

Recorded: 11/3/2023 at 10:26:57.0 AM
County Recording Fee: \$42.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$45.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 2760

Prepared By: Kelli J. Orton, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309; (515) 242-2400
Return To: Mehul Mehta, c/o Greenbacker Renewable Energy Corporation, 230 Park Avenue, Suite 1560, New York, NY 10169
Previously Recorded Documents: Book 2011, Page 479; Book 2011, Page 1353; Book 2011, Page 1517; Book 2011, Page 3667

MEMORANDUM OF SECOND AMENDMENT TO WIND FARM EASEMENT AGREEMENT (Elk Wind Farm)

This Memorandum of Second Amendment to Wind Farm Easement Agreement (the “**Memorandum**”) is executed this 22nd day of September, 2023, by and between Philipp Family Farms, LLC (“**Owner**” or “**You**”) and Elk Wind Energy LLC, an Iowa limited liability company (“**Elk**” or “**We**”).

WHEREAS, Robert J. Philipp and Marian D. Philipp, husband and wife, as joint tenants with full rights of survivorship, and not as tenants in common (“**Original Owner**”), and Elk entered into a Wind Farm Easement Agreement dated on or about December 16, 2010, as evidenced by a certain Memorandum of Wind Farm Easement Agreement recorded in the Office of the Recorder of Delaware County, Iowa (the “**Recorder’s Office**”), on February 4, 2011 at Book 2011, Page 479, and re-recorded in the Office of the Recorder of Delaware County, Iowa on April 21, 2011 at Book 2011, Page 1353, as amended by a certain First Amendment to Memorandum of Wind Farm Easement agreement recorded in the Recorder’s Office on May 10, 2011 at Book 2011, Page 1517, and as amended by a certain Supplemental Exhibit recorded in the Recorder’s Office on November 15, 2011 at Book 2011, Page 3667 (collectively, the “**Agreement**”), and as amended by a certain First Amendment to Wind Farm Easement Agreement dated July 28, 2022 (the “**First Amendment**”) covering certain real property referred to in the Agreement as “**Your Property**”, as legally described on **Exhibit A**, attached hereto and incorporated herein. Capitalized terms used but not defined in this Second Amendment have the meanings given to them in the Agreement; and

WHEREAS, Original Owner conveyed Your Property to You in December of 2016, and You are the successor in interest to Original Owner under the Agreement; and

WHEREAS, Under the terms of the Agreement, Elk has constructed the Wind Farm; and

WHEREAS, Elk is planning to perform work at the Wind Farm to upgrade certain components of the Wind Energy Facilities, which may include, without limitation, installing longer turbine blades (the “**Repowering**”). The planning process, market conditions, availability of labor and supplies, and financing are among the factors that influence whether and when Elk will undertake the Repowering. However, Elk currently expects to commence the Repowering before the end of 2023; and

WHEREAS, Owner and Elk entered into an amendment to the Easement on September 22, 2023 (the “**Second Amendment**”).

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Exhibit E**, attached hereto and incorporated herein, shall replace Exhibit C.
2. The “Term” of the Turbine Site Easement and the Met Tower Site Easement has been extended for one additional 25 year term (the “Renewal Term”) to begin at the end of the Term. The Construction Easement, Access Easement, Collection Facilities Easement, Overhang Easement, Wind Non-Obstruction Easement, Noise Easement, Light and Shadow Easement and Studies Easement shall continue so long as any of the Wind Energy Facilities in the Wind Farm exist, including replacements, unless terminated earlier in writing by Elk.
3. All notices or other communications required or permitted by the Agreement shall be made to the addresses below:

If to Owner: Philipp Family Farms, LLC
604 W. Union St.
Edgewood, IA 52042

If to Elk: Elk Wind Energy LLC
c/o Greenbacker Renewable Energy Corporation
230 Park Avenue, Suite 1560
New York, NY 10169
Attention: General Counsel

4. Other terms of the Amendment are as set forth in the Amendment.
5. This Memorandum may be executed in one or more counterparts or using counterpart signature and acknowledgment pages, all of which, when taken together, shall constitute one instrument.

[Remainder of page left intentionally blank; signature pages follow]

OWNER:
PHILIPP FAMILY FARMS, LLC

By: Robert J. Phillip
Name: Manager
Its: Authorized Representative

ACKNOWLEDGMENT

STATE OF IOWA)
COUNTY OF Delaware) ss.
)

This instrument was acknowledged before me on July 31, 2023, by Robert Phillip as Authorized Representative of Philipp Family Farms, LLC.

Kelli J. Orton
Signature of Notary Public

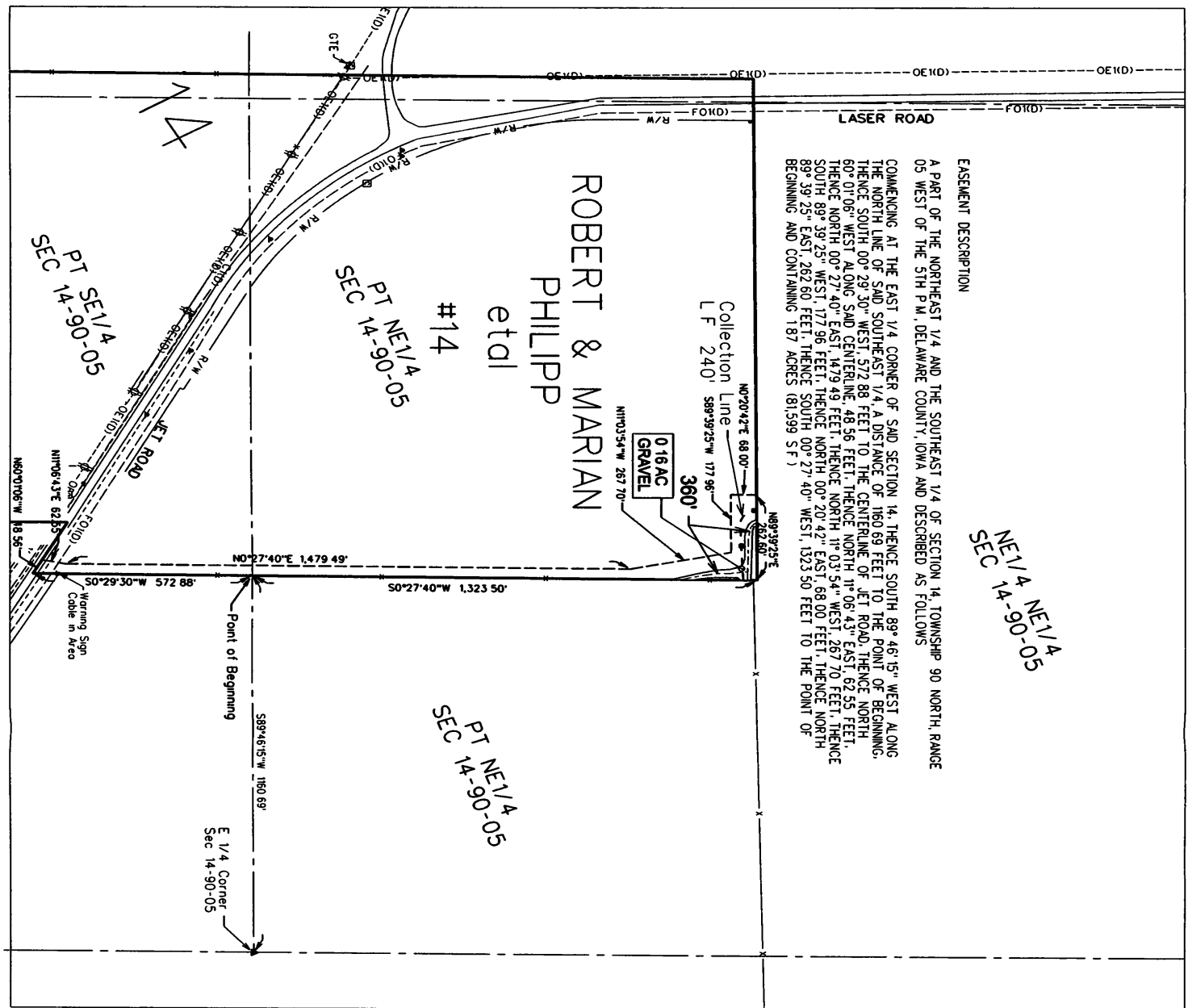


EXHIBIT A
LEGAL DESCRIPTION OF YOUR PROPERTY

The Southwest Quarter of the Northeast Quarter (SW 1/4 of NE 1/4); and the East 5 rods of that part of the Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4) that lies South of the road; and the West 5 acres of the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE 1/4); and the West Half of the Southeast Quarter (W 1/2 of SE 1/4); and that part of the West 10 rods of the Northeast Quarter of the Southeast Quarter (NE 1/4 of SE 1/4) that lies North of the road; and the East 5 acres of the Southwest Quarter (SW 1/4); all in Section 14, Township 90 North, Range 5 West of the Fifth P.M., Delaware County, Iowa.

Net Acreage of Parcel per Assessor's Records: 127.00

EXHIBIT E



EASEMENT DESCRIPTION

A PART OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 90 NORTH, RANGE 05 WEST OF THE 5TH P.M. DELAWARE COUNTY, IOWA AND DESCRIBED AS FOLLOWS

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 14, THENCE SOUTH 89° 46' 15" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 160.69 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 29' 30" WEST, 572.88 FEET TO THE CENTERLINE OF JET ROAD, THENCE NORTH 60° 01' 06" WEST ALONG SAID CENTERLINE, 48.56 FEET, THENCE NORTH 11° 06' 43" EAST, 62.55 FEET, THENCE NORTH 00° 27' 40" EAST, 1479.49 FEET, THENCE NORTH 11° 03' 54" WEST, 267.70 FEET, THENCE SOUTH 89° 39' 25" WEST, 177.96 FEET, THENCE NORTH 00° 20' 42" EAST, 68.00 FEET, THENCE NORTH 89° 39' 25" EAST, 262.50 FEET, THENCE SOUTH 00° 27' 40" WEST, 1333.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 187 ACRES (81,599 S.F.)

ROBERT & MARIAN PHILIPP et al

#14

SEC 14-90-05
PT SE 1/4

SEC 14-90-05
PT NE 1/4

SEC 14-90-05
PT NE 1/4

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SEC 14-90-05
NE 1/4 NE 1/4

Collection Line
L F 240'

0.16 AC
GRAVEL

360'

N0°27'40"E 1,479.49'

S0°29'30"W 572.88'

S0°27'40"W 1,323.50'

Point of Beginning

E 1/4 Corner
Sec 14-90-05

S89°46'15"W 160.69'



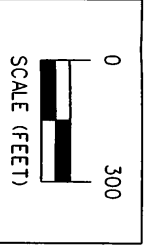
Warning Sign
Cable in Area

LEGEND

- TURBINE WITH NUMBER
- EASEMENT LINE
- COLLECTION LINE
- PROPERTY BOUNDARY
- ACCESS ROAD/GRAVEL LIMITS
- LINEAL FOOTAGE OF ACCESS ROAD
- TRANSFORMER
- JUNCTION BOX
- COLLECTION LINE SPLICE LOCATIONS
- TILE REPAIR LOCATION

NOTES

- 1) UNDERGROUND COLLECTION LINES, SPLICE LOCATIONS, AND TILE CROSSINGS WERE PROVIDED BY MPEX/ELEVEL. THE ABOVE-GROUND JUNCTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED.
- 2) THE DIMENSIONS SHOWN ON THE EXHIBIT C DRAWINGS ARE MEASURED HORIZONTALLY, WITH NO CONSIDERATION TO SLOPE OR ELEVATION.
- 3) THE LINEAL FEET (L.F.) SHOWN ON THE COLLECTION LINE CONTAINS THE CUMULATIVE AMOUNT OF CABLE ON THE PROPERTY SHOWN IN THE EXHIBIT.
- 4) THE ACCESS ROAD IS DIMENSIONED FROM THE TURBINE TO THE PROPERTY LINE OR PUBLIC RIGHT-OF-WAY LINE, AS APPLICABLE.
- 5) THE FIELD SURVEY WAS PERFORMED IN LATE SEPTEMBER AND EARLY OCTOBER OF 2011.



ISSUE DATE 10-19-2011



RPM ACCESS - ELK WIND PROJECT- EXHIBIT C

ROBERT & MARIAN PHILIPP et al NE 14-90-05

DELAWARE COUNTY, IOWA

SNYDER & ASSOCIATES

1751 MADISON AVENUE
COUNCIL BLUFFS, IOWA 51503
712-322-3222

ALAMOGON, MO 64501-4505
712-343-0505

ANNEX IN CEDAR RAPIDS, IA 52404-3000
319-302-0394

MARYSVILLE, MO 64502-0505
800-252-0505

ANNEX IN ST. JOSEPH, MO 64504-0222
319-304-0222

2	ADD EASEMENT/DESCRIPTIONS	10/16/11	SLG
1	REVISIONS PER MATT GARWOOD	10/16/11	SLG
MARK REVISION		DATE	BY
Engineer	Checked By	EJM	Booth
Technician	SLG	Date: 10-03-2011	Plot Bl. Pg
Project No: 1080378		Sheet 1 of 1	
File No:			

080378
Sheet 1 of 1

