

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”), dated as of _____, 2022 (the “Effective Date), is entered into by and between Republic County, Kansas, a governmental entity in the State of Kansas (“County”) and High Banks Wind, LLC, a Delaware limited liability company (“Developer”). The County and Developer are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Developer intends to construct and operate a wind turbine (meaning with three blades) electrical generation facility project commonly referred to as the High Banks Wind Project, with an approximate size of 559 megawatts of installed nameplate capacity in the County, to be located on privately owned rural farmland or public right of way located within the County land area as shown on attached Exhibit A, consisting of wind turbine generators, meteorological towers, substations, above-ground transmission lines, collection lines, access roads, temporary construction areas, operation and maintenance facilities, and other infrastructures relating thereto (all such types of infrastructure, plus any other directly ancillary Developer infrastructure located within the land area shown on attached Exhibit A, collectively the “Wind Project”); and

WHEREAS, Developer has or will enter into certain agreements with landowners within the Wind Project area; and

WHEREAS, Developer, as a new member of the local business community, wishes to demonstrate good citizenship by making a commitment to (1) develop and operate the Wind Project pursuant to the terms of the Definitive Agreements, and (2) support local employment and businesses when feasible; and

WHEREAS, the County intends, through this Agreement and the Definitive Agreements, to consider the orderly development, construction, operation, and maintenance of the Wind Project in the County, pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and promises herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

SECTION I. COUNTY APPROVAL; ZONING

- A. **COUNTY CONSENTS AND APPROVALS.** Unless otherwise provided herein or in any of the other Definitive Agreements: whenever the consents or approvals of the County, or any of its employees, consultants, attorneys, officers, agents, or representatives are required to be secured or obtained by Developer under the provisions of this Agreement, the same shall not be unreasonably conditioned, withheld, or delayed unless otherwise set forth in the Definitive Agreements. Unless otherwise provided herein or in any of the other Definitive Agreements: the County will reasonably cooperate with Developer in the development, construction, operation, maintenance, and decommissioning of the Wind

Project and issue all permits, approvals, and authorizations required by local regulations or other law, if any, provided Developer files compliant applications, pays all applicable fees, and complies with all the requirements specified in this Agreement and is not otherwise in default under the terms of the Definitive Agreements and is compliant with all applicable law.

- B. FUTURE COOPERATION. The Parties shall cooperate with one another on an ongoing basis and shall make every reasonable effort (including the holding of hearings or meetings and the adoption of such resolutions as may be necessary) to further the implementation of this Agreement and the Definitive Agreements and the intentions of the Parties as reflected by the provisions of this Agreement and the Definitive Agreements. The County acknowledges and agrees that, upon execution of this Agreement and the Definitive Agreements, all County permits and approvals required for (A) Developer to route underground wires, cables, conduits and/or lines (and their associated equipment) related to the transmission of electricity at a voltage of up to 34.5 kV for the purpose of carrying electrical current and communications as part of and within the Wind Project (“Cables”) located in any right of way adjacent to or under any road in the County owned or maintained by the County (“Right of Ways”), and (B) oversized or overweight traffic on County roads used related to the Wind Project, will occur or not occur pursuant to the Definitive Agreements and no other County permits and approvals are required to initially construct and operate the Wind Project. To the extent allowed by applicable law, if the County enacts zoning regarding the Wind Project area after the Effective Date, such zoning will allow the Wind Project use as a legal nonconforming use until the earlier date of: (A) 30 years after the Effective Date, (B) the date of completion of Developer’s obligation to materially return any land disturbed or changed as a result of the Wind Project to its pre-construction condition or the then-existing condition of the contiguous lands or roads, and completing all Developer obligations pursuant to the Decommissioning Agreement between Developer and County dated the Effective Date (collectively, the “Decommissioning Services”), or (C) a Developer Default of a Definitive Agreement. Developer agrees to be subject to said zoning and not claim a right to any Wind Project use after the date the contractual legal nonconforming use terminates pursuant to this Section.

SECTION II. DEVELOPMENT REQUIREMENTS

- A. LANDOWNER PARTICIPATION. All Wind Project wind turbines and related structures (including Cables) within the County shall be located on property that is owned by Developer, or an affiliate thereof, or property for which Developer or its affiliate has an agreement with the landowner or rights to a landowner’s land; but, the only Wind Project infrastructure allowed within Right of Ways are underground Cables pursuant to the Road Use Agreement.
- B. SITING TERMS.
1. Sound Restrictions. Sound emanating from any Wind Project turbines shall be equal to or less than 50 dBA Leq at the exterior centerpoint of a non-participating occupied primary residential dwelling in existence as of the date of this Agreement or any public schools, hospitals, or public libraries, except when the owners of such dwelling or building

have consented, in writing, to a sound level in excess of such level, using the ISO 9613-2 sound propagation methodology. As used in this Agreement, the term “non-participating” shall describe those persons and their respective property with whom neither Developer nor an affiliate of Developer has entered into any contractual agreements for the benefit of the Wind Project.

2. Turbines; Other Towers. Structures for wind turbines shall be self-supporting tubular towers, with a maximum turbine tip height not to exceed 600 feet above ground level. “Turbine tip height” means the height from the ground level base of the wind turbine to the tip of the wind turbine blade at the twelve o'clock position. The maximum number of Wind Project turbines located in the County pursuant to the Definitive Agreements shall be 208. There are currently anticipated to be a total of six (6) meteorological towers within the Wind Project located within the County, and such meteorological towers shall not exceed 600 feet above ground. Any identification numbers shall be placed at a visible location along the access road to each turbine and each tower. “Towers” means all Wind Project turbines, meteorological towers, radar and any other ADLS towers, and any other towers or similar structures that are part of the Wind Project.

3. Lighting. Towers will be lighted in accordance with the requirements of the Federal Aviation Administration (“FAA”). Developer shall submit and diligently pursue FAA approval of an application for the implementation of an aircraft detection lighting system (“ADLS”) for the Project. If approved by the FAA, Developer will install and utilize an ADLS for the Project in compliance with FAA guidance and instructions.

4. Non-Participating Dwellings. Except where consent is received in writing from all fee simple owners of such dwelling: Towers shall be located at least 1,500 feet from any non-participating occupied primary residential dwellings in existence as of the date of this Agreement, as measured from the center of the base of the Tower to the nearest exterior wall of the occupied primary residential dwelling.

5. Non-Participating Property Lines. Except for any land that consent is received in writing from all its fee simple landowners: Wind Project turbines shall be located at least 1.2 times the Tower height (for a turbine that means turbine tip height), away from non-participating property lines as measured from the center of the base of the Tower to the property line of any non-participating parcel that is in existence as of the date of this Agreement and is not the parcel on which the turbine is constructed.

6. Public Roads. All Towers shall be setback at least 1.1 times the Tower height (for a turbine that means turbine tip height) plus 30 feet, as measured from the center of the base of the Tower to the nearest point on any County, Township, State or Federal right-of-way currently in existence in the County (including without limitation Right of Ways), excluding private roads.

7. Incorporated Municipal Boundaries. Except for any land that consent is received in writing from all its fee simple landowners: no Wind Project turbines may be installed within 1 mile from the municipal boundaries of Munden, Narka, Cuba, Agenda, and any

other incorporated municipal boundaries currently in existence in the County, as measured from the base of the wind turbine to the nearest point on such boundary line.

8. Above-ground Collection Lines and Transmission Line Tower Setbacks. All above-ground collection lines, and all transmission line towers, lines, cables and infrastructure that is not owned by a Kansas public utility, shall:

- a. Setback at least 1.1 times the height of the infrastructure, measured on the ground from the infrastructure to the nearest outside wall of such structure from any non-participating occupied residential dwelling currently in existence in the County, except where consent is received in writing from all fee simple owners of such dwelling, and except if a greater setback is provided for in this Section II.B.
- b. Be located only within the Wind Project boundaries as shown on attached Exhibit A.
- c. Have a maximum height above ground of 180 feet.
- d. meet all National Electrical Safety Code standards and any other state or federal law applicable to similar lines and infrastructure.

The setbacks and height requirements set forth in this Agreement can be modified with written consent of the County. Developer will use good faith reasonable efforts to cause any public utility infrastructure to also be located only as shown on attached Exhibit A.

9. Underground Infrastructure. Not later than ninety (90) days after completion of construction, Developer will provide County with as-built survey drawings certified by a Kansas-licensed surveyor or engineer showing the location of all underground Cables and other infrastructure within the Wind Project. Developer will provide County with any changes that occur to location of underground Cables and other infrastructure, within ninety (90) days of the change occurring.

10. Ice Throw. The Developer will institute turbine control measures to mitigate ice shed. Examples of such measures may include: (i) installing sensors that detect when blades become imbalanced or create vibration due to ice accumulation (the “Sensor Control Measure”); and (ii) collecting meteorological data from on-site permanent meteorological towers, in-site anemometers, and other relevant meteorological sources that would be used to determine if ice accumulation is occurring (the “Meteorological Control Measure”) (Sensor Control Measure and Meteorological Control Measure collectively referred to as the “Control Measures”). As meteorological conditions require, Developer will ensure that these Control Measures will either automatically shut down the wind turbine(s) in dangerous icing conditions (per the Sensor Control Measure) or Developer will manually shut down the wind turbine(s) if icing conditions are identified (using the Meteorological Control Measure). Developer will not return the wind turbine(s) to normal operation until the Control Measures no longer detect an imbalance or when weather conditions either remove icing on the blades or indicate icing is no longer a concern. Developer will pay for any documented damage cause by ice thrown from a wind turbine.

11. Shadow Flicker, Advertising, FAA, Color, Signals, Glare, Litter.

- a. Unless otherwise agreed to by the landowner, shadow flicker shall not exceed a cumulative 30 hours/year at non-participating occupied dwellings currently in existence in the County.
- b. No logo or advertisement shall be located on turbines unless approved in advance by the County.
- c. Turbine coloring shall conform to aviation safety regulations and shall have a non-reflective matte finish.
- d. Developer will utilize commercially reasonable measures to promptly investigate, address, and mitigate for the Term any confirmed reports of repetitive interference with radio, television, wireless, or any other communication signals to any occupied primary residential dwelling in existence as of the date of this Agreement. Such efforts might include: (i) moving a line-of-sight receiver to another location on that landowner's property, (ii) paying recurring costs to resolve the interference, such as a monthly fee for the dwelling to receive service, (iii) providing landowner with a signal booster.
- e. Developer will make commercially reasonable efforts to mitigate confirmed reports of glare or light from the Wind Project onto (i) roads or Right of Ways areas that might materially affect a driver, or (ii) occupied residential non-participant dwellings currently in existence in the County.
- f. Developer will take reasonable steps to minimize and dispose of any litter, debris or similar upon any roads or Right of Ways that sources from the Wind Project or its operations or personnel.
- g. Developer will notify: (i) known aerial crop sprayers, (ii) all airports located within 100 miles of the Wind Project boundary, and (iii) County's emergency management center, each in advance of the erection of any Towers; and shall mark and light all such structures in compliance with all applicable FAA standards and recommendations.

12. Insurance. Developer shall provide insurance as set forth in the Road Use Agreement.

13. Emergency Services, Fire Protection, and Hazardous Materials.

- a. Developer or its affiliate will work in cooperation with the Republic County Director of Emergency Management to establish standards for fire protection and emergency response.
- b. Developer or its affiliate will work in cooperation with the Republic County Director of Emergency Management to establish standards for the proper storage and handling of hazardous materials.

- c. Developer or its affiliate will work in cooperation with the County to establish 911 addresses for each wind turbine.
- d. Developer will establish a methodology for fielding and addressing Wind Project emergencies related to the Wind Project. At all times, Developer will provide to the County notice of current contact information for two points of contact with authority on behalf of Developer to respond to emergency situations.
- e. Developer will maintain additional emergency procedures as set forth in the Road Use Agreement.

14. Manufacturer and Interconnection Specifications.

- a. All wind turbines and related structures within the County shall be sited, installed, and operated in material compliance with manufacturer recommended specifications, including compliance with manufacturer-recommended setbacks from residences, roads, and non-participating property lines.
- b. The Developer may replace wind turbines as required, or in the ordinary course, or for a repowering of the Wind Project.
- c. The Wind Project shall meet the applicable interconnection and operation requirements set forth in the electric utility's or regional transmission organization's then current service regulations, as well as state and federal laws pertaining to transmission or distribution of electricity, once the Wind Project is connected to an electric transmission grid.

15. Compliance with Laws. Developer and its affiliates shall comply with all federal and state laws and regulations applicable from time-to-time to the construction and operation of the Wind Project, including without limitation:

- a. Federal Aviation Administration statutes and regulations, including those pertaining to wind turbine lighting and the review of the impact of siting or modification of wind turbines and other structures air navigation;
- b. Occupational Safety and Health Administration statutes and regulations;
- c. United States Fish and Wildlife Service statutes and regulations, including those pertaining to impacts on endangered or threatened species or habitats;
- d. U.S. Army Corps of Engineers statutes and regulations, including those pertaining to impacts on wetlands;
- e. Environmental Protection Agency statutes and regulations, including those pertaining to environmental impacts;
- f. Federal Communication Commission (FCC) statutes and regulations, including those pertaining to wireless communications impacts;

- g. Federal Emergency Management Agency (FEMA) statutes and regulations, including those pertaining to flood hazards and mitigation;
- h. Consultations with the Kansas Department of Wildlife, Parks, and Tourism, including those pertaining to impacts on endangered or threatened species or habitats;
- i. Consultations with the Kansas Department of Health and Environment, including those pertaining to any environmental impacts;
- j. Consultations with the Kansas Historical Society pertaining to surveys of any historical sites that may be located within the Wind Project area; and
- k. Any other applicable regulations promulgated by these and any other federal and state agencies.

C. REIMBURSEMENTS TO THE COUNTY. Developer or its affiliate will reimburse the County for the following costs or obligations incurred by the County related to the Wind Project or any of the Definitive Agreements:

- a. Fees related to reasonable professional services (e.g. engineering, accounting and legal), provided the services are actually rendered by the professional and reasonable documentation is provided to Developer by the County.
- b. As set forth in the Definitive Agreements; which costs incurred in pursuit of any remedies include without limitation any costs: (i) to review and respond to a good faith concern or inquiry of whether a party is in compliance with an agreement, but first providing Developer the opportunity to respond as time permits under the circumstances in County's sole but reasonable discretion, and (ii) for County to confirm Developer's compliance with an agreement, but first providing Developer the opportunity to provide said confirmation as time permits under the circumstances in County's sole but reasonable discretion.

Payments due pursuant to this Section are due within 60 days of delivery to Developer of an invoice and commercially reasonable evidence of the amount incurred.

D. WATER USAGE. Water used for the construction and operation of the Project shall be appropriated, acquired, or authorized in compliance with the standards and protocols set forth by the Kansas Department of Agriculture's Division of Water Resources. If Developer becomes aware that said water usage is or is likely to temporarily impair a non-participating landowner's historical water usage as of the Effective Date, Developer will use commercially reasonable measures to promptly resolve or mitigate the impairment.

E. COUNTY SUPPORT.

- 1. If the Wind Project is developed, Developer will in good faith reasonably consider supporting County local employment and businesses when feasible, including without

limitation causing local businesses to be considered as suppliers, subcontractors or contractors.

2. Further, Developer will deliver to the County Appraiser an annual rendition by the same County deadline for other personal property renditions, of Wind Project personal property or fixtures installed or otherwise located within the Wind Project boundaries, sufficient to accomplish the purpose of County gathering property and valuation information reasonably used to determine property taxation valuations, irrespective of whether the property might be exempt from property tax.

3. No eminent domain rights will be used or threatened to acquire any property rights used by the Wind Project within the land area shown on attached Exhibit A.

F. COMPLIANCE; TERM. Prior to Commencement of Construction, Developer will provide the County Designee with evidence reasonably acceptable to County Designee of Developer's plans in compliance with the following sub-Section of Agreement Section III: B.1, B.2, B.4 - 8, B.11.a-c, B.13, B.14.a, D, and E.1. Until the date of completion of full Decommissioning Services regarding the Wind Project, Developer will comply with this Agreement, and promptly provide reasonable verification of compliance upon request by County. Unless extended by mutual agreement of the Parties, or early terminated by County, this Agreement shall remain in force and in effect until the date of completion of full Decommissioning Services regarding the Wind Project.

SECTION III. REPRESENTATIONS AND WARRANTIES

A. COUNTY. The County represents and warrants that the current County Commission and Commissioners signing this Agreement:

1. have not taken any action on behalf of the County, and
2. do not have actual knowledge (without any duty to investigate or inquire) that a prior County Commission took any action on behalf of the County, to restrict the signing Commissioners' authority to execute and deliver this Agreement on behalf of the County.

B. DEVELOPER. Developer represents and warrants that:

1. Developer has all necessary power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
2. upon execution and delivery by Developer and the County, this Agreement shall be a valid, legal, binding and enforceable obligation of Developer enforceable against Developer in accordance with its terms, subject to any applicable laws of bankruptcy, insolvency or reorganization, laws affecting the enforcement of creditors' rights generally, and general principals of equity;
3. no approval or consent from any other person or entity is required for Developer's execution of this Agreement; and

4. this Agreement is executed by a duly authorized representative of Developer, who is fully authorized to execute this Agreement on behalf of Developer.
- C. RELIANCE; INDEMNITY. Except for the express County representations in Section III.A above: Developer agrees to rely solely on its own interpretation, with the assistance of legal counsel, regarding whether this Agreement is valid and enforceable under Kansas and applicable law. Additionally, Developer agrees to not challenge the validity or enforceability of any term of this Agreement. Developer hereby releases and agrees to indemnify and hold harmless County and its respective officers, employees and agents (the “County Parties”) from: (a) any and all actions, causes of actions, suits, claims, expenses (including reasonable attorney fees) and demands made by third parties against County Parties arising out of or relating to, directly or indirectly, the negligence, or willful or wanton act or omission, of Developer related to any of the Definitive Agreements or the Wind Project, including without limitation use of any County roads or Right of Ways, and for any Developer Default of any of the Definitive Agreements; and (b) any and all claims made by a claimant other than County, arising out of or relating to this Agreement, including but not limited to claims relating to the enforceability of any term, claims alleging the County should have imposed additional requirements on Developer, or that the County was not authorized to enter into this Agreement (other than claims arising (y) because County’s representation and warranty above in Section III.A. was not true, or (z) due to any County Default of any of the Definitive Agreements other than enforceability or County authority).

SECTION IV. DEFAULT PROVISIONS

If either Party fails to observe or perform any material condition or provision of this Agreement for sixty (60) days after receiving written notice of such failure from the other Party (the “Cure Period”), then the failing party is in “Default,” and upon a Default the aggrieved Party shall have the right to pursue any remedy available to it at law or in equity; except:

1. Termination of this Agreement is a remedy only available to County, not to Developer, and will be effective against Developer only after 30 days prior notice delivered to Developer.
2. For so long as the delinquent Party is diligently attempting to cure such failure and the failure is, in the aggrieved Party’s discretion, reasonably capable of being cured, a default under this Section IV shall not be deemed to have occurred.
3. A Party’s failure to observe or perform any material condition or provision of this Agreement due to an Excusable Delay shall not constitute a Default of this Agreement. For purposes of this Agreement, “Excusable Delay” means any casualty to property or persons, inclement weather, epidemic or pandemic, inability to secure materials, strikes or labor disputes, acts of God, acts of the public enemy or hostile or terrorist action, civil commotion, and/or governmental actions, restrictions, regulations or controls, including, without limitation, any failure or refusal of any governmental authority to timely issue any required permit or approval for development of the Wind Project or any legal action or proceeding involving any such required permit or approval (whether arising out of any

existing laws or changes in laws, including any such laws relating to annexation, zoning, platting, building or other codes or ordinances applicable to development and construction of the Wind Project), or any other cause (other than financial inability, which will never be an Excusable Delay), to the extent in each instance the delay was beyond the reasonable control of that Party; which affects development, construction, maintenance, operation, repair, replacement or decommissioning of the Wind Project (including, without limitation, any of the foregoing which affect a Party's contractors or subcontractors). Excusable Delay is not an available claim by Developer for failure to maintain any insurance or failure of a representation or warranty to be and remain true, correct and complete at all times.

Notwithstanding the foregoing, upon termination of this Agreement by County for Developer Default, the Development Requirements (Section II), Section III.C, Section IV and Section V shall remain in force and in effect until the date of completion of full Decommissioning Services regarding the Wind Project.

County remedies for Developer Default include that County may immediately require the Developer to cease operations for the entire Wind Project until the Default is cured and the County may seek an immediate injunction to cause the Wind Project to cease operations (including without limitation cessation of Developer's rights pursuant to the Road Use Agreement and invoking County's remedies pursuant to Road Use Agreement Section 10.B.), and the Developer consents to the jurisdiction of Republic County for such action.

Any payment not paid when due, accrues interest from the date due at the rate of the lower of the maximum interest rate allowed by applicable law or 15% per annum. Said interest is due at the time the payment is actually made for the payment to be considered paid in full.

Developer shall pay to County the County's reasonable attorney and professional fees and other costs with respect to the County's pursuit and implementation of any and all remedies.

SECTION V. MISCELLANEOUS

- A. **NO WAIVER.** The failure of either Party to insist in any one or more instances on the performance of any of the obligations required by the other under this Agreement shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.
- B. **REMEDIES CUMULATIVE.** The rights and remedies of the Parties under this Agreement are cumulative and shall not exclude any other rights or remedies that the Party may have in law or in equity, except Developer does not have the right to terminate this Agreement.
- C. **NOTICES.** All notices, requests and other communications provided for herein (including any modifications, or waivers or consents under this Agreement) shall be given or made in writing via the methods allowed by the notice party below (including by telecopy) delivered to the intended recipient at the address set forth below or, as to any party, at such other address as shall be designated by such party in a notice to the other party. Except as otherwise provided herein, all notices and communications shall be deemed to have been duly given when transmitted by electronic mail with confirmation of receipt received, personally delivered, or in the case of a mailed notice, upon receipt, in each case given or

addressed as provided herein. Notice is accomplished when as provided to a Party by this Section, a copy provided to a Party's legal counsel is merely a courtesy copy.

To Developer:

Business Manager
High Banks Wind, LLC
700 Universe Boulevard, FEW-JB
Juno Beach, FL 33408

Courtesy copy to:

Alan Claus Anderson
Polsinelli PC
900 W 48th Place, Suite 900
Kansas City, MO 64112
(816)572-4761
aanderson@polsinelli.com

To County:

County Clerk
Republic County, Kansas
1815 M Street
Belleville, KS 66935

Courtesy copy to:

County Counselor
Republic County, Kansas
1815 M Street
Belleville, KS 66935

- E. AMENDMENTS. This Agreement may not be modified or amended or waived on behalf of a Party, except by an instrument in writing referring specifically to this Agreement executed by all of the parties to this Agreement as of the time of the modification or amendment. Any oral or verbal agreements between the Parties different from or in conflict with the provisions of this Agreement shall be null and void and of no force or effect where they are in conflict with the written provisions of this document.
- F. SUCCESSOR AND ASSIGNS. This Agreement may be assigned by Developer upon written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed; except Developer may assign this Agreement without written consent to an affiliate, or mortgage, charge, pledge, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement. But, Developer may only assign this Agreement if the assignee: (A) assumes, agrees and acknowledges in writing that such assignee shall be bound by all terms and Developer obligations of and pursuant to all the Definitive Agreements, and (B) delivers to County replacement insurance evidence and financial security, and updated notice information; with copies of the proposed assignment, insurance evidence and financial security provided to County for review at least 30 days prior to the assignment effectiveness; the replacement insurance

evidence and financial security delivered to County by the effective date of the assignment; and a copy of the assignment within 10 days of its effectiveness. Upon such assignment all of Developer's rights and obligations shall inure to the benefit of and shall be binding upon the Developer's assignee and its respective successors, assignees and legal representative.

- G. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the instrument. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be as effective as delivery of an originally signed counterpart to this Agreement.
- H. SEVERABILITY. If any provision hereof is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by applicable law: (a) the other provisions hereof shall remain in full force and effect in such jurisdiction in order to carry out the intentions of the Parties as nearly as may be possible; and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction; and (c) the Parties will promptly and continuously work reasonably and in good faith to amend the Definitive Agreements to implement the invalid or unenforceable provision as closely as possible to carry out the intentions of the Parties regarding the Definitive Agreements.
- I. HEADINGS; TERMS. Headings appearing herein are used solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.
- J. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas without regard to conflicts of laws provisions. Venue is only proper in Kansas state district court located in Republic County, Kansas, or federal district court located in Wichita, Kansas.
- K. ENTIRE AGREEMENTS. The initial effectiveness of this Agreement is contingent upon both Parties fully and concurrently executing and delivering this Agreement, plus a Road Use Agreement, Decommissioning Agreement, and Contribution Agreement (collectively, the "Definitive Agreements"), which together collectively constitute the entire agreement between the Parties regarding the Wind Project, and supersede all offers, negotiations and other agreements. There are no representations or undertakings of any kind not set forth in the Definitive Agreements.
- L. INTERPRETATION. This Agreement was prepared with substantial input from both Parties and their respective legal counsel; no phrase, sentence, clause, provision or section of this Agreement shall be construed against a Party as a result of such Party's legal counsel having acted as the primary drafter thereof
- M. TIME IS OF THE ESSENCE. Time is of the essence of this Agreement, and of each and every provision hereof, and the Parties shall make every reasonable effort to expedite the subject matters hereof and to perform their respective obligations.

N. RECITALS. The recitals set forth above constitute a material part of this Agreement, and are incorporated herein. The Parties confirm the accuracy, truth and validity of said recitals.

**[REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK;
SIGNATURE PAGES FOLLOW.]**

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement to be effective as of the Effective Date.

DEVELOPER:

HIGH BANKS WIND, LLC,
a Delaware limited liability company

By: _____
Anthony Pedroni, Vice President

[SIGNATURE PAGE OF DEVELOPER TO DEVELOPMENT AGREEMENT]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement to be effective as of the Effective Date.

THE COUNTY:

THE BOARD OF COUNTY COMMISSIONERS OF REPUBLIC COUNTY, KANSAS

By: _____
Doug Garman, County Commissioner -- Chairman

By: _____
Edwin G. Splichal, County Commissioner

By: _____
Melvin Jeardoe, County Commissioner

ATTEST:

By: _____
Kathleen Marsicek, County Clerk

Reviewed and approved by:

Justin Ferrell, County Counselor

[SIGNATURE PAGE OF COUNTY TO DEVELOPMENT AGREEMENT]

Exhibit A

