COMMERCIAL WIND ENERGY SITING ORDINANCE OF MENARD COUNTY

A Center of Lincoln's Illinois

Adopted October 29, 2026

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TITLE

This Ordinance shall be known, cited, and referred to as the Commercial Wind Energy Siting Ordinance of Menard County.

PURPOSE

The purpose of this ordinance is to provide for the construction, installation, and operation of Commercial Wind Energy Conversion Systems in Menard County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, historical and other sensitive lands. This ordinance is not intended to abridge safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances.

DEFINITIONS

"Applicant" means the entity who submits to Menard County a special use permit application for a commercial wind energy facility. All references to “applicant” in this ordinance shall include applicant's successors-in-interest and assigns, including the owner.

"Building Permit" means a permit necessary for the commencement of work performed toward the construction, erection, or installation of an approved commercial wind energy facility, Substation or operations and maintenance building in connection with a commercial wind energy facility project. A commercial wind energy facility Building Permit may be issued by Menard County after the proposed facility owners have obtained a Special Use Permit from the Menard County Board and the Menard County Zoning Office determines that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The commercial wind energy facility Building Permit shall require the applicant to deliver a written "Notice to Proceed" for the project to Menard County prior to commencement of construction of the commercial wind energy facility project. The term "commencement of construction" as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the commercial wind energy facility project.

“Commercial operation date” means the calendar date on which the commercial wind energy facility produces power for commercial sale, not including test power.

“Commercial wind energy facility” means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. “Commercial wind

energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before January 27, 2023 (the effective date of Public Act 102-1123).

"Facility owner" means (i) a person with a direct ownership interest in a commercial wind energy facility, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility. All references to "owner" in this ordinance shall mean facility owner.

"Financial assurance" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

"Meteorological Tower" means those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a commercial wind energy facility project. For purposes of this ordinance, Meteorological Towers do not include towers and equipment used by airports, the Illinois Department of Transportation, or other similar applications or government agencies, to monitor weather conditions.

"Nonparticipating property" means real property that is not a participating property.

"Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that a special use permit application for the commercial wind energy facility is filed with Menard County.

"Notice to Proceed" means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a commercial wind energy facility Project which identifies the date on which the construction activities are scheduled to commence.

"Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that a special use permit application for the commercial wind energy facility is filed with Menard County: a school, place of worship, day care facility, public library, or community center.

"Operator" means the person or entity responsible for the day-to-day operation and maintenance of the commercial wind energy facility, including any third-party subcontractors, successors-in-interest, and assigns.

"Participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility or supporting facilities.

"Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that a special use permit application for the commercial wind energy facility is filed with Menard County.

"Professional engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.

“Project” means the commercial wind energy facility and supporting facilities.

"Protected lands" means real property that is: (i) subject to a permanent conservation right consistent with the Illinois Real Property Conservation Rights Act; or (ii) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

"Public Conservation Lands" means land owned in fee title by County, state or federal agencies and managed specifically for conservation purposes including but not limited to County, state, and federal parks; state and federal wildlife management areas; state scientific and natural areas; and federal wildlife refuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered contractual relationships with government or non-profit conservation organizations for conservation purposes.

"Special Use Permit" means a permit approved by Menard County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by Menard County Board." Structural Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois and will analyze, design, plan, and research structural components and structural systems to achieve design goals and ensure the safety and comfort of users or occupants. Their work takes account mainly of safety, technical, economic, and environmental concerns, but they may also consider aesthetic and social factors of the commercial wind energy facility project.

"Substation" means the apparatus that collects and connects the electrical collection system of the commercial wind energy facility and increases the voltage for connection with the utility's transmission lines.

“Supporting facilities” means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility. “Supporting facilities” includes energy storage systems capable of absorbing energy and storing it for use at a later time, including, but not limited to, batteries and other electrochemical and electromechanical technologies or systems.

“Variation” A variation is a minor deviation from the bulk requirements of this ordinance where such variation will not be contrary to the public interest and where, due to conditions peculiar to the property and not the direct result of the actions of the owner, a literal enforcement of this ordinance would result in unnecessary hardship.

“Wind tower” includes the wind turbine tower, nacelle, and blades.

"Wind tower height" means the height of the wind tower as measured from the surface of the earth to maximum blade tip height.

"Wind Turbine" means any piece of electrical generating equipment that converts the kinetic energy of moving wind into electrical energy using airfoils or similar devices to capture the wind.

APPLICABILITY

This ordinance governs commercial wind energy facilities that generate electricity to be sold to wholesale or retail markets. This ordinance shall apply to the unincorporated areas of Menard County that are outside of the zoning jurisdiction of a municipality.

PROHIBITION

No commercial wind energy facility or supporting facilities governed by this ordinance shall be constructed, erected, installed, or located within Menard County without a special use permit and building permit granted by Menard County. Commercial wind energy facilities and supporting facilities are only allowed by special use permit and building permit upon agricultural or industrial zoned properties. Unless otherwise allowed by Menard County, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application and supporting documentation.

SPECIAL USE PERMIT APPLICATION

A. To obtain a special use permit for a commercial wind energy facility and/or its supporting facilities, the applicant must first submit a complete special use permit Menard County Zoning Office to be forwarded onto the Menard County Board of Commissioners for public hearing and approval or denial.

B. Material changes to the special use permit application are not permitted once notice of public hearing on the application has been published, unless otherwise requested or permitted by Menard County.

C. The applicant shall submit at least 10 copies of the special use permit application to Menard County, and at least one copy in electronic format, unless otherwise requested or permitted by Menard County.

D. The special use permit application submitted to Menard County shall contain the following:

1. A project summary for the commercial wind energy facility and its supporting facilities, including:

    a. A general description of the project, including:

        i. Approximate overall nameplate generating capacity;
        ii. Potential equipment manufacturers of the turbines and any energy storage system;
        iii. Number of wind towers and nameplate generating capacity of each;
        iv. Maximum height of wind towers and maximum diameter of rotors;
        v. Description of supporting facilities, including energy storage systems (if any);
        vi. Energy storage system nameplate capacity, overall acreage, and types of energy systems to be utilized for the project (if any);
        vii. Project site plan, phasing plan, construction timeline; and
        viii. General location of the project;
        ix. Transmission location – both above and below ground;

    b. A description of the applicant, owner, and operator, including their respective business structures;

2. The name, address, and phone number of the applicant, owner, operator, participating property owners, and documentation demonstrating land ownership or legal control of the property;

3. A site plan for the project showing the planned location of each wind tower, including parcel number and legal descriptions for each site, guy lines and anchor bases, participating and nonparticipating residences, occupied community buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, all supporting facilities including any energy storage systems, substations, operations and maintenance buildings, temporary and permanent meteorological towers, concrete batch plants, laydown yards, electrical cabling from the wind tower to the substations, ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures (including surface ditches and subsurface drainage lines), underground mines, scenic and natural areas within 1,500 feet of the project, the location of all known communications towers within two miles of the project, and the layout of all structures within the geographical boundaries of setbacks;

4. A topographic map depicting the project site and surrounding area;

5. A proposed decommissioning plan for the project, including cost estimations and a draft form of financial assurance for same;

6. Any "Determination of No Hazard to Air Navigation" (DNH) received from the Federal Aviation Administration (FAA) for all wind towers and other applicable structures, received on or before the filing of the special use permit application;

7. Written approval from relevant road authorities of the roads to be utilized for construction and a draft form of financial assurance for the protection of said roads;

8. Industry standard computer modeling of shadow flicker for all potential turbine manufacturers under the planned operating conditions, and all supporting data;

9. Sound modeling for all potential equipment manufacturers (including wind turbines and energy storage systems) showing the sound emissions, the relevant Illinois Pollution Control Board (IPCB) standards, the impact upon all effected properties, and all supporting data;

10. An "Agricultural Impact Mitigation Agreement" (AIMA) executed between the owner and the Illinois Department of Agriculture (IDOA);

11. Waivers from any setback requirements executed by occupied community building owners, nonparticipating property owners, and/or nonparticipating

residence owners bearing a file stamp from Menard County recorder confirming that the waiver was recorded against the title to the affected real property;

12. Waivers from any shadow flicker requirements executed by occupied community building owners, nonparticipating property owners and/or nonparticipating residence owners bearing a file stamp from Menard County recorder confirming that the waiver was recorded against the title to the affected real property. The waiver must reflect the amount of overage to be reasonably expected by the operation of the project;

13. Waivers from any noise enforcement executed by participating property owners, participating residence owners, nonparticipating property owners and/or nonparticipating residence owners bearing a file stamp confirming that the waiver was recorded against the title to the affected real property. The waiver must reflect the amount of overage to be reasonably expected by the operation of the project;

14. Results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) obtained through its "Ecological Compliance Assessment Tool" (EcoCAT) or a comparable successor tool;

15. Results and recommendations from consultation with the Illinois State Historic Preservation Office (SHPO) regarding potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act;

16. Evidence demonstrating that the project will avoid protected lands as identified by the Illinois Department of Natural Resources (IDNR) and the Illinois Nature Preserves Commission (INPC);

17. A farmland drainage plan (to include a drain tile survey) which shall be provided to Menard County and any impacted drainage district;

18. Adequate proof that the special use permit application has been submitted to local emergency response agencies;

19. A copy of all communication and interference studies demonstrating the potential impacts of the project on television, radio, telephone (including mobile phone communications), transportation communication devices, emergency, and law enforcement communications including E911 communications, and weather radar utilized by the National Weather Service (NWS) or others to communicate weather events to the public;

20. Unless otherwise provided, information required under Section 5-12024 of the Illinois Counties Code (55 ILCS 5/5-12024) for energy storage systems (if any) utilized for the project;

21. All other required studies, reports, certifications, and approvals necessary for demonstrating compliance with the provisions of this ordinance;

22. Any other information requested by Menard County or its consultants necessary to evaluate the special use permit application and to demonstrate that the project meets the provisions of this ordinance; and

23. Any other information normally required by, or reasonably requested by, Menard County as part of its permitting requirements for buildings or other structures.

DESIGN AND INSTALLATION

A. Design Safety Certification.

1. The project shall conform to applicable industry standards, including

   i. American National Standards Institute (ANSI) (most recent edition)
   ii. National Electric Code (NEC) (most recent edition) and requirements of the public utility
   iii. National Fire Protection Agency (NFPA) (most recent edition)
   iv. Occupational Safety and Health Administration (OSHA)
   v. American Society of Testing and Materials (ASTM)
   vi. Institute of Electrical and Electronic Engineers (IEEE)
   vii. International Electrotechnical Commission (IEC)
   viii. American Society of Civil Engineers (ASCE)
   ix. American Concrete Institute (“ACI”)
   x. United States Environmental Protection Agency (EPA)
   xi. National Electrical Testing Association (NETA)
   xii. Underwriter’s Laboratories (UL)

2. Prior to the issuance of a building permit, applicant shall submit certificates of design compliance from equipment manufacturers obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (CGL), or an equivalent third party. The project shall consist of new equipment and no used or experimental equipment shall be used in the project without approval by Menard County.

3. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the commercial wind energy facility Building Permit application process, that the foundation and tower design of the commercial wind energy facility is within accepted professional standards given local soil, subsurface and climate conditions.

B. Controls and Brakes.

1. All wind towers shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, tilt, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Additionally, remote monitoring of turbines will be required with alarm/notification to Menard County Sheriff's Office 911 operators for relay to appropriate first responders if commercial wind energy facility exceed manufacturers recommended RPM standards of operation.

C. Electrical Components

All electrical components of the commercial wind energy facility shall conform to applicable local, state, and national codes; and relevant national and international standards (e.g., **ANSI** and International Electrical Commission).

D. Aesthetics and Lighting.

1. Coatings and Coloring: All wind towers shall be painted white or gray or another nonreflective, unobtrusive color.

2. Turbine Consistency: All wind towers shall be of similar design, size, and height and shall utilize self-supporting, tubular towers; rotate in the same direction; and be consistent in color and direction with nearby facilities.

3. Lighting: All wind towers and any applicable supporting facilities shall utilize minimal lighting compliant with applicable Federal Aviation Administration (FAA) regulations. Applicant shall apply to the relevant federal governmental entities for the installation and use of an "Aircraft Detection Lighting System" (ADLS). If approved by the federal governmental entities, the ADLS or other similar technology shall be installed and maintained in operating condition for the life of the project.

4. Intra-Project Power and Communication Lines: All power lines used to collect power from wind towers and all communication lines shall be buried

underground at a depth in accordance with the "Agricultural Impact Mitigation Agreement" (AIMA) until same reach the property line or a substation adjacent to the property line.

5. Debris and Garbage: The project area shall be kept free of debris and garbage at all times during the life of the project.

E. Warnings.

1. A visible warning sign concerning voltage must be placed at all entrances to wind towers, at the base of all pad-mounted transformers, substations, and other locations where high voltage is present and is reasonably accessible by others.

2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

F. Climb Prevention.

1. Wind towers must be unclimbable by design or protected by anti-climbing devices such as fences with locking portals at least six feet high or anti-climbing devices 12 feet vertically from the base of the wind tower.

G. Setback Requirements.

1. Wind towers shall be sited as follows, with setback distances measured from the center of the base of the wind tower:

a. Occupied Community buildings: 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

b. Participating Residences: 1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

c. Nonparticipating Residences: 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

d. Boundary Lines of Participating Property: None.

e. Boundary Lines of Nonparticipating Property: 1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property.

f. Public Road Rights-of-Way: 1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way.

g. Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings): 1.1 times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line.

h. Overhead Utility Service Lines to Individual Houses or Outbuildings: None.

i. Fish and Wildlife Areas and Illinois Nature Preserves Commission Protected Lands: 2.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife area or protected land.

2. Setback requirements for fencing in relation to public rights-of-way shall be those set forth for agricultural districts by Menard County's zoning code.

3. Setback requirements may be waived by the written consent of the property owner of each affected nonparticipating property. Any waiver of the above setback requirements shall run with the land and shall be recorded with Menard County recorder prior to the issuance of any building permit for project.

H. Compliance with Additional Regulations.

1. Municipal commercial wind energy facilities that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.

a. Menard County municipalities may solely require pre-annexation/annexation agreements and shall regulate commercial wind energy facilities (65 ILCS 5/11-13-26) within the 1.5-mile planning jurisdiction.

b. Prior to the start of any construction or ground work, the facility owner must either:

i. Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and Menard County identifying that the municipality will be taking full

jurisdiction over the project site and affected properties for the life of the project; or

ii. Present documentation that the proposed site has been the subject of an annexation into the municipality.

iii. Present documentation that the property owner maintains sole responsibility of "Brown-Site/EPA" issues should anything arise from contamination of the site at any point during the construction, utilization, or decommissioning of the project.

2. Nothing in this ordinance is intended to preempt any other applicable state and federal laws regulations.

I. Use of Public Roads.

1. An applicant proposing to use any county, municipality, township, or village roads, for the purpose of transporting commercial wind energy facility or supporting facility(s), infrastructure equipment for construction, operation, or maintenance shall follow the Menard County Road Use Agreement executed with the Menard County Engineer and applicable Road District Commissioner.

   a. The Applicant shall: notify the Menard County Engineer of need to use roads and associated infrastructure when performing replacement of infrastructure and:
   b. Identify all such public roads;
   c. Obtain applicable weight and size permits from relevant government agencies prior to construction
   d. Conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage;
   e. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the commercial wind energy facility Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner and/or the County Engineer to ensure the Road District or the County that future repairs are completed to

their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit with the Menard County Zoning Office.

2. Enter into a road use agreement with Menard County and each affected road district that includes the following provisions, at a minimum:

    a. Project layout map;
    b. Transportation impact analysis;
    c. Notification procedures for road closures and/or lane restrictions;
    d. Preconstruction plans;
    e. Project traffic map;
    f. Project scope of repairs;
    g. Post-construction repairs;
    h. Insurance; and
    i. Financial assurance in forms and amounts acceptable to Menard County.

3. The road use agreement shall require applicant to be responsible for the reasonable cost of improving roads used to construct the project and the cost of repairing roads used by the facility owner during construction of the project. Roadways improved in preparation for and during the construction of the project shall be repaired and restored to the improved condition at the cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

4. Any road not shown as being initially utilized for hauling and/or construction traffic, but is noted to have hauling and/or construction traffic on it during construction for a total of two (2) offenses, will then be included into the schedule of initially noted haul routes scheduled for repair and maintenance.

5. All repairs and improvements to Menard County and Road District public roads and roadway appurtenances shall be subject to the prior approval of the Menard County Board of Commissioners before being made and shall also be subject to inspection and acceptance by the Menard County Engineer and Road District Commissioner after such repairs and improvements are completed. The Menard County and Road District's Road Use Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of Menard County and Road District public roads and highways, must be approved by the Menard County Board of Commissioners and respective Road Commissioner prior to the Board's approval of any commercial wind energy facility Building Permit applications related to the construction of the proposed commercial wind energy facility project.

J. Site Assessment

1. To ensure that the subsurface conditions of the site will provide proper support for the commercial wind energy facility towers and soil restoration, the applicant, at its expense, shall provide soil and geotechnical boring reports to Menard County and stamped engineering reports regarding mine subsidence possibilities to Menard County Engineer with respect to each commercial wind energy facility tower location and applicable supporting facilities as part of its building permit commercial wind energy facility Special Use Permit application. The applicant shall follow the guidelines for conservation practices impact mitigation Conservation Practices Standards and Natural Resource Inventory Report submitted by the Menard County Soil and Water Conservation District (or equivalent regulatory agency). The applicant shall submit grading plans for the project proposed Substations and any related infrastructure for review and comment by Menard County's Menard County Soil and Water Conservation District (or equivalent regulatory agency). The grading plans shall be a public record and shall be submitted as part of the Special Use Permit application for the issuance of any commercial wind energy facility Building Permit for the construction of said substations. water conservation district) and said plans to Menard County prior to the issuance of any building permit.

K. Communications Analysis; Interference.

1. The applicant shall, at its own expense, retain a third-party qualified professional to conduct a television reception analysis within a 1.5-mile radius of the project footprint. The analysis shall document all television stations received in the area and shall serve as the baseline conditions prior to construction. This study shall be submitted as part of the special use permit application for the project.

2. The applicant shall, at its own expense, retain a qualified third-party professional to acceptance and/or approval by the Menard County Board of Commissioners conduct a communications study demonstrating that E911, other emergency communications, and official county or municipal communications will not be negatively impacted by the project. This study shall be submitted as part of the special use permit application for the project.

3. The owner/operator shall, at its own expense, immediately mitigate and eliminate any interference any interference the project causes with electromagnetic communications, including radio, telephone, microwaves, or television signals, especially those affecting government public safety

communications (police, fire, emergency management services, and 911 dispatch.

a. The applicant shall provide microwave transmission providers and local emergency service providers with a copy of the project summary and site plan. If these providers demonstrate a likelihood of interference, the owner/operator shall take all necessary measures to minimize and mitigate the anticipated interference. For any regarding interference affecting public safety communications, the owner/operator shall immediately implement all necessary and commercially available measures to eliminate the interference.

b. If the owner/operator receives a written interference complaint after construction, it shall respond immediately. For public safety communications complaints, the owner/operator must immediately take all necessary and commercially available steps to eliminate the interference.

4. If, after construction of the project, the owner/operator receives a written complaint related to interference with local residential television or radio reception, the owner/operator shall take commercially reasonable steps to investigate and respond. A summary of the complaint and subsequent response from owner/operator shall be forwarded to Menard County for review. The owner/operator shall have 30 calendar days to verify the complaint, and 15 calendar days to respond. Said response shall be addressed and forwarded to both Menard County and the complainant. Such response shall include, but not be limited to, an acknowledgment that a complaint was made and evaluated by the owner/operator; and if considered valid by the owner/operator, an explanation, including a timeline, as to what the owner/operator intends to do about the complaint. In no event shall valid television reception issues persist beyond 60 calendar days from the date the complaint is validated. If considered invalid by the owner/operator, an explanation, including supporting documentation and expert opinions as to why the applicant believes the complaint is not valid shall be provided to Menard County and the complainant.

L. Noise Levels.

1. Noise levels from the project shall comply with applicable Illinois Pollution Control Board (IPCB) regulations (Illinois Pollution Control Board 35 Ill. Adm. Code Parts 900, 901, and 910). The applicant shall submit manufacturer sound power level characteristics and other relevant data for all project equipment necessary for a competent noise analysis. The applicant, using a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its special use permit application. Any waivers as to noise

obtained after the filing of the special use permit application shall be provided to Menard County prior to the issuance of the building permit as outlined in section (415 ILCS 5/Tit. VI NOISE) of Illinois State Statute.

2. Any such waivers shall reflect the amount of overage modeled for the operation of the project and shall be recorded with Menard County recorder of deeds.

M. Agricultural Impact Mitigation.

1. Pursuant to Section 147/15 of the Illinois Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/15), the facility owner shall enter into an "Agricultural Impact Mitigation Agreement" (AIMA) with the Illinois Department of Agriculture (IDOA). All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the applicant pursuant to the terms of the AIMA. The applicant shall submit a copy of the fully executed AIMA to Menard County as part of its special use permit application.

N. Avian and Wildlife Impact Study.

1. The applicant, at its expense, shall have a third-party, qualified professional conduct an avian and wildlife impact study and submit said study to Menard County as part of the special use permit application. Wind towers and supporting facilities shall be located, designed, constructed, and operated to avoid and mitigate impacts to wildlife. The Applicant will comply with all applicable avian and wildlife protection rules and regulations including:

    a. Endangered Species Act (protects federally listed threatened and endangered species) (16 U.S.C.§§1531 et seq.)
    b. Illinois Endangered Species Protection Act ("IESPA") (520 ILCS 10)
    c. Migratory Bird Treaty Act ("MBTA") (16 U.S.C. §§ 703-712), and
    d. Bald and Golden Eagle Protection Act ("BGEPA") (16 U.S.C. 668-668d and 50 Code of Federal Regulation [CFR] 22.26

O. Illinois Environmental Protection Agency Impact Study

1. The Applicant, at its expense, Illinois Environmental Protection Agency conduct water impact studies and submit said studies to the County as part of the Special Use Permit application. Each commercial wind energy facility or Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to water under Section 401 of the Clean Water Act, and Section 402 - National Pollutant Discharge Elimination (NPDES) Permit of Construction Site Activities.

P. Coal Mine – Mine Subsidence Study

1. The Applicant, at its expense, shall have a third party, qualified professional engineer licensed in the State of Illinois (after submission and approval of resume and relevant work experience) conduct a Coal Mine – Mine Subsidence impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each commercial wind energy facility or Project shall be located, designed, constructed, and operated to avoid siting over active or inactive mine areas.

Q. Historical Impact Study

1. The Applicant, at its expense, shall have a third party, qualified professional (after submission and approval of resume and relevant work experience) conduct an historical impact study and submit said study to the Menard County Board of Commissioners as part of the Special Use Permit application. Each commercial wind energy facility or Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to the rich history of Menard County.

R. Clean Water Act Impact Study

1. The Applicant, at its expense, shall have the U.S. Army Corps of Engineers conduct a water study and submit said study to the County as part of the Special Use Permit application. Each commercial wind energy facility or Project shall be located, designed, constructed, and operated to avoid and if necessary, mitigate, the impacts to Wetlands. Once a wetland delineation has been performed, applicant will consult with USACE and acquire necessary permits under the Clean Water Act Section 404.

S. As-Built Map and Plans.

1. Within 60 calendar days of completion of construction of the project, the owner or operator shall deliver to Menard County "as-built" maps, a final site plan and engineering plans that have been signed and stamped by a professional engineer and surveyor licensed in the State of Illinois.

T. Engineer's Certificate.

1. Prior to the issuance of a building permit, applicant must submit a certification from a structural engineer registered licensed in the State of Illinois that the wind tower and foundation design is compatible with and appropriate for each location given the specific soil, subsurface and climate conditions. The

engineer's certificate shall be submitted as part of the building permit application.

U. Conformance with Approved Application and Plans.

1. The owner shall construct and operate the project in conformance with the special use permit and any conditions, building permit requirements, this ordinance and all applicable state, federal and local laws, regulations, and permits.

2. The Applicant shall be bound by any and all proposals and representations made under oath at the public hearing before the Menard County Board of Commissioners, which shall be considered supplementary conditions of the Special Use Petition granted by the Menard County Board of Commissioners, even if not directly specified herein.

V. Additional Terms and Conditions.

1. All technical submissions, as defined by the Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)), contained in the special use permit application and the building permit application shall be prepared and signed by a professional engineer for the relevant discipline.

2. Menard County may retain a qualified, independent code inspector or professional engineer both to make inspections of the project during and after construction and to consult with Menard County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the project is performed in compliance with applicable ordinance, conditions, electrical and building codes, state and federal law and regulation. The cost and fees so incurred by Menard County in retaining said inspector or engineer shall be promptly reimbursed by the applicant.

3. The owner shall install a locked metal gate or locked chain at the access road entrances of all the wind turbine generator locations. An exception may be made when the landowner has filed a written statement with Menard County which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to Menard County.

4. The special use permit granted to the applicant shall bind and inure to the benefit of the applicant, its successors-in-interest, and assigns. If any provision in this ordinance or conditions of approval are held invalid, such invalidity shall not affect any other provision of this ordinance or conditions that can be given

effect without the invalid provision and, to this end, the provisions in this ordinance and any conditions are severable.

5. The Applicant shall provide an executed road use agreement to the Menard County Board of Commissioners between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation to the County and Road District showing approved entrances, construction access, and haul routes prior to the issuance of any commercial wind energy facility Building Permit or prior to construction of the commercial wind energy facility Project.

6. The applicant of the commercial wind energy facility shall use two methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site meteorological towers, on-site anemometers, and other relevant weather sources used to determine if ice accumulation is occurring. These control systems shall automatically shut down turbines in icing conditions or the owner/operator shall manually shut down turbines if such conditions are identified.

7. Treatment of Existing Drainage Tile; shall be the responsibility of the commercial wind energy facility Owner to notify the Menard County Engineer if the construction of any part of the project encounters underground field drainage tiles. A plan sufficient to provide remediation shall be submitted to, and reviewed and approved by the Menard County Engineer. All existing drainage tiles that will be crossed by private access roads shall be removed and replaced with a load resistant tile as specified by the Menard County Engineer. This shall be done before the private access roads are used for construction purposes. The load resistant tile shall extend a minimum of 30 feet across any private access roads and shall be of the same diameter of the existing tile. To ensure that all drainage tiles have been located, reasonable measures should be made to locate all existing tile in the vicinity of the private access roads by exploratory trench or other appropriate methods. All drainage tile that are encountered during construction shall be noted on the site plan.

8. The Applicant shall provide from U.S. Environmental Protection Agency (EPA) a completed Spill Prevention Control and Countermeasures (SPCC Plan). The Applicant shall submit the executed SPCC Plan to the Menard County Board of Commissioners as part of the Special Use Permit application to be implemented in coordination and at the time of Issue for Construction design documents.

9. The Applicant shall notify the County of any material changes to the information provided in subsections that occur prior to the issuance of a building permit.

    a. The Applicant shall not commence construction activity associated with the commercial wind energy facility Project before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week within one-quarter (¼) of a mile of any non-participating landowner unless a waiver is obtained from such landowner.
    b. Prior to issuance of a building permit, the Applicant shall provide documentation to the Menard County Zoning Administrator specifications for the commercial wind energy facility equipment chosen for the Project.
    c. The Applicant shall commence construction of the commercial wind energy facility Project within thirty-six (36) months of the date of the Special Use Petition approval by the Menard County Board of Commissioners. After construction is complete, the Petitioner shall provide certified "as-built" drawings to the Menard County Zoning Administrator and the Menard County Assessor showing the locations of the commercial wind energy facility Turbines and a legal description of the land utilized for the improvements. The Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use Petition to the land utilized for the improvements.

OPERATION

A. Maintenance.

1. Annual Report: The applicant must submit, on an annual basis on the anniversary date of the special use permit approval, an operation and maintenance report to Menard County. The report shall contain the following information:

    a. A general description of any physical repairs, replacements, or modifications to the project;
    b. Complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting, and use of any public roads received by the applicant concerning the project and the resolution of such complaints;
    c. Calls for emergency services;
    d. The number of days the ADLS was operating as planned;
    e. Relevant certificates of insurance; and

f. A general summary of service calls to the project. Failure to provide the annual report shall be considered a material violation of this ordinance.

2. Within ninety (90) days of the receipt of this annual report, the department of zoning shall review it, conduct an on-site field review of the commercial wind energy facility project, and within one hundred twenty (120) days of the receipt of the report, provide a summary of the report and its on-site field review to the Menard County Board of Commissioners.

3. The department of zoning shall charge a fee for this annual review in the amount of no more than two hundred fifty dollars ($250.00) per turbine located within the commercial wind energy facility project area. This fee shall be provided to the department of zoning by the commercial wind energy facility applicant, owner and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.

4. The applicant, owner and/or operator of a commercial wind energy facility project shall provide that the Menard County Department of Zoning have access to the commercial wind energy facility project site for the purposes described in [OPERATION] (A)(2) above. Failure to provide access shall be deemed a violation of the Special Use Permit.

5. Repower/Modifications: Any modification to an existing project or a project that has received a special use permit that increases the nameplate capacity, adds additional properties or parcels, increases the height of towers, increases the sound impacts to nonparticipating properties or nonparticipating residences, increases the shadow flicker impacts upon nonparticipating properties or nonparticipating residences, moves a wind tower greater than 100 feet in any direction, or moves any above ground supporting facilities greater than 100 feet in any direction shall submit to Menard County an application for an amendment to the special use permit which shall be subject to a public hearing and all procedural requirements of a special use permit request under the Illinois Counties Code.

B. Coordination with Emergency Responders.

1. The applicant shall submit to all local emergency responders a copy of the site plan and standard operating procedures and guidelines for the project so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers having jurisdiction over the project may evaluate and coordinate emergency response plans with the applicant. Such materials shall be provided prior to the filing of the special use permit application.

2. The owner, at its own expense, shall provide annual training for, and the necessary equipment to, the operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the project.

3. The owner and operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the owner and the operator, at least three designated facility representatives (a primary representative with two alternate representatives, that are on-call 24 hours per day/7 days per week/365 days per year. Any change in the designated facility representative and contact information shall be promptly communicated to Menard County. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed, and updated on an annual basis.

4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire and emergency laws and regulations.

5. Any emergency work or response required in direct response to the commercial wind energy facility project or individual WECS tower, will be billed directly to the developer outside of the scope of the Special Use Permit pursuant to (70 ILCS 705/11f) for local responders. Any specialized operation requiring municipal responders, response will be billed per their standard base rate of their agency.

C. Water, Sewer, Materials Handling, Storage and Disposal.

1. All solid wastes related to the construction, operation, and maintenance of the project shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws and regulations.

2. All hazardous materials related to the construction, operation, and maintenance of the project shall be handled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws and regulations.

3. The project shall comply with existing septic and well regulations as required by Menard County ordinance, Sangamon County Department of Public Health (contracted for services by Menard County) and the Illinois Department of Public Health (IDPH).

D. Shadow Flicker.

1. The project must be operated such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions, unless waived by the impacted property owner.

2. The applicant must present to Menard County a study on potential shadow flicker, which shall demonstrate through industry standard modeling that no occupied community building or nonparticipating residence will experience more than 30 hours of shadow flicker under planned operating conditions. An occupied community building owner or nonparticipating residence owner may waive this shadow flicker requirement; any shadow flicker waiver shall be set forth in a written waiver executed by the property owner and shall filed with Menard County recorder of deeds against title to the affected real property.

3. Any waivers as to shadow flicker obtained after the filing of the special use permit application shall be provided to Menard County prior to the issuance of the building permit. Any such waivers shall reflect the amount of overage modeled for the operation of the project and shall be recorded with Menard County recorder of deeds.

E. Signage

1. Signage regulations are to be consistent with ANSI and AWEA standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to Wind Towers.

F. Drainage Systems.

1. The applicant, at its expense, shall repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and/or operation of the project in accordance with the "Agricultural Impact Mitigation Agreement" (AIMA), the Illinois Drainage Code and any agreements related to drainage.

G. Complaint Resolution.

1. The applicant shall, at its expense and in coordination with Menard County, develop a system for logging and investigating complaints related to the project. The applicant shall resolve such non-emergency complaints on a case-by-case

basis and shall provide written confirmation to Menard County. All costs and fees incurred by Menard County in attempting to or resolving complaints shall be reimbursed by the applicant of the project. The applicant shall also designate and maintain for the duration of the project either a local telephone number or a toll-free telephone number and email address as its public information/inquiry/complaint hotline which shall be answered by a customer service representative on a 24/7 basis. The applicant shall post the telephone number and email address for the customer service representative in a prominent, easy to find location on their websites and at the project site on signage.

H. Determinations of No Hazard

1. A "Determination of No Hazard to Air Navigation" (DNH) for each wind tower and all other structures subject to Federal Aviation Administration (FAA) review and approval shall be provided to Menard County prior to the issuance of any building permit.

LIABILITY INSURANCE AND INDEMNIFICATION

A. Commencing with the issuance of a building permit, the owner/operator shall maintain a current general comprehensive liability policy, pollution liability and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least $20,000,000 per occurrence $40,000,000 in the aggregate during the life of the project. The applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a building permit, and at each subsequent renewal, at least annually thereafter Additionally, the Applicant shall name Menard County and its agents as an additionally insured participant on all policies.

B. The owner shall defend, indemnify and hold harmless Menard County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the indemnified parties) from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the special use permit or the construction, operation, maintenance and removal of the and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the owner or the operator under this ordinance or the special use permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs,

expenses and liabilities arise from the negligence or intentional acts of such indemnified parties. This general indemnification shall not be construed as limiting or qualifying Menard County's other indemnification rights available under the law.

DECOMMISSIONING AND SITE RECLAMATION PLAN

A. Applicant must submit a decommissioning plan with cost estimation to Menard County as part of the special use permit application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the special use permit application.

B. Prior to receiving any building permit for the project, the owner shall enter into an agreed upon decommissioning agreement with Menard County to be approved by Menard County board. That plan shall include:

1. A Memorandum of Understanding with property owners of each commercial wind energy facility tower and all accompanying infrastructure, that if decommissioning fees exceed what has been assured through the decommissioning financial plan, property owners shall be liable for remaining costs.
2. Provisions for the removal of structures, debris, and cabling on the surface and at least five (3) feet below the surface, and the sequence in which removal is expected to occur;
3. Provisions for the restoration of the soil and vegetation;
4. An estimate of the decommissioning costs certified by a professional engineer in current dollars. The engineer providing this estimate shall be engaged under contract by the Menard County Engineer and all costs associated with this engagement shall be borne by the applicant;
5. A financial plan approved by The Menard County Board of Commissioners to ensure funds will be available for decommissioning and land restoration. The applicant shall provide the county with a new estimate of the cost of decommissioning the commercial wind energy facility project every five (5) years under the same conditions as set forth in the Agricultural Impact Mitigation Agreement. Upon receipt of this new estimate, the county may require, and the applicant, owner and/or operator of the commercial wind energy facility project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations;
6. A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs; and

7. A provision that Menard County shall have access to the site and to the funds outlined above to effect or complete decommissioning one (1) year after cessation of operations.

C. The owner shall periodically submit an updated estimation, and all accompanying infrastructure decommissioning plan, decommissioning cost estimate and updated financial assurances-based debris, on the agreed upon schedule with borne Menard County.

REMEDIES

A. An owner/operator's failure to materially comply with any of the provisions under the special use permit, any conditions imposed on the project, building permit, and/or failure to comply with any other law, regulation or permit shall be a default and shall be grounds for revocation of the special use permit and/or building permit.

B. Prior to implementation of applicable county procedures for resolution of defaults, Menard County must first provide written notice to the owner, setting forth the alleged default(s) and provide an opportunity for the owner to cure the default(s) within a 30-calendar day period from the date of the notice. Should the owner commence the cure within that 30-day cure period, and diligently pursues a cure, the owner shall receive an additional 60 days to continue to pursue the cure before Menard County pursues procedures for the resolution of default. If the default relates to a life, health, or safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the owner shall take all necessary and available commercial measures to immediately cure the default. If the owner cannot cure the default(s) or resolve the alleged default(s) within the cure period, then Menard County may pursue all remedies available at law.

FEE SCHEDULE AND PERMITTING PROCESSES.

A. Special Use Permit Application Fees.

1. Prior to processing any special use permit application for a commercial wind energy facility and supporting facilities, the applicant must submit payment to Menard County Menard Zoning Office equal to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $125,000. Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current nameplate capacity.

2. Should the actual costs to Menard County exceed the special use permit application fee paid, the applicant shall be responsible for those additional costs and shall remit additional funds to Menard County within 15 days of receipt of a request from Menard County with any funds not utilized to be refundable. No hearings on an application shall be conducted nor decisions rendered on any items related to the special use or decisions on any agreements with Menard County if outstanding fees remain due to Menard County.

B. Building Permit Application Fees.

1. Prior to the issuance of a building permit, the owner must submit a certified check to the Menard County Zoning Office for a building permit fee equating to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $75,000. Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current nameplate capacity.

2. Should the actual costs to Menard County exceed the building permit application fee paid, the applicant shall be responsible for the additional costs and shall remit additional funds to Menard County within 15 days of receipt of a request from Menard County. No building permit shall be issued upon outstanding fees remaining due to Menard County.

C. All Costs Paid by Applicant or Owner.

1. The applicant or owner shall pay all costs incurred by Menard County, those costs associated with all offices, boards and commissions of Menard County, and third-party costs incurred by Menard County, including but not limited to, direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations.

2. Due to the complexity of the project and the information submitted, it shall be reviewed by a committee consisting of one or more representatives from:

i. Menard County Departments of Zoning
ii. Menard County Planning Commission;
iii. Menard County Engineer;
iv. Menard County Road Commissioner affected
v. Menard County Drainage District Commissioner affected
vi. Menard County Emergency Telephone System;
vii. Menard County Coordinator;
viii. Menard County State's Attorney;
ix. Applicable Fire Protection District;

VARIATIONS

1. The Menard County Zoning Office and The Menard County Board of Commissioners may permit variations to the regulations of this ordinance but shall do so only when the granting of such a variation would be in harmony with the ordinance's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or hardships in the way of carrying out the strict letter of the regulations of this ordinance.

HEARING FACILITATOR

A. Menard County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of Menard County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.

B. The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The applicant shall reimburse Menard County for the fees and costs charged by the facilitator.

HEARING FACTORS

A. Menard County board may approve a special use permit application for a commercial wind energy facility any supporting facilities if it finds the evidence complies with state, federal and local law, and regulations, and with the standards of this ordinance including the factors listed below. The factors listed below shall be applied as a balancing test rather than individual requirements to be met.

   1. The establishment, maintenance, or operation of the commercial wind energy facility will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

   2. The commercial wind energy facility will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;

   3. The establishment of the commercial wind energy facility will not impede the normal and orderly development and improvement of the surrounding properties;

4. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

6. The commercial wind energy facility is not contrary to the objectives of the current comprehensive plan of Menard County (if any); and

7. The commercial wind energy facility will, in all other respects, conform to the applicable regulations of this ordinance and the zoning district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by Menard County board.

SPECIAL USE PERMIT CONDITIONS AND RESTRICTIONS

A. Conditions

1. As part of its approval of a special use permit, Menard County board may stipulate conditions, guarantees, and restrictions upon the establishment, location, construction, maintenance, and operation of the facility as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this ordinance.

B. Revocation.

1. In any case where a special use permit has been approved for a commercial wind energy facility, the applicant shall apply for a building permit from Menard County, and all other permits required by other government or regulatory agencies to commence construction and commence and actively pursue construction of facility within five years from the date of the granting of the special use permit. If the applicant fails to apply for a building permit from Menard County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the facility within this five-year period, then without further action by Menard County, the special use permit for the facility shall be automatically terminated, revoked and void. Upon written request supported by evidence that the applicant has diligently pursued issuance of all necessary permits for the facility required to commence construction and that any delay in commencement of construction of the facility is due to conditions out of its control, Menard County may allow for a reasonable extension of time.

2. A special use permit shall be automatically terminated, revoked and void if the applicant dissolves or ceases to do business, abandons the facility, or the facility ceases to operate for more than 12 consecutive months.

3. Subject to the provisions of this section, a special use permit may be revoked by Menard County if the facility is not constructed, installed, and/or operated in substantial conformance with Menard County-approved plans, the regulations of this ordinance and the special use permit, conditions and restrictions, or failure to comply with any county, state or federal permits, laws, or regulations.

C. Modification

1. Any modification of a commercial wind energy facility project that alters or changes the essential character or operation of the commercial wind energy facility project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the commercial wind energy facility project.

D. Transferability

1. Owner shall provide written notification to Menard County at least 30 days prior to a change in ownership of the project. A change in ownership shall include any assignment, sale, lease, transfer or other conveyance of ownership or operating control of the applicant, the project, or any portion thereof. The owner or successors-in-interest or assignees of the special use permit shall remain liable for compliance with all conditions, restrictions and obligations contained in the special use permit and any conditions, building permit, the provisions of this ordinance and applicable county, state, and federal permits, laws and regulations.

E. Permit Effective Date.

1. A special use permit granted under this ordinance shall become effective upon the date of approval of the special use permit by Menard County board.

INTERPERTATION

A. The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety, and general welfare of Menard County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Menard County nor conflict with any statutes of the State of Illinois.

SEVERABILITY

B. If any section, paragraph, clause, phrase, or part of this ordinance is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

EFFECTIVE DATE

A. This ordinance shall be in full force and effect from and after its passage, publication and approval as required by law.

APPENDIX A

Agricultural Impact Mitigation Agreement – Construction of a Commercial Wind Energy Facility

AGRICULTURAL IMPACT MITIGATION AGREEMENT
between

and the
ILLINOIS DEPARTMENT OF AGRICULTURE
Pertaining to the Construction of a Commercial Wind Energy Facility
in
County, Illinois

The following standards and policies are required by the Illinois Department of Agriculture (IDOA) to help preserve the integrity of any agricultural land that is impacted by the Construction and Deconstruction of a wind energy facility in accordance with the Renewable Energy Facilities Agricultural Impact Mitigation Act (Act), Public Act 100-0598. They were developed with the cooperation of agricultural agencies, organizations, Landowners, Tenants, drainage contractors, and wind energy companies to comprise this Agricultural Impact Mitigation Agreement (AIMA). This AIMA is made and entered into between the Commercial Wind Energy Facility Owner and the IDOA.

, LLC, an limited liability company authorized to transact business in Illinois, hereafter referred to as "Commercial Wind Energy Facility Owner or Facility Owner", plans to develop an approximately MW Commercial Wind Energy Facility or "Facility" in County, which will consist of approximately turbines, access roads, an underground collection line, a switchyard, a substation, and an operation and maintenance building site.

If construction does not commence within four years after this AIMA has been fully executed, this AIMA will be revised, with the Facility Owner's input, to reflect the IDOA's most current Wind Farm Construction and Deconstruction Standards and Policies. This AIMA, and any updated AIMA, will be filed with the County Board by the Facility Owner.

This AIMA is applicable to Construction and Deconstruction activities occurring partially or wholly on privately owned agricultural land.

Conditions of the AIMA

The actions set forth in this AIMA shall be implemented in accordance with the conditions listed below:

A. All Construction or Deconstruction activities may be subject to County or other local requirements. However, the specifications outlined in this AIMA shall be the minimum standards applied to all Construction or Deconstruction activities.

B. Except for Section 21(B-F), all actions set forth in this AIMA are subject to modification through negotiation by Landowners and a representative of the Facility Owner, provided such changes are negotiated in advance of any respective Construction or Deconstruction activities.

C. The Facility Owner may negotiate with Landowners to carry out the mitigative actions that Landowners wish to perform themselves. In such instances, the Facility Owner will offer Landowners the area commercial rate for their machinery and labor costs.

D. All mitigative actions will extend to associated future Construction, maintenance, repairs, and Deconstruction of the Commercial Wind Energy Facility.

E. The Facility Owner will exercise Best Efforts to determine all Landowners and Tenants affected by the Construction and Deconstruction of a Facility. The Facility Owner shall keep the Landowners and Tenants informed of the project's status, meetings, and other factors that may have an impact upon their farming operations.

F. The Facility Owner agrees to include a statement of its adherence to this AIMA in any environmental assessment and/or environmental impact statement that may be prepared in connection with the Project.

G. Execution of this AIMA shall be made a condition of any Conditional/Special Use Permit. A copy of this AIMA shall be mailed to each Landowner. Within 30 days of execution of this AIMA, the Facility Owner shall provide postage and mailing labels to the IDOA for mailing to all Landowners. If the Facility Owner becomes aware that a Landowner was not included on the list of Landowners to which a copy of this AIMA was mailed, the Facility Owner shall notify the Department and provide postage and a mailing label as soon as possible.

   In the case of a new Underlying Agreement with a Landowner, the Facility Owner shall incorporate this AIMA into such Underlying Agreement.

H. The Facility Owner will implement all mitigative actions to the extent that they do not conflict with the requirements of any applicable federal, state and local rules and regulations and other permits and approvals that are obtained by the Facility Owner for the Project.

I. If any mitigative action(s) is held to be unenforceable, no other provision shall be affected by that holding, and the remainder of the mitigative actions shall be interpreted as if they did not contain the unenforceable provision.

J. No later than 45 days prior to the Construction and/or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will provide the Landowner(s) with a toll-free number the Landowner can call to alert the Facility Owner should the Landowner(s) have questions or concerns with the work which is being done or has been carried out on his/her property.

K. If the Facility is sold or transferred, the Facility Owner assuming ownership of the facility shall provide notice of such sale or transfer within ninety (90) days to the County and to Landowners, and the existing Financial Assurance requirements, plus the other terms of this AIMA, shall apply to the new Facility Owner.

L. After construction, the Facility Owner will provide the IDOA with "as built" drawings (strip maps) showing the location of all tiles lines damaged in the construction of the Wind Farm. The drawings and GPS tile lines repair coordinates will be provided on a county-by-county basis for distribution by the IDOA to the respective local Soil and Water Conservation District (SWCD) for the purpose of assisting Landowners with future drainage needs.

M. In addition, after all construction is complete, all affected Landowners will receive a copy of the tile repairs location map with GPS coordinates identified as the electric cable crosses their property.

N. The Facility Owner shall comply with all local, state and federal laws and regulations, specifically including the worker protection standards to protect workers from pesticide exposure.

Definitions

Abandonment -	Occurs when Deconstruction has not been completed within 18 months after the wind energy facility reaches the end of its Useful Life.
Aboveground Cable -	Electrical power lines installed above grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.
Agricultural Impact Mitigation Agreement (AIMA) -	The Agreement between the Commercial Wind Energy Facility Owner and the Illinois Department of Agriculture described herein.
Agricultural Land -	Land used for Cropland, hayland, pasture land, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs used for purposes as set forth above.
Best Efforts -	Diligent, good faith, and commercially reasonable efforts to achieve a given objective or obligation.
Commercial Operation Date -	The calendar date on which the Commercial Wind Energy Facility produces power for commercial sale, not including test power. Within ten (10) calendar days of the Commercial Operation Date, the Commercial Wind Energy Facility Owner shall notify the County and the Department of the Commercial Operation Date in writing.
Commercial Wind Energy Facility (Facility) -	A wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. “Commercial Wind Energy Facility” includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before the effective date of this Act. “Commercial Wind Energy Facility” does not include a wind energy conversion facility: (1) that has submitted a complete permit application to a county or municipality and for which the hearing on the completed application has commenced on the date provided in the public hearing notice, which must be before the effective date of this Act; (2) for which a permit to construct has been issued before the effective date of this Act; or (3) that was constructed before the effective date of this Act.
Commercial Wind Energy Facility Owner (Facility Owner) -	A commercial enterprise that owns or operates a Wind Energy Facility of equal to or greater than 500 kilowatts in total nameplate capacity.
County -	The County where the Commercial Wind Energy Facility is located.

Construction - The installation, preparation for installation and/or repair of a Commercial Wind Energy Facility.

Cropland - Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland, but is currently in a government set-aside program and pastureland comprised of Prime Farmland.

Deconstruction - The removal of a Commercial Wind Energy Facility from the property of a Landowner and the restoration of that property as provided in the Agricultural Impact Mitigation Agreement. The terms “Deconstruction” and “Decommissioning” have the same meaning and, therefore, may be interchanged with each other.

Deconstruction Plan - A plan prepared by a Professional Engineer, at the Commercial Wind Energy Facility Owner expense, that includes:

(1) the estimated Deconstruction cost per turbine, in current dollars at the time of filing, for the Commercial Wind Energy Facility, taking into account, among other things:

i the number of Wind Turbines and related Commercial Wind Energy Facilities involved,
ii the original Construction costs of the Commercial Wind Energy Facilities,
iii the size and capacity of the Wind Turbines,
iv the salvage value of the Commercial Wind Energy Facilities,
v the Construction method and techniques for the Wind Turbines and other Commercial Wind Energy Facilities, and

(2) a comprehensive detailed description of how the Commercial Wind Energy Facility Owner plans to pay for the Deconstruction of the Commercial Wind Energy Facility.

Department - The Illinois Department of Agriculture (IDOA).

Financial Assurance - A reclamation bond or other commercially available financial assurance that is acceptable to the County, with the County as primary beneficiary and the Landowners as secondary beneficiaries.

Landowner - Any person with an ownership interest in property that is used for agricultural purposes and that is party to an Underlying Agreement.

Prime Farmland - Agricultural Land comprised of soils that are defined by the USDA Natural Resources Conservation Service (NRCS) as being "prime" soils (generally considered the most productive soils with the least input of nutrients and management).

Professional Engineer -	An engineer licensed to practice engineering in the State of Illinois, and who is determined to be qualified to perform the work described herein by mutual agreement of the County and the Commercial Wind Energy Facility Owner.
Soil and Water Conservation District - (SWCD)	A local unit of government that provides technical and financial assistance to eligible landowners for the conservation of soil and water resources.
Tenant -	Any person lawfully residing or leasing/renting land that is subject to an Underlying Agreement.
Topsoil -	The uppermost layer of the soil that has the darkest color or the highest content of organic matter; more specifically, it is defined as the "A" horizon.
Underlying Agreement -	The written agreement with a Landowner(s) including, but not limited to, an easement, option, lease, or license under the terms of which another person has constructed, constructs, or intends to construct a Commercial Wind Energy Facility on the property of the Landowner.
Underground Cable -	Electrical power lines installed below grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.
USDA Natural Resources Conservation Service (NRCS) -	NRCS provides America's farmers with financial and technical assistance to voluntarily put conservation on the ground, not only helping the environment but agricultural operations too.
Useful Life -	A Commercial Wind Energy Facility will be presumed to have no remaining Useful Life if: (1) no electricity is generated for a continuous period of twelve (12) months and (2) the Commercial Wind Energy Facility Owner fails, for a period of 6 consecutive months, to pay the Landowner amounts owed in accordance with the Underlying Agreement.
Wind Turbine -	A wind energy conversion unit equal to or greater than 500 kilowatts in total nameplate generating capacity.

Construction and Deconstruction Requirements

1. Support Structures

A. On Agricultural Land, only single pole support structures will be used for overland transmission not located adjacent to the Commercial Wind Energy Facility substation.

B. Where the electric line is adjacent and parallel to highway and/or railroad right-of-way, but on privately owned property, the support structures will be placed as close as reasonably practicable and allowable by the applicable County Engineer or other applicable authorities to the highway or railroad right-of-way. The only exceptions may be at jogs or weaves on the highway alignment or along highways or railroads where transmission and distribution lines are already present.

C. The highest priority will be given to locating the electric line parallel and adjacent to highway and/or railroad right-of-way. When this is not possible, Best Efforts will be expended to place all support poles in such a manner so as to minimize their placement on Cropland (i.e., longer than normal spans will be utilized when traversing Cropland).

2. Aboveground Facilities

Locations for Facilities shall be selected in a manner so as to be as unobtrusive as reasonably possible to ongoing agricultural activities occurring on the land that contains the facilities. The Facility Owner's compliance with applicable local, county, state, and federal statutes, rules, regulations, and ordinances, and its securing any variations or waivers to such statutes, rules, regulations, and ordinances in accordance with applicable law, in selecting such locations shall constitute compliance with this provision.

3. Guy Wires and Anchors

A. Best Efforts will be made to place guy wires and their anchors out of cropland, pastureland and hayland, placing them instead along existing utilization lines and on land not used for row crops, pasture or hay. Where this is not feasible, Best Efforts will be made to minimize guy wire impact on Cropland.

B. All guy wires will be shielded with highly visible guards.

4. Underground Cabling Depth

A. Underground electrical cables will be buried with:

1. a minimum of 5 feet of top cover where it crosses Cropland.
2. a minimum of 5 feet of top cover where it crosses pasture land or other Agricultural Land comprised of soils that are classified by the USDA as being prime soils.
3. a minimum of 3 feet of top cover where it crosses pasture land and other Agricultural Land not comprised of prime soils.
4. a minimum of 3 feet of top cover where it crosses wooded/brushy land.

B. Notwithstanding the foregoing, in those areas where (i) rock in its natural formation and/or (ii) a continuous strata of gravel exceeding 200 feet in length are encountered, the minimum top cover will be 30 inches.

5. Topsoil Removal and Replacement

A. Any excavation shall be performed in a manner to preserve topsoil. Best Efforts will be made to store the topsoil near the excavation site in such a manner that it will not become intermixed with subsoil materials.

B. Best Efforts will be made to store all disturbed subsoil material near the excavation site and separate from the topsoil.

C. When backfilling an excavation site, the stockpiled subsoil material will be placed back into the excavation site before replacing the topsoil.

D. Refer to Item No. 7.A. through 7.D for procedures pertaining to rock removal from the subsoil and topsoil.

E. Refer to Items No. 8.A. through 8.D. for procedures pertaining to the alleviation of compaction of the topsoil.

F. Best Efforts will be performed to place the topsoil in a manner so that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be restored as close as reasonably practicable. The same shall apply where excavations are made for road, stream, drainage ditch, or other crossings. In no instance will the topsoil materials be used for any other purpose unless agreed to otherwise by the Landowner.

G. Excess subsoil material resulting from wind turbine foundation excavation shall be removed from Landowner’s property, unless otherwise agreed to by Landowner.

H. Topsoil stripping or separation is not required for the excavation of narrow trenches, those 24 inches wide or less.

6. Repair of Damaged Tile Lines

If underground drainage tile is damaged by Construction or Deconstruction, it will be repaired in a manner that assures the tile line's proper operation at the point of repair. The following shall apply to the tile line repair:

A. The Facility Owner will work with the Landowner to identify the tile lines traversing the property included within the Underlying Agreement which will be crossed or disturbed by the construction of the Facility. All tile lines identified in this manner will be shown on the Construction and Deconstruction Plans and staked or flagged in the locations where expected crossing or disturbance is anticipated prior to Construction or Deconstruction to alert Construction and Deconstruction crews to the possible need for tile line repairs.

B. Tile lines that are damaged, cut, or removed shall be staked or flagged with stakes or flags placed in such a manner they will remain visible until the permanent repairs are

completed. In addition, the location of damaged drain tile lines will be recorded using Global Positioning Systems (GPS) technology.

C. If water is flowing through any damaged tile line, the Facility Owner shall utilize Best Efforts to immediately and temporarily repair the tile line until such time that the Facility Owner can make permanent repairs. If the tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repairs can be made by the Facility Owner within 14 days (weather and soil conditions permitting) of the time damage occurred; however, the exposed tile lines will be screened or otherwise protected to prevent the entry of foreign materials or animals into the tile lines.

D. Where tile lines are severed by an excavation trench, repairs shall be made using the IDOA Drain Tile Repairs, Figures 1 and 2.

   If there is any dispute between the Landowner and the Facility Owner on the method of permanent tile line repair, the appropriate Soil and Water Conservation District's opinion shall be considered by the Facility Owner and the Landowner.

E. To the extent practicable, there will be a minimum of one foot of separation between the tile line and the Underground Cable whether the Underground Cable passes over or under the tile line. If the tile line was damaged as part of the excavation for installation of the Underground Cable, the Underground Cable will be installed with a minimum one foot clearance below or over the tile line to be repaired or otherwise to the extent practicable.

F. The original tile line alignment and gradient shall be maintained. A laser transit shall be used to ensure the proper gradient is maintained. A laser operated tiling machine shall be used to install or replace tiling segments of 100 linear feet or more.

G. During Construction stage, all permanent tile line repairs must be made within fourteen (14) days of identification or notification of the damage, weather and soil conditions permitting. At other times, such repairs must be made at a time mutually agreed upon by the Facility Owner and the Landowner.

H. Following Construction and/or Deconstruction activities, the Facility Owner will utilize best practices to restore the drainage in the area to the condition it was before the commencement of the Construction/Deconstruction activities. If the Facility Owner cannot agree upon a reasonable method to complete this restoration, the Facility Owner may – but is not required to – implement the recommendations of the appropriate County SWCD and such implementation would resolve the dispute.

I. Following completion of the work, the Facility Owner will be responsible for correcting or paying for the correction of all tile line repairs that fail due to Construction and/or Deconstruction, provided any such failure was identified by Landowner within twenty-four (24) months after Construction or Deconstruction. The Facility Owner will not be responsible for tile line repairs that the Facility Owner pays the Landowner to perform. Facility Owner shall use Best Efforts to utilize a local drain tile repair company.

7. Rock Removal

The following rock removal procedures only pertain to rocks found in the uppermost 42 inches of soil, the common freeze zone in Illinois, which emerged on Landowner property as a result of Construction and/or Deconstruction.

A. Before replacing any Topsoil, Best Efforts will be taken to remove all rocks greater than 3 inches in any dimension from the surface of exposed subsoil which were brought to the site as a result of Construction and/or Deconstruction.
B. As topsoil is replaced, all rocks greater than 3 inches in any dimension will be removed from the topsoil which emerged at the site as a result of Construction and/or Deconstruction activities.

C. If trenching, blasting, or boring operations are required through rocky terrain, precautions will be taken to minimize the potential for oversized rocks to become interspersed with adjacent soil material.

D. Rocks and soil containing rocks removed from the subsoil areas, topsoil, or from any excavations, will be hauled off the Landowner's premises or disposed of on the Landowner's premises at a location that is mutually acceptable to the Landowner and the Facility Owner.

8. Compaction and Rutting

A. Unless the Landowner opts to do the restoration work, after the topsoil has been replaced, all areas that were traversed by vehicles and Construction and/or Deconstruction equipment will be ripped at least 18 inches deep, and all pasture and woodland will be ripped at least 12 inches deep to the extent practicable. The existence of tile lines or underground utilities may necessitate less depth. The disturbed area will then be disked. Decompaction shall be conducted according to the guidelines provided in Appendices A and B.

B. To the extent practicable, all ripping and disking will be done at a time when the soil is dry enough for normal tillage operations to occur on land adjacent to the right-of-way.

C. The Facility Owner will restore all rutted land to a condition as close as possible to its original condition.

D. If there is any dispute between the Landowner and the Facility Owner as to what areas need to be ripped/disked or the depth at which compacted areas should be ripped/disked, the appropriate County SWCD’s opinion shall be considered by the Facility Owner and the Landowner.

9. Construction During Wet Weather

Except as provided below, construction activities are not allowed on farmland where normal farming operations, such as plowing, disking, planting or harvesting, cannot take place due to excessively wet soils. Wet weather conditions are to be determined on a field by field basis and not for the project as a whole.

A. Construction activities on prepared surfaces, surfaces where topsoil and subsoil have been removed, heavily compacted in preparation, or otherwise stabilized (e.g.

through cement mixing) may occur at the discretion of the Facility Owner in wet weather conditions.

B. Construction activities on unprepared surfaces will be done only when work will not result in rutting which results in a mixing of subsoil and topsoil. Determination as to the potential of subsoil and topsoil mixing will be in consultation with the underlying Landowner, or, if approved by the Landowner, his/her designated Tenant.

10. Land Leveling

A. Following the completion of Construction and/or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will utilize Best Efforts to restore the disturbed area to its original pre-construction elevation and contour should uneven settling occur or surface drainage problems develop as a result of said activity.

B. If, within twenty-four (24) months after Construction or Deconstruction, uneven settling occurs or surface drainage problems develop as a result of the Construction or Deconstruction of a Facility, the Facility Owner will provide such land leveling services within 45 days of a Landowner's written notice, weather and soil conditions permitting.

C. If there is any dispute between the Landowner and the Facility Owner as to what areas need additional land leveling beyond that which is done at the time of Construction, the Facility Owner may – but is not required to – implement the recommendations of the appropriate SWCD and such implementation will resolve the dispute.

11. Prevention of Soil Erosion

A. The Facility Owner will work with Landowners to prevent excessive erosion on land that has been disturbed by Construction or Deconstruction of a Commercial Wind Energy Facility. Consultation with the local SWCD by the Facility Owner will take place to determine the appropriate methods to be implemented to control erosion. This is not a requirement, however, if the land is bare Cropland that the Landowner intends to leave bare until the next crop is planted.

B. If the Landowner and Facility Owner cannot agree upon a reasonable method to control erosion on the Landowner's right-of-way, the Facility Owner may – but is not required to – implement the recommendations of the appropriate SWCD and such implementation will resolve the dispute.

12. Repair of Damaged Soil Conservation Practices

Consultation with the local SWCD by the Facility Owner will be carried out to determine if there are soil conservation practices (such as terraces, grassed waterways, etc.) that will be damaged by the Construction and/or Deconstruction of a Commercial Wind Energy Facility. Those conservation practices will be restored to their preconstruction condition as close as reasonably practicable in accordance with USDA Natural Resources Conservation Service technical standards. All repair costs shall be borne by the Facility Owner.

13. Damages to Private Property

The Facility Owner will reasonably compensate Landowners for damages caused by the Facility Owner. Damage to Cropland will be reimbursed to the Landowner as prescribed in the applicable Underlying Agreement.

14. Clearing of Trees and Brush

A. If trees are to be removed for the Construction or Deconstruction of a Commercial Wind Energy Facility, the Facility Owner will consult with the Landowner to determine if there are trees of commercial or other value to the Landowner.
B. If there are trees of commercial or other value to the Landowner, the Facility Owner will allow the Landowner the right to retain ownership of the trees to be removed with the disposition of the removed trees to be negotiated prior to the commencement of land clearing.

C. Unless otherwise restricted by federal, state or local regulations, the Facility Owner will follow the Landowner's desires regarding the removal and disposal of trees, brush, and stumps of no value to the Landowner by burning, burial, etc., or complete removal from any affected property.

15. Interference with Irrigation Systems

A. If the Construction or Deconstruction of a Commercial Wind Energy Facility interrupts an operational (or soon to be operational) spray irrigation system, the Facility Owner will establish with the Landowner an acceptable amount of time the irrigation system may be out of service.

B. If, as a result of Construction or Deconstruction of a Facility, an irrigation system interruption results in crop damages, the Landowner will be compensated for all such crop damages per the applicable Underlying Agreement.

C. If it is feasible and mutually acceptable to the Facility Owner and the Landowner, temporary measures will be implemented to allow an irrigation system to continue to operate across land on which a Facility is also being Constructed or Deconstructed.

16. Access Roads

A. To the extent practicable, access roads will be designed to not impede surface drainage and will be built to minimize soil erosion on or near the access roads.

B. Access roads may be left intact through mutual agreement of the Landowner and the Facility Owner unless otherwise restricted by federal, state, or local regulations after the Useful Life.

C. If the access roads are removed, Best Efforts will be expended to assure that the land shall be restored to equivalent condition(s) as existed prior to their construction, or as otherwise agreed to by the Facility Owner and the Landowner. All access roads that are removed shall be ripped to a depth of 18 inches. All ripping will be done consistent with Items 8.A. through 8.D.

17. Weed Control

A. The Facility Owner will provide for weed control in a manner that prevents the spread of weeds onto agricultural land affected by Construction or Deconstruction. Spraying will be done by a pesticide applicator that is appropriately licensed for doing such work in the State of Illinois.

B. The Facility Owner will be responsible for reimbursing all reasonable costs incurred by owners of agricultural land affected by Construction or Deconstruction where it has been determined that weeds have spread from land impacted by the Facility. Reimbursement is contingent upon written notice to the Facility Owner and failure to respond within forty-five (45) days after notice is received.

18. Pumping of Water from Open Excavations

A. In the event it becomes necessary to pump water from open excavations, the Facility Owner will pump the water in a manner that will avoid damaging agricultural land affected by Construction or Deconstruction. Such damages include, but are not limited to: inundation of crops for more than 24 hours, deposition of sediment in ditches and other water courses, and the deposition of subsoil sediment and gravel in fields and pastures.

B. If it is impossible to avoid water-related damages as described in Item 18.A. above, the Facility Owner will compensate the Landowner for damages to crops as prescribed in the applicable Underlying Agreement.

C. All pumping of water shall comply with existing drainage laws, local ordinances relating to such activities and any other applicable laws, specifically including the Clean Water Act.

19. Advance Notice of Access to Private Property

A. The Facility Owner will provide the Landowner or Tenant with a minimum of 48 hours prior notice before accessing his/her property for the purpose of Construction or Deconstruction of a Commercial Wind Energy Facility.

B. Prior notice shall consist of either: (i) a personal contact, telephone contact or email contact, whereby the Landowner or tenant is informed of the Facility Owner's intent to access the land; or (ii) the Facility Owner mails or hand delivers to the Landowner or tenant's home a dated, written notice of the Facility Owner's intent. Such written or hand delivered notice shall include a toll-free number at which agents of the Facility Owner can be reached. The Landowner or tenant need not acknowledge receipt of the written notice before the Facility Owner can enter the Landowner's property.

20. Indemnification

The Commercial Wind Energy Facility Owner will indemnify all Landowners, their heirs, successors, legal representatives, and assigns from and against all claims, injuries, suits, damages, costs, losses, and reasonable expenses resulting from or arising out of Construction and/or Deconstruction, including damage to such Commercial Wind Energy Facility or any of its appurtenances, except where claims, injuries, suits, damages, costs,

losses, and expenses are caused by the negligence or intentional acts, or willful omissions of such Landowners, and/or the Landowners heirs, successors, legal representatives, and assigns. In such circumstances, the Landowners, and the Landowners' heirs, successors, legal representatives, and assigns will indemnify the Facility Owner, its heirs, successors, legal representatives, and assigns from and against said claims, injuries, suits, damages, costs, losses, and reasonable expenses including but not limited to attorneys' fees and costs.

21. Deconstruction of Commercial Wind Energy Facilities and Financial Assurance

A. Deconstruction of a Facility shall include the removal/disposition of the following equipment/facilities utilized for operation of the Facility and located on Landowner property:

1. Wind Turbine towers and blades;
2. Wind Turbine generators;
3. Wind Turbine foundations (to depth of 5 feet);
4. Transformers;
5. Collection/interconnection substation (components, cable, and steel foundations), provided, however, that electrical collection cables at a depth of 5 feet or greater may be left in place;
6. Overhead collection system;
7. Operations/maintenance buildings, spare parts buildings and substation/ switching gear buildings unless otherwise agreed to by the Landowner;
8. Access Road(s) (unless Landowner requests in writing that the access road is to remain);
9. Operation/maintenance yard/staging area unless otherwise agreed to by the Landowner; and
10. Debris and litter generated by Deconstruction and Deconstruction crews.

B. The Facility Owner shall, at its expense, complete Deconstruction of a Commercial Wind Energy Facility within eighteen (18) months after the end of the Useful Life of the Facility.

C. During the County permit process, the Facility Owner shall file with the County, a Deconstruction Plan. A second Deconstruction Plan shall be filed with the County on or before the end of the tenth year of the Commercial Operation Date.

D. The Facility Owner shall provide the County with Financial Assurance to cover the estimated costs of Deconstruction of the Commercial Wind Energy Facility. Provision of this Financial Assurance shall be phased in over the first 11 years of the Project's operation as follows:

1. On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.

2. On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.

3. On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the tenth year of the Commercial Operation Date.

The Financial Assurance shall not release the surety from liability until the Financial Assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of Deconstruction in the Deconstruction Plan if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if Abandonment occurs.

E. The County may – but is not required to – reevaluate the estimated costs of Deconstruction of any Commercial Wind Energy Facility after the tenth anniversary, and every five years thereafter, of the Commercial Operation Date which reevaluation must be performed by an independent third party Professional Engineer licensed in the State of Illinois. The County shall provide the Facility Owner with a copy of any reevaluation report. Based on any reevaluation, the County may require changes in the level of Financial Assurance used to calculate the phased coverages described in Section 21 D. required from the Facility Owner. The Facility Owner shall be responsible for the cost of any reevaluation by a third party Professional Engineer.

F. Upon Abandonment, the County may take all appropriate actions for Deconstruction, including drawing upon the Financial Assurance. In the event the County declines to take any action for Deconstruction, the Landowners may draw upon the Financial Assurance.

Concurrence of the Parties to this AIMA

The Illinois Department of Agriculture and , LLC concur that this AIMA is the complete AIMA governing the mitigation of agricultural impacts that may result from the construction of the wind farm project in County within the State of Illinois.

The effective date of this AIMA commences on the date of execution

STATE OF ILLINOIS
DEPARTMENT OF AGRICULTURE

_____
By Jerry Costello II, Director

_____
By Clay Nordsiek, Deputy General Counsel

801 E. Sangamon Avenue, 62702
State Fairgrounds, POB 19281
Springfield IL 62794-9281

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, LLC

a state name limited liability company

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By , title

address

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APPENDIX B

IDOA Decompaction Stds A-B - IDOA Drain Tile Repairs, Figures1-2

Guidelines for Conducting Proper and Successful Decompaction

1. Decompaction is required when all three conditions apply.
   A. the area has been trafficked or traversed by vehicles or construction equipment, and
   B. the soil penetrometer readings are 300 psi or greater, and
   C. The soil strength (psi) in the right-of-way area is greater than that of the non-trafficked area.

2. An Environmental and/or Agricultural Inspector (AI), with experience and training in the proper identification of compacted soil and operation methods of deep decompaction tools is required to observe the daily operation of the ripper/subsoiler to ensure the conditions are appropriate for decompaction efforts and that the proper equipment is utilized and that equipment is set-up and operated correctly.

3. To achieve the most effective shatter of the compacted soil the following guidelines have been established:
   A. Conduct ripping when the soil is dry. Follow the "Soil Plasticity Test Procedures" detailed in Appendix B to determine if soil conditions are adequately dry to conduct decompaction efforts.
   B. Deep ripping shall be conducted using a ripper or subsoiling tool with a shank length of no less than 18 inches and a shank spacing of approximately the same measurement as the shank length.
   C. Use a ripper with a knife length of no less than 2 inches more than the desired depth of decompaction.
   D. To best promote revegetation and restore crop production, a total depth of 30 or more inches of soil (topsoil plus subsoil) is required.
   E. The minimum depths of decompaction stated above in 3.D. are required where possible. A safe distance from sub-surface structures (tile drains, pipelines, buried utilities, bedrock, etc.) must be maintained at all times. Where such structures exist, a lesser depth of decompaction will be required to prevent damage to equipment and the structures as well as to maintain a safe work environment. The allowable decompaction depth in these instances will be determined on a site by site basis.
   F. When the knives are in the soil to the desired depth, the tongue of the ripper should be parallel to the surface of the ground.
   G. Select a tractor that has enough horsepower to pull the ripper at a speed of 1.5 to 2 mph and whose footprint is of equal or lesser width than the ripper. Tracked equipment is preferred and typically required to achieve this criteria.
   H. The ripper shanks should not create ruts, channels, or mixing of the sub-soil with topsoil. A

speed of 1.5 to 2 mph is recommended to minimize the risk of rutting and soil mixing. The ideal operating speed can vary with soil characteristics, tractor and ripping tool used. An excessive travel speed will often increase mixing of soil horizons.

I. When the equipment is set up and operated correctly, the ripper should create a wave across the surface of the ground as it lifts and drops the soil.Make one ripping pass through the compacted area. Using a penetrometer, the AI will measure the PSI between the ripped knife tracks to determine if the single ripping pass was successful. Additional passes should only be used where needed as they may reduce the effectiveness of the ripping by recompacting the soil shattered in the previous pass.

J. If the first pass does not successfully decompact the soil, additional passes will be needed. Should multiple passes of the ripper be needed to achieve decompaction between the knives tracks of the ripping tool, the subsequent passes should be positioned so the knife tracks from the previous pass are split by the second pass. If three or more passes have been made and sufficient decompaction has not yet been achieved the AI may choose to halt further decompaction efforts in that area until conditions improve or better methods are determined.

K. Following ripping, all stone and rock three or more inches in size which has been lifted to the surface shall be collected and removed from agricultural areas.

L. After ripping has been conducted, do not allow unnecessary traffic on the ripped area.

M. In agricultural lands and croplands that will not be replanted to vegetation by the Company, recommend to landowners to plant a cover crop (cereal rye, clover, alfalfa, tillage radish, turnips, etc.) following decompaction. Reduced compaction created by the ripper pass will not remain over time without subsequent root penetration. Root penetration into the shattered soil is necessary to establish permanent stabilized channels to conduct air and water into the soil profile. Two good sources for landowner cover crop education are http://www.mccc.msu.edu/CCinfo/cropbycrop.html and http://mcccdev.anr.msu.edu/. For local expertise, consult with your county's Soil and Water Conservation District /USDA Natural Resource Conservation Service (NRCS) office for cover crop selection and compliance with NRCS planting deadlines.

2

Soil Plasticity Test Procedures

The Agricultural Inspector will test the consistency of the surface soil to a depth of approximately 4 to 8 inches using the Field Plasticity Test procedure developed from the *Annual Book of ASTM Standards, Plastic Limit of Soils* (ASTM D-4318).

1. Pull a soil plug from the area to be tilled, moved, or trafficked to a depth of 4-8 inches.

2. Roll a portion of the sample between the palms of the hands to form a wire with a diameter of one-eighth inch.

3. The soil consistency is:

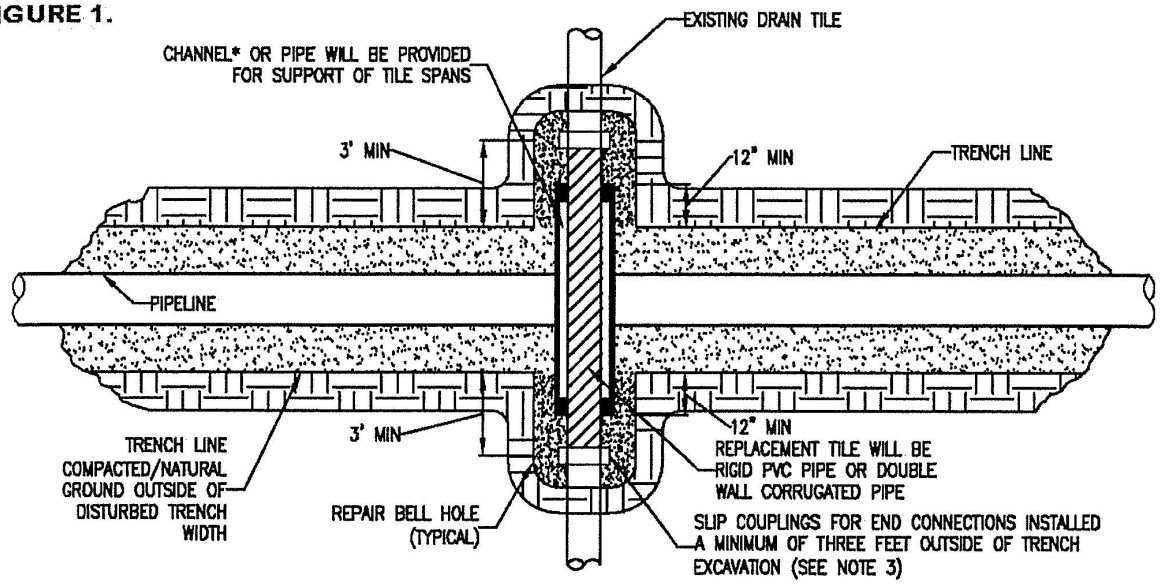
   A. Tillable (able to be worked) if the soil wire breaks into segments not exceeding 3/8 of an inch in length.

B. Plastic (not tillable) if the segments are longer than 3/8 of an inch before breaking.

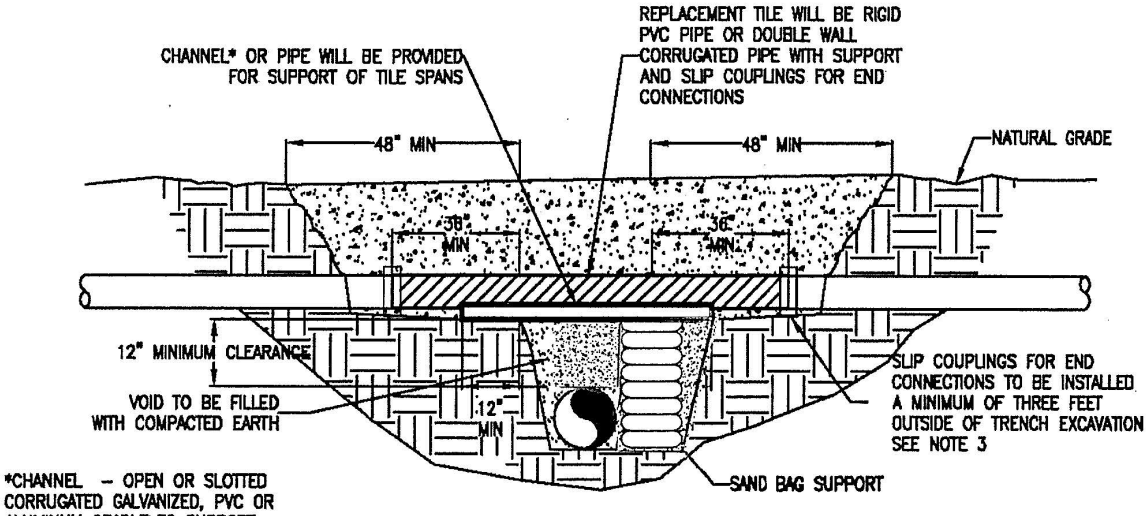
4. This Procedure is to be used to aid in determining when soil conditions are dry enough for construction activities to proceed.

5. Once the soil consistency has been determined to be of adequate dryness, the plasticity test is not required again until the next precipitation event.

FIGURE 1.



PLAN
N.T.S.



CROSS SECTION
N.T.S.

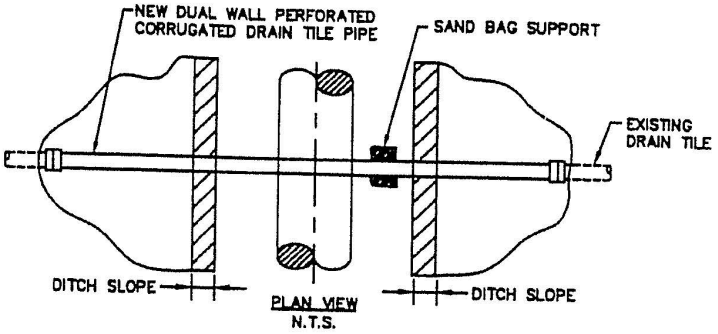
NOTE:

1. IMMEDIATELY REPAIR TILE IF WATER IS FLOWING THROUGH TILE AT TIME OF TRENCHING. IF NO WATER IS FLOWING AND TEMPORARY REPAIR IS DELAYED, OR NOT MADE BY THE END OF THE WORK DAY, A SCREEN OR APPROPRIATE 'NIGHT CAP' SHALL BE PLACED ON OPEN ENDS OF TILE TO PREVENT ENTRAPMENT OF ANIMALS ETC.
2. CHANNEL OR PIPE (OPEN OR SLOTTED) MADE OF CORRUGATED GALVANIZED PIPE, PVC OR ALUMINUM WILL BE USED FOR SUPPORT OF DRAIN TILE SPANS.
3. INDUSTRY STANDARDS SHALL BE FOLLOWED TO ENSURE PROPER SEAL OF REPAIRED DRAIN TILES.

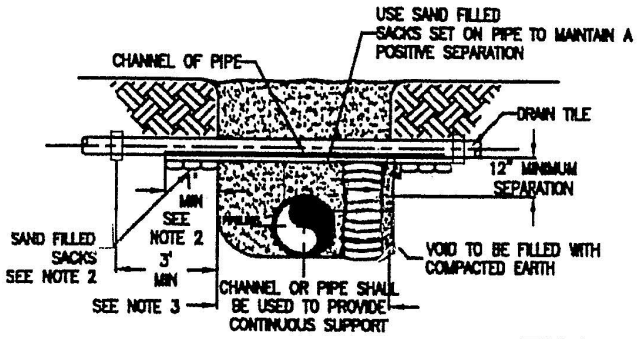
TEMPORARY DRAIN TILE REPAIR

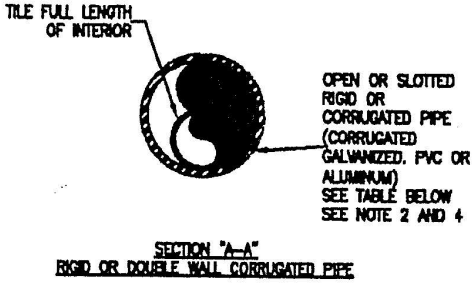
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FIGURE 2.



PLAN VIEW





END VIEWS

MINIMUM SUPPORT TABLE			
TILE SIZE	CHANNEL SIZE	PIPE SIZE	
3"	4" @ 5.4 #/ft	4"	STD. WT.
4"-5"	5" @ 6.7 #/ft	6"	STD. WT.
8"-9"	7" @ 9.8 #/ft	9"-10"	STD. WT.
10"	10" @ 15.3 #/ft	12"	STD. WT.

NOTE:

1. TILE REPAIR AND REPLACEMENT SHALL MAINTAIN ORIGINAL ALIGNMENT GRADIENT AND WATER FLOW TO THE GREATEST EXTENT POSSIBLE. IF THE TILE NEEDS TO BE RELOCATED, THE INSTALLATION ANGLE MAY VARY DUE TO SITE SPECIFIC CONDITIONS AND LANDOWNER RECOMMENDATIONS.
2. 1'-0" MINIMUM LENGTH OF CHANNEL OR RIGID PIPE (OPEN OR SLOTTED CORRUGATED GALVANIZED, PVC OR ALUMINUM CRADLE) SHALL BE SUPPORTED BY UNDISTURBED SOIL, OR IF CROSSING IS NOT AT RIGHT ANGLES TO PIPELINE, EQUIVALENT LENGTH PERPENDICULAR TO TRENCH. SHIM WITH SAND BAGS TO UNDISTURBED SOIL FOR SUPPORT AND DRAINAGE GRADIENT MAINTENANCE (TYPICAL BOTH SIDES).
3. DRAIN TILES WILL BE PERMANENTLY CONNECTED TO EXISTING DRAIN TILES A MINIMUM OF THREE FEET OUTSIDE OF EXCAVATED TRENCH LINE USING INDUSTRY STANDARDS TO ENSURE PROPER SEAL OF REPAIRED DRAIN TILES INCLUDING SLIP COUPLINGS.
4. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
5. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL/PIPE SECTIONS SHOWN AND IF APPROVED BY COMPANY REPRESENTATIVES AND LANDOWNER IN ADVANCE. SITE SPECIFIC ALTERNATE SUPPORT SYSTEM TO BE DEVELOPED BY COMPANY REPRESENTATIVES AND FURNISHED TO CONTRACTOR FOR SPANS IN EXCESS OF 20', TILE GREATER THEN 10" DIAMETER, AND FOR "HEADER" SYSTEMS.
6. ALL MATERIAL TO BE FURNISHED BY CONTRACTOR.
7. PRIOR TO REPAIRING TILE, CONTRACTOR SHALL PROBE LATERALLY INTO THE EXISTING TILE TO FULL WIDTH OF THE RIGHTS OF WAY TO DETERMINE IF ADDITIONAL DAMAGE HAS OCCURRED. ALL DAMAGED/DISTURBED TILE SHALL BE REPAIRED AS NEAR AS PRACTICABLE TO ITS ORIGINAL OR BETTER CONDITION.

PERMANENT DRAIN TILE REPAIR

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