



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE

210 East 5th Avenue
Milbank, SD 57252-2499
Phone: 605-432-7580
Fax: 605-432-7515

April 17, 2019

Cattle Ridge Wind Farm, LLC
Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC
700 Universe Blvd.
Juno Beach, FL 33408

To whom it may concern:

This letter is written to formally inform you that on April 8, 2019 the Grant County Board of Adjustment (Board) approved your requests for a conditional use permit to operate a Section 1101.03.22 "Wind Energy System" (Cattle Ridge) on property described in your application within Mazeppa, Stockholm and Twin Brooks Townships. The Board also approved your request for Section 1101.03.14 "...essential public utilities and service structures" (electric power transmission line and reactive power compensation substation) on property described in your application within Alban, Big Stone, Grant Center and Madison Townships. Further, this letter is to serve as notification that pursuant to SDCL 11-2-61 the Board's decisions described in this letter have been filed in the office of the Board of Adjustment (Grant County Zoning Office) as of the date of this letter.

The Conditional Use permits will allow you to operate a wind energy system with up to 25 wind turbines, associated electrical transmission lines, and operation facilities and an approximate 24.5 miles of electric transmission line and a reactive power compensation substation in the manner presented in your applications and at the meeting. The Board approved the Conditional Use Permits based upon the staff report, testimony at the meeting and in the application, findings read at the meeting, and conditions to be agreed upon in a letter of assurance. The official findings of fact will be filed at the zoning office upon review and signature of the Chairperson of the Board. Please contact this office if you would like a copy of the findings of fact for your records. As noted, the Board approved your permits subject to you signing a letter of assurance with the following conditions:

WES

1) Effective Date and Transferability:

- a. Upon issuance of permit by South Dakota Public Utilities Commission.
- b. This permit shall expire on April 8, 2022 if no substantial construction as described in the application has commenced; or the permit shall expire on April 8, 2021 if a State Permit from the South Dakota Public Utility Commission has not been issued.

- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. There shall be no discharge of industrial processed water on the site
- b. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
- c. Applicant shall provide the zoning office with an updated local contact information of plant supervisor with authority to implement dust control and other necessary enforcement of the conditions of this permit.
- d. Applicant agrees to submit final WES maps, points of contact, soil and erosion plan, decommissioning plan and haul road agreements as required by ordinance.
- e. Applicant agrees to obtain building permits prior to commencing construction on any towers.
- f. Applicant agrees to meet all State and Federal requirements.

3) Obligation to Meet Requirements:

- a. Applicant agrees to meet requirements of Section 1211 of the Grant County Ordinance in reference to remaining obligations including but not limited to: submittal of Soil Erosion and Sediment Control Plans, Haul Road Agreements, Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirements as required by Section 1211
- b. Applicant acknowledges the ability of the Board of Adjustment to require some form of financial assurance to cover the anticipated costs of decommissioning the WES Facility. Final Decommissioning Plan to be submitted as required by ordinance.
- c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Applicant to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.

- iii. Unless otherwise agreed upon between the applicant and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
- d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".
- e. Applicant agrees to provide notice to Grant County after 6 months of non-use of the transmission line. Applicant further agrees to utilize decommissioning standards from Section 1211 of the County's zoning Ordinance. Said decommissioning of the transmission line is to be completed within two (2) years after initial notification.
- f. Applicant agrees to construct test wells one (1) mile above and 1 (mile) below specific pole locations located over Zone A and B of the County's Aquifer Protection District. Aquifer readings are to be conducted preconstruction and post-construction and then every 3 years with results to be provided to SDDENR.

4) Violation and Penalties:

- a. Violations of requirements of the ordinance relating to the operations of a specific tower will result in enforcement/penalties in reference to the specific tower found to be in violation and will be enforced in the manner as described in Section 4.b below.
- b. Violation of the terms of this conditional use permit will be determined by the Grant County Zoning Officer.
 - (1) The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and/or cessation of the specific tower within forty-five days (45) of notice of revocation.
 - (2) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment to the Grant County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such

appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

- (3) Failure to comply with the decision of the Zoning Officer or other agent of the Grant County Board of Adjustment may be deemed a separate violation.

“...essential public utilities and service structures” (Electric power transmission line and reactive power compensation substation)

1) Effective Date and Transferability:

- a. This permit shall expire on April 8, 2021 if no substantial construction as described in the application has commenced.
- b. The applicant may apply for an extension of this permit if the requirements of 1.a above cannot be met.
- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. Applicant shall provide the zoning office with an updated local contact information of supervisor with authority to implement dust control, haul road and other necessary enforcement of the conditions of this permit.
- b. Applicant agrees to obtain any required building permits prior to commencing construction
- c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Applicant to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.
 - iii. Unless otherwise agreed upon between the applicant and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
 - v. Haul road agreements to be executed not less than 30 days prior to construction.

- vi. Haul Road Agreement language to include provision that the adjoining landowners be notified of road closures at least 2 days prior to road closure.

- d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".

- e. Lighting on the substation site shall be limited to downward directed lights or other lighting customarily used for similar operations.

- f. The substation will be limited to one (1) on-premise sign attached to the security fence. Maximum dimensions to be to be 80' square feet or to be determined by the Board.

- g. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

I have attached two Letters of Assurance to this letter for your signature. Please make two copies, sign both and return them to this office. Once received the Chair will sign both letters and the County will return an original copy to you. These letters of assurance will be filed with this letter and the original application at the Zoning Office. Further, if you have any other questions you may reach me at 605-432-7580 between the hours of 8:00 a.m. and 5:00 p.m. on Mondays, Tuesdays and Wednesdays.

Sincerely,

Krista Atyeo-Gortmaker
Grant County Zoning Officer

**Findings of Fact
Conditional Use Permit
Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC (Applicant):
“...essential public utilities and service structures” (Electric Power Transmission Line
and reactive power compensation substation)
April 8, 2019**

This matter having come before the Grant County Board of Adjustment and the Board having taken testimony and heard the evidence; the Board enters the following Findings of Fact in support of its motion to approve the Petitioner's application for a Conditional Use Permit.

1. Standard Findings of Fact for Conditional Uses adopted in the Articles of By-Laws for Grant County Board of Adjustment: Article 12.
2. The following use is listed in the A – Agricultural Zone and Zone B of the Aquifer Protection Overlay District of the Grant County Zoning Ordinance and (Ref: SDCL 11-2-17.3):
 - “Water pumping stations, elevated tanks and similar essential public utilities and service structures (Electric power transmission line and reactive power compensation substation) (Ref: Zon. Ord. 1101.03.14).
 - All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.09)
 - All Conditional Uses allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones. (Ref: Zon. Ord. 1105.10)
3. Section 284 of the Grant County Zoning Ordinance defines a utility as any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.
4. On or before February 11, 2019, Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC applied for a conditional use permit to construct and operate Electric Power Transmission Line and reactive power compensation substation on property Alban, Big Stone, Grant Center and Madison Townships as displayed in Exhibit “A” attached and hereby incorporated by reference
5. This permit should not become effective until all required permits are granted by the state and federal government, including the remaining applications and licenses referenced in the application.
6. The application and testimony at the April 8, 2019 Grant County Board of Adjustment meeting allowed the Board to adequately review how the applicant will satisfy requirements for “Water pumping stations, elevated tanks and similar essential public utilities and service structures (Electric power transmission line and reactive power compensation substation)

7. The applicant submitted all materials required by of the Grant County Zoning Ordinance to obtain a conditional use permit for "Water pumping stations, elevated tanks and similar essential public utilities and service structures (Electric power transmission line and reactive power compensation substation).
8. The application, and testimony during the meeting adequately addressed all concerns of the ordinance, including those concerns which apply to the provisions of the Zoning Ordinance raised in written testimony received in accordance with the By-Laws of this Board, and in testimony given during the public hearing. All issues that were brought up with the application or during testimony which relate to the Zoning Ordinance or Land Use Plan were adequately addressed.
9. The Board considered and determines that, with conditions contained within the staff report and proposed by the Board, the proposed use will meet the intent, purpose, and regulations of the Comprehensive Land Use Plan and Zoning Ordinance.
10. Further, the satisfaction of the conditions of the Zoning Ordinance regulating "Water pumping stations, elevated tanks and similar essential public utilities and service structures (Electric power transmission line and reactive power compensation substation) (Ref: Zon. Ord. 1101.03.14); the Aquifer Protection District (Section 1105), and all conditional use permits (Section 504) satisfies Section 104 (Purpose) of the Grant County Zoning Ordinance.
11. Therefore, the Board of Adjustment finds that it is empowered to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.
12. The Board directs the zoning officer to prepare the findings of fact which are to be approved by the Chairman of the Board; and for the zoning officer to issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit.
13. In order to comply with the requirements of the Zoning Ordinance the Board of Adjustment prescribes the following conditions and safeguards in conformity with the Grant County Comprehensive Land Use Plan and Zoning Ordinance to be agreed to in the form of a "Letter of Assurance":

- 1) Effective Date and Transferability:

- a. This permit shall expire on April 8, 2021 if no substantial construction as described in the application has commenced.
 - b. The applicant may apply for an extension of this permit if the requirements of 1.a above cannot be met.
 - c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.
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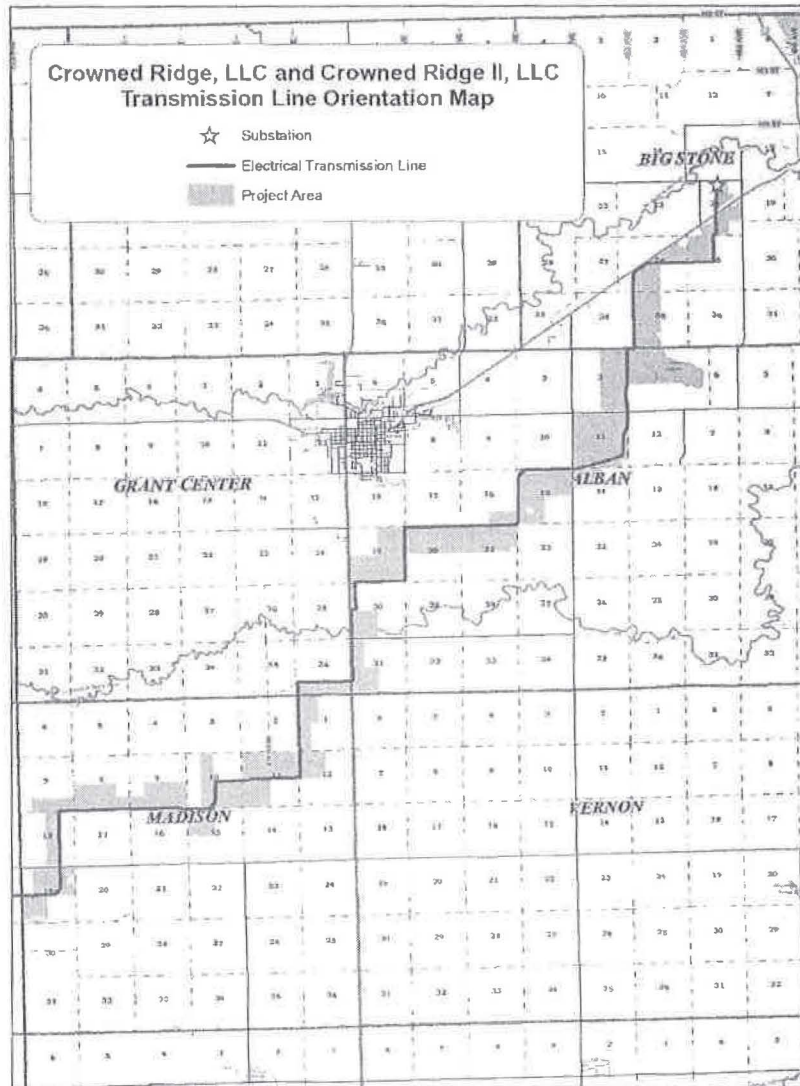
2) General Requirements:

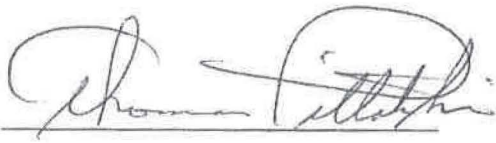
- a. Applicant shall provide the zoning office with an updated local contact information of supervisor with authority to implement dust control, haul road and other necessary enforcement of the conditions of this permit.
- b. Applicant agrees to obtain any required building permits prior to commencing construction
- c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Applicant to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the applicant and Road Authority, the applicant shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.
 - iii. Unless otherwise agreed upon between the applicant and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
 - v. Haul road agreements to be executed not less than 30 days prior to construction.
 - vi. Haul Road Agreement language to include provision that the adjoining landowners be notified of road closures at least 2 days prior to road closure.
- d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".
- e. Lighting on the substation site shall be limited to downward directed lights or other lighting customarily used for similar operations.
- f. The substation will be limited to one (1) on-premise sign attached to the security fence. Maximum dimensions to be to be 80' square feet or to be determined by the Board.

- g. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

The Conditional Use Permit was approved by a vote of 6 yes and 0 no. (Ref: SDCL 11-2-59).

Exhibit A





Tom Pillatzke, Chairperson
Grant County Board of Adjustment

Date Approved: April 8, 2019

Date Signed: 4-18-19

Date Filed: _____

Conditional Use Permit Number(s): _____

Prepared by: Krista Atyeo-Gortmaker
Grant County Zoning Officer
210 East 5th Avenue
Milbank, SD 57252

Letter of Assurance

A Conditional Use Permit under Grant County Zoning Ordinance 1101.03.14 “Water pumping stations, elevated tanks and similar essential public utilities and service structures” has been granted by the Grant County Board of Adjustment to Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC to operate an Electric Power Transmission Line and reactive power compensation substation as described in the application.

Property location: As displayed in Exhibit “A” attached and hereby incorporated by reference.

Conditions to be placed upon the conditional use permit issued to Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC by the Grant County Board of Adjustment on April 8, 2019:

1) Effective Date and Transferability:

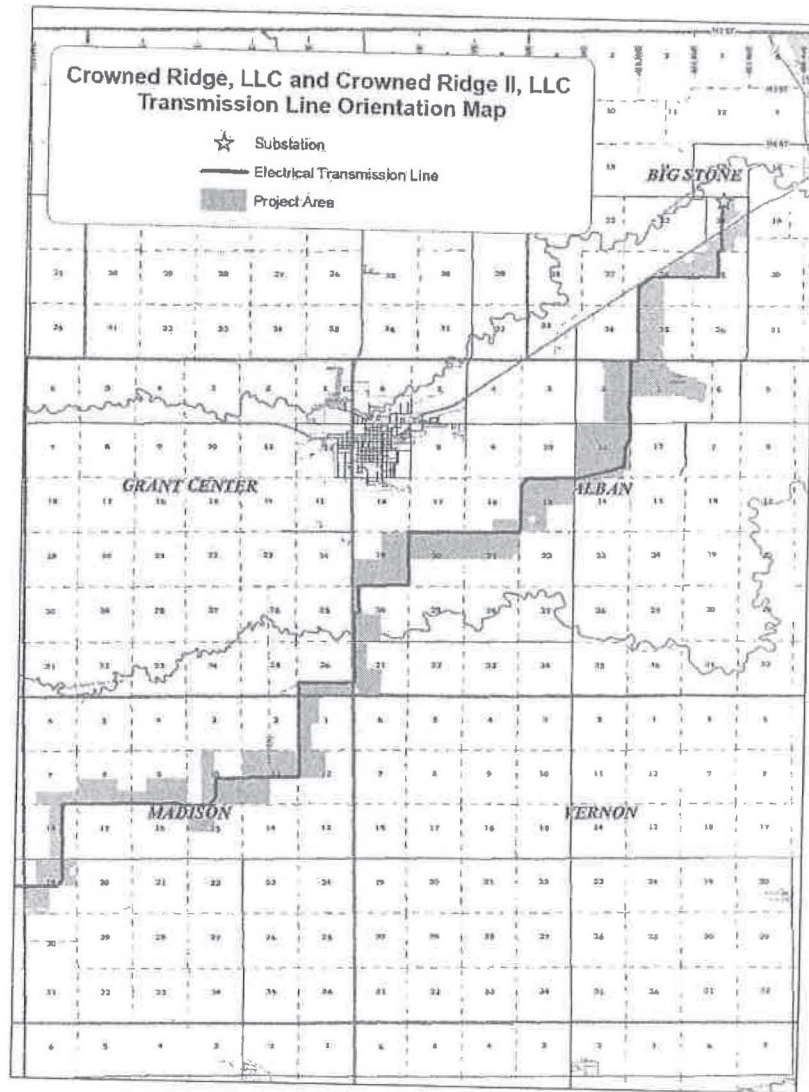
- a. This permit shall expire on April 8, 2021 if no substantial construction as described in the application has commenced.
- b. The applicant may apply for an extension of this permit if the requirements of 1.a above cannot be met.
- c. The Conditional Use permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein.

2) General Requirements:

- a. Applicant shall provide the zoning office with an updated local contact information of supervisor with authority to implement dust control, haul road and other necessary enforcement of the conditions of this permit.
-

- b. Applicant agrees to obtain any required building permits prior to commencing construction
 - c. Applicant agrees to provide haul agreements in accordance with Grant County Zoning Ordinance Section 1211.04.f and County Resolution 2014-36. Unless otherwise agreed to between the road authority and the applicant, Grant County requires, at a minimum the Grantor to abide by the following terms to be included in the Agreements:
 - i. Unless otherwise agreed upon between the grantor and Road Authority, the grantor shall be responsible for any costs associated with damage done to haul roads during construction. Further, damaged haul roads will be repaired to preconstruction status.
 - ii. Unless otherwise agreed upon between the grantor and Road Authority, the grantor shall be responsible for any costs associated with extraordinary maintenance and graveling on those roads used during the construction of the proposed use.
 - iii. Unless otherwise agreed upon between the grantor and Road Authority, all road work whether customary or extraordinary shall be done under the authority and supervision of the Road Authority and meet its specifications. The work shall be done through the applicable contractor unless the applicant receives prior authorization from the applicable road authority to conduct its own repairs or maintenance.
 - iv. The Road Authority shall be responsible for all ordinary snow removal on their respective roads on the same basis as provided to the remainder of the Road Authority. Any additional snow removal deemed necessary for the applicant to continue its operations is hereby authorized to be done at applicant's expense.
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 - vi. Haul Road Agreement language to include provision that the adjoining landowners be notified of road closures at least 2 days prior to road closure.
 - d. In the event the haul road agreements hereinbefore described are not executed, the applicant, his heirs, assigns or successors in interest of the Applicant agree that all the terms and conditions of Item "c", above, are to be deemed a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of Item "c".
 - e. Lighting on the substation site shall be limited to downward directed lights or other lighting customarily used for similar operations.
 - f. The substation will be limited to one (1) on-premise sign attached to the security fence. Maximum dimensions to be to be 80' square feet or to be determined by the Board.
 - g. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. The Grant County Zoning Officer will determine violations. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.
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Exhibit A



IN WITNESS WHEREOF, Grant County and the Grantor(s)/Applicant(s) have executed this Conditional Use Permit Letter of Assurance.

[Signature]
Crowned Ridge Wind, LLC and
Crowned Ridge Wind II, LLC (Grantor/Applicant)
by (Name): John Di Donato
its (Title): Vice President

5-16-19
Date

[Signature]
Chairperson
Grant County Board of Adjustment

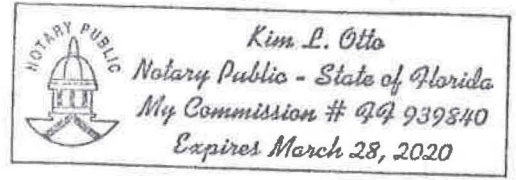
5/6/19
Date

STATE OF Florida
SS:
COUNTY OF Palm beach

This instrument was acknowledged before me on April 26, 2019 by John Di Donato, on behalf of Crowned Ridge Wind, LLC and Crowned Ridge Wind II, LLC (Grantor/Applicant).

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature] Notary Public
My Commission Expires: _____



STATE OF SOUTH DAKOTA
SS:
COUNTY OF GRANT

This instrument was acknowledged before me on May 6, 2019 by Thomas Pillatzki representing Grant County as the Chair of the Grant County Board of Adjustment.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature] Notary Public
My Commission Expires: 10-17-21

