

# Cameron County Commissioners' Court Agenda Request Form

2019C10353

No. 3-M

Date: Sept. 12, 2019

Meeting Date Request: September 17, 2019

Deadline for Action: September 17, 2019

Contact Person: Mark Yates

Department: PD&M

Phone: (956) 544-0828

Fax: (956) 544-0891

Department Head Name: Mark Yates

Signature: 

## Caption: Action

### DISCUSSION AND POSSIBLE APPROVAL OF CHAPTER 312 TAX ABATEMENT AGREEMENT WITH MONTE ALTO WINDPOWER, LLC. PURSUANT TO THE TEXAS TAX CODE, SECTION 312.

#### **Background:** (Briefly summarize your request, if needed use separate sheet(s) or attach supporting documentation).

Monte Alto Wind Farm, LLC, is a project that is \$77 million investment, the TOTAL PROJECT investment is \$228,388,000 million of which \$151,388,000 million is scheduled to be constructed in Hidalgo County and \$77 million to be constructed in Cameron County. Project is located right at County line of the two counties. Included is a map showing the properties are under lease. Copy of the lease memorandum is attached indicating property under lease. We understand the County's intent to only abatement the M&O portion of the tax. Also included is a road use agreement that protects the roads and guarantees that they will be returned to their original condition.

The project is requesting a 100% tax abatement for only the M&O portion of the County Property Tax for 10 years in exchange for an annual PILOT Payment of \$75,000. The average percent of tax abatement is approximately 60% over the ten year period. The project will pay the Interest & Sinking portion of the Property Tax. 2019 Will be the base year and the first year of the tax abatement will be January 1, 2020. The company has demonstrated that they have a property interest in the parcels they plan to place the turbines. Cameron County is an Economically Distressed County and the entire area of the county is eligible for tax abatement projects. Area taxing jurisdictions have been notified and there has been the 30-day notice posted on the Courthouse door and on the County Website.

#### **PLEASE FILL IN ALL BLANKS WITH REQUIRED INITIALS AND FISCAL DATA INFORMATION OR PLACE N/A IF IS NOT APPLICABLE:**

County Judge

Auditor

Budget

Legal

Human Resources

Purchasing

1295 Form

#### **Fiscal Data:**

Dept. Name:

Fund No.

Funds Available: Yes No

#### **Funds From:**

Department: Yes No

General: Yes No

Grant: Yes No

Amt. Expended: \$

Impact on future budget: Yes No

#### **Comments:**

#### **Action taken by Commissioners' Court**

Approved

Tabled

Denied

Motion made by

Seconded

Vote

STATE OF TEXAS           §  
COUNTY OF CAMERON   §

Contract No. 2019C10355

CAMERON COUNTY, TEXAS  
CHAPTER 312, TAX CODE TAX ABATEMENT  
AGREEMENT WITH  
MONTE ALTO WINDPOWER, LLC

THIS TAX ABATEMENT AGREEMENT ("**Agreement**"), dated this \_\_\_\_ day of \_\_\_\_\_, 2019 is entered into by and between MONTE ALTO WINDPOWER, LLC, a Delaware limited liability company (the "**Company**") and the County of Cameron, Texas, acting by and through its County Judge or his designee (the "**County**").

WHEREAS, the County adopted Resolution No. 2019R01001 governing Chapter 312 tax abatement agreements and Chapter 381 economic development grant programs within the County on January 8, 2019, and this Agreement is consistent with such Resolutions and applicable state laws, including Chapter 312 of the Texas Tax Code;

WHEREAS, the aforementioned resolutions set forth Guidelines and Criteria governing Chapter 312 tax abatement agreements and Chapter 381 economic development grant agreements within the County (the "**Guidelines**") and this Agreement is consistent with the Guidelines;

WHEREAS, the County has been duly designated as an Enterprise Zone pursuant to Chapter 2303 of the Texas Local Government Code and consistent with Section 312.4011 of the Texas Tax Code (the "**Enterprise Zone**");

WHEREAS, the Chapter 312 tax abatement program established by the Guidelines was created by the County to assist companies in establishing operations in the County to provide economic benefits to the County, stimulate increased economic activity, and provide job opportunities for residents of the County;

WHEREAS, Company submitted an application for tax abatement to the County concerning contemplated improvements and investment;

WHEREAS, the County believes the Company represents significant potential to increase economic activity and job opportunities for residents in the County and wishes to offer the Company participation in its tax abatement program to encourage the Company to site their operations in the County, in the location more specifically described in Part A of Exhibit 1;

WHEREAS, as further described herein, Company proposes to construct and operate a minimum 59-megawatt wind generating facility to interconnect power into the ERCOT market on the Site (referred to herein as the "**Project**" or the "**Facility**"),

which will be engaged in the active conduct of a trade or business, material portion of which is located within the County;

WHEREAS, in accordance with the Guidelines, the Commissioners Court finds that Company's contemplated investment (i) is significantly impactful to the County, and (ii) has the potential to exceed an aggregate investment of \$50 million within the County; and

WHEREAS, the Commissioners Court finds that the terms of this Agreement are consistent with encouraging development in the County and are in compliance with the Guidelines and applicable law; and, thus deems that it is in the best interest of the County to assist the Company in establishing operations in Cameron County.

NOW, THEREFORE, the County and the Company agree as follows:

#### **ARTICLE I** **DEFINITIONS**

(a) The term "**Added Value**" means the assessed value of Eligible Property as determined by the Cameron County Appraisal District over the Base Year Value.

(b) The term "**Affiliate**" means any entity which is controlled by, controls, or is under common control with the Company. For the purposes of this definition, the term "controlled by", "controls" or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of any entity, whether through ownership, legally or beneficially, of voting securities, by contract or otherwise.

(c) The "**Base Year Value**" means the base year value of the Eligible Property for the year prior to the start of the Incentive Period, which is \$0.

(d) A "**business day**" means Monday through Friday of each calendar week, exclusive of holidays observed generally by Cameron County, Texas.

(e) The term "**Eligible Property**" means the property eligible for abatement under Chapter 312 of the Texas Tax Code and the Guidelines, to the extent located on the Site (defined below), including, without limitation, new, expanded or modernized buildings and structures, fixed machinery and equipment, wind turbines, roadways, transmission and collection lines, substations, related fixed improvements, and any other tangible personal property permitted by Chapter 312 of the Texas Tax Code and the Guidelines. Tangible personal property located on the Site at any time before the Term is not eligible for abatement. Tangible personal property eligible for abatement shall not include inventory or supplies.

(f) "**Full-Time Employee**" means a full-time employee as defined by § 4980H(c)(4) of the Internal Revenue Code, as amended, codified at Title 26 of the United States Code. If the aforementioned definition is at any time removed from Title 26 of the

United States Code, a Full-Time Employee shall mean a full-time employee as defined by § 4980H(c)(4) of the Internal Revenue Code as of the Effective Date. The parties acknowledge that as of the Effective Date, this term generally means, with respect to any month, an employee who is employed on average at least 30 hours of service per week.

(g) **“Full-Time Equivalent Employee”** means a combination of employees whose combined hours add-up to forty (40) hours per week, each of whom individually is not a Full-Time Employee, but who, in combination, are counted as the equivalent of a Full-Time Employee. For example, two (2) employees, each of whom works twenty (20) hours per week, shall be considered a Full-Time Equivalent Employee for purposes of this Agreement.

(h) **“Related Employers”** means an Affiliate, EPC contractor or other applicable employer that hires employees to work within the County for the administration, construction, operation and/or routine maintenance of the Facility.

(i) **“Required Wage”** means an average minimum salary of \$40,160 per year. The calculation of the Required Wage may include bonuses and employee benefits provided by the employer, excluding healthcare benefits. The calculation of the Required Wage specifically excludes compensation for overtime work. For employees that are compensated on an annual basis, but have not yet worked a full year as of the “reporting date” in the Award Affidavit selected pursuant to Section 2.07(h), such employee(s)’ salaries may be prorated based on the number of months such employee has been employed.

## **ARTICLE II**

### **BASIC TERMS**

The following understanding forms the basis of this Agreement:

2.01 The Company presently leases, owns and/or has other real property interests in approximately 18,000 acres of land located in Cameron County, Texas as described in Part A of Exhibit I (the “Site”).

2.02 The Company proposes to construct and operate the Project. The number of turbines will vary depending on the types and the size of the Project. The Company expects the Project to be in operation for at least twenty (20) years.

2.03 This Agreement pertains to the tax incentives applicable to the Project and any associated Eligible Property on the Site, including the real estate improvements, fixtures, personal property, and any new additional value after the Base Year Value associated with such Eligible Property. Additionally, if the requirements of Section 8.04 herein relating to assignment are met, Company may assign all or a portion of its rights under this Agreement to such Affiliate.

**ARTICLE III**  
**ABATEMENT CONDITIONS AND REQUIREMENTS**

As conditions precedent to Company receiving the abatement granted herein, Company agrees to the following commitments and performance requirements.

3.01 The Company shall commence construction of the Project within one year of the Effective Date; provided, such date may be extended by vote of the Commissioners Court (which shall not to be unreasonably withheld, conditioned or delayed) for up to (2) years. Company shall notify the County in accordance with the requirements of Article VIII when it has commenced construction.

3.02 The Company agrees to invest a minimum amount of \$50,000,000 in improvements, fixtures and equipment on the Site within (2) two years after the Effective Date; provided, such date may be extended by vote of the Commissioners Court (which shall not to be unreasonably withheld, conditioned or delayed) for up to two (2) years.

3.03 The Company will achieve the schedule of minimum performances shown on Exhibit 2. Subject to Section 5.05 below, such minimum performances shall form the basis for the Company to continue to receive the County incentives outlined in Article IV during the Incentive Period.

3.04 As an inducement for the County to enter into the Agreement, the Company shall make certain payments in lieu of taxes ("PILOT") as further described in Article V below.

3.05 During the Incentive Period, as defined below, the Company shall use the Site and the Facility for a lawful use related to the support and/or operation of Company's business. The Company's use of the Site shall at all times be in a manner consistent with the general purpose of encouraging development within the Enterprise Zone. The parties acknowledge that the use of the Site as described in Section 2.02 is consistent with such purposes.

3.06 Company shall be and remain current on the payment of any and all taxes owed by Company to the County and all remaining taxing entities within the County; provided, however, that Company may properly follow legal procedures to protest or contest any such taxes.

3.07 Company shall conform to the requirements of applicable city ordinances and all other applicable laws and regulations of the County, state and federal government.

**ARTICLE IV**  
**TERM AND INCENTIVE PERIOD**

4.01 This Agreement shall take effect on the date on which both the County and Company have executed this Agreement ("Effective Date") and, unless earlier terminated

in accordance with its terms and conditions, shall expire simultaneously upon the expiration of the Incentive Period (“Term”).

4.02 Intentionally deleted.

4.03 If Company’s leasehold or easement interest in any Site on which Eligible Property is located terminates without assignment of the Agreement to a successor in interest of Company’s leasehold or easement interest in accordance with Section 8.04, and a leasehold or easement interest in such Site is not restored with ninety (90) days of termination, this Agreement will automatically terminate as to such Site unless amended in accordance with Section 8.01. Notwithstanding the foregoing, no taxes may be abated for Eligible Property located on Site during any period in which Company (or its assignee) does not hold an ownership, leasehold or easement interest in such Site.

4.04 For purposes of this Agreement the “Incentive Period” shall mean the ten (10) calendar years starting on January 1 of the first full calendar year following the date on which the Facility becomes commercially operational and has begun selling energy in commercial quantities to a third party power purchaser. Each such calendar year of the Incentive Period shall be referred to in this Agreement as an “Operational Year.”

#### ARTICLE V INCENTIVES AND REPORTING

5.01 As an inducement to the Company to develop and continuously operate the Facility for at least ten (10) years, and to maintain the Facility in operation for the minimum period set forth in Section 2.02, provided that Company has met the abatement conditions contained in Article II herein, the County agrees that the Company shall receive a tax abatement for the County’s ad valorem personal property taxes as specified in Section 5.02 to financially support the construction, startup and operation of the Project.

5.02 In consideration of the Company’s performance of its obligations under this Agreement, the County agrees that the Company shall receive a tax abatement during the Incentive Period for the County’s Maintenance and Operation’s ad valorem personal property taxes (NOT INCLUDING THE COUNTY’S INTEREST AND SINKING FUND TAX RATE NECESSARY TO FUND THE COUNTY’S DEBT OBLIGATIONS SUPPORTED BY PROPERTY TAX LEVIES) relative to the Added Value of the Eligible Property located on the Site, as follows:

#### Percent of County Taxes to be Abated:

Year 1	M&O 100%
Year 2	M&O 100%
Year 3	M&O 100%
Year 4	M&O 100%
Year 5	M&O 100%



Year 6	M&O 100%
Year 7	M&O 100%
Year 8	M&O 100%
Year 9	M&O 100%
Year 10	M&O 100%

Such tax abatements will commence on following January 1, after the project within County boundaries becomes fully operational. The tax abatement granted herein shall continue for the duration of the Incentive Period and expire at the end (December 31<sup>st</sup>) of the tenth Operational Year.

**5.03 Report Upon Completion.** Upon completion of the minimum investment of \$50,000,000 pursuant to Article II, Company will submit to the County a report with reasonable documentation of the minimum investment and confirmation evidencing that Company has met the requirements of Article II ("**Completion Report**").

**5.04 Award Affidavit.** On or before March 1, of each year that this Agreement is in effect, the Company shall submit to the County, an award affidavit signed and affirmed by an officer or authorized representative of the Company (each an "**Award Affidavit**"), stating that to the best of the Company's knowledge: (i) the Company intends to maintain the Facility in full operation in accordance with the terms of this Agreement; (ii) the Company's representations and warranties contained in Section 7.01 continue to remain true and correct as of the date of the Award Affidavit and (iii) for Award Affidavits provided during an Operational Year, certification by the Company that the aggregate performances set forth in Section 3.03 have been achieved and that reasonable backup documentation exists to substantiate the Company's calculations and performances as set forth in the Award Affidavit. The Company shall also submit documentation as may be reasonably requested by the County in such form as the County may reasonably determine in accordance with the terms and subject matter of this Agreement. The County shall not make copies or otherwise duplicate any documentation submitted by the Company pursuant to such a request and all documentation submitted to the County pursuant to this Agreement shall be returned to Company within fifteen (15) days after County's receipt thereof, except as required by the Texas Public Information Act or other applicable law.

**5.05** The Company's failure to comply with and meet the performance requirements of Section 3.03 for an Operational Year will not eliminate or limit the right of the Company to an abatement for that Operational Year if, and only if, (i) the deficit in the requirements was less than ten (10%) percent of the target and (ii) the Company accurately set forth the calculations in the Award Affidavit for the Operational Year.

**5.06 Audits of Books and Records.** The County will have the right, and the Company shall allow the County to audit the Company's operating records relevant for the County to determine compliance with this Agreement after submission of the Completion Report and, thereafter, during each Operational Year. Company must make all such records available to the County at the Company's office in the County or at another location within the County acceptable to both parties. If the Award Affidavit is found to be incorrect in

any material way with respect to the calculations or regarding the Company's representations and warranties, then, in addition to the remedies available to the County under Section 9.05, the Company will pay to the County on demand at its address set forth herein, the reasonable cost of the audit. If such audit proves the Award Affidavit is correct in all material respects, the expense of any such audit will be paid by the County. Any audit conducted pursuant to this Section 5.06 shall be undertaken during the Company's normal working hours, and the Company shall be provided with reasonable notice and opportunity to prepare relevant records for review without disruption to the conduct of its ordinary business activities. Any amounts payable by one party to the other party shall be settled within thirty (30) days of submission of documentary evidence of the costs of such audit.

5.07 Inspections. At any time during Company's normal working hours throughout the Term and following at least fifteen (15) business days prior written notice to Company, the County will have the right to inspect the Site and the Facility in order to determine compliance with the Agreement. Company will reasonably cooperate with County and any County employees during any such inspection. Notwithstanding the foregoing, Company shall have the right to require that any representative of the County on the Site be escorted by a representative or security personnel of Company during any such inspection and Company shall be able to exercise a requested inspection date and time in its reasonable discretion so as not to interfere with ongoing business operations at the Site. Further, Company may require that all individuals inspecting the Site or the Eligible Property first sign a confidentiality agreement under which they agree not to discuss or publicize information revealed in such inspection except as necessary for them to complete such inspection and evaluation in accordance with the terms of this Agreement.

#### ARTICLE VI PAYMENTS IN LIEU OF TAXES

6.01 In consideration of the tax abatements described in Section 4.02 being granted to it, the Company (or an Affiliate) shall pay to the County \$75,000 in each Operational Year during the abatement period (a "**PILOT Amount**"), unless increased pursuant to Section 3.01 herein.

6.02 The PILOT Amount may be paid in ANNUAL installments no later than December 31, of each Operational Year during the abatement period (the "**PILOT Payments**"). The County acknowledges and accepts that the PILOT Payments may be made by Company or any Affiliate in order to optimize the financing structure for the Facility.

#### ARTICLE VII REPRESENTATIONS AND WARRANTIES

7.01 The Company represents and warrants to the County (and covenants with the County where applicable) that:

(a) The Company is authorized to do business in the State of Texas and has the requisite power and authority, corporate or otherwise, to conduct its business, to own its present assets, and to perform all of its obligations under this Agreement;



(b) The Company's execution, delivery and performance of its obligations under this Agreement have been duly authorized by all necessary actions and do not violate any provision of any existing law, rule, regulation, or contract by which the Company or its property or assets are bound or affected;

(c) The Company has not filed and there are no pending bankruptcy proceedings or other debtor relief proceeding relative to the Company or contemplated by the Company; and

(d) To the Company's best knowledge, the Company is not delinquent in the payment to the County of any material impositions (as that term is hereinafter defined) due and owing from the Company (if any) related to the Facility or Company's operations at the Site, except those contested by the Company by appropriate proceedings promptly initiated and diligently conducted or to the extent required for the purposes of project financing. As used herein, "impositions" means (i) real estate and personal property taxes, water, gas, sewer, electricity and other utility rates, and (ii) all other taxes, charges and assessments and any interest, cost or penalties with respect thereto, of any kind and nature, levied or imposed upon the Facility or Company, or any income therefrom, or the ownership, use, occupancy or enjoyment thereof.

7.02 The County represents and warrants to the Company that:

(a) The County is duly authorized to do business in the State of Texas and has requisite power and authority, corporate or otherwise, to conduct its business and to own its present assets, and to execute and deliver all of its obligations under this Agreement;

(b) The execution, delivery, and performance by the County of its obligations under this Agreement have been duly authorized by all necessary action and does not violate any provision of existing law, rule, regulation or contract by which the County or its property or assets is bound or affected;

(c) the Eligible Property does not include any property that is owned by a member of the County's councils or boards, agencies, commissions, or other governmental bodies (including the Commissioner's Court) approving, or having responsibility for the approval of this Agreement; and

(d) the recitals set forth at the beginning of this Agreement are true and correct in all material respects.

## ARTICLE VIII NOTICES

8.01 Any notice or document required or permitted to be given hereunder by one party to the other will be in writing, mailed by first-class or express mail, postage prepaid, certified with return receipt requested, sent by facsimile, sent by overnight delivery using

a recognized overnight courier or sent via electronic mail. All such communication will be mailed, sent, or delivered at the address respectively indicated in this Article VII or at such other address as either party may have furnished the other party in writing pursuant to Section 8.04. Any communication so addressed and mailed will be deemed to be given three (3) calendar days after mailed. Any communication sent by overnight courier or electronic mail shall be deemed received one (1) business day after so sent. Any communication sent by rapid transmission shall be deemed to be given when receipt of such transmission is acknowledged by the receiving operator or equipment. Finally, any communications delivered in person shall be deemed to be given when receipted for by the Company or the County, as the case may be.

**8.02** The address of the County for all purposes under this Agreement and for all notices hereunder shall be:

Eddie Treviño, Jr., or his successor  
County Judge  
1100 E. Monroe  
Brownsville, Texas 78520  
(956) 544-0830  
etrevino@co.cameron.tx.us

**With a copy to:**  
Mr. Juan Gonzalez  
Cameron County General Civil Legal Counsel  
County of Cameron, Texas  
1100 E. Monroe  
Brownsville, TX 78520  
(956) 550-1345  
Juan.Gonzalez@co.cameron.tx.us

**8.03** The address of the Company for all purpose under this Agreement and for all notices hereunder shall be:

Monte Alto Winpower, LLC  
Attn: Milton Howard, Vice President of Development  
11455 El Camino Real, Suite 160  
San Diego, CA 92130  
(858) 764-3754  
MHoward@terra-gen.com

**With a copy to:**  
Damon Huplosky, Managing Director  
437 Madison Ave,  
New York, NY 10022-7001  
(646) 829-3915  
Dhuplosky@terra-gen.com

8.04 From time to time either party may designate another notice address within the 48 contiguous states of the United States of America for the purpose of this Agreement by giving the other party written notice of such of address in accordance with the provisions of this Article VII.

## ARTICLE IX GENERAL

9.01 This Agreement may be amended, but only in writing, signed by each of the parties hereto and through using the same procedure for approval as is required for this Agreement.

9.02 The covenants and contracts contained in this Agreement, or in any document certificate or other instrument delivered under or pursuant to this Agreement, will survive the execution and delivery hereof, the consummation of this Agreement, and continue to survive thereafter for the applicable statute of limitations to ensure full performance thereof and full recourse for nonperformance by any party.

9.03 No Third Party Beneficiaries. The parties agree that no third person has in any way brought the parties together or been instrumental in the making of this Agreement. Nothing in this Agreement, expressed or implied, is intended to confer upon any other persons any rights or remedies under or by reason of this Agreement. The Company agrees to indemnify the County against any cost resulting from any claim by any third person for any commission brokerage, finder's fee or any other payment based upon any alleged agreement or understanding between such third party and the Company, whether expressed or implied from the actions of the Company. If such a claim is brought against the County, the Company shall have the right and authority to control and direct the investigation, defense and settlement of such claim, as permitted by state law and constitution. For the avoidance of doubt, the Company has engaged financial and tax advisors on a fee basis, and no compensation is contingent on execution of this Agreement.

9.04 Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns. This Agreement may not be assigned by either the County or the Company without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed. Notwithstanding the forgoing, the County hereby consents to Company's assignment of all or a portion of its rights under this Agreement upon prior written notice to the County to (i) any Affiliate that assumes Company's leasehold and/or easement interest and/or acquires an ownership, leasehold or easement interest at the Site (to the extent of such leasehold, easement or ownership interest); (ii) to any entity that has acquired all or substantially all of the Company's assets; (iii) to any successor to the Company by merger, consolidation or other reorganization; and (iv) to a lender, equity investor or other financing party providing financing for the Facility as further described below, provided that, with respect to any assignment pursuant to (i), (ii), (iii) or (iv): the Company shall notify the County of any such transaction following such occurrence in accordance with

the terms of Article VII hereof. Any assignment shall require that: (i) all rights duties, obligations and liabilities under the Agreement applying to the interest acquired by the assignee shall be assigned from the assignor and assumed by the assignee, and upon such assumption, the assignor shall have no further rights, duties, or obligations under the Agreement from the date of such assignment to the extent such rights, duties, obligations or liabilities apply to the interest acquired by the assignee; and (ii) the assignment be made subject and subordinate to this Agreement and the policies and procedures of the Guidelines. For any lender, equity investor or other financing party providing financing to the Facility, Company may assign as collateral, pledge and/or grant a security interest in this Agreement without the County's consent, but with prior written notice to the County and the County shall execute any document reasonably required by the Company or its lenders, equity investors or other financing parties, acting reasonably, in connection with such assignment, pledge or security interest.

9.05 Upon the occurrence of an event of default pursuant to Section 10.01(a), 10.01(b), or 10.01(c) and after the expiration of the Company's right to cure as set forth in Section 10.02, the County may, as its exclusive remedies, elect to terminate this Agreement and be entitled to collect and recapture the full amount of ad valorem taxes abated under this Agreement as of the date of default, and Company's liability shall be limited to such amount; *provided however*, that (i) the County must give notice of such termination within sixty (60) days of the expiration of the cure period provided in Section 10.02 and (ii) all additional considerations paid by the Company as set forth in Sections 3.04 and Article VI, expressly including without limitation all PILOT Payments, shall be credited against the recapture amount due under this provision. Such a recapture shall be due and payable to the County within sixty (60) days of the date the County provides notice to Company exercising its right of recapture. Upon the occurrence of a default pursuant to Section 10.01(d) or 10.01(f) and after the expiration of the Company's right to cure as set forth in Section 10.02, the County will be entitled to collect and recapture the amount of ad valorem taxes abated under this Agreement for the calendar year in which such a default occurred and may elect to terminate this Agreement. Such a recapture shall be due and payable to the County within sixty (60) days from the date the County provides notice to Company exercising its right of recapture. Upon the occurrence of an event of default pursuant to Section 10.01(e), and after the expiration of the Company's right to cure as set forth in Section 10.02, the County may terminate this Agreement and assert any remedy at law or equity to enforce the provisions hereof. Upon the occurrence of an event of default pursuant to Sections 10.01(g), 10.01(h), or 10.01(i) and after the expiration of the Company's right to cure as set forth in Section 10.02, the County may, as its exclusive remedies, elect to terminate this Agreement and be entitled to collect and recapture the full amount of ad valorem taxes abated under this Agreement during the period beginning on the date such default first occurred and continuing through the date of notice of termination.

If more than one remedy for a default by the Company may be applicable, the County may pursue such jointly or alternatively as it may elect and the forbearance by the County to enforce any remedy provided above upon an event of default shall not be deemed or construed to constitute a waiver of such default.

Notwithstanding anything herein to the contrary, prior to pursuing any remedies available to the County for the Company's default under this Agreement, the County shall send notice of such default to all of the Company's lenders and other financing parties who have a collateral interest in this Agreement and who the Company has provided the County with contact information for, and shall allow such lender or financing party to cure (at its sole option) such default during the same cure periods provided in Section 10.02 below.

9.06 The County acknowledges and understands that the Company is relying on the County's representations and warranties in this Agreement and the County's ability to perform the terms thereof. Accordingly, in the event of default by the County, Company may seek to have the provisions of this Agreement enforced by declaratory judgment or injunctive relief to obtain specific performance. Except as provided in this Section 9.06, nothing contained in this Agreement shall be construed as constituting a waiver of the County's governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law.

9.07 General Terms:

(a) The headings contained in the articles of this Agreement are for reference only and do not affect in any way the meaning or interpretation of this Agreement.

(b) As used in this Agreement, all references to exhibits refer to the exhibits attached hereto (each of which is hereby incorporated into and deemed to be a part of this Agreement).

(c) This Agreement will be construed and enforced in accordance with the laws of the State of Texas.

(d) If any term or provision of this Agreement is invalid, illegal or incapable of being enforced, all other terms and provisions of this Agreement will remain in full force and effect and such invalid, illegal or unenforceable term or provisions shall be reformed automatically so as comply with the applicable law or public policy and to effect the original intent of the parties.

(e) This Agreement may be executed simultaneously in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(f) This Agreement (together with the Exhibits hereto and the documents to be delivered pursuant hereto) constitutes the entire agreement among the parties, all negotiations by between and among them being merged into this Agreement (together with such Exhibits and documents).

(g) Unless context requires otherwise, the words, "herein", "hereof" and "hereunder", and words of like import, shall be deemed to refer to this Agreement in its

entirety and not to any individual article, section, subsection, paragraph, or subparagraph. The pronouns used in this Agreement will be construed as masculine, feminine or neuter, singular or plural, as the context may require.

(h) Each party hereto has been represented by legal counsel designated by it and no provision of this Agreement will be construed in favor of, or against, any of the parties hereto by reason of the extent to which this Agreement or any provision hereto is inconsistent with any prior draft hereof or thereof.

(i) The Company shall provide to the County (or permit the County to inspect, as the case may be) the financial information and records referred to in this Agreement, and the County will accept from the Company the financial information as "**Confidential Information**" and agrees to receive and, for the duration of this Agreement and five (5) years thereafter, to not make any unauthorized use of the Confidential Information, including, without limitation, to use such information in the support of activities competitive with those of the Company, and to maintain said Confidential Information in secrecy and strict confidence unless: (i) such information has lawfully become public information through action of the County; (ii) such information was known to the County prior to having obtained such information under the terms of this Agreement or was developed independently of the Confidential Information provided by the Company; (iii) such information becomes lawfully available to the County, from another source, which has not received the information, either directly or indirectly, from either of the Company or an Affiliate; or (iv) the disclosure of the information is required by law. The confidentiality obligations of this Section 9.09(s) shall expire five (5) years after the last day of the last Operational Year of this Agreement.

(j) In the event that the County receives a request for information relating to the Company, Confidential Information or any other information provided by the Company to the County pursuant to this Agreement, the County shall timely seek an opinion from the Attorney General of the State of Texas requesting if the information requested is required to be provided. The County agrees to use its best efforts in safeguarding all information relating to the Company, including all proprietary or Confidential Information, as well as non-proprietary or non-confidential information provided pursuant to this Agreement, and any other information provided by the Company to the County.

(k) It is the intent of the parties to comply with Section 312 of the Texas Tax Code. All requirements for a tax abatement under Section 312 of the Texas Tax Code are incorporated herein. Any variations between the terms and conditions of this Agreement and those set forth in the Guidelines are hereby approved by the County.

(l) In the event Section 2270.002 of the Texas Government Code applies to this Agreement, the Company hereby certifies that it does not and will not boycott Israel.

#### **ARTICLE X** **DEFAULT**

10.01 The following events shall be deemed to be events of default by the Company under this Agreement:



(a) The Company fails to submit to the County an Award Affidavit at the time and in the manner required in this Agreement;

(b) Any warranty, affirmation or representation made to the County by or on behalf of the Company with respect to any certificate, Completion Report or Award Affidavit proves to have been false or intentionally misleading in any material respect when made;

(c) Company fails to meet the minimum investment requirement in Section 2.02;

(d) The Project is completed and begins operations, but subsequently all operational wind turbines on the Site cease the generation of electricity for a period of one year or more for any reason except generation shut downs to address safety concerns, fire, explosion or other casualty, accident or natural disaster or other event for which Company (or one or more of its Affiliate's) performance is excused for reason of Force Majeure during the Incentive Period unless (i) the Company can demonstrate to the County (acting reasonably) that it is diligently pursuing the resumption of energy generation and (ii) the Company continues to meet the employment requirements; and where for purposes of this Agreement "Force Majeure" shall mean any act, event or circumstance, whether of the kind described herein or otherwise, that is not reasonably within the control of, does not result from the gross negligence of, and would not have been avoided or overcome by the exercise of reasonable diligence by the party claiming Force Majeure, with such party having observed a standard of conduct that is consistent with a reasonable and prudent operator under the same circumstances; including: (i) acts of God, the government, or a public enemy; strikes, lockout, or other industrial disturbances; (ii) adverse weather conditions, catastrophic storms or floods (including adverse weather conditions, catastrophic storms or floods that prevent access to or operation of the Facility due to closure of roads by decision of a local, state or federal authority); (iii) wars, terrorism, revolts, insurrections, sabotage, commercial embargoes, blockades or civil disturbances of any kind, epidemics, fires, explosions, arrests and actions of a local, state or federal authority that were not requested, promoted or caused by the affected party; (iv) changes in or introduction of laws, rules, regulations, ordinance, decree or orders of any national, municipal or other governmental authority, whether domestic or foreign, or the nationalization, confiscation, expropriation, compulsory acquisition arrest or restraint of any assets by any governmental authority; (v) loss of, accidental damage to, or inaccessibility to or inoperability of any Eligible Property to/from the Facility or any disruption under the supply/production agreements supporting the Facility; (vi) any event affecting a power grid, substation or other supporting infrastructure that is directly connected to the Facility, which results in the Facility having to declare an event of Force Majeure due to the impact on the Facility's operations; and (vii) the denial, expiration of, or failure to obtain, any regulatory approval, required for the Facility's operations;

(e) Any warranty, affirmation or representation, other than those described in Section 9.01(b), made to the County by or on behalf of the Company on the date hereof proves to have been false or misleading in any material respect when made;

(f) The Company fails to timely comply with the County's request to inspect the Facility in accordance with Section 5.07;

(g) The Company fails to timely pay, when obligated, any investigation cost incurred by the County hereunder or any audit cost under Section 5.06;

(h) To the extent permitted by law, if bankruptcy or insolvency proceedings are commenced by or against the Company and are not dismissed within ninety (90) days thereafter; or

(i) The Company fails to pay any PILOT Payment when due and owing.

10.02 If the County determines that the Company is in default in accordance with the terms and conditions of this Agreement, then the County shall notify the Company in writing of such default. If the default is not cured within ninety (90) calendar days from the date of the notice, then the County may exercise its remedies under Section 9.05. Notwithstanding the foregoing sentence, the cure period for a payment default pursuant to Section 10.01(g) or (i) shall only be thirty (30) business days. The County Commissioners Court may extend the ninety (90) day cure period an additional thirty (30) days if the default may not reasonably be cured within such ninety (90) day period.

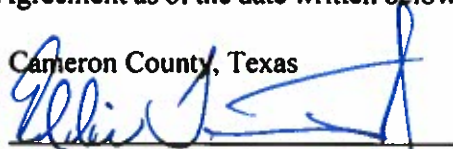
#### **ARTICLE XI** **ROAD MAINTENANCE**

(Include here a guaranty of preserving the roads in the condition as they were on the day of commencement of construction) As conditions precedent to Company receiving the abatement granted herein, Company shall comply with the terms and conditions of the Road Use Agreement between the Company and the County dated as of {Date} (as amended) attached hereto as Exhibit 3.

*[Signature page immediately follows]*

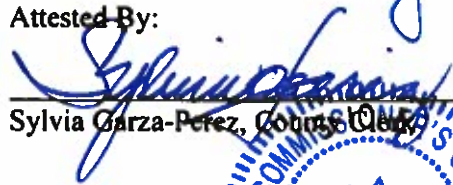
IN WITNESS WHEREOF, the undersigned parties hereto have duly executed this Agreement as of the date written below the parties' representatives' signatures, hereinafter.

Cameron County, Texas



Eddie Trevino, Jr., County Judge

Attested By:



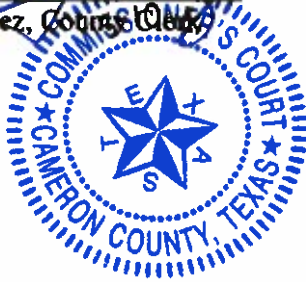
Sylvia Garza-Perez, County Clerk

Monte Alto Windpower, LLC

By: Milt Howard

Name: Milton R. Howard

Title: Vice-President, Development



## **Exhibit 1**

### **PART A**

#### **DESCRIPTION OF REAL PROPERTY UNDER LEASE**

#### **METES AND BOUNDS DESCRIPTION**

Real property in the County of Hidalgo and County of Cameron, State of Texas, described as follows:

**Tract I:**

A tract of land situated in Hidalgo and Cameron Counties, Texas and also being a part or portion of Farm Tracts 2396, 2411, 2412, 2414, 2415, 2418, 2424, 2425, 2432 thru 2434, 2436, 2437, 2443, 2467 thru 2470, 2472, 2473, 2477, 2484, 2488, 2583, 2587 thru 2589, 2592, 2594 thru 2598, 2604, 2605, 2613, 2616, 2625 thru 2628, 2656 thru 2659, 2662, 2663, 2668 thru 2670, 2673, 2676, 2678, 2679 and all of Farm Tracts 2413, 2419 thru 2423, 2438 thru 2442, 2444 thru 2460, 2474 thru 2476, 2478 thru 2483, 2485, 2486, 2489, 2584, 2590, 2591, 2593, 2599, 2600 thru 2603, 2606, 2607, 2611, 2617 thru 2624, 2629 thru 2639, 2640 thru 2646, 2648 thru 2655, 2660, 2661, 2664 thru 2667, 2671, 2672, 2677, 2681, and 2682 of the North Capisallo District Subdivision, Hidalgo County, Texas, according to map thereof recorded in Volume 2, Pages 7 through 13 and Pages 14 through 20, Map Records of Hidalgo County, Texas, and map thereof recorded in Volume 4, Pages 66 and 69, Map Records of Cameron County, Texas; said tract of land being more particularly described by metes and bounds as follows:

Beginning at a #4 rebar set on the North right-of-way line of State Highway 107 and the West line of a Canal and Drain Ditch right-of-way (deed reference: Volume 246, Page 589, C.C.D.R.) for the Southeast corner of this tract, said rebar bears West a distance of 525.00 feet and North 0 degrees 27 minutes 18 seconds West, a distance of 50.00 feet from the Southeast corner of said F.T. 2594:

Thence, West along the North right-of-way line of said State Highway 107 a distance of 2457.20 feet to a #4 rebar set on a point of curvature of this tract;

Thence, along said curve to the right with a radius of 2272.79 feet, an interior angle of 14 degrees 08 minutes 33 seconds, an arc length of 561.00 feet, a tangent of 281.93 feet and a chord that bears North 82 degrees 55 minutes 44 seconds West, a distance of 559.58 feet to a #4 rebar set on the East right-of-way line of F.M. 1425 for the point of tangency and the Southernmost Southwest corner of this tract;

Thence, North along the East right-of-way of said F.M. 1425 a distance of 2740.08 feet to a #4 rebar set for an outside corner of this tract;

Thence, East a distance of 580.10 feet to a #4 rebar set on the common line of said Cameron and Hidalgo Counties for an inside corner of this tract;

Thence, North along the common line of said Counties a distance of 1639.99 feet to a #4 rebar set on the South right-of-way line of a railroad for an inside corner of this tract;

Thence, North 66 degrees 27 minutes 22 seconds West, along the South right-of-way line of said railroad a distance of 694.40 feet to a #4 rebar set on the East right-of-way line of said F.M. 1425 for an outside corner of this tract;

Thence, North along the East right-of-way line of said F.M. 1425 a distance of 3150.58 feet to a #4 rebar set on the center line of Mile 15 1/2 North Road and the North line of said F.T. 2618 for an inside corner of this tract;

Thence, West along the North line of said F.T. 2618, 2614, 2612 and 2613 a distance of 1480.53 feet to a #4 rebar set for an inside corner of this tract;

Thence, South 0 degrees 17 minutes West, a distance of 1842.02 feet to a #4 rebar set for outside corner of this tract;

Thence, South 46 degrees 49 minutes 55 seconds West, a distance of 658.24 feet to a #4 rebar set on the South line of said railroad right-of-way for an outside corner of this tract;

Thence, North 66 degrees 27 minutes 22 seconds West, along the South line of said railroad right-of-way a distance of 3889.33 feet to a #4 rebar set for an inside corner of this tract;

Thence, South 34 degrees 45 minutes 15 seconds West, a distance of 1655.92 feet to a #4 rebar set on the North right-of-way line of said State Highway 107 for an outside corner of this tract;

Thence, North 47 degrees 0 minutes West, along the North right-of-way line of said State Highway 107 a distance of 10315.30 feet to a #4 rebar set on a point of curvature of this tract;

Thence, along said curve to the left with a radius of 1482.40 feet, an interior angle of 16 degrees 26 minutes 56 seconds, an arc length of 425.58 feet, a tangent of 214.26 feet and a chord that bears North 55 degrees 13 minutes 28 seconds West, a distance of 424.12 feet to a #4 rebar set on the East line of the Floodway right-of-way and the point of tangency for the Western most Southwest corner of this tract;

Thence, North 13 degrees 34 minutes 17 seconds East, along the East line of said Floodway a distance of 112.76 feet to a concrete monument found on the center line of Mile 16 1/2 North Road for an angle point of this tract;

Thence, North 13 degrees 37 minutes 11 seconds East, along the East line of said Floodway a distance of 1253.78 feet to a #4 rebar found on the South right-of-way line of said railroad for an angle point of this tract;

Thence, North 13 degrees 50 minutes 50 seconds East, along the East line of said Floodway a distance of 102.65 feet to a concrete monument found on the North right-of-way line of said railroad for an angle point of this tract;

Thence, North 13 degrees 30 minutes 39 seconds East, along the East line of said Floodway a distance of 1130.12 feet to a concrete monument found for an angle point of this tract;

Thence, North 22 degrees 20 minutes 42 seconds East, along the East line of said Floodway a distance of 240.53 feet to a #4 rebar set on the center line of Mile 17 North Road and the common line of said F.T. 2432 and 2467 for an angle point of this tract;

Thence, North 32 degrees 20 minutes 51 seconds East, along the East line of said Floodway a distance of 118.37 feet to a concrete monument found for an angle point of this tract;

Thence, North 38 degrees 11 minutes 06 seconds East, along the East line of said Floodway a distance of 730.10 feet to a concrete monument found on the common line of said F.T. 2467 and 2468 for an angle point of this tract;

Thence, North 38 degrees 13 minutes 56 seconds East, along the East line of said Floodway a distance of 1165.67 feet to a #4 rebar found on the common line of said F.T. 2469 and 2470 for an angle point of this tract;

Thence, North 38 degrees 14 minutes 08 seconds East, along the East line of said Floodway a distance of 1336.72 feet to a #4 rebar found on the center line of Mile 17 1/2 North Road and the common line of said F.T. 2473 and 2472 for an angle point of this tract;

Thence, North 33 degrees 11 minutes 18 seconds East, along the East line of said Floodway a distance of 1995.11 feet to a #4 rebar found on the center line of Mile 1 East Road and the common line of said F.T. 2472 and 2477 for an angle point of this tract;

Thence, North 50 degrees 08 minutes 38 seconds East, along the East line of said Floodway a distance of 280.30 feet to a #4 rebar set for an angle point of this tract;

Thence, South 89 degrees 25 minutes 42 seconds East, along the South line of said Floodway a distance of 60.70 feet to a #4 rebar set for an angle point of this tract;

Thence, North 63 degrees 02 minutes 18 seconds East, along the South line of said Floodway a distance of 114.70 feet to a #4 rebar set for an angle point of this tract;

Thence, North 78 degrees 43 minutes 15 seconds East, along the South line of said Floodway a distance of 631.16 feet to a #4 rebar set on the center line of Mile 18 North Road and the North line of said F.T. 2477 for the Northwest corner of this tract;

Thence, South 89 degrees 25 minutes 53 seconds East, along the South line of said Floodway and the North line of said F.T. 2477, 2478, 2483, and 2484 and the center line of Mile 18 North Road a distance of 3950.78 feet to a #4 rebar set for the Northernmost Northeast corner of this tract;

Thence, South 71 degrees 13 minutes 06 seconds East, along the South line of said Floodway a distance of 352.57 feet to a #4 rebar set on the center line of Mile 2, East Road and the common line of said F.T. 2484 and 2662 for an angle point of this tract;

Thence, South 65 degrees 12 minutes 46 seconds East, along the South line of said Floodway a distance of 6721.00 feet to a #4 rebar set on the common line of said Counties for an angle point of this tract;

Thence, South 89 degrees 47 minutes 46 seconds East, a distance of 2076.46 feet to a #4 rebar found on the West line of said Canal and Drain Ditch right-of-way for the Easternmost Northeast corner of this tract;

Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 5659.99 feet to a #4 rebar set on the common line of said F.T. 2657 and 2656 for an angle point of this tract;

Thence, East along the common line of said F.T. 2657 and 2656 a distance of 30.00 feet to a #4 rebar set for an angle point of this tract;

Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 5280.00 feet to a #4 rebar set on the common line of said F.T. 2626 and 2625 for an angle point of this tract;

Thence, East along the common line of said Farm Tract 2626 and 2625 a distance of 20.00 feet to a #4 rebar for an angle point of this tract;



Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 1320.00 feet to a #4 rebar set on the common line of said Farm Tract 2625 and 2596 for an angle point of this tract;

Thence, West along the common line of said Farm Tract 2625 and 2596 a distance of 90.00 feet to a #4 rebar set for an angle point of this tract;

Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 2640.00 feet to a #4 rebar set on the common line of said Farm Tract 2595 and 2592 for an angle point of this tract;

Thence, East along the common line of said Farm Tract 2595 and 2592 a distance of 90.00 feet to a #4 rebar set for an angle point of this tract;

Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 660.00 feet to a #4 rebar set on the common line of said Farm Tract 2592 and 2594 for an angle point of this tract;

Thence, West along the common line of said Farm Tract 2592, and 2594 a distance of 65.00 feet to a #4 rebar set for an angle point of this tract;

Thence, South 0 degrees 27 minutes 18 seconds East, along the West line of said Canal and Drain Ditch right-of-way a distance of 1930.00 feet to the Point of Beginning;

Save and Except a tract of land situated in Hidalgo County, Texas and also being all of Farm Tracts 2608, 2609, 2610, and 2647 of the North Capisallo District Subdivision, Hidalgo County, Texas, according to map thereof recorded in Volume 2, Pages 7 through 13 and Pages 14 through 20, Map Records of Hidalgo County, Texas; said tract of land being more particularly described by metes and bounds as follows:

Beginning at the Southeast corner of said F.T. 2610 for the Southeast corner of this tract;

Thence, West along the South line of F.T. 2610 and 2608 a distance of 2640.00 feet to a #4 rebar set for the Southwest corner of said F.T. 2608 for the Southwest corner of this tract;

Thence, North along the West line of said F.T. 2608 a distance of 1320.0 feet to a #4 rebar set for the Northwest corner of said F.T. 2608 for the Westernmost Northwest corner of this tract;

Thence, East along the North line of said F.T. 2608 a distance of 1320.00 feet to a #4 rebar set on the Southwest corner of F.T. 2647 for an inside corner of this tract;

Thence, North along the West line of said F.T. 2647 a distance of 1320.00 feet to a #4 rebar set on the Northwest corner of said F.T. 2647 for the Northernmost Northwest corner of this tract;

Thence, East along the North line of said F.T. 2647 a distance of 1320.00 feet to the Northeast corner of said F.T. 2647 for the Northeast corner of this tract;

Thence, South a distance of 2640.00 feet to the Point of Beginning; and, further;

Save and Except that certain tract of land, containing 35.077 acres, more or less, being part of portion out of Farm Tracts Two Thousand Five Hundred Eighty Eight (2588), Two Thousand Five Hundred Eighty Nine (2589), Two Thousand Five Hundred Ninety (2590), and Two Thousand Six Hundred Seventeen (2617), North Capisallo District Subdivision, according to the map or plat thereof in Volume 2, Pages 7

through 13 and 15 through 20, Map Records, Hidalgo County, Texas, and in Volume 4, Pages 44 through 70, Map Records, Cameron County, Texas, reference to which is here made for all purposes, said 35.077 acres having been previously conveyed by Special Warranty Deed dated July 29, 2006 from Winding Brook Corporation to Rio Grande Valley Sugar Growers, Inc., filed for record in the Office of the County Clerk of Hidalgo County, Texas on August 18, 2006, under Clerk's File No. 1653105 and filed for record in Office of the County Clerk of Cameron County, on August 23, 2006, under Volume 12939, Page 236 and being more particularly described by metes and bounds as follow, to-wit;

Beginning, at a No. 4 rebar set on the East right of way line of F.M. 1425 for the Northwest corner of this tract, said rebar bears North 01 degrees 09 minutes 56 seconds West, a distance of 958.57 feet and North 88 degrees 50 minutes 04 seconds East, a distance of 35.00 feet from the Southwest corner of Farm Tract 2617, North Capisallo District Subdivision;

Thence, North 88 degrees 50 minutes 04 seconds East, a distance of 62.00 feet to a No. 4 rebar for the Northeast corner of this tract;

Thence, South 42 degrees 26 minutes 20 seconds East, at a distance of 1255.46 feet pass the North right-of-way line of Mile 15 North Road (unopened), at a distance of 1295.38 feet pass the South right of way line of Mile 15 North Road (unopened), continuing a total distance of 3067.56 feet to a No. 4 rebar set on the North line of a 100 foot railroad right of way for the Southeast corner of this tract;

Thence, North 67 degrees 37 minutes 18 seconds West, along the North line of said 100-foot railroad right of way, a distance of 2274.89 feet to a No. 4 rebar set on the East right of way line of F.M. 1425 for the Southwest corner of this tract;

Thence, North 01 degrees 09 minutes 56 seconds West, along the East right of way line of F.M. 1425, at a distance of 423.21 feet pass the South right-of-way line of Mile 15 North Road (unopened), at a distance of 453.21 feet pass the North right of way line of Mile 15 North Road (unopened), continuing a total distance of 1396.78 feet to the Point of Beginning, and containing 35.077 acres of which 0.622 of one acres lies in the existing right of way of Mile 15 North Road (unopened), leaving a net of 34.455 acres of land, more or less.

Save and Except a tract of land out of Blocks 2587 and 2588 along with a portion of a canal right-of-way conveyed to Rio Grande Valley Sugar Growers, Inc., as described in deed dated January 20, 1993 from Winding Brook Corporation, recorded in Volume 2319, Page 303, Official Records, Cameron County, Texas; and

#### Tract II:

A 11.091 acres tract of land out of Farm Tract 2587, of the North Capisallo District Subdivision of the lands of the American Rio Grande Land and Irrigation Company Subdivision, Hidalgo County, Texas, county map thereof recorded in Volume 2, Pages 7 through 13 and Pages 14 through 20, Map Records of Hidalgo County, Texas, said tract being more particularly described as follows:

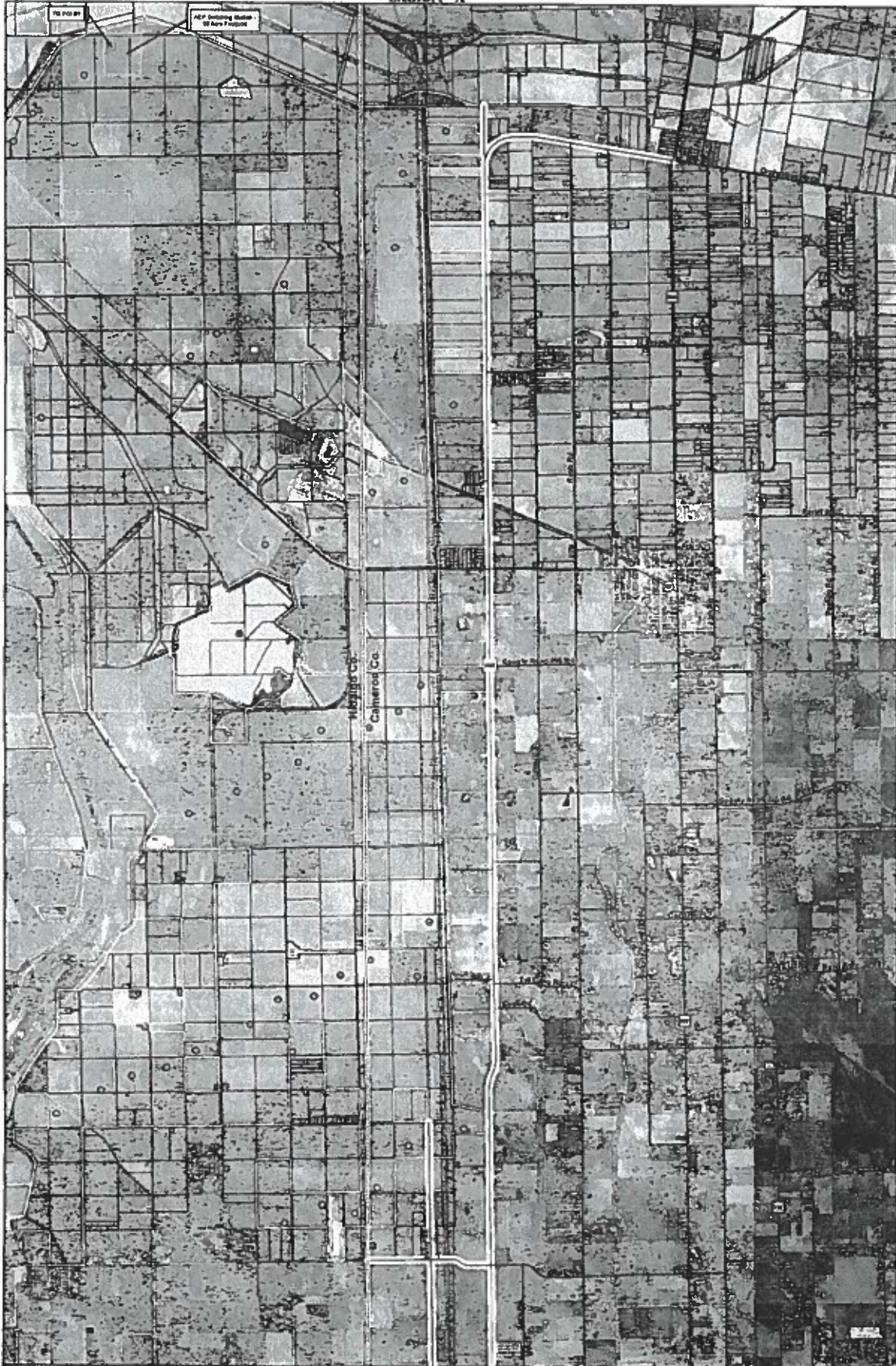
Commencing at the point of intersection of the centerline of Mile 14 1/2 North Road, a 30 foot wide road easement and Mile 3 East Road, a 40 foot wide road easement, said point being the Southwest corner of Farm Tract 2587 of the North Capisallo District Subdivision of the lands of the American Rio Grande Land and Irrigation Company Subdivision, as shown on map thereof recorded in Volume 2, Pages 7 through 20, Map Records of Hidalgo County, Texas;

Thence, along the centerline of said Mile 3 East Road with the West line of said Farm Tract 2587, North, a distance of 207.0 feet to the Point of Beginning of the parcel herein described;

[illegible]



EXHIBIT "A"



 	<p>CONFIDENTIAL</p> <p>Legend</p> <ul style="list-style-type: none"> <li>○ PROJECT BOUNDARY</li> <li>○ EXISTING ROAD</li> <li>○ EXISTING RAILROAD</li> <li>○ EXISTING UTILITY</li> <li>○ EXISTING WATERWAY</li> <li>○ EXISTING FENCE</li> <li>○ EXISTING BUILDING</li> <li>○ EXISTING WOODS</li> <li>○ EXISTING CROPLAND</li> <li>○ EXISTING PASTURE</li> <li>○ EXISTING WETLAND</li> <li>○ EXISTING WOODS</li> <li>○ EXISTING CROPLAND</li> <li>○ EXISTING PASTURE</li> <li>○ EXISTING WETLAND</li> </ul>	<p>Page 6 of 10</p> <p><b>Monte Alto Project</b></p> <p>SECTION 11.56.00</p> <p>DE 2008</p>	<p>Project Location: Hilltop &amp; Decker County, Texas</p> <p>N</p> <p>0 1,000 2,000 Feet</p> <p>CONFIDENTIAL</p> <p><small>Disclaimer: This map should not be used for legal purposes. It is intended for general reference use only.</small></p> <p>Prepared by: JAC</p> <p>Date: 08/01/08</p>
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## Exhibit 2

### Schedule of the Company's Minimum Performance by Year of Operation

Operational Year	Construction Costs	Direct Construction Jobs	Direct Construction Salaries	County Permits Paid	Assessed Facility Value	Personal Property Value	Permanent Jobs Created	Total Salaries for Permanent Jobs
1	\$77,000,000	150	\$31,236	\$65,000	\$77,000,000	\$2,500,000	6	\$40,160
2		0			\$77,000,000	\$2,500,000	6	\$40,160
3		0			\$77,000,000	\$2,500,000	6	\$40,160
4		0			\$77,000,000	\$2,500,000	6	\$40,160
5		0			\$77,000,000	\$2,500,000	6	\$40,160
6		0			\$77,000,000	\$2,500,000	6	\$40,160
7		0			\$77,000,000	\$2,500,000	6	\$40,160
8		0			\$77,000,000	\$2,500,000	6	\$40,160
9		0			\$77,000,000	\$2,500,000	6	\$40,160
10		0			\$77,000,000	\$2,500,000	6	\$40,160

**Exhibit 3**  
**Road Use Agreement**





## Monte Alto Wind Project

Included is a map showing the properties are under lease. Copy of the lease memorandum is attached indicating property under lease. We understand the County's intent to only abatement the M&O portion of the tax. Lastly, although this project application indicates a \$77 million investment, the TOTAL PROJECT investment is \$228,388,000 million of which \$151,388,000 million is scheduled to be constructed in Hidalgo County and \$77 million to be constructed in Cameron County. Project is located right at County line of the two counties.

(3% Depreciation)		0.360875		0.056018			
		Cameron			Proposed	Effective Tax	
Year	Total Investment	County Investment	M&O Tax	I&S Tax	PILOT	Total Received	Abatement
1	228,388,000	77,000,000	277,873.75	43,133.86	50,000.00	93,133.86	71.0%
2	221,536,360	74,690,000	269,537.54	41,839.84	50,000.00	91,839.84	70.5%
3	214,890,269	72,449,300	261,451.41	40,584.65	50,000.00	90,584.65	70.0%
4	208,443,561	70,275,821	253,607.87	39,367.11	50,000.00	89,367.11	69.5%
5	202,190,254	68,167,546	245,999.63	38,186.10	50,000.00	88,186.10	69.0%
6	196,124,547	66,122,520	238,619.64	37,040.51	50,000.00	87,040.51	68.4%
7	190,240,810	64,138,844	231,461.05	35,929.30	50,000.00	85,929.30	67.9%
8	184,533,586	62,214,679	224,517.22	34,851.42	50,000.00	84,851.42	67.3%
9	178,997,578	60,348,239	217,781.71	33,805.88	50,000.00	83,805.88	66.7%
10	173,627,651	58,537,792	211,248.26	32,791.70	50,000.00	82,791.70	66.1%
			2,432,098.08	377,530.36	500,000.00	877,530.36	68.8%
							20.6%

Recent Wind power investment \$154,000,000-Agreed upon PILOT for M&O only abatement = \$150,000.00  
PILOT should be \$75,000 annually based upon recent agreement on a pro-rata basis

(3% Depreciation)		0.360875		0.056018			
		Cameron			Suggested	Effective Tax	
Year	Total Investment	County Investment	M&O Tax	I&S Tax	PILOT	Total Received	Abatement
1	228,388,000	77,000,000	277,873.75	43,133.86	75,000.00	118,133.86	63.2%
2	221,536,360	74,690,000	269,537.54	41,839.84	75,000.00	116,839.84	62.5%
3	214,890,269	72,449,300	261,451.41	40,584.65	75,000.00	115,584.65	61.7%
4	208,443,561	70,275,821	253,607.87	39,367.11	75,000.00	114,367.11	61.0%
5	202,190,254	68,167,546	245,999.63	38,186.10	75,000.00	113,186.10	60.2%
6	196,124,547	66,122,520	238,619.64	37,040.51	75,000.00	112,040.51	59.4%
7	190,240,810	64,138,844	231,461.05	35,929.30	75,000.00	110,929.30	58.5%
8	184,533,586	62,214,679	224,517.22	34,851.42	75,000.00	109,851.42	57.6%
9	178,997,578	60,348,239	217,781.71	33,805.88	75,000.00	108,805.88	56.8%
10	173,627,651	58,537,792	211,248.26	32,791.70	75,000.00	107,791.70	55.8%
			2,432,098.08	377,530.36	750,000.00	1,127,530.36	59.9%
							30.8% PILOT/M&O
							40.1% all

### Las Palmas Wind Project

Investment \$ 154,425,440  
PILOT \$ 150,000  
M&O Only