Book 2021 Page 720

Document 2021 720 Type 06 006 Pages 5
Date 2/26/2021 Time 1:04:04PM
Rec Amt $27.00

Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by: Kathleen Law, 700 Walnut, Suite 1600, Des Moines, IA 50309; 515-283-3116
Return to: Felix Friedman, PO Box 439, 7 Ellefson Drive, De Soto, IA 50069-7729

LENDER NON-DISTURBANCE AGREEMENT

This Lender Non-Disturbance Agreement (this "**Agreement**"), dated as of February 19th, 2021, is made and entered into by and between Independence Wind Energy LLC, an Iowa limited liability company, and its successors and assigns ("**Independence**") and Citizens State Bank ("**Lender**").

RECITALS

A. Independence and Rae Ellen Lyness, a single person ("**Owner**") are parties to a Wind Farm Easement Agreement, dated as of December 28, 2018 ("**Easement Agreement**") affecting the real property described on attached Exhibit A at Page 5 (the "**Property**");

B. Lender is the owner of a promissory note secured by a Deed of Trust (the "**Mortgage**") recorded at **Book 2008, Page 455** in the records of Delaware County Recorder that is a lien on all or a portion of the Property;

C. Independence has requested that Lender agree not to disturb any rights of Independence under the Easement Agreement with respect to the Easement Property if Lender forecloses the Mortgage; and

D. Lender is willing to so agree on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lender covenants and agrees with Independence that, provided (i) the Easement Agreement is in full force and effect and (ii) no default exists under the Easement Agreement beyond the applicable grace period, Independence's right to possession of the Property, and the terms and provisions of the Easement Agreement, shall not be affected or disturbed by Lender in the exercise of any of its rights under the Mortgage or of any rights otherwise available to Lender at law or in equity.

2. If a Successor Owner (as defined below) comes into possession or ownership of the Property, then such Successor Owner shall (i) thereby succeed to the position of the Owner under the Easement Agreement and (ii) not disturb the possession of Independence except in accordance with the terms of the Easement Agreement or this Agreement, and the Easement Agreement shall continue in full force and effect. "**Successor Owner**" means any person or entity (including, without limitation, Lender or any nominee or designee of Lender) that while this Agreement is in effect acquires possession or ownership of the Easement Property by reason of foreclosure of the Mortgage, any other exercise by Lender of rights and remedies available to Lender as holder of the Mortgage or delivery of a deed to the Easement Property in lieu of foreclosure.

3. All notices, requests and communications under this Agreement must be in writing and will be deemed to have been duly given only if delivered personally or by nationally recognized courier service or mailed (first class postage prepaid) to the parties at the following addresses:

If to Lender: Citizens State Bank
204 Main St. PO Box 9
Ryan IA 52330
Attention: Lucas J. Leonard

If to Independence: Independence Wind Energy LLC
Attn: Felix Friedman
PO Box 439, 7 Ellefson Drive
De Soto, IA 50069-7729

All such notices, requests and other communications will (i) if delivered personally or by nationally recognized courier to the address as provided in this Section, be deemed given upon delivery, and (ii) if delivered by mail in the manner described above to the address provided in this Section, be deemed given upon receipt. Any party may from time to time change its address or other information for purpose of notices to that party by giving notice specifying such change to the other party.

4. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of Lender and Independence.

5. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Remainder of page intentionally left blank; next page is signature page]

Citizens State Bank

By: _____

Printed Name: Lucas J. Leonard

Title: Vice President

STATE OF Iowa, Delaware COUNTY) ss:

This record was acknowledged before me on 2-19, 2021 by _____

Lucas J. Leonard (name of person signing) as Vice President (type of authority, e.g. officer, manager, trustee etc.) of **Citizens State Bank**.

Pam Deutmeyer
Notary Public in and for said State

STAMP

[SIGNATURES CONTINUE ON NEXT PAGE]

NOTARIAL SEAL IOWA
PAM DEUTMEYER
Commission Number 826102
My Commission Expires
7-2-2023

INDEPENDENCE WIND ENERGY LLC, an Iowa limited liability company

By: Matthew C Garwood
Matthew C. Garwood, Authorized Representative

STATE OF IOWA, Polk **COUNTY, ss:**

This record was acknowledged before me on February 19th, 2021, by Matthew C. Garwood as Authorized Representative of Independence Wind Energy LLC, an Iowa limited liability company.

Notary Public in and for said State

STAMP

AARON THEISEN
COMMISSION NO. 797120
MY COMMISSION EXPIRES
09/01/2021

EXHIBIT A

Legal Description

The Southwest Quarter (SW 1/4) of Section Thirty-six (36) Township Eighty Eight (88) North, Range Six (6) West of the 5th P.M., Delaware County, Iowa, except Parcel 2014-10 as described and depicted on the Plat of Survey recorded in Book 2014, Page 617 in the Office of the Delaware County Recorder and except Parcel 2015-91 as described and depicted on the Plat of Survey recorded in Book 2015, Page 2560 in the Office of the Delaware County Recorder.