

Prepared by and after recording return to: Tyrone H. Thomas, Jr., Esq., Invenergy Wind Development LLC, c/o Invenergy LLC, One South Wacker Drive, Suite 1800, Chicago, Illinois 60606, ATTN: Land Administration, (312) 224-1400

### **MEMORANDUM OF AGREEMENT REGARDING EASEMENTS**

THIS MEMORANDUM OF AGREEMENT REGARDING EASEMENTS (this "**Memorandum**"), is made, dated and effective as of February 2, 2018 (the "**Effective Date**"), between **Thomas D Cunningham and Neva R. Cunningham Trustees, UDT, The Cunningham Family Trust** (together with its successors, assigns and heirs, "**Owner**"), whose address is **2798 Settlers Trail, St. Charles, IA 50240**, and **Invenergy Wind Development LLC**, a Delaware limited liability company (together with its transferees, successors and assigns, "**Grantee**"), whose address is One South Wacker Drive, Suite 1800, Chicago, IL 60606, with regard to the following:

1. Owner and Grantee did enter into that certain Agreement Regarding Easements dated of even date herewith (the "**Agreement**") which affects the real property located in Madison County, Iowa, as more particularly described in **Exhibit A** attached hereto as **Page #5 & 6** (the "**Property**"). Capitalized terms used and not defined herein have the meaning given the same in the Agreement.

2. The Agreement grants Grantee, among other things, the right to install Windpower Facilities (and related infrastructure and appurtenances) on Owner's Property and certain other access rights and rights to use the Property in connection with the wind energy generation project. Owner also irrevocably waived, to the extent permitted by law, enforcement of any applicable setback requirements.

3. Term. The "**Term**" is comprised of the Development Term, Operations Term and Extended Term as follows:

(i) The initial term of the Easement ("**Development Term**") commences on the Effective Date and, unless sooner terminated in accordance with the Agreement, shall continue without interruption until the earlier of the Operations Date or the date seven (7) years from the Effective Date.

(ii) If Grantee constructs any Windpower Facilities on the Property, the “**Operations Term**” shall begin on the Operations Date and end on the twenty-fifth (25<sup>th</sup>) anniversary of the Operations Date.

(iii) The “**Operations Date**” shall mean the earlier of: (1) the first date Windpower Facilities installed on the Property begin delivering electricity to the transmission grid or (2) the date Grantee notifies Owner in writing that Grantee has elected to declare that the Operations Date has occurred (whether or not Windpower Facilities have been installed on the Property). Grantee shall notify Owner of the Operations Date within forty-five (45) days after the Operations Date occurs. Owner grants Grantee permission to record in the Madison County records a notice specifying the Operations Date.

(iv) Grantee shall have the preferential right upon written notice to Owner before expiration of the Operations Term to extend the term of the Agreement for an additional period of ten (10) years (“**Extended Term**”) expiring on the thirty-fifth (35<sup>th</sup>) anniversary of the Operations Date. Owner grants Grantee permission to record in the Madison County records a notice of such extension.

4. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Owner and Grantee executed and are recording this Memorandum solely for the purpose of providing constructive notice of the Agreement and Grantee’s rights thereunder. The terms, conditions and covenants of the Agreement are incorporated herein by reference as though fully set forth herein. This Memorandum shall not, in any manner or form whatsoever, alter, modify or vary the terms, covenants and conditions of the Agreement.

5. Except as otherwise set forth in the Agreement, Owner shall have no ownership, lien, security or other interest in any Windpower Facilities (and related infrastructure and appurtenances) installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Windpower Facilities (and related infrastructure and appurtenances) at any time.

6. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

7. This Memorandum shall also bind and benefit, as the case may be, the heirs, legal representatives, assigns and successors of the respective parties hereto, and all covenants, conditions and agreements contained herein shall be construed as covenants running with the land.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

**GRANTEE:**

**Invenergy Wind Development LLC**  
a Delaware limited liability company

By: 

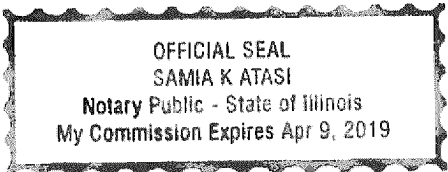
Name: Kevin E Parzyck  
Vice President

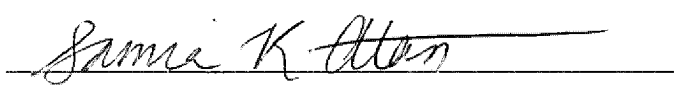
Title: \_\_\_\_\_

STATE OF ILLINOIS        )  
  )  
COUNTY OF COOK        )

This instrument was acknowledged before me by Kevin E Parzyck, Vice President of Invenergy Wind Development LLC, a Delaware limited liability company, on behalf of said company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 2 day of February, 2018.





Notary's Name (Printed): Samia K Atasi

My commission expires: 4/9/19

**OWNER:**

**Thomas D Cunningham and Neva R. Cunningham Trustees, UDT, The Cunningham Family Trust**

By: [Signature]  
Name: Thomas D. Cunningham

Title: Trustee

By: [Signature]

Name: Neva R. Cunningham

Title: Trustee

STATE OF Iowa, Madison COUNTY, ss:

This record was acknowledged before me on January 5th, 2018, by Thomas D Cunningham Trustee of The Cunningham Family Trust.

[Signature]  
Signature of Notary Public

My commission expires: 7-28-18

Stamp or Seal



STATE OF Iowa, Madison COUNTY, ss:

This record was acknowledged before me on January 5th, 2018, by Neva R. Cunningham Trustee of The Cunningham Family Trust.

[Signature]  
Signature of Notary Public

My commission expires: 7-28-18

Stamp or Seal



**EXHIBIT A TO MEMORANDUM**

**Legal Description of the Property**

**Schedule of Locations:**

<u>Parcel Number</u>	<u>County</u>	<u>Township/ Range</u>	<u>Section</u>	<u>Acreage</u>
500092200999500	Madison	75N 26W	22	6.67
500092262021000	Madison	75N 26W	22	20.60
500092268011200	Madison	75N 26W	22	32.27
500092268020000	Madison	75N 26W	22	5.00
500092286011000	Madison	75N 26W	22	5.21
500092742000000	Madison	75N 26W	27	40.00
500092744020000	Madison	75N 26W	27	2.19
500093286000000	Madison	75N 26W	32	37.70
500093288000000	Madison	75N 26W	32	40.00
770160524020000	Madison	74N 26W	05	19.00
770160524030000	Madison	74N 26W	05	10.20
770160526016000	Madison	74N 26W	05	12.29
770160542000000	Madison	74N 26W	05	40.91
770160544000000	Madison	74N 26W	05	39.00
770160546000000	Madison	74N 26W	05	39.50
770160548000000	Madison	74N 26W	05	40.00
770160562000000	Madison	74N 26W	05	40.00
770160564000000	Madison	74N 26W	05	40.00
			<b>Total</b>	<hr/> 470.54

**Legal Description:**

6.67A of Section 22, Township 75N, Range 26W of Madison County, Iowa

28.12A E RY Northeast Quarter (NE1/4) Southwest Quarter (SW1/4) Ex. Pt Par F 7.52A of Section 22, Township 75N, Range 26W of Madison County, Iowa

N 35A Southeast Quarter (SE1/4) Southwest Quarter (SW1/4) Ex. 1.46A RY & Ex. Pt Par F .06A of Section 22, Township 75N, Range 26W of Madison County, Iowa

S 5A Southeast Quarter (SE1/4) Southwest Quarter (SW1/4) of Section <sup>22</sup>2, Township 75N, Range 26W of Madison County, Iowa

Southwest Quarter (SW1/4) Southeast Quarter (SE1/4) Ex. Pt Par F 33.34A of Section 22, Township 75N, Range 26W of Madison County, Iowa

The Northeast Quarter (NE1/4) Northwest Quarter (NW1/4) of Section 27, Township 75N, Range 26W of Madison County, Iowa

2.19 Acres of Section 27, Township 75N, Range 26W of Madison County, Iowa

The Southwest Quarter (SW1/4) Southeast Quarter (SE1/4) of Section 32, Township 75N, Range 26W of Madison County, Iowa

The Southeast Quarter (SE1/4) Southeast Quarter (SE1/4) of Section 32, Township 75N, Range 26W of Madison County, Iowa

E 32A <sup>FRL</sup> Northwest Quarter (NW1/4) Northeast Quarter (NE1/4) E of RD of Section 05, Township 74N, Range 26W of Madison County, Iowa

W 10.47A Northwest Quarter (NW1/4) Northeast Quarter (NE1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

An Unsurveyed Tract Lying West of Ravine and Hay Branch Southwest Quarter (SW1/4) Northeast Quarter (NE1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

The Northeast Quarter (NE1/4) Northwest Quarter (NW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

FRL Northwest Quarter (NW1/4) Northwest Quarter (NW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

The Southwest Quarter (SW1/4) Northwest Quarter (NW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

The Southeast Quarter (SE1/4) Northwest Quarter (NW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

The Northeast Quarter (NE1/4) Southwest Quarter (SW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa

The Northwest Quarter (NW1/4) Southwest Quarter (SW1/4) of Section 05, Township 74N, Range 26W of Madison County, Iowa