

BK: 2018 PG: 1142
Recorded: 4/11/2018 at 3:56:10.0 PM
Fee Amount: \$32.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

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 March 6, 2018 (the "Effective Date"), between **Randy A. Berry aka Randy Berry and JoAnn K. Berry, as Joint Tenants with Full Rights of Survivorship and Not as Tenants in Common, as contract purchasers, subject to the right of Charles C. Berry and Helen E. Berry, Husband and Wife as contract sellers** (together with its successors, assigns and heirs, "Owner"), whose address is **1983 305th St., Winterset, IA 50273**, 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 #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 (25th) 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 (35th) 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: [Signature]

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 11 day of March, 2018.



[Signature]

Notary's Name (Printed): SAMIA K ATASI

My commission expires: 4/9/19

OWNER:

Randy A. Berry aka Randy Berry and JoAnn K. Berry, as Joint Tenants with Full Rights of Survivorship and Not as Tenants in Common, as contract purchasers, subject to the right of Charles C. Berry and Helen E. Berry, Husband and Wife as contract sellers

By: *Randy A Berry*

Name: Randy A. Berry aka Randy Berry

Title: Contract Purchaser

By: *JoAnn K Berry*

Name: JoAnn K. Berry

Title: Contract Purchaser

STATE OF Iowa, Madison COUNTY, ss:

This record was acknowledged before me on February 23rd, 2018, by Randy A. Berry aka Randy Berry, a married person.

[Signature]
Signature of Notary Public

My commission expires: 7-28-18

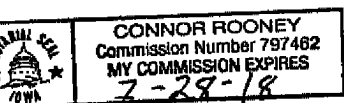
Stamp or Seal 

STATE OF Iowa, Madison COUNTY, ss:

This record was acknowledged before me on February 23rd, 2018, by JoAnn K. Berry, a married person.

[Signature]
Signature of Notary Public

My commission expires: 7-28-18

Stamp or Seal 

OWNER:

Randy A. Berry aka Randy Berry and JoAnn K. Berry, as Joint Tenants with Full Rights of Survivorship and Not as Tenants in Common, as contract purchasers, subject to the right of Charles C. Berry and Helen E. Berry, Husband and Wife as contract sellers

By: Charles C. Berry

Name: Charles C. Berry

Title: Contract Seller

By: Helen E. Berry

Name: Helen E.. Berry

Title: Contract Seller

STATE OF Iowa, Madison COUNTY, ss:

This record was acknowledged before me on February 23rd, 2018, by Charles C. Berry, a married person.

[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 February 23rd, 2018, by Helen E. Berry, a married person.

[Signature]
Signature of Notary Public

My commission expires: 7-28-18

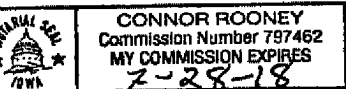
Stamp or Seal 

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>
660141524000000	Madison	74N 28W	15	37.38
660141526023000	Madison	74N 28W	15	26.65
660141542000000	Madison	74N 28W	15	37.50
660141548012000	Madison	74N 28W	15	38.00
660141662012000	Madison	74N 28W	16	29.79
660141668000000	Madison	74N 28W	16	39.00
			Total	<hr/> 208.32

Legal Description:

The Northwest Quarter (NW1/4) Northeast Quarter (NE1/4) of Section 15, Township 74N, Range 28W of Madison County, Iowa

The Southwest Quarter (SW1/4) Northeast Quarter (NE1/4) Ex .625A Southwest PT and Ex E75' S330' and Ex Parcel A 10.56A of Section 15, Township 74N, Range 28W of Madison County, Iowa

The Northeast Quarter (NE1/4) Northwest Quarter (NW1/4) of Section 15, Township 74N, Range 28W of Madison County, Iowa

The Southeast Quarter (SE1/4) Northwest Quarter (NW1/4) of Section 15, Township 74N, Range 28W of Madison County, Iowa

The Northeast Quarter (NE1/4) Southwest Quarter (SW1/4) Ex Parcel A 8.51A of Section 16, Township 74N, Range 28W of Madison County, Iowa

The Southeast Quarter (SE1/4) Southwest Quarter (SW1/4) of Section 16, Township 74N, Range 28W of Madison County, Iowa