

ROAD IMPROVEMENTS AND MAINTENANCE AGREEMENT

This ROAD IMPROVEMENTS AND MAINTENANCE AGREEMENT (“**Agreement**”) is made and entered into this _____, 2017 (“**Effective Date**”), between Chapman Ranch Wind I, LLC (“**Developer**”), a Delaware limited liability company with offices at 310 4th St. N.E., Suite 200, Charlottesville, VA 22902, and the Nueces County Commissioners Court on behalf of Nueces County (“**County**”). Developer and the County may be referred to herein, individually, as a “**Party**” and, collectively, as the “**Parties**”.

RECITALS

1. Developer is developing a wind-powered electric generating facility with an aggregate planned nameplate generating capacity of up to approximately 250 MW, located in Nueces County, in the State of Texas (the “**Project**”).
2. The County is responsible for the maintenance of certain roads within Nueces County.
3. In connection with the development, construction, operation, maintenance, and decommissioning of the Project, it will be necessary for Developer and its contractors and subcontractors or designees to: (i) transport heavy equipment and materials over the “**Designated Roads**” as defined in Schedule 1 hereto (as may be updated from time to time); (ii) transport personnel, equipment, and materials on the Designated Roads; (iii) widen certain of the Designated Roads and make certain modifications and improvements (both temporary and permanent) thereto to permit such equipment and materials to adequately and safely pass; and (iv) place certain electrical cables and related equipment for the Project adjacent to, or under, or across certain of the Designated Roads for the purposes of the collection, distribution, and transmission of electricity to and from, and between and among various parts of, the Project.
4. Pursuant to Section 252.314 of the Texas Transportation Code the County may accept donations of labor, money, or other property to aid in the building or maintaining of roads in the County.
5. The County and Developer wish to enter into an agreement for the repair, and improvement of the Designated Roads, all in accordance with the terms and conditions set forth herein.

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

ARTICLE I DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings assigned to them in Schedule 1.

**ARTICLE II
IMPROVEMENTS AND MODIFICATIONS TO DESIGNATED ROADS**

2.1 In General. Developer shall complete Improvements in accordance with this Article II. Developer shall not be required to complete any Improvement or modification, or perform any road work, that is not required by this Article II, or in the case of Repairs, by Section 3.1, or that is expressly excluded from Developer's scope of work in Appendix A or in the Plans unless such Improvement, modification, or work is required by applicable law.

2.2 Current Improvements. Developer shall complete Current Improvements to certain Designated Roads prior to/and/or during the construction of the Project and in accordance with Appendix A and the Plans. The County acknowledges that it has received from Developer, and is satisfied with and approves Plans. The Parties agree and acknowledge as follows:

- (a) that such Plans as set out in Appendix B are nearly complete and shall be revised so as to finalize them and take into account any need for changes as the Plans are finalized and conditions of the Designated Roads and Developer's construction plans change or become better known;
- (b) that it is, nevertheless, the Parties' intention that the Current Improvements be similar to the Current Improvements described on the Plans discussed and approved to date; and
- (c) that the Parties shall consult and cooperate reasonably so as to permit the County's review and approval of final (100% complete) Plans in a timely manner to not disrupt or delay the Developer's construction schedule.
- (d) The Developer may make changes to the Plans, with the consent of the County, and in no way is obligated to complete such Current Improvements if deemed unnecessary by Developer.
- (e) Under no circumstances will any Improvement executed by Developer provide for any road build-up without approval by County Designee.

2.3 Future Improvements. After completion of the construction of the Project and for so long as the Project has not permanently ceased commercial operation, Developer may elect to perform Future Improvements; *provided, however*, that such Future Improvements shall be subject to the County's customary review and permitting processes, if any, pursuant to statutory and regulatory authority, and in any case, processes applied consistently and in a fashion that treats Developer in a manner similar to other industrial users of County roads.

2.4 County Jurisdiction. Nothing in this Article II or this Agreement shall be construed as limiting or abrogating the County's jurisdiction or duties under Title 6, Subtitle C *et seq.*, and Title 7, Subtitle C *et seq.* of the Texas Transportation Code and other applicable law concerning the construction, maintenance, and repair of highways and bridges within the County.

**ARTICLE III
REPAIR AND MAINTENANCE OF DESIGNATED ROADS**

3.1 Repair of Designated Roads. Developer shall be responsible for Repairs to Designated Roads of damage caused by Developer Parties, if any. Developer shall notify the County of damage caused by the Developer Parties, and of any other damage noted by Developer, to the Designated Roads and request the County's authorization to conduct Repairs for which the Developer is responsible pursuant to this Section 3.1. In addition, County may notify Developer of damage noted caused by the Developer to the Designated Roads and Developer is responsible to conduct Repairs pursuant to this Section 3.1. For the avoidance of doubt, Developer shall not be responsible for, or required to Repair, any damage to a County public road that is not caused by a Developer Party, or any Repair of damage that results from a pre-existing condition that made or makes the Designated Road or appurtenance inadequate for, or that would cause it to fail under, normal use. Developer shall provide the County with reasonable details as to the nature, scope, and schedule of Repairs of damage to Designated Roads that Developer desires to perform, and unless the County notifies Developer in writing that substantial County interests would not be properly served by allowing Developer to make such Repairs, the Parties shall agree upon the manner in which Developer may proceed with such Repairs. If the Parties cannot so agree within a reasonable period, taking into account public safety, public inconvenience and the Developer's construction schedule, the County shall perform the Repairs in a timely fashion, in accordance with the County's standard practices for road repairs and otherwise having due regard for safety, prevailing and predicted weather conditions. Prior to the commencement of a Repair, whether by Developer or by the County, the Developer Representative and the County Designee shall, in response to a request by either Party, meet to review the damage in question in relation to any Initial Evaluation or any more recent subsequent evaluation, as applicable, and to discuss the nature, scope, and schedule of Repairs. The Parties shall rely upon any available Initial Evaluation or any subsequent similar evaluation, as applicable, as a benchmark by which to determine (i) the condition of Designated Roads prior to commencement of construction of the Project, (ii) whether the subject damage was caused by the Developer Parties and (iii) whether a Repair was required and performed in accordance with this Agreement. If the County performs Repairs of damage caused by the Developer Parties, Developer shall reimburse the County the documented reasonable costs of Repairs in accordance with Appendix D. At any time during or after completion of a Repair the Parties shall, upon the request of either Party, promptly conduct a joint inspection of the Repair or the progress thereof to determine that the Repair is being performed in accordance with County standards. Upon completion of Repairs performed by the County for which reimbursement is owed by the Developer pursuant to this Agreement, but no more often than monthly, the County shall deliver an invoice to Developer in accordance with the invoicing procedures attached hereto as Appendix E. Developer shall pay undisputed invoiced amounts within thirty (30) days after receipt of such invoice. Developer's sole responsibility for Repairs is to return Designated Roads to a substantially similar condition as indicated in the Initial Evaluation, reasonable wear and tear excepted.

3.2 Maintenance of Designated Roads.

- a) Developer shall grade and maintain all non-paved Designated Roads during construction of the Project, including minimizing Significant Fugitive Dust as provided in Section 4.5.
- b) The County shall in a timely fashion and at no additional cost to Developer maintain Designated Roads in accordance with the County's standard practices and frequency as all other county roads for road maintenance, having due regard for safety, prevailing and predicted weather conditions, and the presence of emergency conditions.

3.3 Crane Crossings. The County hereby acknowledges and approves that the Developer will need to cross the County roads with heavy construction equipment, such as but not limited to cranes, during the construction, operation, maintenance, and decommissioning of the Project. The Developer will use its commercially reasonable efforts to protect the existing County road from damage during such crossings and shall be responsible for any damages and subsequent Repairs in-accordance with Section 3.1.

3.4 Failure to Maintain or Repair. With respect to a Designated Road, in the event that the County does not perform maintenance pursuant to county standards and frequency as required by Section 3.2 or does not perform Repairs undertaken by the County pursuant to Section 3.1, Developer may request in writing that the County permit Developer to perform such maintenance or Repair, in which case Developer shall also provide the County with reasonable details as to the nature, scope, and schedule thereof. The Parties shall cooperate so as to permit the County to respond promptly to such a request, which the County shall endeavor in good faith to do. If the County Designee does not object to such request within five (5) Business Days (or within two (2) Business Days if exigent circumstances require [e.g., if significant Project maintenance or construction delays might otherwise result]), or if the County Designee grants such request, Developer may perform, or cause to be performed, such maintenance or Repair. If Developer performs such maintenance or Repair, Developer shall complete such maintenance or Repair to standards that are the same as or better than applicable County standards in all material respects and shall cooperate to permit the County to inspect such maintenance and Repair work during and after its performance. The County shall not be required to reimburse or otherwise compensate Developer for performing any such maintenance or Repair. In the event any maintenance or Repair to be performed by the County (including Repairs undertaken pursuant to Section 3.1) is not timely performed or interferes with Developer's construction and/or maintenance schedule, Developer shall have the right to utilize alternative routes on public roads as may be required to mitigate any such adverse effect on its schedule, subject to Developer's obligation to repair in accordance with Section 3.1.

ARTICLE IV USE OF DESIGNATED ROADS

4.1 Use of Designated Roads by Developer. The County hereby acknowledges and agrees that, in connection with the development, construction, operation, maintenance, and decommissioning of the Project, Developer Parties may use, non-exclusively, all public County roads. Use of Designated Roads are subject to the County's Driveway Policy, Utility Policy, the Texas Manual on Uniform Traffic Control Devices (TMUTCD) as well as all applicable state laws. Use of public County roads that are not Designated Roads shall be restricted by all applicable limitations, rules, ordinances and regulations concerning their use, whether federal, state, or those of any other governmental entity or agency having jurisdiction over such roads (together the "**Legal Restrictions**"). The Developer Parties may use all Designated Roads at any time of day, seven (7) days a week. Such use may include (but is not limited to) the transportation of personnel, equipment, and materials to and from the Project and shall be subject to all applicable Legal Restrictions of the County in the case of non-Designated Roads. For the avoidance of doubt, County does not (and cannot) waive any federal or state regulations applicable to the Designated

Roads. From time to time, Developer may request that additional roads be included as Designated Roads by (i) submitting such a request to the County in writing, accompanied by a proposed updated version of Appendix A that includes such additional roads, and (ii) performing an Initial Evaluation on such additional roads. Upon Developer's submission of such a request, the County shall promptly review such request and, unless there exists a material defect in the form of the proposed updated Appendix A or substantial reasons related to public safety why such request should not be granted, provide written notice that such request has been granted, whereupon Appendix A shall be deemed automatically amended and restated as such updated version of Appendix A without any further action required by either Party.

4.2 Incidental Use. The Parties recognize that, while Developer does not currently anticipate use of County public roads within Nueces County during construction of the Project other than Designated Roads and certain federal and state highways, the Developer Parties may, nevertheless, have its haul trucks make some incidental use of County public roads other than Designated Roads. All Repairs of damage to such roads caused by the Developer Parties' incidental use, as mutually determined by the Parties pursuant to Section 3.1, shall be dealt with by adding such road to Appendix A, as provided for in Section 4.1, and the performance of Repairs in accordance with Section 3.1 as if such road had been a Designated Road when such damage occurred.

4.3 County Designee; Commencement of Construction; Construction Period Meetings. County herein designates the County Engineer as the County Designee at 901 Leopard, Room 103, Corpus Christi, Texas, 361-888-0490, who shall have authority as set out in this Agreement to act on behalf of the County. Developer shall provide to the County Designee two (2) Business Days' prior written notice of the commencement of construction of the Project. Beginning with commencement of construction of the Project, Developer and the County Designee shall meet from time to time upon the reasonable request of either Party to discuss the expected use of the Designated Roads, including the construction schedule and haul routes to be used. Developer shall provide the County Designee five (5) Business Days' prior written notice of the commencement of Improvements or Repairs on the Designated Roads.

4.4 Evaluation of Designated Roads. Developer shall conduct an Initial Evaluation of Designated Roads prior to commencement of construction of the Project. If, pursuant to Section 4.1, Developer submits to the County an updated version of Appendix A that designates an additional road as a Designated Road, Developer shall perform an Initial Evaluation with respect to such additional Designated Road. The costs of all Initial Evaluations will be borne by Developer. Evaluations in addition to Initial Evaluations shall be conducted upon mutual agreement of the Parties.

4.5 Fugitive Dust. Developer shall be responsible for addressing Significant Fugitive Dust created by the Developer Parties. When requested by the County, Developer shall reasonably address or minimize Significant Fugitive Dust using water, calcium chloride, or appropriate other commercially available reasonable means in Developer's reasonable discretion.

4.6 Road Closures. Developer shall use reasonable efforts to avoid the temporary closure of any County public road. Nevertheless, Developer shall be permitted to close Designated Roads for such periods as are reasonably necessary in the interest of safety *provided* that Developer shall have provided the County with twenty-four (24) hours' prior notice of any planned road closure and obtained the County's approval thereof, which approval shall not be withheld except for reasons

of public safety or substantial and unavoidable public inconvenience. Notice to the County Designee shall satisfy such requirement, provided that such notice is given by both telephone and either fax or e-mail. No road will be closed without providing an alternate route of travel (to the extent one can be provided). Emergency vehicles must be able to pass through. Temporary road closures necessary to permit the passage of large loads or in connection with the installation of Improvements or Repairs are set out in Plans. County approves such temporary road closures *provided*, that Developer shall provide the County with twenty-four (24) hours' prior notice of the planned road closure. Notice to the County Designee shall satisfy such requirement, provided that such notice is given by both telephone and either fax or e-mail. No road will be closed without providing an alternate route of travel and emergency vehicles shall be able to pass through.

**ARTICLE V
[RESERVED]**

**ARTICLE VI
TERM; DEFAULT AND REMEDIES**

6.1 Term of Agreement. The term of this Agreement shall be from the Effective Date until Developer notifies the County in writing that the Project has achieved substantial completion, unless either Party terminates this Agreement as herein provided. Notwithstanding anything herein to the contrary, the following provisions of this Agreement shall survive its termination or expiration for so long as the Project has not permanently ceased commercial operation or is undergoing decommission: (i) Section 3.2 and Section 3.4, (ii) the right of the Developer Parties under Article II (but not any obligation) to perform Future Improvements, (iii) Article III Repairs (iv) this Article VI, and (v) Article IX and Article X.

Nothing herein should be construed as creation of a debt by the County. County's obligations herein are only to the extent that monies are or will be appropriated in the County's budget.

6.2 Remedies Upon Default. Whenever an Event of Default shall have occurred, the Party not in default shall have the right to terminate this Agreement, subject to any right to cure of a Permitted Collateral Assignee, and take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of the Party in default under this Agreement.

6.3 Remedies Cumulative. The rights and remedies of the County under this Agreement shall be cumulative and shall not exclude any other rights or remedies the County may have at law or in equity with respect to any Event of Default under this Agreement.

6.4 Disputes. If a dispute arises under this Agreement, any Party may commence a proceeding at law or in equity to resolve such dispute.

ARTICLE VII FORCE MAJEURE EVENT

7.1 Applicability of Force Majeure Event. No Party will be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure Event, provided that:

- (a) the affected Party shall give the other Party written notice describing the particulars of the occurrence, with written notice given promptly after the occurrence of the event, and in no event more than five (5) Business Days after the affected Party becomes aware that such occurrence is a Force Majeure Event; *provided*, however, that any failure of the affected Party to provide such written notice within such five (5) Business Day period shall not waive, prejudice, or otherwise affect such Party's right to relief under this Article VII;
- (b) the delay in performance will be of no greater scope and of no longer duration than is directly caused by the Force Majeure Event;
- (c) the Party whose performance is delayed or prevented will proceed with commercially reasonable efforts to overcome the events or circumstances preventing or delaying performance; and
- (d) when the performance of the Party claiming the Force Majeure event is no longer being delayed or prevented, that Party will give the other Party written notice to that effect.

ARTICLE VIII PERMITTING AND LAND RIGHTS

8.1 Review, Approval, and Permitting.

Except as expressly set forth in Section 3.3, Section 2.2, Section 2.3, and Section 8.2, the County represents that:

- (a) the County has fully and completely reviewed and approved the Plans (as provided to the County as of the Effective Date) and authorizes and approves (i) Developer's use, maintenance, and upgrading of and Improvements to the Designated Roads, (ii) the Electrical/Communications Installation, and (iii) technical plans for all of the foregoing, as described in this Agreement and the Plans.

8.2 Land Rights. Subject to the terms and conditions of this Agreement, the Parties acknowledge that the Developer Parties may require certain Private Land Rights in order to conduct Repairs or complete Improvements to Designated Roads, complete the Electrical/Communications Installation, or access private lands necessary for any of the foregoing.

8.3 Review and Inspection. Upon request by Developer, the County Designee shall review plans for any Repairs or Improvements proposed by Developer with respect to the Designated Roads, and inspect Repairs or Improvements completed by Developer on the Designated Roads, under this Agreement for compliance with County specifications and right-of-way or easement restrictions. If the County Designee is able to confirm such compliance, the County Designee shall promptly so notify Developer in writing. On termination of this Agreement, the County Designee shall provide an acknowledgement and release that Developer has performed its obligations under this Agreement (except as may apply to road repair during decommissioning) and that Developer

is released from any and all ongoing maintenance activities on the Designated Roads. County Designee will be allowed to inspect at his discretion road Improvements at its various construction stages. Developer will cooperate with County Designees to ensure any necessary reporting of Improvement progress and access to Improvements.

ARTICLE IX INDEMNITY, INSURANCE, AND BONDS

9.1 **Indemnity.** To the fullest extent permitted by law, each Party (as “**Indemnitor**”) shall indemnify and hold harmless the other Party, and the affiliates, members, investors, and partners of such other Party, and its and their respective directors, shareholders, members, officers, and employees (collectively, “**Indemnitee**”), from and against all Losses, including but not limited to attorney fees, to the extent that such Losses may be caused by or arise out of performance of work upon County roads by Indemnitor pursuant to this Agreement or result from any breach of any representation or warranty made in this Agreement by Indemnitor.

9.2 Insurance.

Improvements and Repairs shall not be commenced by Developer until certificates evidencing the insurance coverage herein required, or certificates of such insurance, providing that the insurer shall give County thirty (30) days written notice prior to cancellation, material revision or intention not to renew, have been filed with the County.

In the event the Insurer refuses to provide the County with notice as detailed, the Developer agrees to provide notice in writing immediately, and shall suspend all work until insurance is restored and proof, in a form acceptable to the County, is provided.

The Developer, at his/her expense, shall purchase and maintain in force at all times during the term of this Contract, until the Project is finally completed and accepted by County pursuant to paragraph 8.3, the insurance with limits not less than indicated below.

No policy shall contain any exclusion for explosion, collapse, or underground coverage. Identify the Project in the Certificate of Liability.

A. Commercial General Liability:

Bodily Injury / Property Damage

Each	Annual
Occurrence	Aggregate
\$1,000,000	\$2,000,000

A designated Project or Premises Endorsement (CG 25 01 11 85) which applies the general aggregate to the project must be provided. Nueces County is to be named as additional insured and a waiver of subrogation is required for this policy.

B. Automobile Liability Covering: Owned Automobiles

Non-owned Automobiles
including Hired Automobiles
and those of independent contractors. All must be marked on Certificate of Liability Form as applicable to vehicles that will be utilized on the job site. Only those vehicles that are insured under the Certificate of Insurance are permitted at the job site.

Bodily Injury / Property Damage
Per
Occurrence

\$1,000,000

Nueces County is to be named as additional insured and a waiver of subrogation is required for this policy.

C. Umbrella (excess liability policy) or additional limits on foregoing risks \$1,000,000.00. Policy must be a Commercial General Liability “follow form.”

D. Workers Compensation Insurance Certificate

Employer’s Liability Coverage Limit: \$500,000.

All insurance must be written by insurance companies which are rated in the A.M. Best Rating Guide – Property & Casualty with a policyholder’s rating of A, and a financial size category of Class VII. A waiver of subrogation is required for this policy.

9.3 Performance and Payment Bonds.

The Developer shall furnish a Performance Bond and a Payment Bond in the amount of two hundred thousand dollars (\$200,000), and each in the form promulgated by the County. Such bonds must be written by a company, or companies, acceptable to and approved by the County. The County will not accept a bond written by any company that does not meet all of the following requirements. Contractor will be responsible for bonding the Improvements at the time of execution of this Agreement.

- A. The bond must be executed by a corporate surety or corporate sureties duly authorized and admitted to do business in the State of Texas and licensed by the State of Texas to issue surety bonds.
- B. The surety or sureties executing such bond must be listed in the most current issue of U.S. Department of Treasury Circular 570 (hereinafter called “Circular 570”) as an acceptable surety to execute bonds for federal projects.

- C. The amount for which the bond is written shall not exceed the underwriting limitation prescribed by Circular 570 for the surety or sureties executing such bond.

ARTICLE X MISCELLANEOUS PROVISIONS

10.1 Governing Law and Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to the conflict of laws provisions in such state. Venue by agreement of the parties shall be in a court of competent jurisdiction in Nueces County.

10.2 Compliance with Law. Developer agrees that all Repairs, Improvements, and the Electrical/Communications Installation shall comply with all applicable laws.

10.3 Amendments and Integration. This Agreement (including Appendices) shall constitute the complete and entire agreement between the Parties with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. Except as described in Section 4.1 of this Agreement, this Agreement may be amended only by a written agreement signed by the Parties.

10.4 Assignment.

- (a) Except as provided in subsections (b), (c), and (d) below, no Party to this Agreement shall assign, transfer, delegate, or encumber this Agreement or any or all of its rights, interests, or obligations under this Agreement without the prior written consent of the other Party. In those instances in which the approval of a proposed assignee or transferee is required or requested: (i) such approval shall not be unreasonably withheld, conditioned, or delayed; and (ii) without limiting the foregoing, in the case of the County, the County's approval may not be conditioned on the payment of any sum or the performance of any agreement other than the agreement of the assignee or transferee to perform the obligations of Developer pursuant to this Agreement.
- (b) Developer may, without the consent of the County, assign this Agreement or any or all of its rights, interests, or obligations under this Agreement; *provided*, that such assignment shall be in connection with the conveyance or lease of the Project and the Developer's assignee agrees in writing to be bound by the terms of this Agreement. Upon assignment pursuant to this subsection (b), and with no further action by Developer or the County, Developer shall be released from all liability for and obligations under this Agreement.
- (c) Developer may, without the consent of the County, pledge, mortgage, grant a security interest in, or otherwise collaterally assign this Agreement or any or all of its rights, interests and obligations under this Agreement to a Permitted Collateral Assignee. In connection with any such collateral assignment to a Permitted Collateral Assignee, the County shall, upon the request of Developer, deliver to Developer and the Permitted

Collateral Assignee without delay a consent agreement and/or an opinion of counsel in a form reasonably requested by Developer and the Permitted Collateral Assignee and which shall contain customary provisions.

- (d) Developer may, without the consent of the County, assign this Agreement or any or all of its rights, interests, and obligations under this Agreement to any corporation, partnership, limited liability company, or other business entity that acquires all or substantially all of the assets used in connection with the Project or (ii) any corporation, partnership, limited liability company, or other business entity that acquires all or a portion of the membership interests in Developer; *provided*, in each case, that such Developer assignee agrees in writing to be bound by the terms of this Agreement, and that following such assignment, and with no further action by Developer or the County, Developer shall be released from all liability for and obligations under this Agreement.

10.5 Notices. All notices, requests, demands, and other communications required or permitted to be given by the Parties hereunder shall be in writing and shall be delivered in person or by electronic mail (email) or by first class certified mail, postage and fees prepaid, to the address of the intended recipient as set forth below. Notice delivered in person shall be acknowledged in writing at the time of receipt. Notice delivered by email shall be acknowledged by return email within twenty-four (24) hours (excluding Saturdays, Sundays, and public holidays), with an automatic “read receipt” not constituting acknowledgment of an email for purposes of this Section 10.5. All such notices, requests, demands, and other communications shall be deemed to have been received by the addressee, as follows: if by first class certified mail, three (3) days following mailing; if by facsimile, immediately following transmission; or if by personal delivery, upon such delivery. All such notices, requests, demands, and other communications shall be sent to the following addresses:

To Developer: Chapman Ranch Wind I, LLC
c/o Enbridge (U.S) Inc.
1100 Louisiana, Suite 3300
Attention: Corporate Secretary

Chapman Ranch Wind I, LLC
c/o Enbridge Inc.
200,425 – 1st Street S.W.
Calgary, AB T2P 3L8, Canada
Email: legalnotices@enbridge.com
Attention: Vice President, New Ventures Power
Attention: Vice President, Corporate Law & Chief Compliance
Officer

To the County:

Nueces County
901 Leopard, Room 303
Corpus Christi, Texas 78401
Email: claudia.lobell@nuecesco.com
Attention: County Judge

The foregoing addresses may be changed by any Party by giving written notice to the other Party as provided above.

10.6 Exercise of Rights and Waiver. The failure of any Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by any Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

10.7 Nature of Relationship. The status of Developer under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, each Party and its officers, agents, employees, representatives, and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives, or servants of the other Party. Each Party accepts full responsibility for providing to its employees all statutory coverage for worker's compensation, unemployment, disability, or other coverage required by law. Notwithstanding the foregoing, it is not the Parties' intention to establish a relationship whereby the County is, and notwithstanding anything to the contrary in this Agreement the County shall not be, a contractor of Developer with respect to Repairs. Rather, the County shall perform Repairs as part of its ongoing maintenance of County roads, and Developer's only obligation with respect to Repairs performed by the County shall be to reimburse the County in accordance with this Agreement.

10.8 Severability. In the event that any clause, provision, or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be impaired, invalidated, or otherwise affected and shall remain in full force and effect.

10.9 Headings and Construction. The section headings in this Agreement (including its title) are inserted for convenience of reference only and shall in no way effect, modify, define, or be used in construing the text of the Agreement. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words. Notwithstanding the fact that this Agreement may have been prepared by one of the Parties, the Parties confirm that they and their respective counsel have reviewed, negotiated, and adopted this Agreement as the joint agreement and understanding of the Parties. This Agreement is to be construed as a whole, and any presumption that ambiguities are to be resolved against the primary drafting Party shall not apply. All Appendices and Attachments referenced in this Agreement are incorporated in and form a part of this Agreement.

10.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

10.11 No Third Party Beneficiary. No provisions of this Agreement shall in any way inure to the benefit of any person or third party so as to constitute any such person or third party as a third-party beneficiary under this Agreement, or of any one or more of the terms of this Agreement or otherwise give rise to any cause of action in any person not a Party hereto.

10.12 Confidentiality. Except to the extent in conflict with laws relating to freedom of information or public access to governmental information, and only to such extent, all data and information acquired by the County from Developer Parties (or their affiliates, representatives, agents, or contractors) in connection with the performance by Developer of its obligations hereunder, including information regarding the Project, shall be confidential and will not be disclosed by the County to any third party. The parties acknowledge that this agreement and its attachments are not considered confidential. Notwithstanding the foregoing, the Parties acknowledge and agree that such confidential information may be disclosed to third parties as may be necessary for Developer to perform its obligations under this Agreement and that Developer may disclose such confidential information to its investors, potential investors, lenders, and potential lenders (including any tax equity investors). This provision will not prevent the County from providing any confidential information as required by open records laws, open meetings laws, or other laws regarding public information, or in response to the reasonable request of any governmental agency charged with regulating such Party's affairs; *provided*, that in the case of a request by such a governmental agency, if feasible, the County shall give prior notice to Developer of such disclosure and, if so requested by Developer, shall cooperate reasonably, at Developer's expense, in Developer's efforts (i) to oppose or resist the requested disclosure, as appropriate under the circumstances, or (ii) to otherwise make such disclosure subject to a protective order or other similar arrangement for confidentiality.

10.13 Representative of Developer. The Developer Representative shall act as the manager and coordinator of this Agreement on Developer's behalf and as liaison for Developer's communications with the County and the County Designee. The initial Developer Representative shall be Charles Kennedy.

10.14 Safety. Developer shall perform the work hereunder in a safe manner and shall obey all safety requirements of the County, and all applicable federal, state, and County laws, rules, and regulations, that may be established from time to time. While work is being done on a Designated Road, Developer shall cause the Developer Parties to (i) place signs stating that people and vehicles are entering a construction area and (ii) identify certain hazards that may be present on the Designated Road. Developer also agrees to cause the Developer Parties to provide traffic control on the Designated Roads when such roads are blocked during their use by Developer or the Developer Parties under this Agreement. All traffic control devices and signage associated with Road construction shall comply with the Manual on Uniform Traffic Control Devices.

10.15 Cooperation. Notwithstanding anything contained herein to the contrary, County agrees to reasonably cooperate with Developer's reasonable use of all County roads for the operation and maintenance of the Project.

10.16 Extraordinary Events. The Parties acknowledge that, during the expected life of the Project, circumstances may arise which will make it necessary or advisable for Developer to

replace major turbine components or make other repairs to turbines or other heavy or bulky equipment beyond ordinary maintenance and that transportation of such components or equipment on or across Designated Roads may be necessary. The Parties agree that, if Developer determines that such circumstances have occurred, Developer will give advance written notice of the intended transportation plans to the County, and the Parties shall work together cooperatively in good faith to control such factors as: unreasonable costs for Developer; delays in transportation; inconvenience to Developer, the County government, the traveling public, and nearby residents; and risks to public safety.

[signature page(s) follow]

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement for Road Use, Repair, and Improvements effective as of the date first above written.

NUECES COUNTY

By: _____

Name: _____

Title: _____

ATTEST:

Nueces County Clerk

CHAPMAN RANCH WIND I, LLC

By: _____

Name: _____

Title: _____

SCHEDULE 1

DEFINITIONS

“**Agreement**”, “**Developer**”, “**County**”, “**Effective Date**”, “**Parties**”, and “**Party**” have the respective meanings assigned to them in the preamble to the Agreement.

“**Appendix**” shall mean an appendix to this Agreement, including any Attachment to such Appendix.

“**Article**” and “**Section**” shall refer, respectively, to an article and section of this Agreement.

“**Attachment**” shall refer to an attachment to an Appendix.

“**Business Day**” refers each of, and “**Business Days**” refers to all weekdays, except those designated as national holidays or state holidays in Virginia or Nueces County, Texas designated holidays.

“**County Designee**” means the Nueces County Engineer.

“**Current Improvements**” means near-term Improvements to the Designated Roads made in accordance with Section 2.2.

“**Designated Road**” means any public road specifically and expressly identified as a Designated Road in Appendix A to the Agreement, and “**Designated Roads**” means any two or more thereof; *provided, however*, that Designated Roads do not include any state or federal road or highway even if depicted in Appendix A.

“**Developer Party**” refers to each of, and “**Developer Parties**” refers to all of, Developer and its contractors and subcontractors and each of their respective agents, employees, representatives, and permitted assigns.

“**Developer Representative**” means the initial representative of Developer designated in Section 10.13 or such other representative of Developer as may be designated by Developer in a written notice delivered to the County from time to time.

“**Electrical/Communications Installation**” means the routing, construction, and installation, above or below ground, at a location adjacent to, under, or across certain roads, as identified on Appendix F, of certain wires, cables, conduits, and/or lines (and their associated equipment) related to the collection, distribution, or transmission of the Project’s (i) electrical power output at a voltage of up to 345 kV and (ii) construction, maintenance, and operation related data.

“**Event of Default**” means the occurrence of any one or more of the following events:

- (a) Failure by either Party to make any payment or reimbursement due under the terms of the Agreement when due and payable, when such failure continues for thirty (30) days after receipt by Developer of written notice of such failure from the County.

- (b) Failure by either Party to comply with any of its non-monetary obligations, covenants, agreements or conditions contained in this Agreement, when such failure continues for thirty (30) days after written notice of default from the County; *provided*, that if such failure cannot reasonably be cured within the thirty (30) day period, a default shall not be deemed to have occurred if Developer begins to cure the breach within the thirty (30) day period and thereafter diligently and in good faith continues to pursue the cure of the breach until cured.
- (c) Either Party experiencing either of the following:
 - (i) Voluntarily commencement of bankruptcy, insolvency, moratorium, reorganization, stay, or similar debtor-relief proceedings, or having become insolvent or generally failing to pay its debts as they become due, or having admitted in writing its inability to pay its debts, or the making of an assignment for the benefit of creditors; or
 - (ii) Bankruptcy, insolvency, receivership, reorganization, or a similar proceeding having been commenced against such Party and such proceeding remaining undismissed or unstayed for a period of ninety (90) days.
- (d) In the event of an Event of Default by the Developer, or upon the occurrence or non-occurrence of any event or condition which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable the County to terminate this Agreement, the County shall not terminate this Agreement until it first gives written notice of such Event of Default to the Permitted Collateral Assignee (concurrently with the notice of such Event of Default to the Purchaser) and affords the Permitted Collateral Assignee (a) a period of thirty (30) days from receipt of such notice to cure such Event of Default if such Event of Default is the failure to pay amounts to County which are due and payable under the Agreement or (b) with respect to any other Event of Default, a reasonable opportunity, but no fewer than forty five (45) days from receipt of such notice, to cure such non-payment Event of Default (provided that during such cure period the Permitted Collateral Assignee or the Developer continues to perform each of the Developer's other obligations under the Agreement, as applicable).

“Force Majeure Event” means a cause or event that is beyond the reasonable control, and without the fault or negligence, of the Party claiming such Force Majeure Event, to the extent such cause or event prevents or delays performance of any obligation imposed on the Party claiming such Force Majeure Event (other than an obligation to pay money), and includes the following: natural disasters; fire; lightning strikes; earthquake; unavailability of equipment; acts of God; unusually severe actions of the elements such as snow, floods, hurricanes, or tornadoes; causes or events affecting the performance of third-party suppliers of goods or services to the extent caused by an event that otherwise is a Force Majeure Event under this definition; sabotage; terrorism; war; riots or public disorders; strikes or other labor disputes; and actions or failures to act (including expropriation and requisition) of any governmental agency.

“Future Improvements” means such reasonable further Improvements as Developer believes to be reasonably necessary to accommodate the use of the Designated Roads by the Developer Parties for operation and maintenance of the Project.

“Improvements” means improvements and modifications by Developer to the Designated Roads and may include the strengthening and widening of Designated Roads, the strengthening and/or spanning of existing culverts and bridges thereon, and other improvements and modifications reasonably necessary to accommodate increased traffic and the heavy equipment and materials to be transported on the Designated Roads.

“Indemnitor” and **“Indemnitee”** have the respective meaning assigned to them in Article IX.

“Initial Evaluation” means the report which provides an evaluation of the then-current condition of a Designated Road, as required by the Agreement, as well as video documenting condition of Designated Road.

“Land Rights” means rights or interests in real estate, including any easement (proscriptive or otherwise), leasehold, right of way, licenses, or title in fee, as well as all consents, authorizations, and approvals that may be required for the full exercise thereof.

“Losses” means any and all losses, damages, liabilities, and expenses, including reasonable attorneys’ fees and court costs.

“Permitted Collateral Assignee” means any lender, financing party or investor providing financing of any sort, including equity financing, construction debt, back leveraged debt, or sale-leaseback financing for the Project as security for Developer’s obligations under a financing agreement, purchase and sale agreement, sale leaseback transaction or similar financing mechanism (including a trustee or agent for the benefit of its lenders).

“Plans” means plans, drawings, and specifications for Current Improvements, as set forth in Appendix B.

“Private Land Rights” means Land Rights in or to private property which Land Rights are not owned by and do not relate to any real property that lies within any easement or right of way held by the County.

“Project” has the meaning assigned to it in the recitals of this Agreement.

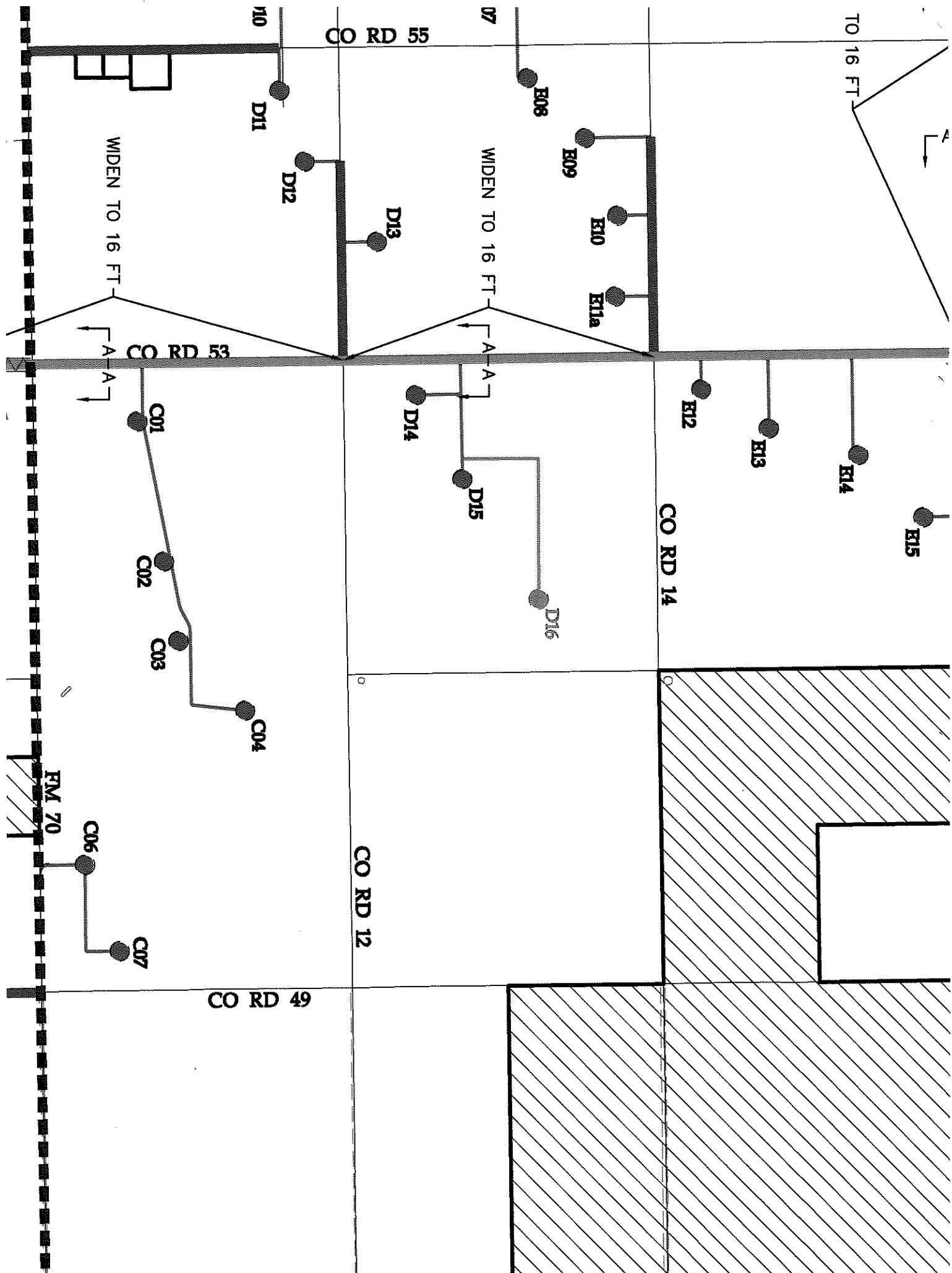
“Repair” and **“Repairs”** refer to the performance of work (or causing the performance of work) on a Designated Road or related appurtenance (including any bridge, culvert, or other fixture upon such Designated Road) in order to repair damage caused by a Developer Party beyond ordinary wear and tear, so as to restore such Designated Road or related appurtenance to the substantially similar condition indicated on the Initial Evaluation, as near as is reasonably practicable and; *provided, however*, that Repairs performed by or on behalf of Developer shall not include removal or plowing of snow or routine maintenance activities.

“Significant Fugitive Dust” means dust that creates a nuisance by drifting beyond the boundary of the property on which such dust is raised, it being understood that a nuisance is not created unless a person is significantly and adversely affected and that dust drifting onto a vacant lot, pasture, or field may not be a nuisance.

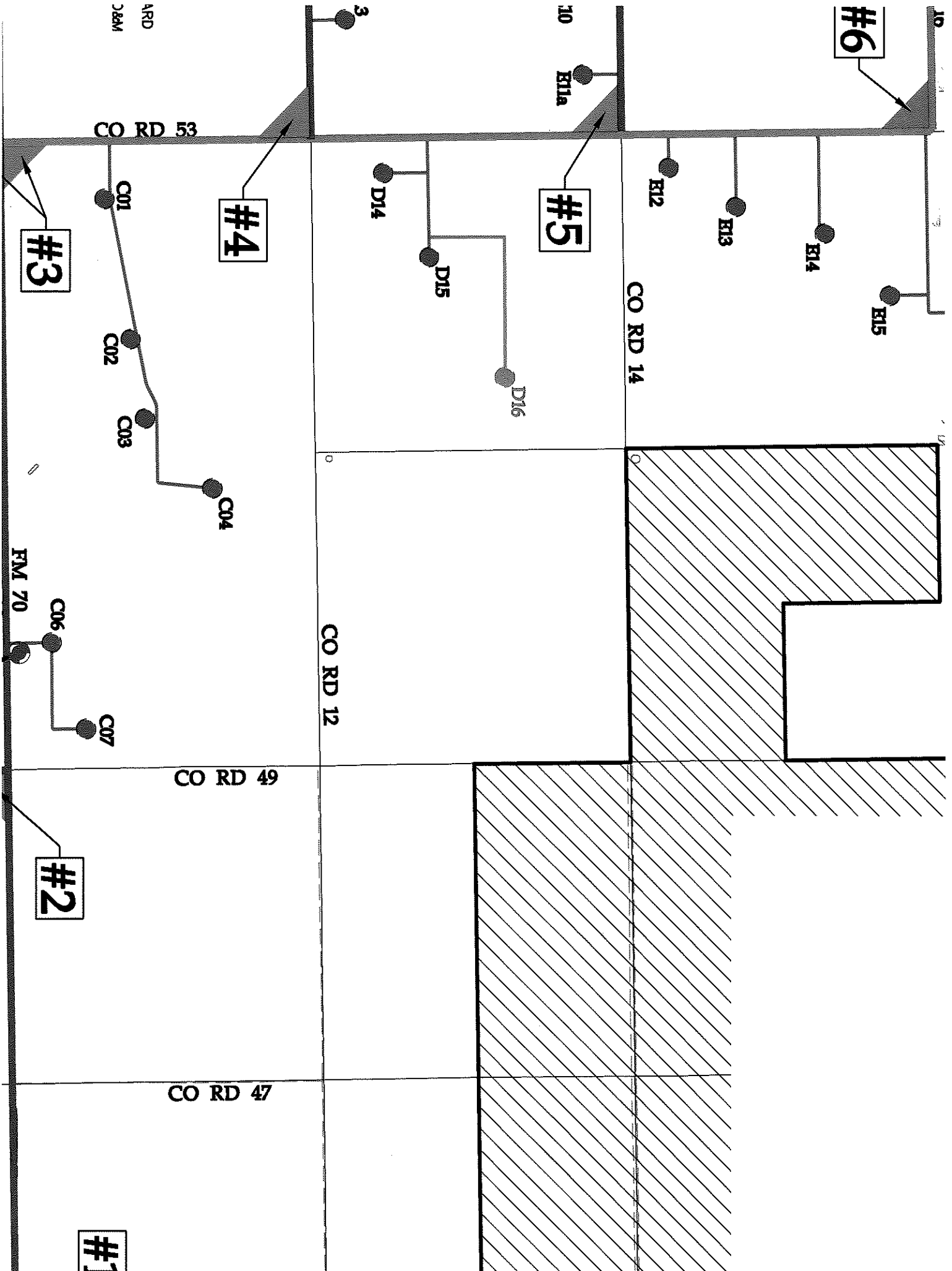
APPENDIX A

DESIGNATED ROADS

Designated Roads are depicted on the following page. No other roads are Designated Roads. State highway(s) may be depicted. Nevertheless, State highway(s) are not Designated Roads and are not subject to the Agreement.



ARD
38M



APPENDIX B

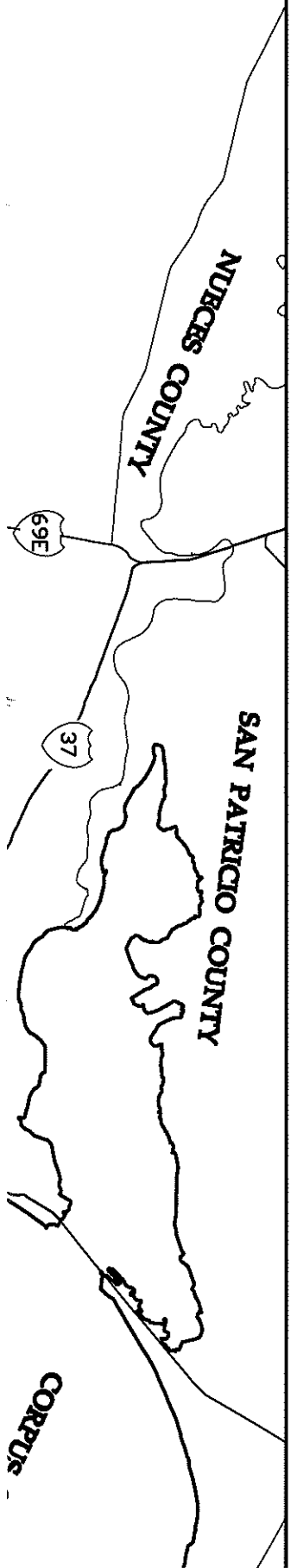
PLANS



FILE	survey_2015-08-21.zip		6
FEMA INFO	CHA_wetlands_Blanton_20151111	APEX	6

Project Plan A

Vicinity Map



APPENDIX C

DESIGNATED ROADS NOT EVALUATED

[None.]

APPENDIX D

REIMBURSEMENT RATES

- Labor:** Actual labor rate including benefits.
- Equipment:** With respect to equipment used in making Repairs, the County shall be compensated for the use of such equipment at the rates set out in the then-current "Rental Rate Blue Book (Equipment Cost Recovery)", as published by Equipment Watch. Where such rates are stated in monthly terms, such rate shall be prorated to and billed as an hourly rate, where one month equals 176 hours.
- Materials:** With respect to materials used in making Repairs, the County shall be reimbursed for the expense of such materials at actual, reasonable, out-of-pocket cost (without mark-up).

APPENDIX E

INVOICING PROCEDURES

The County shall invoice Developer in accordance with the invoicing procedures set out below. Invoices shall:

- Identify the invoice as relating to the Agreement for Road Use, Repair, and Improvements, including the Effective Date, between Chapman Ranch Wind I, LLC and Nueces County, Texas.
- Set out an itemization of the Repairs made and their location, in each case in such detail and with such supporting documentation as are reasonable to permit Developer to verify the invoiced amounts.
- Be addressed to the Developer address set out in the Agreement's notice provision, to the attention of Project Controls.