agrees and acknowledges that upon assignment pursuant to this Section 16(c), Developer shall be hereby released of all of its obligations hereunder.

(d) Developer will not be required to obtain consent of the County for or in connection with (i) a corporate reorganization of Developer or any of its direct or indirect affiliates, (ii) a sale or transfer of equity interest of any direct or indirect affiliate of Developer; or (ii) a sale of any membership interests in Developer to a third party.

(e) Any assignment pursuant to this Section 16 shall be subject to the assignee agreeing in writing to be bound by the terms of this Agreement. Any notice of assignment required to be

delivered by Developer pursuant to this Section 16 shall be in writing, shall set forth the basis for the assignment, including such supporting information as may be necessary to demonstrate compliance with this Section 16, and shall be delivered to the County not less than ten (10) days prior to the effective date of the assignment. The restrictions on the Developer's ability to assign this Agreement set forth in this Section 16 shall expire ten (10) years after the date of the completion of the Project; provided however, following the expiration of such restrictions, the Developer shall still provide notice of any assignment of this Agreement to the County not less than ten (10) days prior to the effective date of the assignment and the assignee shall still agree in writing to be bound by the terms of this Agreement.

(f) Developer may, also, without the prior approval of the County, enter into any partnership or contractual arrangement, including but not limited to, a partial or conditional assignment of equitable interest in the Developer or its parent to any person or entity, including but not limited to tax equity investors, or by security, charge or otherwise encumber its interest under this Agreement for the purposes of financing the development, construction and/or operation of the Project or in connection with any other financing for the Project, mortgage, hypothecate, encumber or grant a security interest in this Agreement (any of the foregoing actions, a "Collateral Assignment") and County shall agree to execute and deliver any reasonably requested estoppels related to a Collateral Assignment. Promptly after making such encumbrance, Developer shall notify the County in writing of the name, address, and telephone and facsimile numbers of each party in favor of which Developer's interest under this Agreement has been encumbered (each such party, a "Financing Party" and together, the "Financing Parties"). Such notices shall include the names of the account managers or other representatives of the Financing Parties to whom all written and telephonic communications may be addressed. After giving the County such initial notice regarding either an Assignment or a Collateral Assignment, Developer shall promptly give the County notice of any change in the information provided in the initial notice or any revised notice. The Developer shall, in the event of any such Collateral Assignment, remain bound to the terms of this Agreement unless otherwise agreed by the County.

Section 17. Notices. All notices, claims, certificates, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed (registered or certified mail, postage prepaid, return receipt requested) as follows:

If to the County:
Hidalgo County, Texas
724 North Breyfogle
Mission, Texas 78574
Attn: Victor Gallardo

If to Company:

Hidalgo Wind Farm LLC
c/o EDP Renewables North America LLC
808 Travis, Suite 700
Houston, Texas 77002

Attn: General Counsel

With a copy to:

Hidalgo Wind Farm LLC
c/o EDP Renewables North America LLC
808 Travis, Suite 700
Houston, Texas 77002
Attn: Executive VP, Central Region

Section 18. ***Force Majeure Event.*** Whenever performance is required of a Party hereunder, such Party shall use all diligence and take all necessary measures in good faith to perform; provided, however, that if a Party's performance of its obligations under this Agreement is prevented, delayed, or otherwise impaired at any time due to any of the following causes, then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances: acts of God, extreme weather, war, civil commotion, riots, or damage to work in progress by reason of fire or other casualty, strikes, lock outs or other labor disputes; delays in transportation; inability to secure labor or materials in the open market; war, terrorism, sabotage, civil strife or other violence; the effect of any law, proclamation, action, demand or requirement of any government agency; or litigation contesting all or any portion of the right, title and interest of Developer or the County under this Agreement (each such cause, a "Force Majeure Event"). If either Party experiences, or anticipates that it will experience a Force Majeure Event that shall extend the time of performance by such Party of any obligation under this Agreement, then such Party shall provided prompt written notice to the other Party of the nature and the anticipated length of such delay.

Section 19. ***Governing Law and Venue.*** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to the conflict of laws provisions in such state. Any disputes arising under this Agreement between the Parties shall be decided by a court of competent jurisdiction in the State of Texas.

Section 20. ***Amendments and Integration.*** This Agreement (including Exhibits) shall constitute the complete and entire agreement between the Parties with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. Except as set forth in this Agreement, this Agreement may be amended only by a written agreement signed by the Parties.

Section 21. ***Exercise of Rights and Waiver.*** The failure of a Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by a Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

Section 22. ***Independent Contractor, Relation of the Parties.*** The status of Developer under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, Developer and its officers, agents, employees, and representatives shall at all times during the term of this Agreement conduct themselves in a manner consistent

with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, or representatives of the County.

Section 23. **Severability.** In the event that any clause, provision or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.

Section 24. **Headings and Construction.** The section headings in this Agreement are inserted for convenience of reference only and shall in no way effect, modify, define, or be used in construing the text of the Agreement. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words. Notwithstanding the fact that this Agreement may have been prepared by one of the Parties, the Parties confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties. This Agreement is to be construed as a whole and any presumption that ambiguities are to be resolved against the primary drafting Party shall not apply. All Exhibits referenced in this Agreement are incorporated in and form a part of this Agreement.

Section 25. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

Section 26. **No Third-Party Beneficiary.** No provisions of this Agreement shall in any way inure to the benefit of any person or third party so as to constitute any such person or third party as a third-party beneficiary under this Agreement, or of any one or more of the terms of this Agreement or otherwise give rise to any cause of action in any person not a Party hereto.

Section 27. **Reserved.**

Section 28. **Extraordinary Events.** The Parties acknowledge that during the expected life of the Project, circumstances may arise under which it will be necessary or advisable for Developer to replace major turbine components or make repairs to turbines beyond ordinary maintenance (“Extraordinary Events”), and that transportation of turbine components on overweight or oversize vehicles on or across the Roads may be necessary. The Parties agree that it is impossible to predict the timing, nature, or extent to which the Roads may be damaged beyond the normal amount of wear and tear by such transportation. The Parties agree that at any time during the life of Project, when Developer determines Extraordinary Events reasonably, during any sixty (60) day period, require activities which will involve more than ten (10) movements of overweight or oversize vehicles on the Roads, Developer will give advance written notice of the intended movements to the County for its reasonable approval. Upon such approval, Developer agrees to reasonably coordinate such activities in substantially the same manner provided for in this Agreement.

Section 29. **Indemnity.** Developer shall indemnify, defend, and hold the County harmless for any and all claims, demands, suits, actions, proceedings, or causes of actions brought against County, Commissioners Court, elected officials, employees affiliates, agents and employees and permitted assignees of any of the foregoing for any judgments, liabilities,

obligations, fines, penalties, or expenses, including reasonable attorneys' fees and expenditures pertaining to third party personal injury or property damage ("Losses"), but only to the extent that such Losses arise directly from the acts of Developer in the course of performance by Developer under or in relation to or connection with this Agreement and excluding such Losses to the extent caused by the negligence of the County.

Section 30. ***Limitation on Damages.*** The Parties waive all claims against each other (and against each other's parent company and affiliates and their respective members, shareholders, officers, directors, and employees) for any consequential, incidental, indirect, special, exemplary or punitive damages (including loss of actual or anticipated profits, revenues or product loss by reason of shutdown or non-operation; increased expense of operation, borrowing or financing; loss of use or productivity; or increased cost of capital); and, regardless of whether any such claim arises out of breach of contract or warranty, tort, product liability, indemnity (other than the indemnity obligations of Developer as set forth in Section 29 with respect to Losses that arise from personal injury to third persons), contribution, strict liability or any other legal theory.

Section 31. ***Preliminary Developer Road Operations.*** Notwithstanding anything to the contrary contained herein, in the event that Developer elects to commence construction on a limited basis, including but not limited to the construction and installation of turbine access roads ("Initial Project Access Roads"), and clearing and removal of trees (collectively, the "Preliminary Construction Activities"), Developer shall have the right to use certain Roads as set forth in Exhibit A-1 attached hereto ("Limited Use Roads") solely as needed for the Preliminary Construction Activities. Developer shall provide written notice to the County of its intention to proceed with the Preliminary Construction Activities and its election to use the Limited Use Roads prior to Developer's use of any of the Limited Use Roads. Notwithstanding the foregoing, Developer shall prepare a Road Condition Report with respect to the Limited Use Roads which will be used in the construction of the Initial Project Access Roads. The Developer's use of the Limited Access Roads shall not exceed the legal limit for such roads and the Developer's vehicles shall not in any circumstance be over 250,000 lbs. If the County determines that a Limited Access Road has sustained damages he may limit in his reasonable discretion the Developer's use of such Limited Access Road, County shall notify Developer of this determination immediately. Developer shall be required to repair (or cause to be repaired pursuant to Section 10 herein), any damage to the Limited Use Roads caused by Developer, its agents, employees and contractors in connection with the use of the Limited Use Roads for the Preliminary Construction Activities.

[Signatures and Exhibits on Following Pages]

IN WITNESS WHEREOF, each party hereto has caused its duly authorized representative to sign this Agreement on its behalf as of the date first set forth above.

“DEVELOPER”

Hidalgo Wind Farm LLC

By: _____
Name: _____
Its: _____

“COUNTY”

Hidalgo County, Texas

By: _____
Name: _____
Its: _____

List of Exhibits:

Exhibit A: Roads

Exhibit A-1: Limited Use Roads

Exhibit B: Transportation Plan

Exhibit C: Wind Farm Site Plan

Exhibit D: Storm Water Pollution Prevention Plan

Exhibit E: Notice of Intent Submitted to Texas Commission on Environmental Quality

Exhibit F: Traffic Control Plan

Exhibit G: Specifications

Exhibit H: Road and Drain Upgrade and Restoration Schedule

Exhibit I-1: Road Crossings

Exhibit I-2: Easement Crossings

Exhibit J: Roads, Driveways and Road Entrances

EXHIBIT A

ROADS

See Attached

EXHIBIT A-1

LIMITED USE ROADS

See Attached

EXHIBIT B

TRANSPORTATION PLAN

See Attached

EXHIBIT C

WIND FARM SITE PLAN

See Attached

EXHIBIT D

STORM WATER POLLUTION PREVENTION PLAN

See Attached

EXHIBIT E

**NOTICE OF INTENT SUBMITTED TO TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

See Attached

EXHIBIT F

TRAFFIC CONTROL PLAN

See Attached

EXHIBIT G
SPECIFICATIONS

See Attached

EXHIBIT H

ROAD AND DRAIN UPGRADE AND RESTORATION SCHEDULE

- Start date of the construction of the Project Facilities: February 4, 2016.
- Completion of construction of the Project Facilities: October 15, 2016.
- Start date of any repairs: No later than November 14, 2016.
- Completion date of repairs: No later than January 13, 2017.

EXHIBIT I-1

ROAD CROSSINGS

See Attached

EXHIBIT I-2

OTHER CROSSINGS

See Attached

EXHIBIT J

ROADS, DRIVEWAYS AND ROAD ENTRANCES

See Attached