



After Recording Return to:  
Meadowlark Wind I LLC  
c/o Capital Power Corporation  
Attn: Cyrus Tingley  
155 Federal Street, Suite 1200  
Boston, MA 02110

### SETBACK WAIVER AGREEMENT

This **WIND PROJECT SETBACK WAIVER AGREEMENT** (this "**Agreement**") is made, dated and effective as of Nov 6<sup>th</sup>, 2018 (the "**Effective Date**"), by and between Erick L. Nelson and Amy L Nelson ("**Grantor**") and **Meadowlark Wind I LLC**, a Delaware limited liability company with an address of 155 Federal Street, Suite 1200, Boston, MA 02110 ("**Grantee**").

#### RECITALS

- A. Grantor owns certain real property located in McHenry County, State of North Dakota, which real property is more particularly described on the attached Exhibit A (the "**Property**").
- B. Grantee is a wind farm developer that desires to develop an electric generating wind power project (the "**Wind Project**") in McHenry County, North Dakota. Grantee expects that some of the Wind Project improvements, including wind turbine generators, which include associated towers, foundations, and support structures (collectively the "**Generating Units**") and necessary appurtenances will be installed on the Property or land adjacent to or near the Property.
- C. Grantee wishes to obtain certain rights, waivers and privileges from Grantor for the benefit of the Wind Project.

#### AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, and other valuable consideration, the receipt and sufficiency which is hereby acknowledged, and the terms and conditions set forth in this Agreement, Grantor and Grantee hereby agree as follows:

1. Waiver of Land Use Regulations. Grantee's Generating Units may be closer to Grantor's residential structure(s), commercial structure(s) or property line(s) than allowed by any regulations set forth in any local Zoning, Building, Subdivision or Land Development laws, regulations and/or governmental approvals including any voluntary 1400-foot setback from the residence ("Setback Restrictions"). Accordingly, Grantor agrees to the following:
  - a) Grantor hereby consents to Grantee's location of Generating Units on the Property or at any adjacent or near-by properties, including at or near the property lines of the Property.
  - b) To the extent that Grantor has installed or constructed or desires to install or construct Generating Units on the Property or on land at or near the common boundary between the Property and the adjacent land, Grantor hereby waives the Setback Restrictions as set forth above.
2. Grantor's Reserved Rights. Other than as specifically set forth in this Agreement Nothing contained in this Agreement shall amend or modify Grantor's rights preserved in the Land Lease

and Wind Easement, dated February 13, 2013, a memorandum of which was recorded in the McHenry Office of County Recorder on October 16, 2018, as Document # 324282 (the "Lease").

3. Term and Termination. This Agreement shall not be terminable by Grantor. This Agreement shall terminate upon the termination of the Lease inclusive of any extensions thereof.

4. Agreement to Run with the Land. All covenants and agreements contained in this Agreement shall be construed as covenants running with the land, and all rights and powers given to and obligations imposed upon the respective parties shall be construed as inuring to and binding upon the successors in interest and the permitted assigns of the parties hereto, respectively.

5. Recording. This Agreement may be recorded in the Recorder of Deed's office (or its equivalent) in the County in which the Property is located by Grantee, and at Grantee's expense. This may be done in order to advise all subsequent owners of the Property that there is a waiver of the Setback Restrictions.

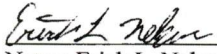
6. Successors and Assigns. This Agreement shall burden the Property and shall run with the Property. This Agreement shall inure to the benefit of and be binding upon Grantor and Grantee and any assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them.


7. Governing Law. This Agreement is governed by, and shall be construed in accordance with, the laws of the State of North Dakota.

8. Counterparts. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

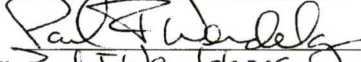
**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

GRANTOR:

  
Name: Erick L. Nelson

  
Name: Amy L. Nelson

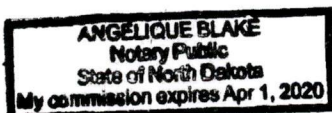
GRANTEE: **Meadowlark Wind I LLC**

By:   
Name: Paul F. Wendelgass  
Its: Managing Director

ACKNOWLEDGEMENTS

State of North Dakota )  
County of Ward ) SS:

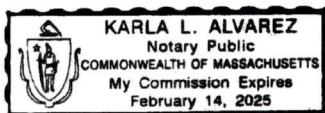
This instrument was acknowledged before me on the 6<sup>th</sup> day of Nov, 2018, by  
Erick L. Nelson and Amy L. Nelson, known to me to be the person who signed the  
foregoing instrument and acknowledged the same.



Angelique Blake  
(Signature of notary)  
Title: Notary Public  
My commission expires: 4-1-20  
(Month/day/year)

Commonwealth of Massachusetts )  
County of Suffolk ) SS:

This instrument was acknowledged before me on the 12<sup>m</sup> day of November, 2018, by  
Paul F. Wendigoss, an authorized representative of Meadowlark Wind I LLC,  
known to me to be the person who signed the foregoing instrument and acknowledged the same on behalf  
of such company.



Karla Alvarez  
(Signature of notary)  
Title: Notary  
My commission expires: 2-14-25  
(Month/day/year)

**Exhibit A**

**SETBACK WAIVER AGREEMENT**

**LEGAL DESCRIPTION OF PROPERTY:**

All that real property located in McHenry County, North Dakota, more fully described as follows:

Outlot 770 of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 18, Township 151 North, Range 80 West of the 5<sup>TH</sup> P.M., McHenry County, North Dakota.