

**First Amendment to Tax Abatement Agreement  
between  
McCulloch County, Texas and Heart of Texas Wind, LLC**

*State of Texas*

*County of McCulloch*

This First Amendment to Tax Abatement Agreement (the "Amendment") is made and entered into by and between McCulloch County, Texas ("County"), acting through its duly elected officers, and Heart of Texas Wind, LLC, a Delaware limited liability company ("HTX Wind"), for the purpose of amending the Tax Abatement Agreement entered into between County and HTX Wind dated on or about April 14, 2016 ("Agreement"). Undefined capitalized terms used herein shall have the meanings ascribed to them in the Agreement.

**I. Authorization**

This Amendment is authorized and governed by Chapter 312 of the Texas Tax Code, as amended, and by the County's Guidelines & Criteria.

**II. Amendments**

For good and valuable consideration, the receipt of which is hereby acknowledged, County and HTX Wind agree that the Agreement is hereby amended as follows:

1. The definition of "Abatement" contained in Article 1 of the Agreement is hereby deleted in its entirety and replaced by the following new definition of "Abatement":

"Abatement" means the full or partial exemption of all Ad Valorem Taxes assessed on property in the Reinvestment Zones except for the Interest and Sinking Fund (I&S) portion of the Ad Valorem Taxes.

2. The definition of "Certificate" contained in Article 1 of the Agreement is hereby deleted in its entirety and replaced by the following new definition of "Certificate":

"Certificate" means a letter, provided by the HTX Wind to the County that certifies that the Project has achieved Substantial Completion (as defined herein), outlines the Improvements included in the Project (included those that are still under construction), and states the overall Nameplate Capacity of the Project. Upon receipt of a Certificate, the County may inspect the Site within the Reinvestment Zone in accordance with the terms of this Agreement in order to verify that the Improvements are as certified in the Certificate. If the Certificate indicates that certain Improvements not required for Substantial Completion are still under

construction on the date that the Certificate is delivered, HTX Wind will deliver an amended Certificate to the County within thirty (30) days after all Project construction is complete.

3. The definition of "Completion Deadline" contained in Article I of the Agreement is hereby deleted in its entirety and replaced by the following new definition of "Completion Deadline":

"Completion Deadline" means December 31, 2020.

4. The following new definitions are added to Article I of the Agreement:

"Construction Commencement" means that HTX Wind or the general contractor for the Project has begun excavating locations for wind turbine foundations on the Site.

"Substantial Completion" means that the Improvements at the Project have been completed to a stage that is considered "substantially complete" under the terms and conditions of the engineering, procurement, and construction agreement for the Project entered into by and between HTX Wind and its general contractor.

5. Section 6.1A of the Agreement is hereby deleted in its entirety and replaced by the following new Section 6.1A:

**6.1A. CONSTRUCTION.**

- i. **COMMENCEMENT.** HTX Wind shall cause Construction Commencement to occur on or before December 31, 2019.
- ii. **SUBSTANTIAL COMPLETION.** HTX Wind shall cause Substantial Completion to occur on or before the Completion Deadline. HTX Wind shall provide the Certificate to the County within sixty (60) days after Substantial Completion has occurred. The Certificate shall describe any Improvements not required for Substantial Completion that are still under construction on the Site, and if the Certificate indicates any such Improvements exist, HTX Wind will deliver an amended Certificate to the County within thirty (30) days after all Project construction is complete. Such incomplete Improvements, once completed, shall become part of the Improvements eligible for Abatement under this Agreement.
- iii. **TERMINATION.** If Construction Commencement has not occurred on or before December 31, 2019, then this Agreement shall terminate, and neither party shall have any further liability



or obligation to the other hereunder. If Substantial Completion has not occurred on or before the Completion Deadline, then this Agreement shall terminate, and neither party shall have any further liability or obligation to the other hereunder; except that, if a significant portion of the proposed Improvements are installed and in place on the Site before the Completion Deadline, but Substantial Completion has not occurred because of reasons that are outside of the sole control of HTX Wind, HTX Wind and County agree to cooperate to agree on a new reasonable Completion Deadline and to amend this Agreement to incorporate such new Completion Deadline.

6. Section 6.2 of the Agreement is hereby deleted in its entirety and replaced by the following new Section 6.2:

**6.2 ABATEMENT.** Beginning on the first day of January following the calendar year in which HTX delivers the Certificate and ending upon the conclusion of ten (10) full Calendar Years thereafter (the "Term Of Abatement"), County agrees to abate and shall abate all County Ad Valorem Taxes except for the Interest and Sinking Fund (I&S) portion of the Ad Valorem Taxes per the schedule set forth in Exhibit F on the Certified Appraised Value of all Improvements in the Certificate and of any and all otherwise taxable personal property owned by HTX WIND (and actually placed in the Reinvestment Zones) (the "Abatement"). As of the Effective Date, the Parties specifically represent and agree that there are no Improvements on the Site. The Parties anticipate that HTX WIND will make the Investment set forth in Section 3.3 by the Completion Deadline unless this Agreement is deferred as provided under Section 6.1A(ii).

7. The following is added as the new first sentence of Section 6.3 of the Agreement: "The Interest and Sinking Fund (I&S) portion of the Ad Valorem Taxes shall not be subject to abatement under this Agreement for any Eligible Property; as such, the Interest and Sinking Fund (I&S) portion of the Ad Valorem Taxes shall be due and payable by HTX Wind on all Eligible Property in accordance with applicable law."
8. Section 6.4 of the Agreement is hereby deleted in its entirety and replaced by the following new Section 6.4:

**6.4 TAXATION BETWEEN EFFECTIVE DATE AND COMMENCEMENT OF THE TERM OF ABATEMENT.** County and HTX Wind agree that one hundred percent (100%) of the Certified Appraised Value of all Improvements and other personal property installed, put in place, or otherwise set upon the Site after the Effective Date and that is subject to tax prior to the commencement of the Term of Abatement shall be taxed without abatement. Taxation pursuant to this Article 6.4 shall have no further impact on the eligibility for Abatement and such actual Abatement on and after the commencement of the

Term of Abatement of all Improvements and other personal property installed, put in place, or otherwise set upon the Site after the Effective Date. To the extent that there is any conflict between Article 6.2 and Article 6.4, Article 6.2 shall control.

9. All references in the Agreement to "deferrals" or "extensions" of the Completion Deadline are hereby deleted from the Agreement.
10. Exhibit D to the Agreement is hereby deleted in its entirety and replaced by the new Exhibit D attached to this Amendment.

### III. Miscellaneous

The Agreement is hereby amended in accordance with the foregoing provisions of this Amendment. Except for the amendment of the Agreement as provided for herein, all other terms and provisions of the Agreement shall remain in full force and effect as if this Amendment had been incorporated in the Agreement as originally executed and delivered. In the event of any inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control.

This Amendment may be executed in any number of counterparts or with counterpart signature pages, each of which counterparts shall be deemed to be an original and all of which shall constitute one and the same agreement and shall be binding upon the undersigned.

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IN TESTIMONY OF WHICH, THIS AMENDMENT has been executed by the County as authorized by the County Commissioners Court on November 26, 2018.

ATTEST/SEAL:

**McCULLOCH COUNTY, TEXAS**

Danny Neal  
Danny Neal  
County Judge

Date: Nov. 26, 2018

Jim Quinn  
Jim Quinn  
Commissioner Precinct 1

Gene Edmiston (Against)  
Gene Edmiston  
Commissioner Precinct 2

Jason Behrens  
Jason Behrens  
Commissioner Precinct 3

Brent Deeds (against)  
Brent Deeds  
Commissioner Precinct 4

ATTEST:

Tina A. Smith  
Tina A. Smith, County Clerk  
By Cafa Regus Deputy



**HTX WIND:**  
Heart of Texas Wind, LLC,  
a Delaware limited liability company

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**NEW EXHIBIT D****List of Proposed Improvements**

The Improvements are expected to consist of up to 64 General Electric wind turbines for a total operating capacity of approximately 180 MW (both the number of turbines and total Nameplate Capacity are subject to variation based on final project layout). In addition to the wind turbines, electrical connections will be installed to permit the interconnection and transmission of electricity generated by the wind turbines. There may also be located within the project boundary an electrical substation; a transmission line to the interconnection point; permanent buildings and offices; office equipment and computers; anemometer towers; electrical transmission interconnects, cables, towers, and control systems for commercial generation of electricity; fencing and other equipment as needed for safety and security; and other personal property supporting the Project.