

When Recorded, Return to:

RES North America Leasing, LLC
c/o RES North America, LLC
1 SW Columbia St., Suite 790
Portland, OR 97258
Attn: Scott Piscitello

State of Oregon, County of Klamath
Recorded 11/08/2002 8:34 a m.
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Linda Smith, County Clerk
Fee \$ 91.00 # of Pgs 15

TRANSMISSION AND ACCESS EASEMENT AND AGREEMENT

This TRANSMISSION AND ACCESS EASEMENT AND AGREEMENT (this "Agreement") is made, dated and effective as of Oct. 16, 2002 (the "Effective Date"), between A. L. Bruner and Marilyn Bruner ("Landlord") and RES NORTH AMERICA LEASING, LLC. ("RES"). In consideration of receipt of good and valuable consideration, Landlord and RES agree as follows:

1. Grant of Transmission Easement. Landlord hereby grants to RES a non-exclusive easement ("Transmission Easement") on, along, over, under and across the Property (as defined below) for the right to erect, construct, reconstruct, replace, improve, enlarge, alter the voltage, relocate, remove, maintain and use the following from time to time in connection with wind-powered electricity generating facilities, whether located on the Property or elsewhere, including, without limitation: (a) a line or lines of towers, with such wires and cables as from time to time are suspended therefrom (and with an overhead clearance of at least twenty-four (24) feet), and/or underground wires and cables (which shall be buried at least three (3) feet), for the transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances and fixtures for use in connection with said towers, wires and cables on, along, over, under and across the Property; (b) one or more substations or interconnection or switching facilities from which RES or others that generate energy may interconnect to a utility transmission system or the transmission system of another purchaser of electrical energy, together with the appropriate rights of way, on, along, over, under and across the Property; and (c) roads and lanes necessary or desirable to access the foregoing. Such towers, wires, cables, substations, facilities, roads, and lanes are herein collectively called the "Transmission Facilities." The Transmission Easement shall be non-exclusive only inasmuch as Landlord shall have the right to grant transmission easements to other developers of wind projects on the Property, provided,

such other transmission easements shall not interfere with the rights granted to RES hereunder or any towers, wires, cables, substations, facilities, roads, lanes and other facilities of RES on, along, over, under and across the Property.

2. Grant of Access Easement. Landlord hereby grants to RES a non-exclusive easement ("Access Easement") on, over and across the Property by means of roads and lanes thereon (collectively, "Roads"), if existing, or otherwise by such routes as RES may construct on the Property from time to time. The Access Easement shall be non-exclusive only inasmuch as Landlord shall retain the right to use existing Roads and shall be granted the right to use Roads constructed by RES. Landlord's use of the Roads constructed by RES shall be limited to farming, ranching and the right to grant or license to third parties the right to use any Roads constructed by RES for farming and ranching. Roads built and maintained by RES shall be of a gravel or better surface. Ordinary wear excepted, if Landlord, its agents, officers, licensees, permittees or contractors damage or cause excessive wear to any Roads constructed or maintained by RES all costs of repair and restoration of such Roads shall be borne by Landlord and Landlord shall reimburse RES for all costs of such repair and restoration within forty-five (45) days after receipt of an invoice therefore. At RES' election, sums not timely paid may be offset against payments next accruing under the Wind Energy Ground Lease between Landlord and RES of even date herewith (the "Lease") [insert date or set date certain for termination consistent with Section 2.2 of the Lease].

3. Property. The Transmission Easement and the Access Easement are and shall be on, along, over, under, and across certain real property (the "Property") of Landlord generally described as approximately six thousand thirty five (6035) acres of land located in Klamath County, Oregon and being more fully described on Exhibit A attached hereto and incorporated herein by reference.

4. Term; Assignment. The term of the Transmission Easement and Access Agreement shall be until the later of (a) expiration of the Lease and (b) discontinuation for three (3) consecutive years of use of the Transmission Facilities and Roads with respect to the Property and/or other real property located in Klamath County, Oregon unless earlier terminated by RES by written notice to Landlord. This Agreement may not be terminable by Landlord under any circumstances. RES (and any assignee) shall have the right, without need for Landlord's consent, to assign, or convey all or any portion of this Transmission Easement and/or the Access Easement to one (1) or more Assignees on an exclusive or nonexclusive basis. The Transmission Easement and the Access Easement shall run with the Property and inure to the benefit of and be binding upon Landlord and RES and their respective heirs, executors, administrators, transferees, successors and assigns, and all persons claiming under them. An "Assignee" is any of the following: (i) any one or more parties involved in the financing of any wind-powered

electricity generating facilities, including, without limitation, any lender to or investor in, or purchaser or lessee of, wind-powered electricity generating facilities; (ii) any purchaser or transferee of all or a portion of the wind-powered electricity generating facilities, transmission improvements, access improvements or other improvements owned by RES and located on the Property; (iii) a corporation now existing or hereafter organized (including RES) in which RES or its direct or indirect parent, or any affiliate of either, owns (directly or indirectly) at least fifty-one percent (51%) of all outstanding shares of voting stock; (iv) a partnership now existing or hereafter organized, a general partner of which is such a corporation; (v) a corporation, partnership or other entity that acquires all or substantially all of RES' business, assets or capital stock, directly or indirectly, by purchase, merger, consolidation or other means; (vi) an electric utility; or (vii) a limited liability company now existing or hereafter organized, a member of which is RES or its direct or indirect parent or affiliate.

5. Assignment in Connection with Transmission Lines. In connection with the exercise of the rights of RES or any Assignee hereunder, RES, in its sole discretion and without further act of Landlord, shall have the right to grant to any utility the right to construct, operate and maintain electric transmission, interconnection and switching facilities on the Property in connection with RES' wind-powered electricity generating facilities, wherever located; provided, that such right shall be subject to the terms and conditions of this Agreement.

6. Consideration. Concurrently with execution hereof, and as a condition to the execution hereof, Landlord and RES have executed the Lease. Pursuant to the terms of the Lease, RES makes certain payments to Landlord. If RES has installed wind turbine generators ("WTGs") on the Property which produce a minimum of twenty (20) megawatts of name plate rated capacity as part of a commercial-scale utility electrical generation facility (the "WTG Requirement"), then no consideration shall be due hereunder, the rent payable under the Lease being consideration for the easements and rights granted hereunder. If the WTG Requirement is not satisfied by RES, then RES, as consideration for the easements and rights granted hereunder, shall pay to Landlord an annual fee of (a) Five Hundred Dollars (\$500.00) per mile of Roads over which RES desires to have access during the subject year; (b) Two Hundred Fifty Dollars (\$250.00) per acre for the acre used for interconnection, switching, and substation facilities; and (c) One Thousand Nine Hundred Dollars (\$1,900.00) per mile of transmission line trenches being used (collectively, the "Fee"). Any partial mile or acre shall be rounded up to a whole mile or acre for purposes of computing the Fee. The Fee shall be adjusted annually in January (the "Adjustment Date") by the increase or decrease in the Gross Domestic Product Implicit Price Deflector index for all goods and services ("GDPIPD") as hereinafter provided: The base for computing the increase or decrease in the GDPIPD for purposes of this paragraph shall be the GDPIPD published in the Survey of Current

Business by the United States Department of Commerce Bureau of Economic Analysis (the "Index") for the month of January, 2002 (the "Beginning Index"). The adjustment shall be effective January 1 of each year starting January 1, 2003 and shall be determined by multiplying each component of the Fee (i.e., \$500/mile, \$250/acre and \$1900/mile) by a fraction, the numerator of which is the Index published for the month of November preceding the subject Adjustment Date, and the denominator of which is the Beginning Index. If the Index is discontinued or revised during the Term, such other government index or the computation by which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. The rights of RES under this Agreement are independent of those granted to RES under the Lease and the termination or expiration of the Lease shall have no effect on the rights of RES or the obligations of Landlord hereunder. The Fee shall be paid in equal monthly installments on the first (1st) day of each month, in advance.

7. Non-Interference. Neither Landlord nor its agents, officers, licenses, permittees or contractors shall take or omit to take any action which interferes or adversely affects RES' operation of the wind-powered, electricity-generating facilities located on the Property, except as expressly provided in this Agreement.

8. Indemnity. RES shall defend, indemnify, and hold Landlord harmless from and against any and all damages, loss, liability and claims of liability, for damage to property of whatsoever kind or character, or for injury to persons, or for the death of a person or persons, caused directly by the activities of RES, its agents, contractors, employees, guests, licensees, and permittees on or about the Property except to the extent such liability or loss is due to the negligence or willful misconduct of Landlord. RES' liability for the acts of guests, licensees and permittees shall be limited to those guests, licensees and permittees expressly permitted to be on the Property and shall not extend to any persons on the Property without RES' express permission. Landlord shall defend, indemnify and hold RES harmless for, from and against any and all damages, loss, liability and claims for liability for damage to property of whatsoever kind or character, or for injury to persons caused directly by any act or omission of Landlord, its agents, contractors, employees, guests, licensees and permittees on or about the Property except to the extent such liability or loss is due to the negligence or willful misconduct of RES. Landlord's liability for the acts of guests, licensees and permittees shall be limited to those guests, licensees and permittees expressly permitted to be on the Property and shall not extend to persons on the Property without Landlord's express permission.

9. RES' Right to Subject Easement to Security Instrument. RES shall have the right at any time and from time to time to subject its interest under this Agreement to one (1) or more mortgages, deeds of trust, or other real or personal property security instruments ("Mortgage") as security for any loans or any other obligations of RES; provided, however, that RES shall give Landlord written notice of any such Mortgage. Such Mortgagee shall have the following rights:

(a) No cancellation, surrender, acceptance of surrender, amendment or modification of this Agreement shall be binding upon such Mortgagee or affect the lien of such Mortgage without the prior written consent of such Mortgagee.

(b) No notice, demand, election, or other communication required or permitted to be given under this Agreement (a "notice") by Landlord shall be binding upon or affect such Mortgagee unless a copy of said notice shall be given to such Mortgagee within the time when such notice shall be required or permitted to be given to RES.

(c) Such Mortgagee shall have the right, within the time limitations provided for herein, to perform any term, covenant, condition, or agreement and to remedy any default by RES hereunder, and Landlord shall accept such performance by such Mortgagee with the same force and effect as if furnished by RES; provided, however, that such Mortgagee shall not thereby or hereby be subrogated to the rights of Landlord.

(d) If Landlord shall give a notice of default to RES pursuant to the provisions of this Agreement, Landlord shall give to such Mortgagee not less than sixty (60) days additional written notice of the default and shall allow such Mortgagee such additional sixty (60) days within which to commence and diligently pursue the cure of such default.

(e) RES may delegate irrevocably to such Mortgagee the authority to exercise any or all of RES' rights under this Agreement, by written notice to Landlord.

Landlord and RES shall cooperate in including in this Agreement, by suitable amendment in recordable form from time to time, any provisions which may reasonably be requested by a proposed Mortgagee; provided, however, that such amendment does not adversely affect any of Landlord's rights under this Agreement or increase the burdens or obligations of Landlord hereunder.

10. Notices. All notices, requests and communications ("Notice") under this Agreement shall be given in writing, by (i) personal delivery (confirmed by the courier delivery service), (ii) expedited delivery with proof of delivery, (iii) telefax and

confirmed in writing by mail, or (iv) first class registered or certified mail, postage prepaid, return receipt requested, to the individuals and addresses indicated below:

(i) To Landlord:

Attention:

with a copy to:

Attention:

Facsimile:

E-mail:

(ii) To RES:

RES North America Leasing, LLC

c/o RES North America, LLC

1 SW Columbia, Suite 790

Portland, OR 97258

Attention: Scott Piscitello

Facsimile: (503) 219-9000

E-mail: Scott.Piscitello@res-us.com

with a copy to:

Orrick, Herrington & Sutcliffe, LLP

400 Sansome Street

San Francisco, CA 94111

Attention: Michele Beasley

Facsimile: (415) 773-5759

E-mail: mbeasley@orrick.com

Except as expressly provided herein, any Notices provided for herein shall become effective only upon and at the time of first receipt by the party to whom it is given, unless such Notice is only mailed by certified mail, return receipt requested, in which case it shall be deemed to be received two (2) business days after the date that it is mailed. Any party may, by proper written notice hereunder to the other party, change the individual address to which such Notice shall thereafter be sent.

11. Permits. During the term hereof, Landlord shall cooperate with RES, at no out-of-pocket expense to Landlord, in connection with RES' obtaining all land use permits and approvals, building permits, environmental impact reviews and any other permits and approvals required by the financing, development, construction, installation, relocation, maintenance, operation or removal of the Transmission Facilities on the Property or other use of the Property by RES authorized hereunder, including, without limitation, making any application with the Oregon Department of Transportation for a permit to allow the Transmission Facilities to cross over or under any state road on which the Property abuts.

12. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. To the extent that this Agreement is inconsistent with the provisions of the Lease, the provisions of this Agreement shall govern.

13. Waiver. No delay or omission by the parties hereto in exercising any right or remedy provided for herein shall constitute a waiver of such right or remedy, nor shall it be construed as a bar to or a waiver of any such right or remedy on any future occasion.

14. Amendments. This Agreement may be modified, amended, or supplemented only by the mutual written agreement of the parties hereto consented to by each Mortgagee, if any.

15. Corporate Authorization and Compliance. Each party represents that it is duly authorized to execute and carry out the provisions of this Agreement.

16. Attorney Fees. In the event of any litigation or arbitration to enforce the provisions of this Agreement (including, without limitation, any proceeding under the U.S. Bankruptcy Code) is instituted, the prevailing party or parties in such litigation or arbitration shall be entitled to reasonable attorney fees, expert witness fees, and costs as shall be fixed by the court or arbitrator without the necessity of a noticed motion.

17. Further Assurances. The parties agree to do such further acts and things and execute and deliver such additional agreements and instruments as the other may reasonably require to consummate, evidence, or confirm the agreements contained herein in the manner contemplated hereby.

18. Consent. Where rights under this Agreement are conditioned upon the consent of one of the parties hereto, such consent shall not be unreasonably withheld.

19. Severability. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected thereby.

20. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof.

IN WITNESS WHEREOF, Landlord and RES have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

64588

LANDLORD:

By: A. L. Bruner
A. L. Bruner

By: Marilyn Bruner
Marilyn Bruner

TENANT:

RES North America Leasing, LLC
a Delaware corporation

By: Robert I. Morrison
Its: Robert I. Morrison
Managing Director

STATE OF Oregon)

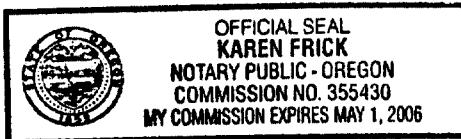
64589

SS:

County of Josephine)

On this day personally appeared before me Karen Frick, to me known to be A. L. Bruner described herein and who executed the foregoing instrument and acknowledged he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 16th day of Oct., 2002.



Karen Frick
Notary Public in and for the State of
of Oregon, residing at:

STATE OF Oregon)

SS:

County of Josephine)

On this day personally appeared before me Karen Frick, to me known to be Marilyn Bruner described herein and who executed the foregoing instrument and acknowledged he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

SUBSCRIBED AND SWORN to before me this 16th day of Oct., 2002.



Karen Frick
Notary Public in and for the State of
of Oregon, residing at:

STATE OF Florida)

SS:

64590

County of Palm Beach)

On this day personally appeared before me Robert I Morrison, to me known to be an officer of RES North America Leasing, LLC described herein and which executed the foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said corporation.

SUBSCRIBED AND SWORN to before me this 18th day of October, 2002.



Rita A. Beauchesne
Notary Public in and for the State of
of Florida, residing at:
Palm Beach

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Copy

Township 40 South, Range 13 East of the Willamette Meridian

Section 30: W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$; Government Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$;
SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ and the
SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 31: SW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; Government Lot 1; and the N $\frac{1}{2}$ SE $\frac{1}{4}$;
Excepting therefrom:

Beginning at a point on the South line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 31 from which point the Southeast corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ bears South 89°23'07" East, 1061.26 feet; thence the following courses and distances; South 18°44'08" East 590.47 feet; South 23°04'51" East, 385.43 feet; South 20°08'02" East 275.85 feet; South 01°01'00" East 153.92 feet to a point on the North line of Lot 7 of said Section 31; thence North 89°31'10" West on said North Line, 663.22 feet; thence leaving said North line on the following courses and distances; North 61°11'14" West, 165.10 feet; North 29°33'57" West feet; North 40°30'09" West, 181.15 feet; North 53°21'02" West, 141.88 feet; North 76°48'07" West, 611.43 feet; North 07°51'21" West 213.86 feet; North 24°14'23" West 611.89 feet; North 10°03'08" West, 254.20 feet; North 23°20'05" West, 133.80 feet; North 10°15'35" West, 294.26 feet; North 05°49'53" East, 286.90 feet; North 14°52'21" West, 307.33 feet; North 81°42'04" East, 246.78 feet, South 41°01'39" East, 209.25 feet; South 57°28'17" East, 1075.61 feet; South 50°45'53" East 327.70 feet to a point on the West line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence South 00°57'48" East on said West line, 472.33 feet to the Southwest corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence South 89°28'07" East on the South line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$, 256.02 feet to the point of beginning.

Section 32: NW $\frac{1}{4}$ SE $\frac{1}{4}$; and the S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 33: SW $\frac{1}{4}$ SW $\frac{1}{4}$;

also Beginning at a point at the Northwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;
thence diagonally Southeasterly to the Southeast corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence
Westerly along the South boundary of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ to the Southwest corner
of the SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence Northerly along the West boundary of the SE $\frac{1}{4}$ SW $\frac{1}{4}$
to the point of beginning.

- Section 2: SE $\frac{1}{4}$ NE $\frac{1}{4}$; Government Lot 2; SW $\frac{1}{4}$ NE $\frac{1}{4}$; Government Lot 4; S $\frac{1}{2}$ NW $\frac{1}{4}$; and the S $\frac{1}{2}$
- Section 3: All
- Section 4: All
- Section 5: Government Lots 1, 2, and 3; S $\frac{1}{2}$ NE $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$; and the N $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 8: E $\frac{1}{2}$ NE $\frac{1}{4}$
- Section 9: W $\frac{1}{2}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$; E $\frac{1}{2}$ W $\frac{1}{2}$; S $\frac{1}{2}$ SE $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 10: All
- Section 11: All
- Section 12: W $\frac{1}{2}$ W $\frac{1}{2}$
- Section 13: W $\frac{1}{2}$ W $\frac{1}{2}$
- Section 14: NE $\frac{1}{4}$; NW $\frac{1}{4}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ NW $\frac{1}{4}$; and the S $\frac{1}{2}$
- Section 15: NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$;

Also Beginning at a point on the Northwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence Easterly along the North boundary of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ to the Northeast corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence Southerly to the Southeast corner of SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence diagonally Northwesterly to the point of beginning.

W $\frac{1}{2}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Also Beginning at a point at the Northwesterly corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence Easterly along the North boundary of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ to the Northeast corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence Southerly to the Southeast corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence diagonally Northwesterly to the point of beginning.

- Section 16: Government Lot 1;

Also beginning at the Northwest corner of SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence Easterly along the North boundary of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ to the Northeast corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence Southerly to the Southeast corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence diagonally Northwesterly to the point of beginning.

64594

Also, beginning at a point at the Northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence Easterly along the North boundary of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; to the Northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ thence Southerly to the Southeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence diagonally North-westerly to the point of beginning.

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