

Recorded: 11/13/2023 at 10:44:50.0 AM  
County Recording Fee: \$47.00  
Iowa E-Filing Fee: \$3.00  
Combined Fee: \$50.00  
Revenue Tax:  
Delaware County, Iowa  
Daneen Schindler RECORDER  
BK: 2023 PG: 2859

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 552; Book 2011, Page 3663

## 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 25<sup>th</sup> day of October, 2023, by and between James F. Funke and Elaine Funke, husband and wife, and the Michael J. Funke Revocable Trust (collectively, “**Owner**” or “**You**”) and Elk Wind Energy LLC, an Iowa limited liability company (“**Elk**” or “**We**”).

WHEREAS, James C. Funke and Kathleen E. Funke, as husband and wife (“**Original Owner**”) and Elk entered into a Wind Farm Easement Agreement dated on or about December 22, 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 10, 2011 at Book 2011, Page 552, and as amended by a certain Supplemental Exhibit recorded in the Recorder’s Office on November 15, 2011 at Book 2011, Page 3663 (collectively, the “**Agreement**”), and as amended by a certain First Amendment to Wind Farm Easement Agreement dated September 16, 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, Your Property was conveyed to the Funke Revocable Trust in August of 2018. The Funke Revocable Trust conveyed Your Property to You in June 2022, 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 October 25, 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:                      James F. Funke  
   1071 Laser Rd.  
   Edgewood, IA 52042

Michael J. Funke Revocable Trust  
c/o Michael J. Funke  
228 Bailey Drive  
Manchester, IA 52057

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]

IN WITNESS WHEREOF, the parties hereto have signed this Memorandum on the date first written above.

**ELK:**

ELK WIND ENERGY LLC,  
an Iowa limited liability company

By: 

Name: Charles Wheeler

Title: Authorized Person

**ACKNOWLEDGMENT**

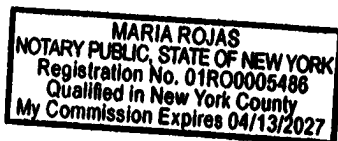
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF New York )  
COUNTY OF New York ) ss.

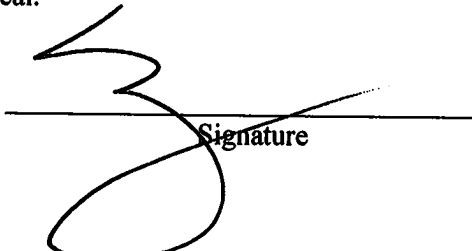
On Sept 6, 2023, before me, Maria Rojas, a Notary Public, personally appeared Charles Wheeler, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New York that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[SEAL]

  
Signature

OWNER:

James F. Funke  
James F. Funke

Elaine M. Funke  
Elaine Funke

**ACKNOWLEDGMENT**

STATE OF IOWA )  
COUNTY OF Delaware ) ss.

This instrument was acknowledged before me on 10/25, 2023, by James F. Funke and Elaine Funke, husband and wife.



Mary Fisher  
Signature of Notary Public

MICHAEL J. FUNKE REVOCABLE TRUST

By: Michael J. Funke  
Michael Funke, Trustee

**ACKNOWLEDGMENT**

STATE OF IOWA )  
COUNTY OF Delaware ) ss.

This instrument was acknowledged before me on Oct. 25, 2023, by Michael as Trustee of the Michael J. Funke Revocable Trust.



Mary Fisher  
Signature of Notary Public

**EXHIBIT A**  
**LEGAL DESCRIPTION OF YOUR PROPERTY**

Lot 3 in the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section Seven (7), Township Ninety (90) North, Range Four (4) West of the 5<sup>th</sup> P.M., in Delaware County, Iowa, as shown on the Plat of Survey recorded June 7, 1988, in Book 6 of Plat Records, page 9, Excepting therefrom the following described parcel of land; Parcel B as shown on the Plat of Survey recorded June 12, 2002, in Book 2002, page 2185.

AND

The North One-half of the Southwest Quarter (N 1/2 SW 1/4) and the South One-half of the Northwest Quarter (S 1/2 NW 1/4), of Section Seven (7), Township Ninety (90) North, Range Four (4) West of the 5<sup>th</sup> P.M., in Delaware County, Iowa; Excepting therefrom the following described parcel of land: Parcel C, as shown on the Plat of Survey recorded June 12, 2002, in Book 2002, page 2185.

**Net Acreage of Parcel per Assessor's Records: 138.20**

## **EXHIBIT E**

220TH AVE  
(Publicly Dedicated)

PROPERTY 4  
OWNER: JAMES F FUNKE ETAL

EASEMENT DESCRIPTION:  
A PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 07, TOWNSHIP 90 NORTH, RANGE 04 WEST OF THE 5TH P.M., DELAWARE COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAD SECTION 7; THENCE NORTH 00°38'54" WEST ALONG THE WEST LINE OF SAD SOUTHWEST 1/4, A DISTANCE OF 1332.14 FEET TO THE SOUTHWEST CORNER OF SAD NORTH 1/2 OF THE SOUTHWEST 1/4; THENCE NORTH 88°57'29" EAST ALONG THE SOUTH LINE OF SAD NORTH 1/2 OF THE SOUTHWEST 1/4, A DISTANCE OF 714.51 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°19'42" WEST 50.00 FEET; THENCE NORTH 88°57'29" EAST 808.04 FEET; THENCE NORTH 01°19'42" WEST 180.30 FEET; THENCE NORTH 88°57'29" WEST 460.00 FEET; THENCE SOUTH 01°19'42" EAST 200.30 FEET TO SAD SOUTH LINE; THENCE SOUTH 88°57'29" WEST ALONG SAD SOUTH LINE, 1267.79 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.36 ACRES (146,333 S.F.).

N1/2 SW1/4  
Sec. 7-90-04

SW Corner  
N1/2 SW1/4  
Sec. 7-90-04

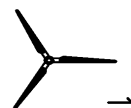
Point of Beginning

Right-of-Way

S1/2 SW1/4  
Sec. 7-90-04

1

LEGEND



TURBINE WITH NUMBER

EASEMENT LINE

COLLECTION LINE

PROPERTY BOUNDARY

ACCESS ROAD/GRAVEL LIMITS

TRANSFORMER

JUNCTION BOX

COLLECTION LINE SPICE LOCATIONS

TILE REPAIR LOCATION

NOTES

1) UNDERGROUND COLLECTION LINES SPICE LOCATIONS AND TILE CROSSINGS WERE PROVIDED BY MPNEXLEVEL. THE ABOVE-GROUND JUNCTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED.



SCALE (FEET)

ELK WIND PROJECT

EXHIBIT E - PROPERTY 4 - JAMES F FUNKE ETAL

DELAWARE COUNTY, IA

SNYDER & ASSOCIATES, INC.

2727 S.W. SNYDER BLVD.  
ANKENY, IOWA 50023  
515-984-2020 | www.snyder-associates.com

| MARK                | REVISION        | DATE            | BY  |
|---------------------|-----------------|-----------------|-----|
| Engineer:           | Checked By: EJM | Scale: 1"= 300' |     |
| Technician: SDB     | Date: 04/03/23  | Field Bk:       | Pg: |
| Project No: 1190762 |                 |                 |     |
|                     |                 | Sheet 1 of 1    |     |



PT 13-90-05  
SEC

0 500  
SCALE (FEET)

EASEMENT LINE  
COLLECTION LINE  
PROPERTY BOUNDARY  
ACCESS ROAD/GRAVEL LIMITS  
LINEAL FOOTAGE OF ACCESS ROAD  
TRANSFORMER  
JUNCTION BOX  
COLLECTION LINE SPLICE LOCATIONS  
TIE REPAIR LOCATION

## NOTES

- 1) UNDERGROUND COLLECTION LINES, SERVICE LOCATIONS, AND THE LOCATIONS WERE PROVIDED BY INDEX LEVEL. THE ABOVE GROUND JUNCTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED.
- 2) THE DIMENSIONS SHOWN ON THE EXHIBIT C DRAWINGS ARE ASSUMED HORizontally, WITH NO CORRECTIONS TO BE MADE.
- 3) THERE ARE ELECTRICAL WORK ON THE COLLECTION LINE CONDUITS, THE CALCULATE AMOUNT OF CABLE ON THE PROJECTS SHOWN IN THE EXHIBIT.
- 4) THE ACCESS ROAD IS DIMENSIONED FROM THE TURNED 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.

**JAMES FUNKE PT NE1/4 13-90-05**

**DELAWARE COUNTY, IOWA****SNYDER & ASSOCIATES**

1781 MADISON AVENUE  
COUNCIL BLUFFS, IOWA 51503  
713-327-3302

**ADJ. VICE. PRES.**  
761-343-0000  
**CHIEF PAPER**  
200. 214. 0000

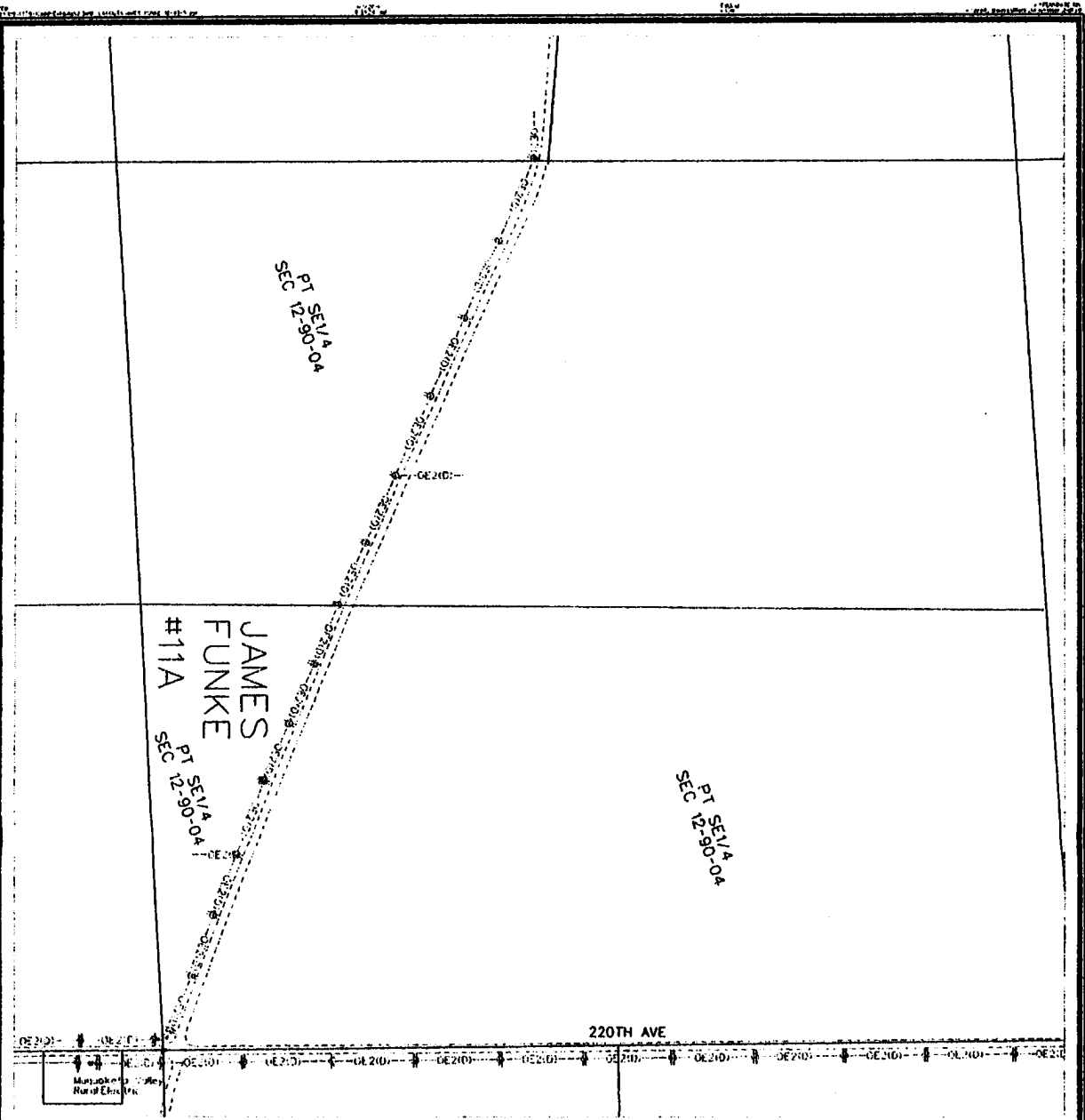
ROBERT, JR.  
6-08-64-3022

ST. JOSEPH, MO.  
800-441-8888

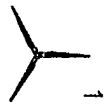
|            |            |             |            |              |    |    |
|------------|------------|-------------|------------|--------------|----|----|
| MAPN       |            | REV/VERSION |            | DATE         |    | BY |
| Engineer   | Checked By | EJM         | Scale      | 1"= 300'     |    |    |
| Technician | ED         | Date        | 10-03-2011 | Plot By      | Pg |    |
| Project No |            |             |            | 1080378      |    |    |
|            |            |             |            | Sheet 1 of 1 |    |    |

Sheet 1 of 1





# LEGEND



TURBINE WITH NUMBER

EASEMENT LINE

COLLECTION LINE

PROPERTY BOUNDARY

ACCESS ROAD/GRAVEL LIMITS

LINEAL FOOTAGE OF ACCESS ROAD

TRANSFORMER

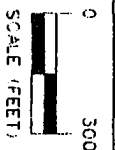
JUNCTION BOX

COLLECTION LINE SPLICE LOCATIONS

TILE REPAIR LOCATION

## NOTES

- 1) UNDERGROUND COLLECTION LINES, SPLICE LOCATIONS AND TILE CROSSINGS WERE PROVIDED BY MAP/LEVEL. THE ABOVE-GROUND ACTION BOXES AND TRANSFORMERS WERE FIELD SURVEYED. ON THE EXHIBIT C DRAWINGS, THE LINES WERE SHOWN WITH NO CONSIDERATION TO SLOPE OR ELEVATION.
- 2) THE LINEAL FOOTAGE OF ACCESS ROAD ON THE PROPERTY SHOWN IN THE EXHIBIT.
- 3) THE ACCESS ROAD IS DIMENSIONED FROM THE TURBINE TO THE PROPERTY LINE OR PUBLIC RIGHT-OF-WAY LINE, AS APPLICABLE.
- 4) THE FIELD SURVEY WAS PERFORMED IN LATE SEPTEMBER AND EARLY OCTOBER OF 2011.



ISSUE DATE: 10-31-2011

### RPM ACCESS - ELK WIND PROJECT- EXHIBIT C

JAMES FUNKE PT SE 1/4 12-90-05

DELAWARE COUNTY, IOWA

**SNYDER & ASSOCIATES**

1751 MADISON AVENUE  
COUNCIL BLUFFS, IOWA 51503  
712-322-2222

DELAWARE COUNTY, IOWA  
1751 MADISON AVENUE  
COUNCIL BLUFFS, IOWA 51503  
712-322-2222

| DATE       | REVISION | BY  |
|------------|----------|-----|
| 10-03-2011 | 1        | EJM |
| 10-03-2011 | 2        | EJM |
| 10-03-2011 | 3        | EJM |
| 10-03-2011 | 4        | EJM |
| 10-03-2011 | 5        | EJM |
| 10-03-2011 | 6        | EJM |
| 10-03-2011 | 7        | EJM |
| 10-03-2011 | 8        | EJM |
| 10-03-2011 | 9        | EJM |
| 10-03-2011 | 10       | EJM |
| 10-03-2011 | 11       | EJM |
| 10-03-2011 | 12       | EJM |
| 10-03-2011 | 13       | EJM |
| 10-03-2011 | 14       | EJM |
| 10-03-2011 | 15       | EJM |
| 10-03-2011 | 16       | EJM |
| 10-03-2011 | 17       | EJM |
| 10-03-2011 | 18       | EJM |
| 10-03-2011 | 19       | EJM |
| 10-03-2011 | 20       | EJM |
| 10-03-2011 | 21       | EJM |
| 10-03-2011 | 22       | EJM |
| 10-03-2011 | 23       | EJM |
| 10-03-2011 | 24       | EJM |
| 10-03-2011 | 25       | EJM |
| 10-03-2011 | 26       | EJM |
| 10-03-2011 | 27       | EJM |
| 10-03-2011 | 28       | EJM |
| 10-03-2011 | 29       | EJM |
| 10-03-2011 | 30       | EJM |