

**Public Works Committee Meeting**  
**Tuesday, July 19, 2022 5:00 PM**  
**Crete City Hall**  
**243 E 13th Street**  
**Crete, NE 68333**

**1. Open Meeting**

- In accordance with Nebraska law, a copy of the Open Meetings Act can be found in the back of the Council Chambers.
- Items listed on the agenda may be considered in any order.

**2. Roll Call**

- Attendance of members will be recorded to determine the presence of a quorum for official actions.

**3. Items of Business**

- The Committee may discuss or limit discussion on, hear testimony in favor of or in opposition to, or take action to provide a recommendation to the City Council on any matter presented under this title.
- 3.A. Provide a recommendation to the City Council on approving Windstream Nebraska's application for a permit to occupy city right-of-way at 740 East 2nd Street for fiber placement.
- 3.B. Provide a recommendation to the City Council on approving Windstream Nebraska's application for a permit to occupy city right-of-way at various locations on Iris Avenue for fiber placement.
- 3.C. Provide a recommendation to the City Council on entering into three agreements with SE Municipal Solar, LLC relating to the solar power generating facility on Highway 103.
- 3.D. Provide a recommendation to the City Council on enacting Ordinance 2149: An ordinance vacating Taylor Street.

**4. Officers' Reports**

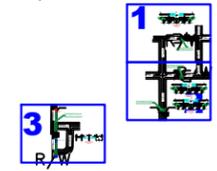
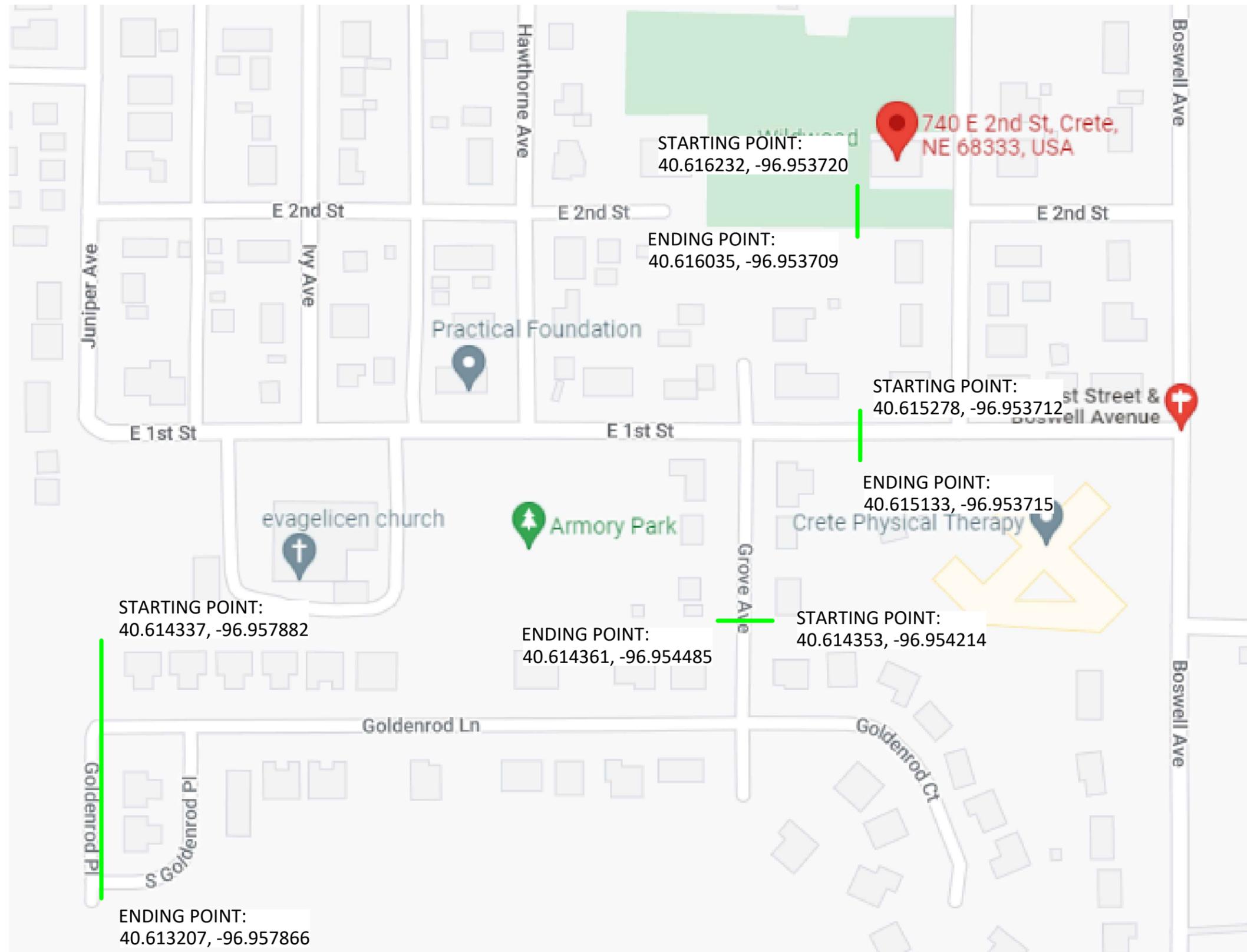
- Reports may be given by the Mayor, Officers, Departments, or Councilmembers concerning the current operations of the City.
- No action can be taken on matters presented under this title except to answer any questions or to refer the matter for further action.

**5. Adjournment**

**Disclaimers & Notices**

- The Council may enter into closed session to discuss any matter on this agenda when it is determined that a closed session is clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual (if such individual has not requested a public meeting) or as otherwise allowed by law. Any closed session shall be limited to the subject matter for which the closed session was called. If the motion to close passes, then immediately prior to the closed session the Mayor shall restate on the record the limitation of the subject matter of the closed session.
- The City of Crete assures that no person shall on the grounds of race, color, national origin, age, disability, handicap or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the City receiving Federal financial assistance. To report discrimination, contact the City Clerk's office.
- The complete agenda with attachments is available at [www.crete.ne.gov](http://www.crete.ne.gov).

# Windstream LOCATION MAP E 2ND ST



**LEGEND**

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW SIDEWALK
- EOP
- BOC
- POLE
- POWER POLE



DATE CREATED: 6/17/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: NTS

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

PROJECT NUMBER:  
715012483

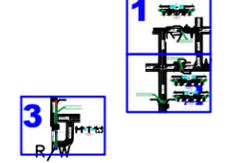
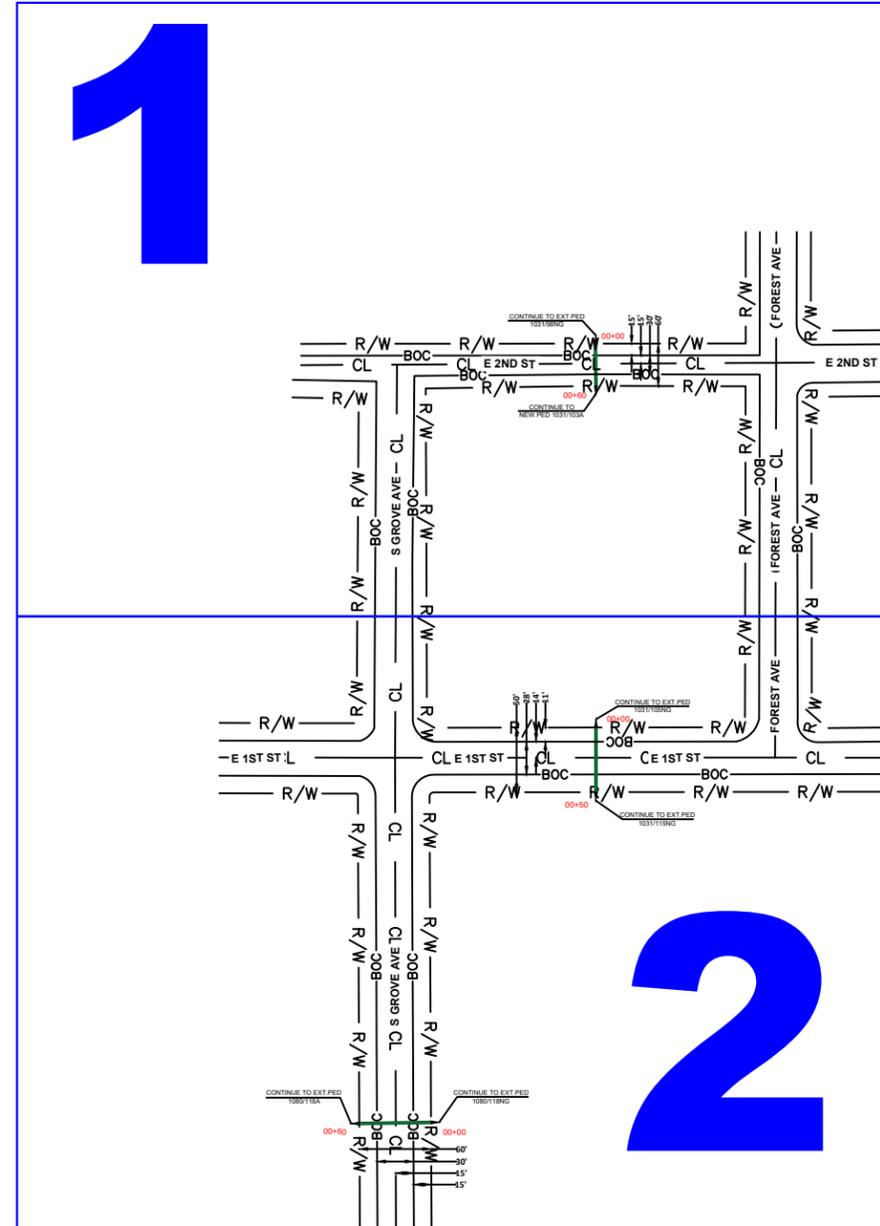
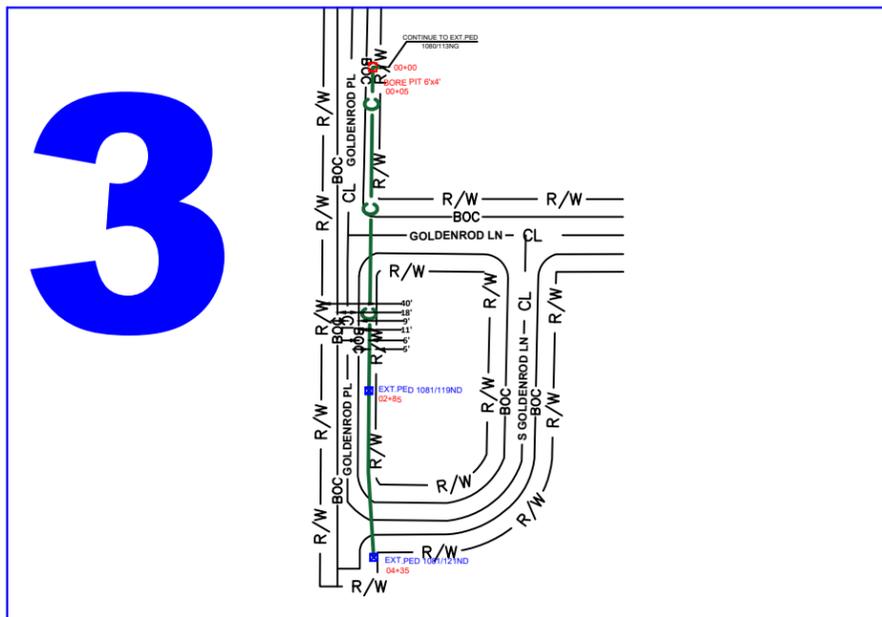
DESCRIPTION:  
FTTP GPON PERMIT

MAP:

LOCATION MAP

RAMTeCH

# CITY PERMIT E 2ND ST



## LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW SIDEWALK
- EOP
- BOC
- POLE
- POWER POLE



DATE CREATED: 6/17/22

DATE REVISED:

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SCALE: NTS

COMPANY:  
Windstream

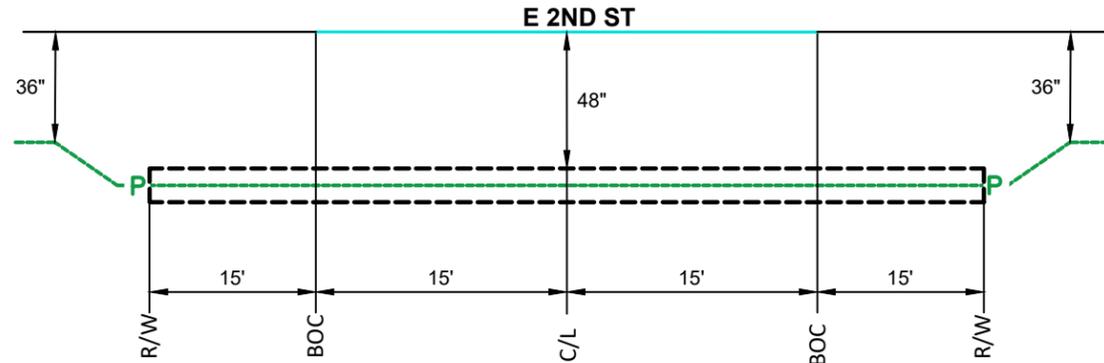
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CRETE,NE

PROJECT NUMBER:  
715012483

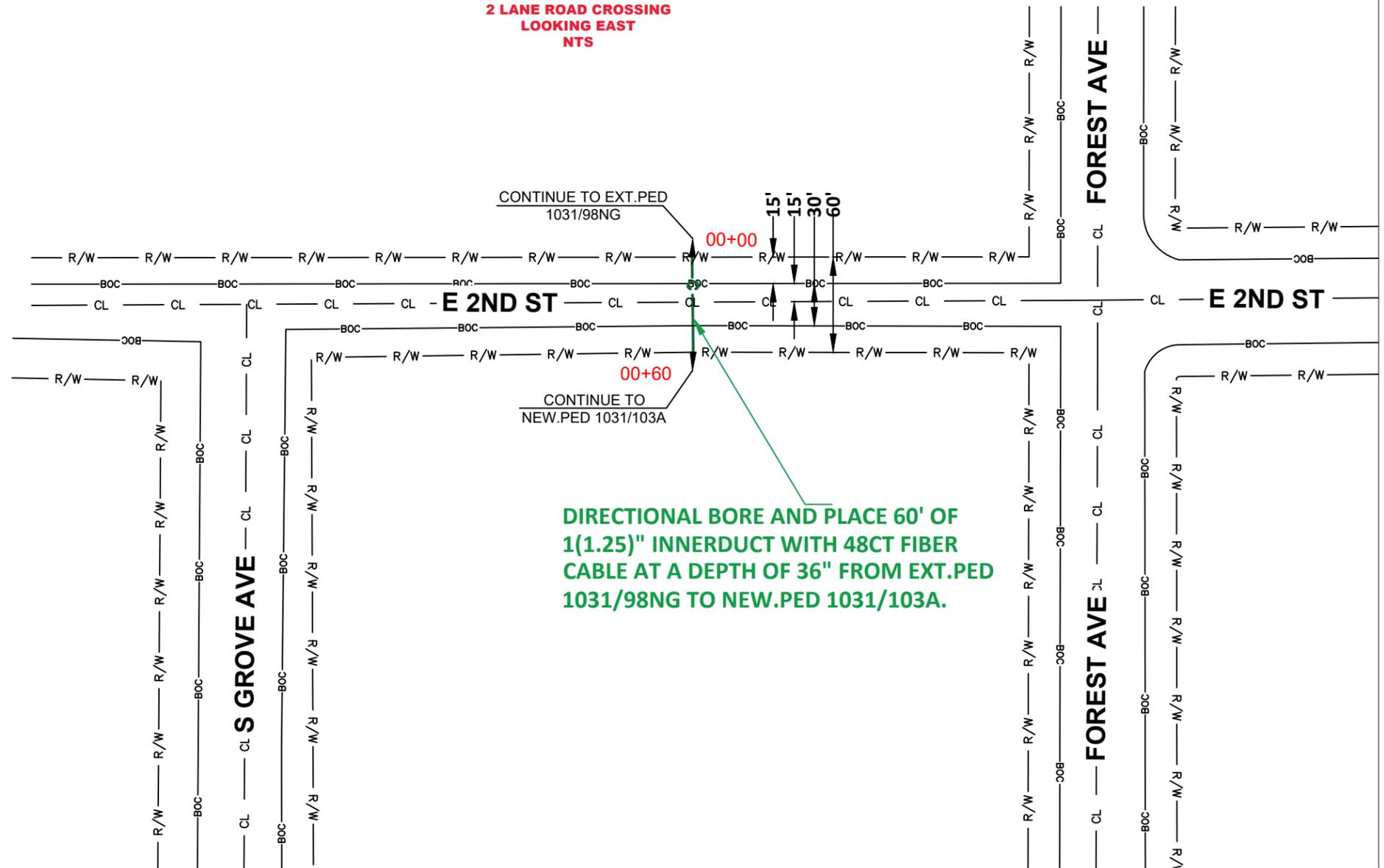
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MAP:  
**KEY MAP**

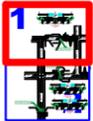
**RAMTeCH**



**TYPICAL BORE DETAIL  
2 LANE ROAD CROSSING  
LOOKING EAST  
NTS**



**DIRECTIONAL BORE AND PLACE 60' OF  
1(1.25)" INNERDUCT WITH 48CT FIBER  
CABLE AT A DEPTH OF 36" FROM EXT. PED  
1031/98NG TO NEW. PED 1031/103A.**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- SW
- EOP
- EOP
- BOC
- BOC
- POLE
- POWER POLE



DATE CREATED: 6/17/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

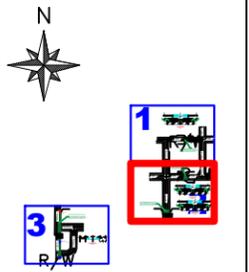
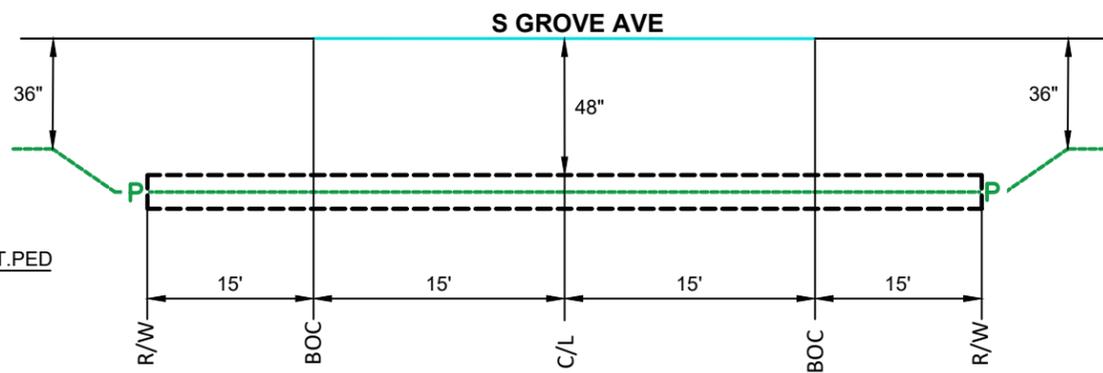
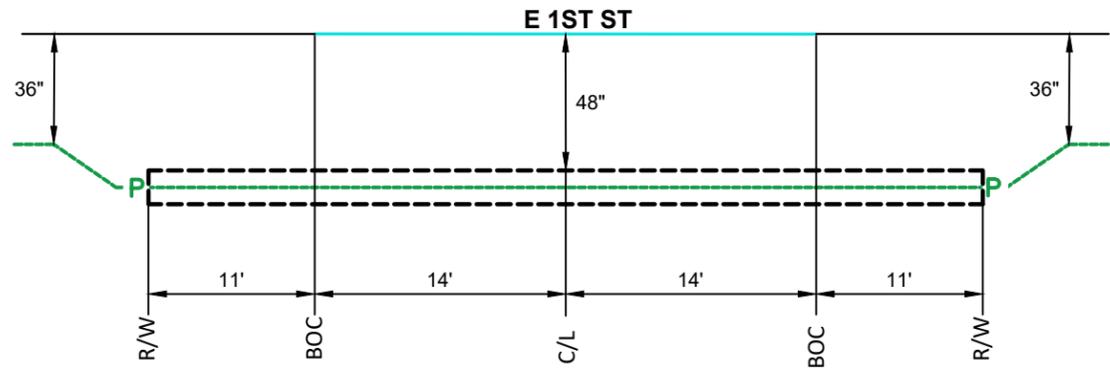
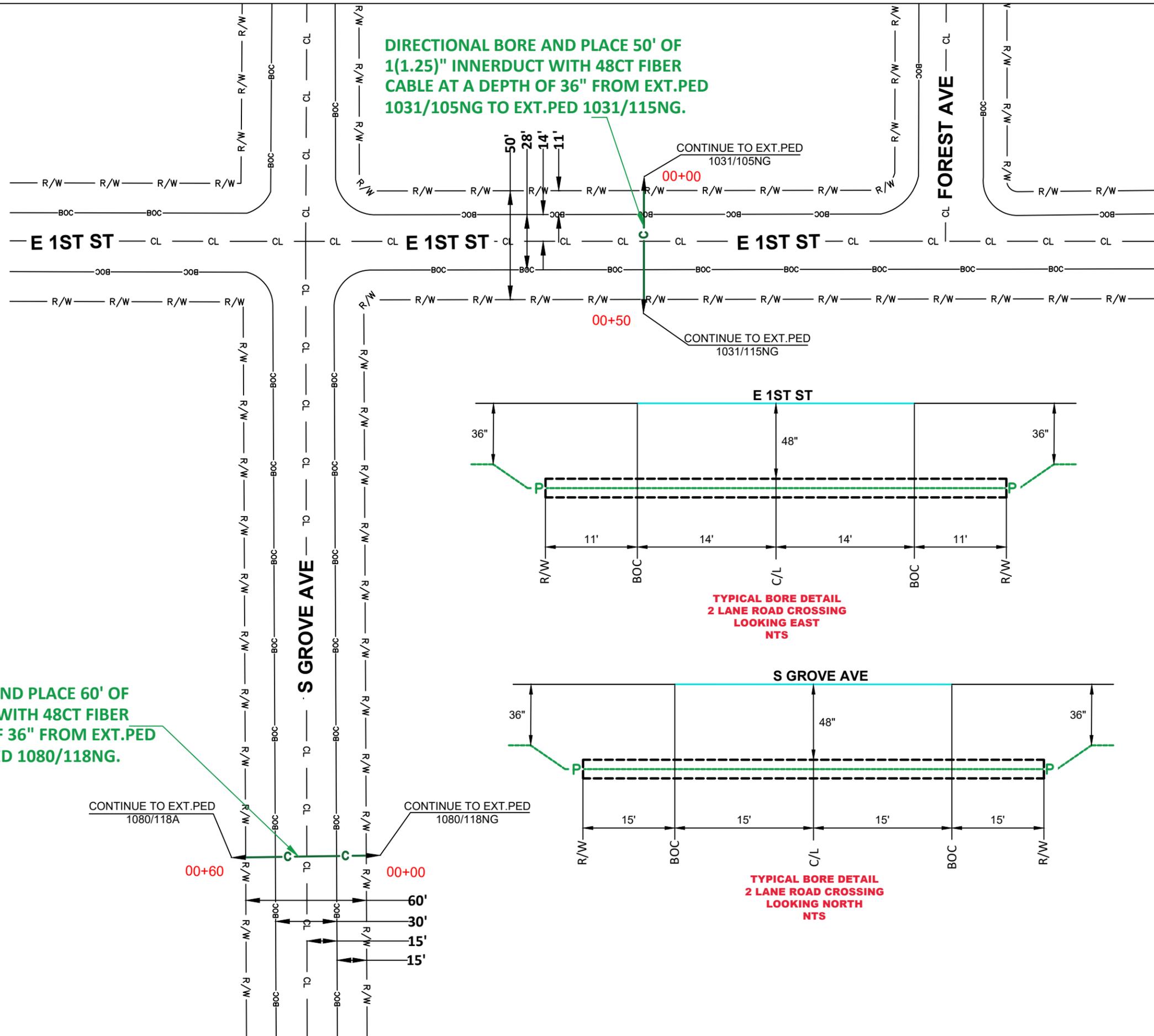
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CRETE, NE

PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON PERMIT

MAP:  
**1 OF 3**

**RAMTeCH**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW SIDEWALK
- EOP
- BOC
- POLE
- ⊗ POWER POLE



DATE CREATED: 6/17/22  
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 DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

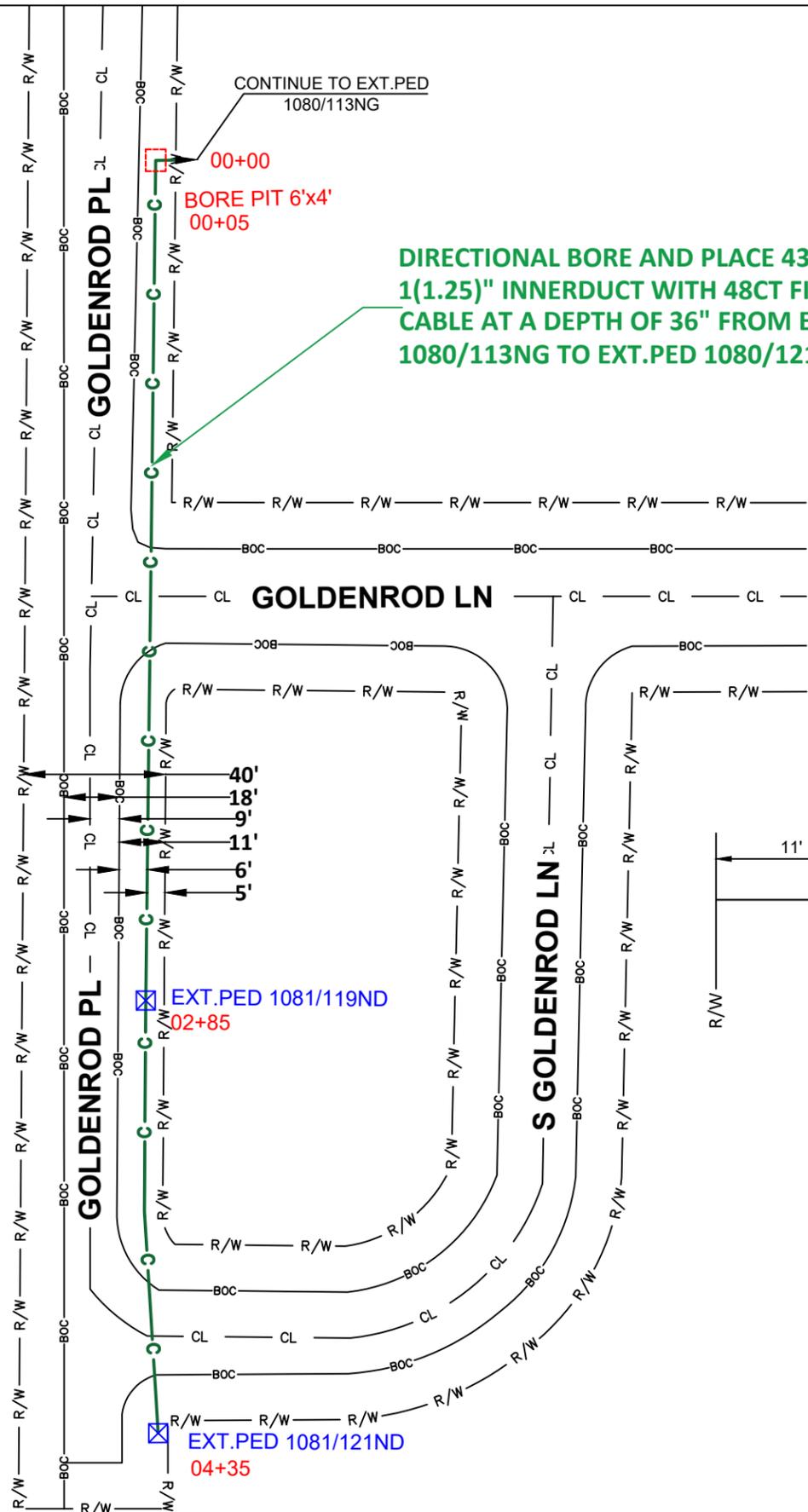
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CRETE, NE

PROJECT NUMBER:  
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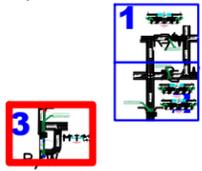
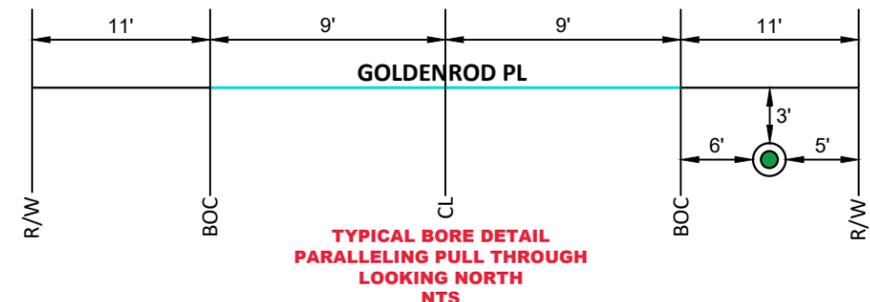
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FTTP GPON PERMIT

MAP:  
**2 OF 3**

**RAMTeCH**



**DIRECTIONAL BORE AND PLACE 435' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM EXT.PED 1080/113NG TO EXT.PED 1080/121ND.**



**LEGEND**

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW — SIDEWALK
- EOP — EOP
- BOC — BOC
- POLE
- ⊗ POWER POLE



DATE CREATED: 6/17/22  
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SCALE: 1:50

COMPANY:  
Windstream

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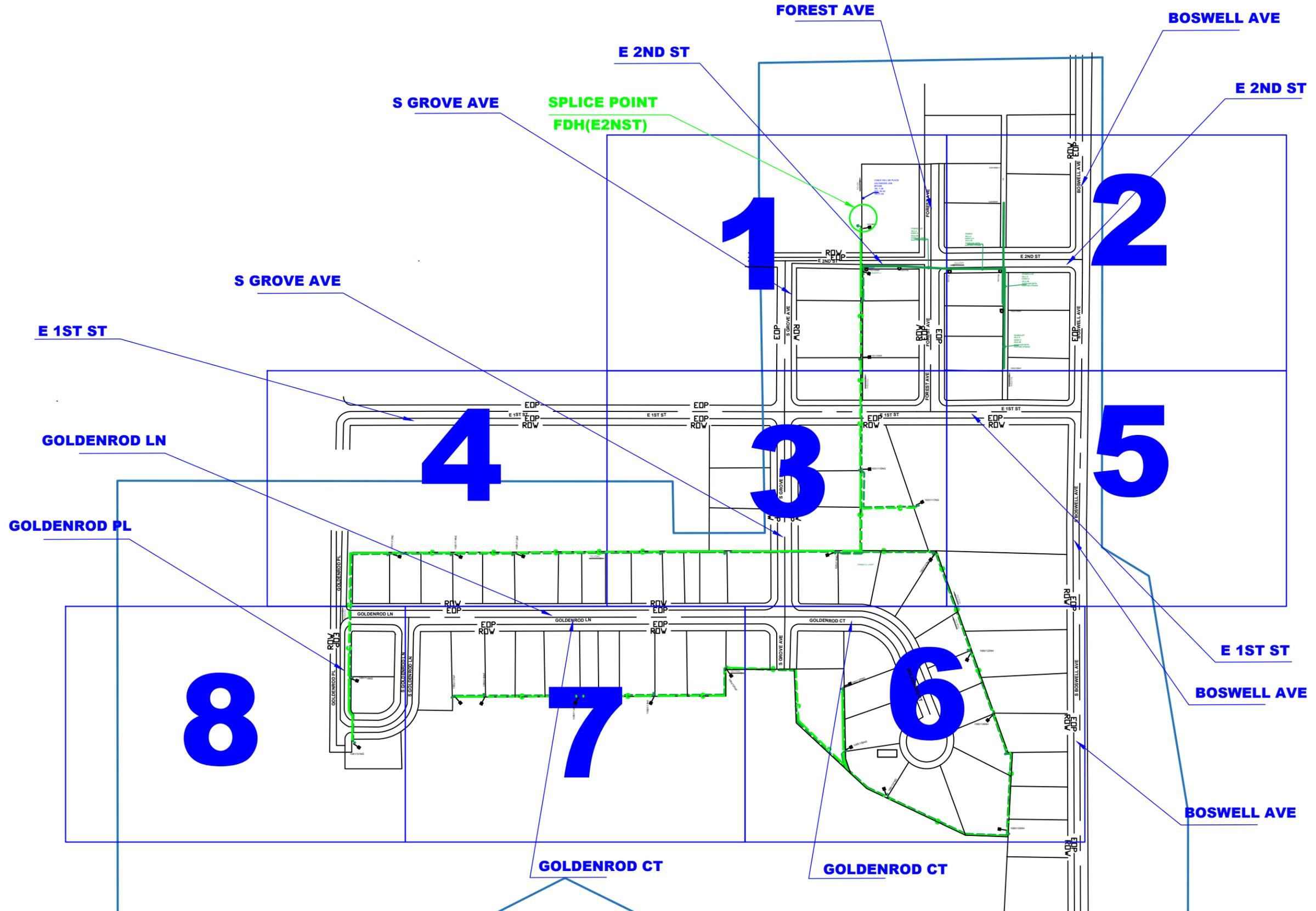
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FTTP GPON PERMIT

MAP:

**3 OF 3**

**RAMTeCH**

# POLYGON ID:TERMINAL\_1031/98NG



DATE CREATED: 04/26/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: N.T.S

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON DB FINAL DESIGN

MAP:

LEGEND

RAMTeCH

# LEGEND

 <p>EXISTING POLES</p>	 <p>FDH</p>	 <p>FBFO48 24 STRAND MICRO FIBER</p>	 <p>MAIN FIBER DUCT</p>	 <p>DURALINE 10/6MM TONEABLE DUCT FBFOV(1)(0.5)12"DEPTH</p>	 <p>SERVICE DROP DUCT</p>	 <p>DURALINE 10/6MM TONEABLE DUCT FBFOV(1)(1)12"DEPTH RED AND WHITE IN ORANGE OUTER SHEATH</p>	 <p>EXISTING CONDUIT</p>	 <p>CHARLES PED (BD4M)</p>	 <p>WINDSTREAM OPERATIONS SPLICE POINT</p>	 <p>CHANNEL 10" FLOWERPOT</p>	 <p>CHANNEL 6" FLOWERPOT</p>	 <p>NEW AERIAL FIBER</p>	 <p>EXISTING BURIED FIBER CABLE</p>	 <p>EXISTING SPLICE</p>	 <p>ROAD BORE (1.25 INCH DUCT)</p>	 <p>DRIVEWAY BORE (BM61 DRY BORE)</p>	 <p>VALVE</p>	 <p>EXISTING PEDESTAL</p>	 <p>WATER METER</p>	 <p>FIRE HYDRANT</p>	<p>SIGN</p> 	<p>STORMDRAIN MANHOLE</p> 	<p>TELCO MARKER</p> 	<p>DRAINAGE CULVERT</p> 	<p>UTILITY POLE</p> 	<p>HANDHOLE</p> 	<p>MANHOLE</p> 	<p>MAILBOX</p> 	<p>WATER VALVE</p> 	<p>STORM DRAIN INLET</p> 	<p>STREET LIGHT</p> 	<p>BUSH</p> 	<p>POWER METER</p> 	<p>CABINET</p> 	<p>WATER VALVE</p> 	<p>TRANSFORMER</p> 
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DATE CREATED: 04/26/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: N.T.S

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON DB FINAL DESIGN

MAP:

LEGEND

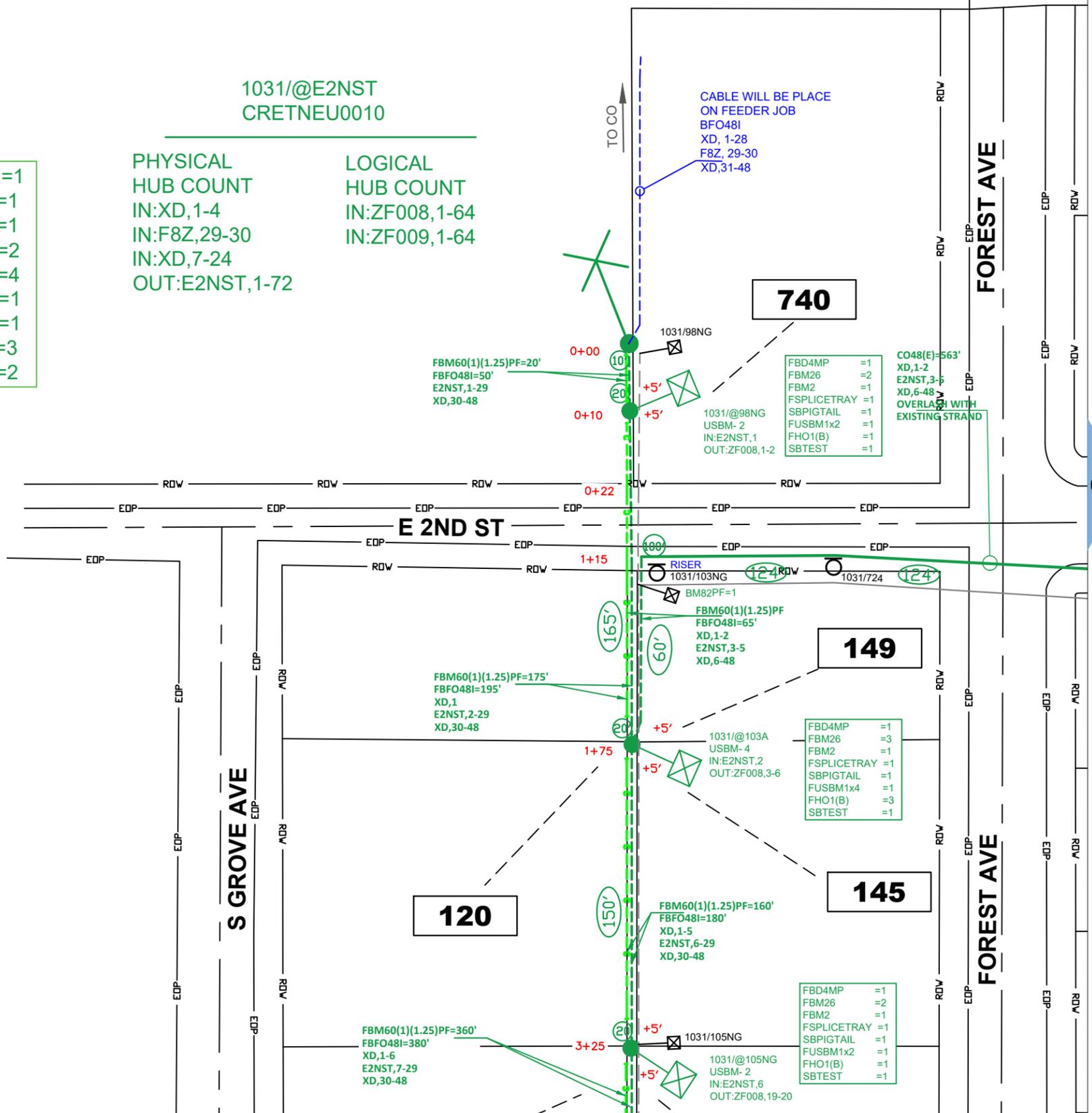
RAMTeCH

1031/@E2NST  
CRETNEU0010

FBDSFH(PED)	=1
FDH(1X32)	=1
FDH(1X16)	=1
FHO1(B)	=2
FDHCASSETTE	=4
FBM26	=1
FBM2	=1
FHO1R(B)	=3
SBTEST	=2

PHYSICAL HUB COUNT	LOGICAL HUB COUNT
IN:XD,1-4	IN:ZF008,1-64
IN:F8Z,29-30	IN:ZF009,1-64
IN:XD,7-24	
OUT:E2NST,1-72	

CABLE WILL BE PLACE  
ON FEEDER JOB  
BFO48I  
XD, 1-28  
F8Z, 29-30  
XD,31-48



DATE CREATED: 04/26/22  
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SCALE: 1:50

COMPANY:  
Windstream

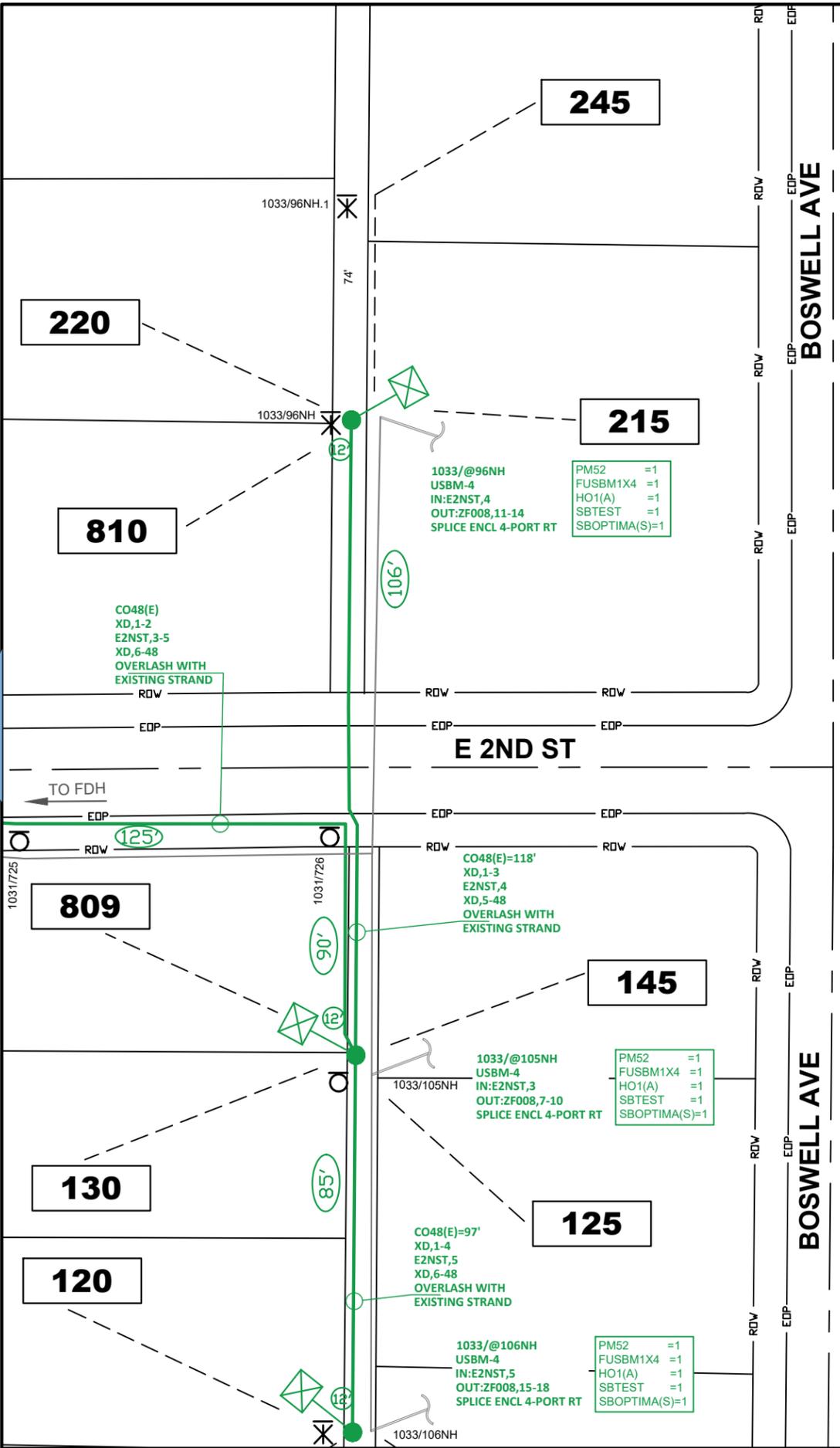
SYSTEM:  
CRETE, NE

PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON DB FINAL DESIGN

MAP:  
**1 OF 8**

**RAMTECH**



DATE CREATED: 04/26/22  
 DATE REVISED:  
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SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

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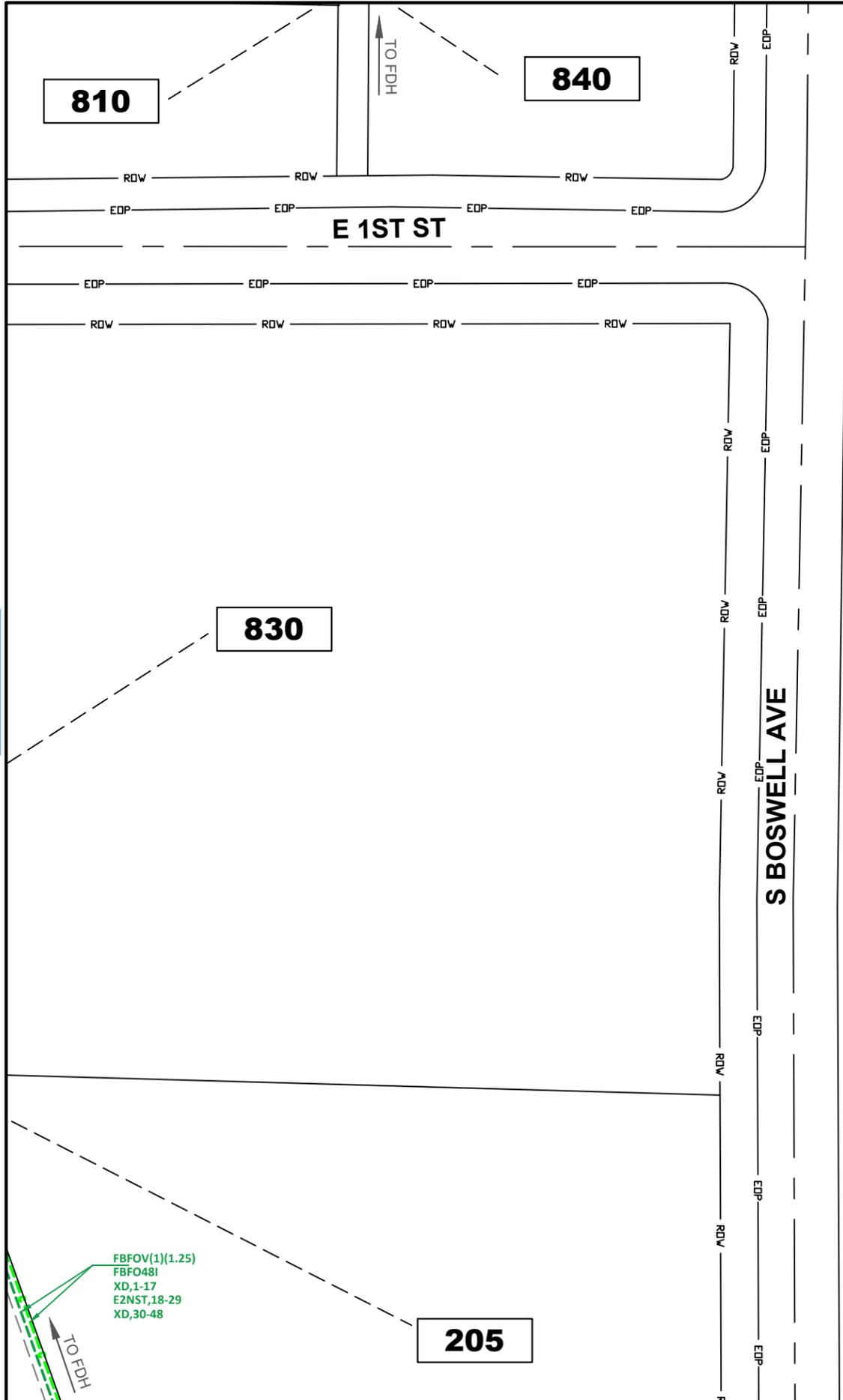
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FTTP GPON DB FINAL DESIGN

MAP:  
**2 OF 8**

**RAMTeCH**







DATE CREATED: 04/26/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY: Windstream

SYSTEM: CRETE, NE

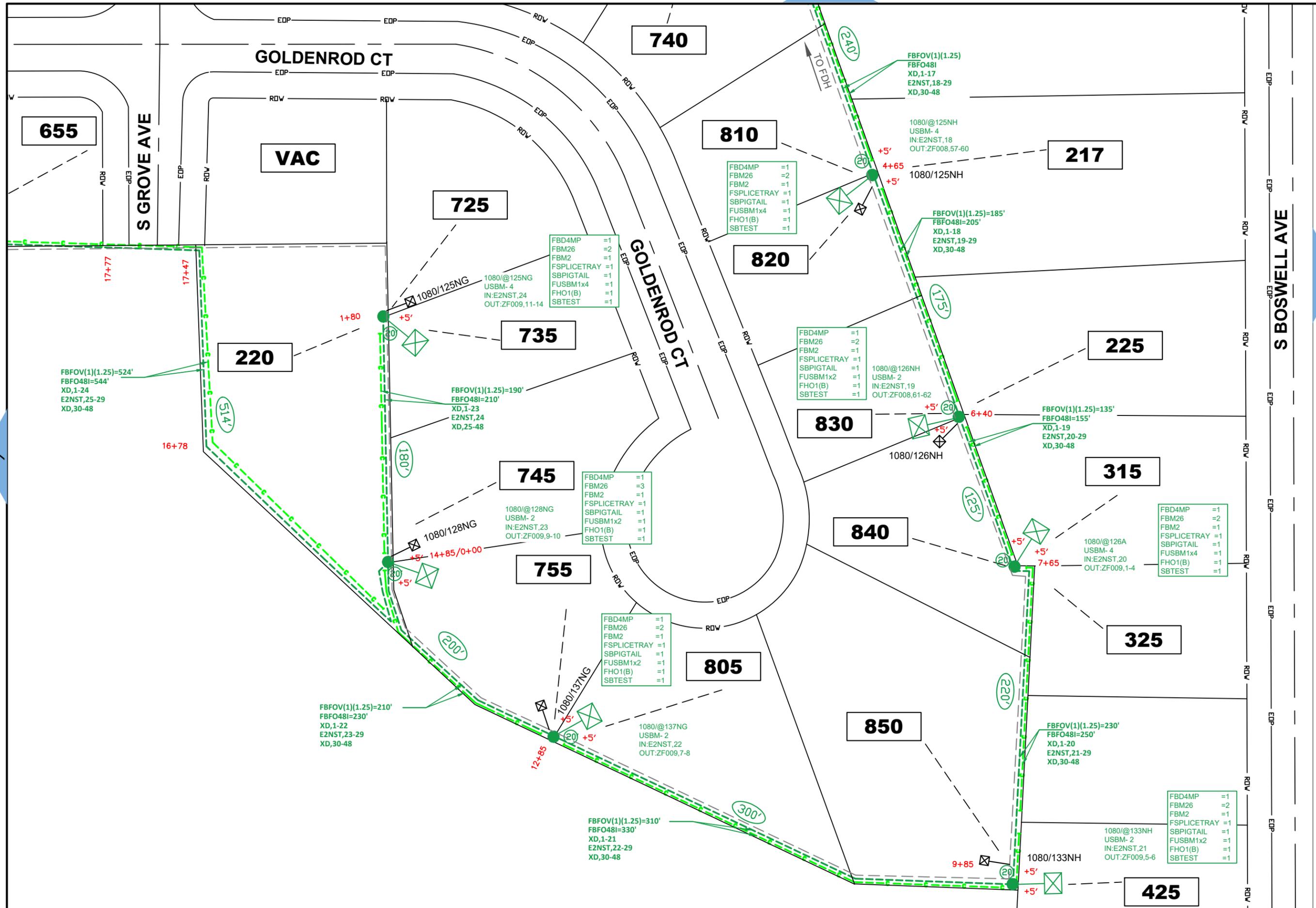
PROJECT NUMBER: 715012483

DESCRIPTION: FFTP GPON DB FINAL DESIGN

MAP:

5 OF 8

RAMTeCH



DATE CREATED: 04/26/22  
 DATE REVISED:  
 DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

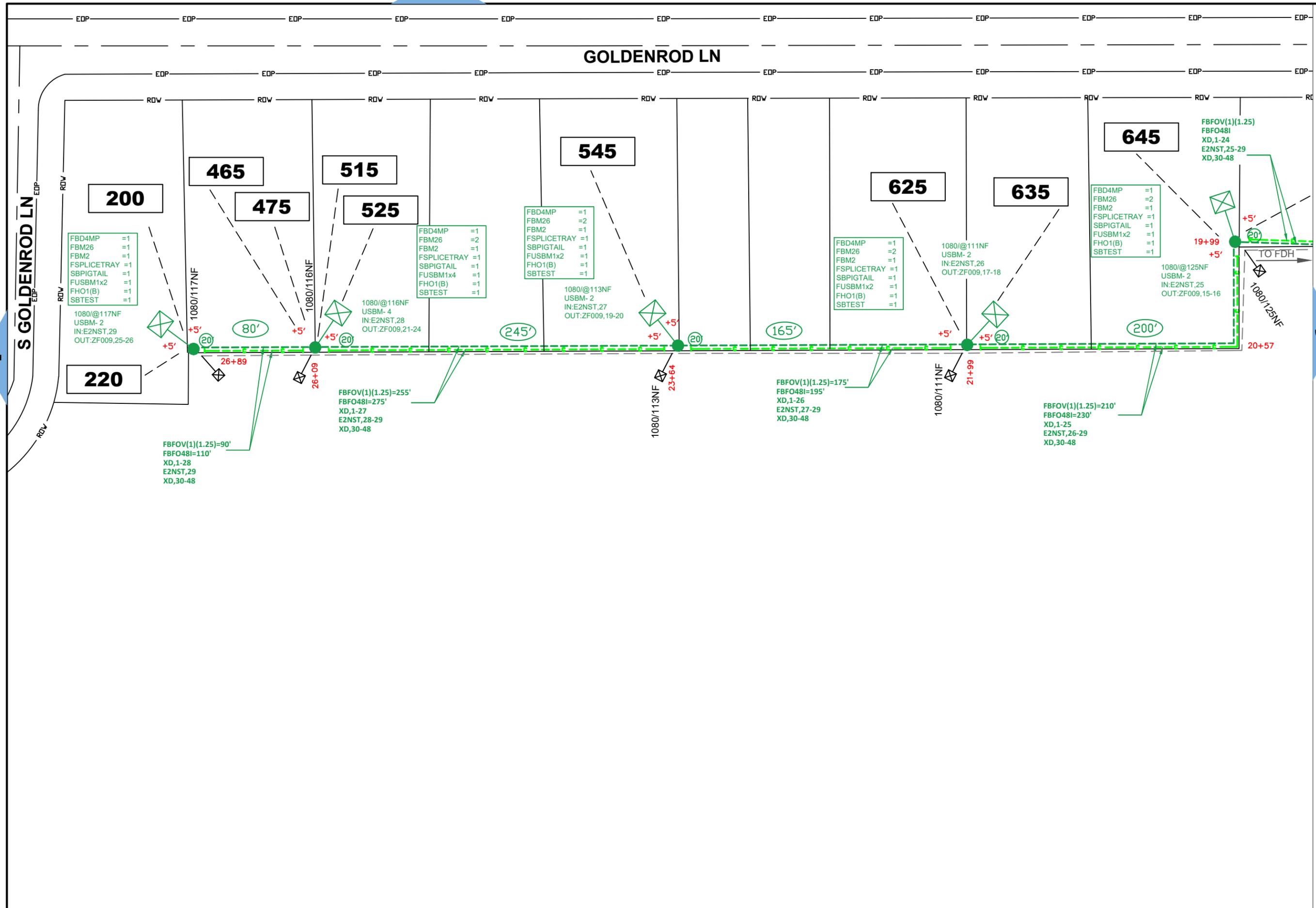
PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON DB FINAL DESIGN

MAP:

**6 OF 8**

**RAMTeCH**



DATE CREATED: 04/26/22  
 DATE REVISED:  
 DRAWN BY: RAMTECH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

PROJECT NUMBER:  
715012483

DESCRIPTION:  
FTTP GPON DB FINAL DESIGN

MAP:

7 OF 8

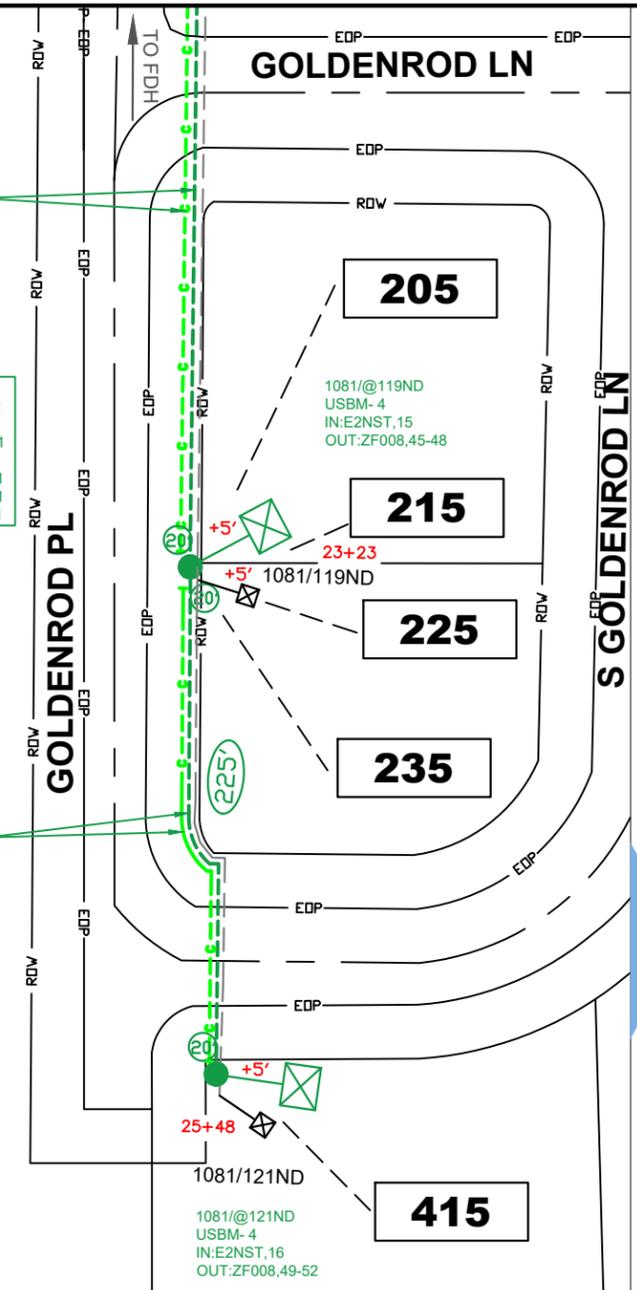
RAMTECH

FBFOV(1)(1.25)  
 FBFO481  
 XD,1-14  
 E2NST,15-16  
 XD,17-48

FBD4MP	=1
FBM26	=2
FBM2	=1
FSPLICETRAYS	=1
SBPIGTAIL	=1
FUSBM1x4	=1
FHO1(B)	=1
SBTEST	=1

FBFOV(1)(1.25)=235'  
 FBFO481=255'  
 XD,1-15  
 E2NST,16  
 XD,17-48

FBD4MP	=1
FBM26	=1
FBM2	=1
FSPLICETRAYS	=1
SBPIGTAIL	=1
FUSBM1x4	=1
FHO1(B)	=1
SBTEST	=1



1081@119ND  
 USBM- 4  
 IN:E2NST,15  
 OUT:ZF008,45-48

1081@121ND  
 USBM- 4  
 IN:E2NST,16  
 OUT:ZF008,49-52



DATE CREATED: 04/26/22  
 DATE REVISED:  
 DRAWN BY: RAMTECH



SCALE: 1:50

COMPANY:  
 Windstream  
 SYSTEM:  
 CRETE, NE  
 PROJECT NUMBER:  
 715012483  
 DESCRIPTION:  
 FTTP GPON DB FINAL DESIGN

MAP:  
**8 OF 8**

**RAMTECH**



## Application for a Permit to Occupy City of Crete Right-of-Way

(Rev. 2, 11-2015)

I Windstream Nebraska, LLC hereby request to occupy City of Crete Right-of-  
Name

Way at 740 East 2nd Street with a device or structure.  
Address

Description of structure or device:  
DIRECTIONAL BORE AND PLACE 60' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM  
EXT.PED 1031/98NG TO NEW.PED 1031/103A. DIRECTIONAL BORE AND PLACE 50' OF 1(1.25)" INNERDUCT WITH  
48CT FIBER CABLE AT A DEPTH OF 36" FROM EXT.PED 1031/105NG TO EXT.PED 1031/115NG. DIRECTIONAL BORE  
AND PLACE 60' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM EXT.PED 1080/118A  
TO EXT.PED 1080/118NG. DIRECTIONAL BORE AND PLACE 435" OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE  
AT A DEPTH OF 36" FROM EXT.PED 1080/113NG TO EXT.PED 1080/121ND.

Diagram, or print included?

Necessary permits and licenses obtained? Insurance?

Approved by the Public Works Director \_\_\_\_\_ Date: \_\_\_\_\_

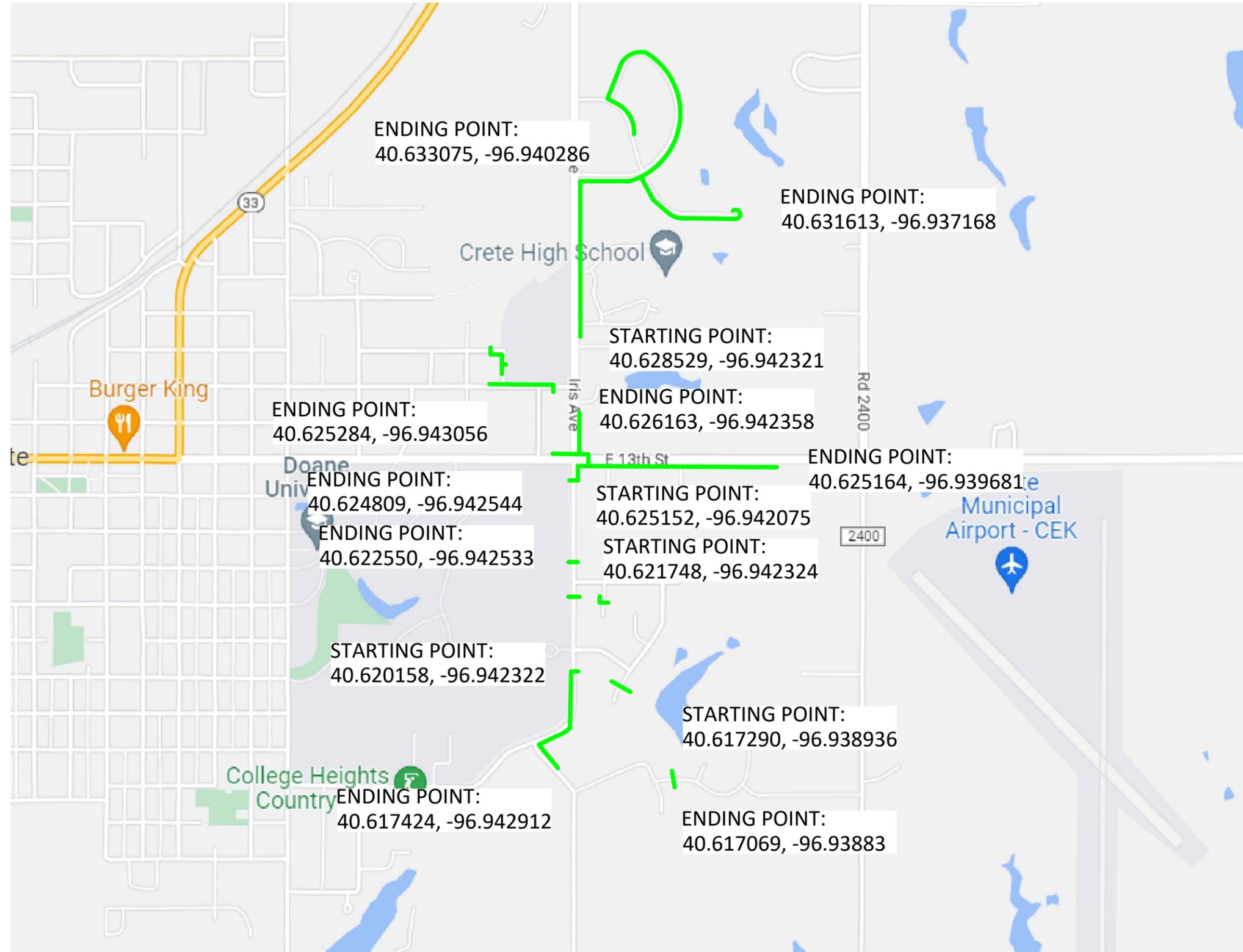
Note:

- 1) All applicants to occupy public right-of-way understand and agree that if, for any reason, the City or its agents require access; the obstruction shall be moved at the applicant's expense.
- 2) Any items approved for placement in the right-of-way shall be held to the building or property line as closely as possible.
- 3) If this is a 3rd party utility type project, all affected property owners shall be notified prior to the beginning of project by the project owner, or the project's contractor.
- 4) City Council approval is required for large projects (more than one property involved, or utility oriented projects).
- 5) All requests to occupy right-of-way must include a detailed sketch, print, or drawing with dimensions with respect to property lines, paving, curbs etc....
- 6) If this application is for underground sprinkler systems, a print or drawing of the system including location of lines and heads with measurements listed must accompany the application. Additionally, the applicant may be required to provide proof of proper permits to install, plumb, and provide backflow protection for said underground sprinkler systems.
- 7) Application for a permanent structure deemed to be a traffic or public safety hazard or which limit visibility will be denied.
- 8) An application shall be approved before any construction or installation is allowed to begin.

Bryan Bogan  
Signature of Applicant

7/6/2022  
Date of Application

# Windstream LOCATION MAP IRIS AVE



LEGEND

	PROPOSED CONDUIT
	AERIAL OVERLASH
	SIDEWALK
	BOC
	EOP
	POLE
	POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: NTS

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

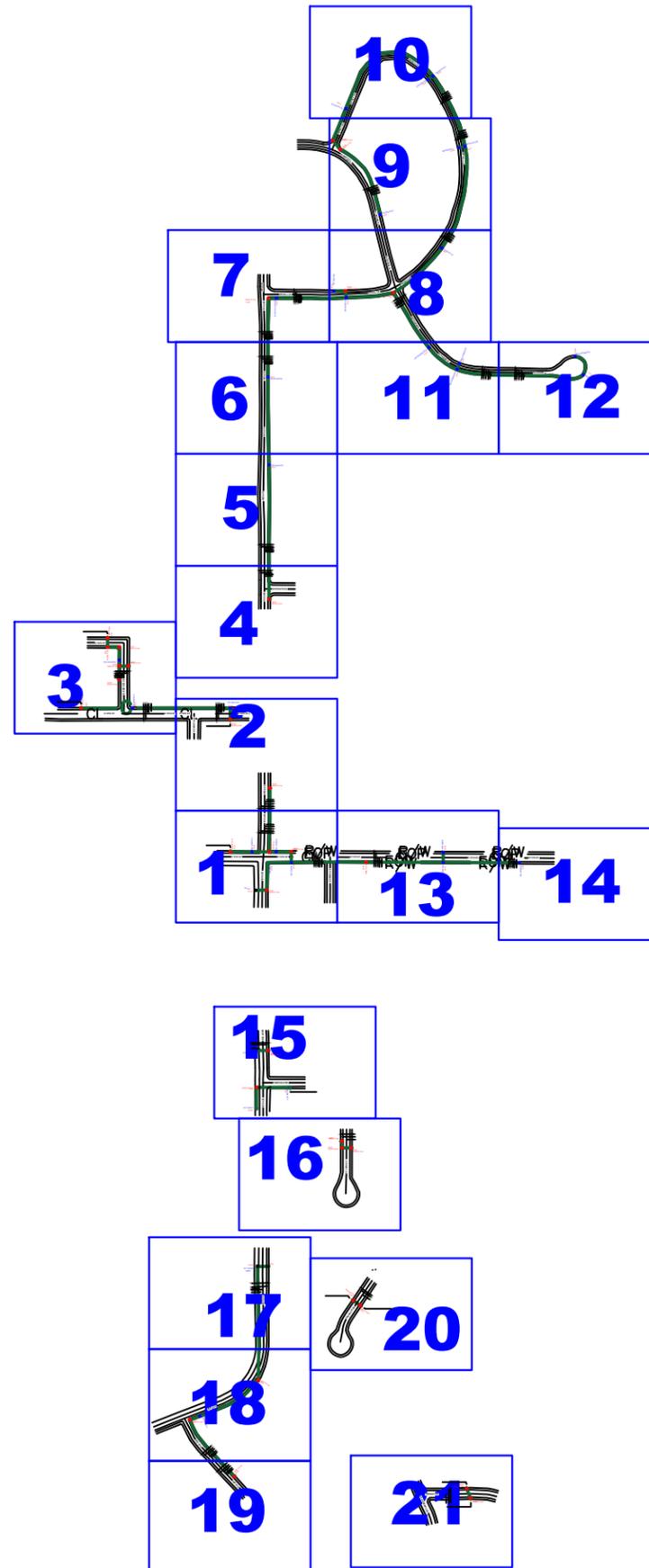
PROJECT NUMBER:  
715012481

DESCRIPTION:  
FTTP GPON PERMIT

MAP:  
LOCATION MAP

RAMTeCH

# CITY PERMIT IRIS AVE



### LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
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Windstream

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CRETE, NE

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715012481

DESCRIPTION:  
FTTP GPON PERMIT

MAP:  
**KEY MAP**

**RAMTeCH**

DIRECTIONAL BORE AND PLACE 181' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM BOREPIT TO PED 6013/405OG.

DIRECTIONAL BORE AND PLACE 40' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM PED 1000/30H TO PED 1019/25OG.

DIRECTIONAL BORE AND PLACE 1066' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM PED 1000/30H TO PED 1000/10031.

CONTINUE TO EXISTING PED 6013/405OG PRIVATE PROPERTY

BORE PIT 6'x4'  
01+81

PED 1000/404OG  
00+80

BORE PIT 6'x4'  
01+03/00+00

00+40  
BORE PIT 6'x4'

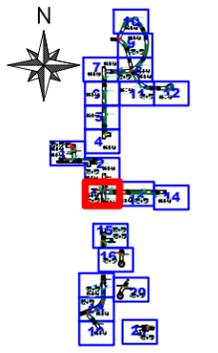
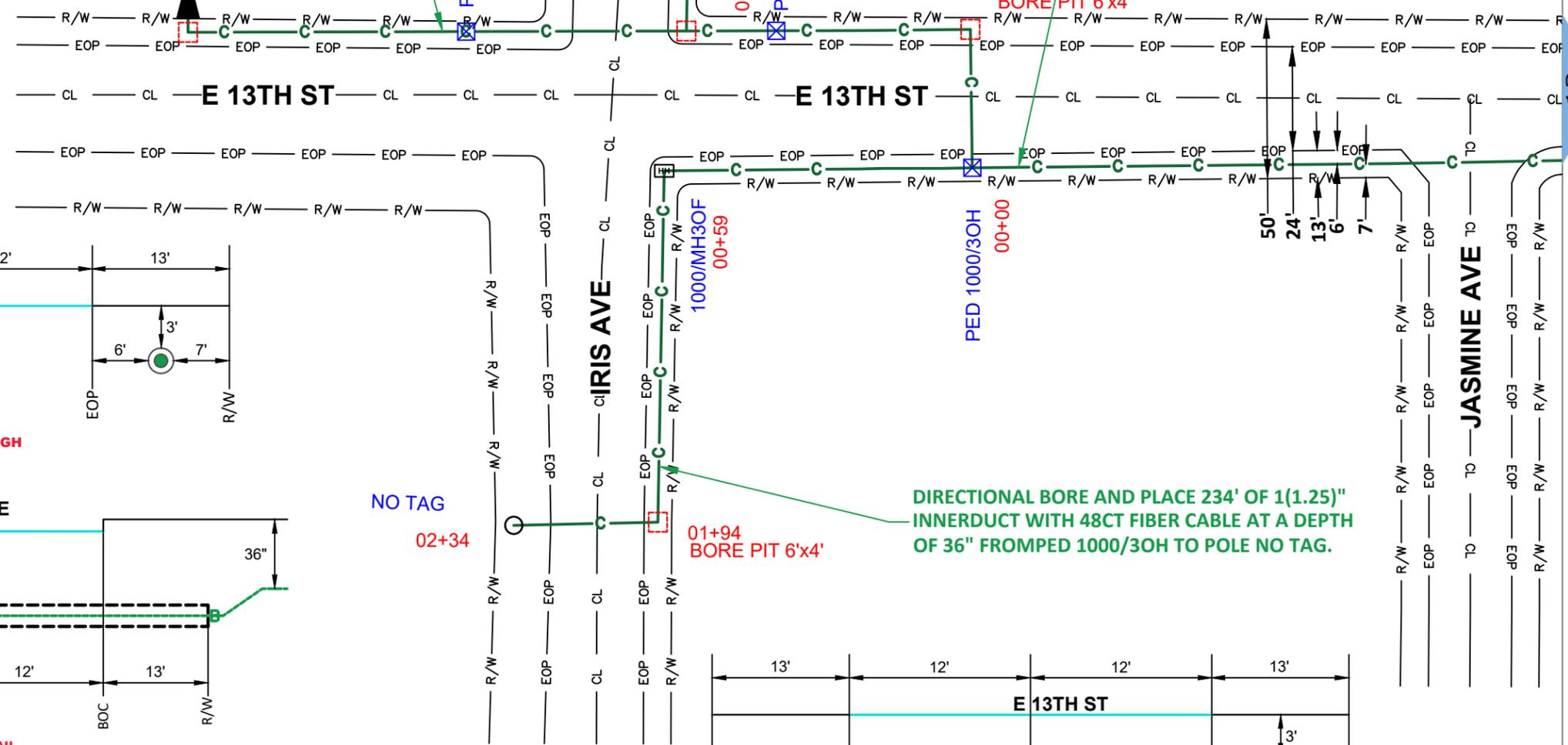
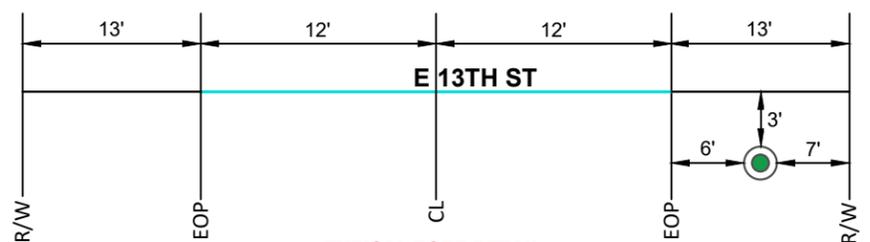
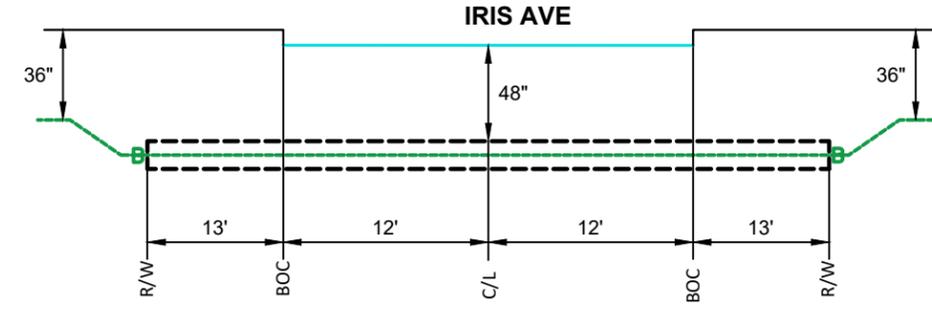
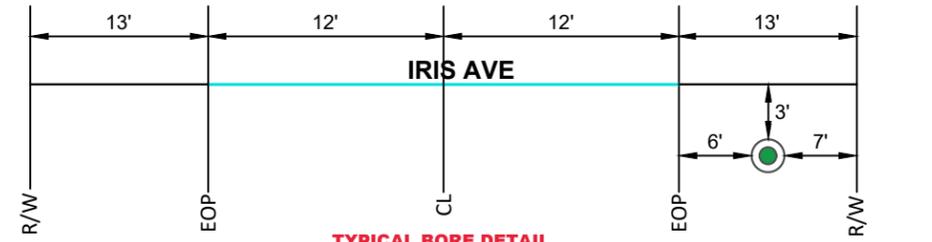
1000/MH30F  
00+59

PED 1000/30H  
00+00

01+94  
BORE PIT 6'x4'

NO TAG  
02+34

DIRECTIONAL BORE AND PLACE 234' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM PED 1000/30H TO POLE NO TAG.



LEGEND

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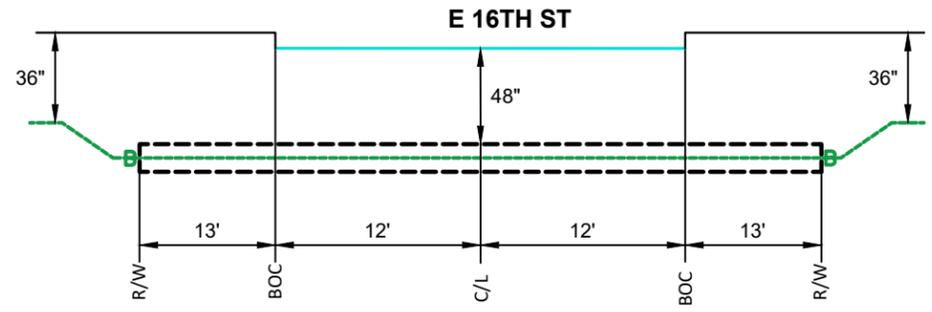
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COMPANY:  
Windstream  
SYSTEM:  
CRETE, NE  
PROJECT NUMBER:  
715012481  
DESCRIPTION:  
FTTP GPON PERMIT  
MAP:

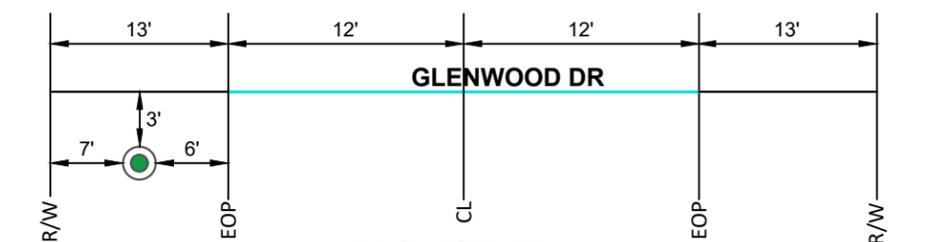
1 OF 21

RAMTeCH

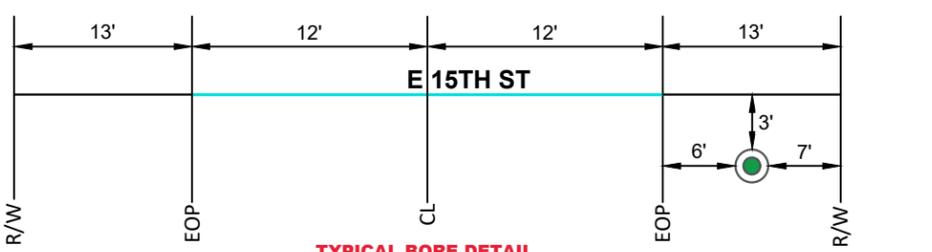




TYPICAL BORE DETAIL  
2 LANE ROAD CROSSING  
LOOKING WEST  
NTS

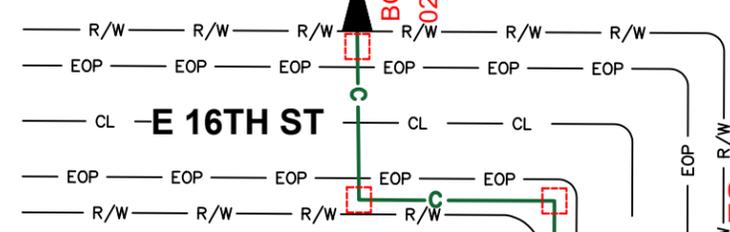


TYPICAL BORE DETAIL  
PARALLELING PULL THROUGH  
LOOKING NORTH  
NTS



TYPICAL BORE DETAIL  
PARALLELING PULL THROUGH  
LOOKING WEST  
NTS

CONTINUE TO EXISTING PED  
6010/4350D PRIVATE PROPERTY



BORE PIT 6'x4'  
02+00  
BORE PIT 6'x4'  
01+60  
PED 6010/4250D

DIRECTIONAL BORE AND PLACE 40' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM BOREPIT TO BD3 PEDESTAL .

00+80  
BORE PIT 6'x4'  
CONTINUE TO EXISTING PED  
BD3 PEDESTAL PRIVATE PROPERTY

DIRECTIONAL BORE AND PLACE 200' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 6006/4180D TO PED 6010/4350D.

CONTINUE FROM EXISTING PED  
6006/4180D PRIVATE PROPERTY

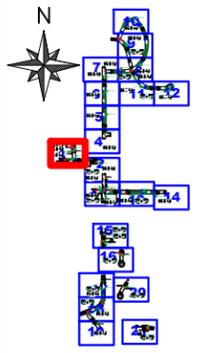
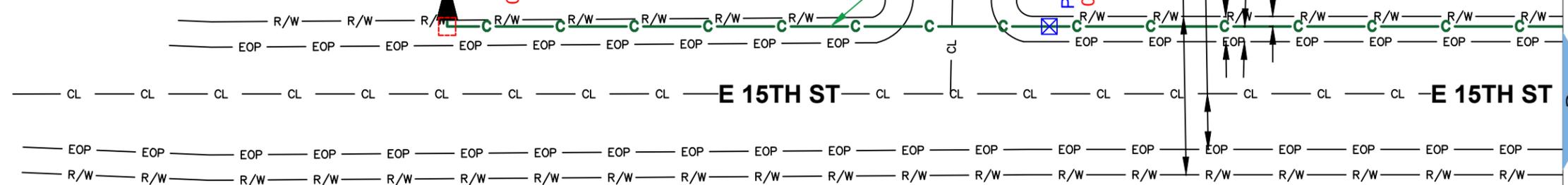
00+00  
BORE PIT 6'x4'

DIRECTIONAL BORE AND PLACE 647' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 6013/4160G TO PED 6006/4180D.

CONTINUE TO EXISTING PED  
6006/4180D PRIVATE PROPERTY

BORE PIT 6'x4'  
06+47

PED 6006/4190D  
04+73



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

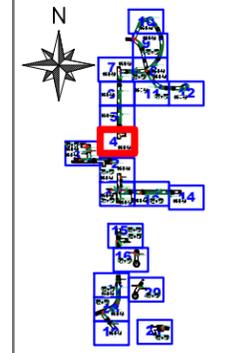
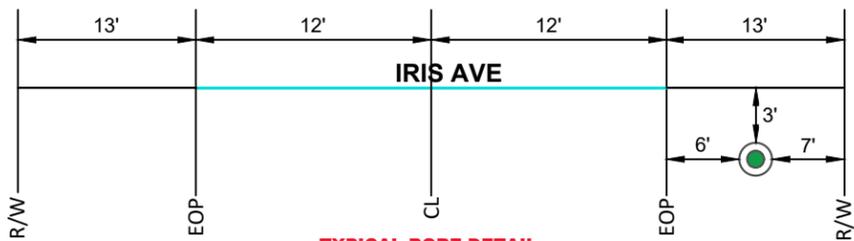
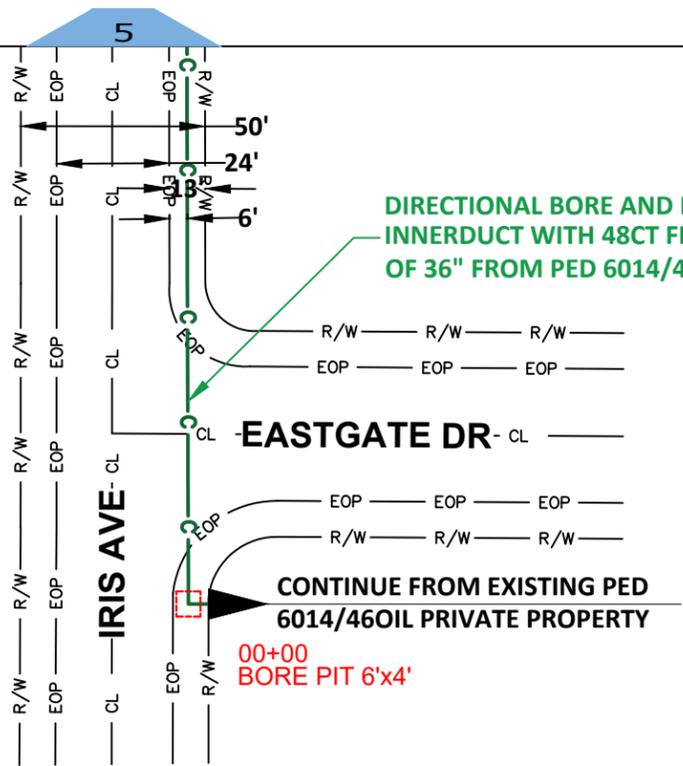
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715012481

DESCRIPTION:  
FTTP GPON PERMIT

MAP:

3 OF 21

RAMTeCH



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22  
 DATE REVISED:  
 DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

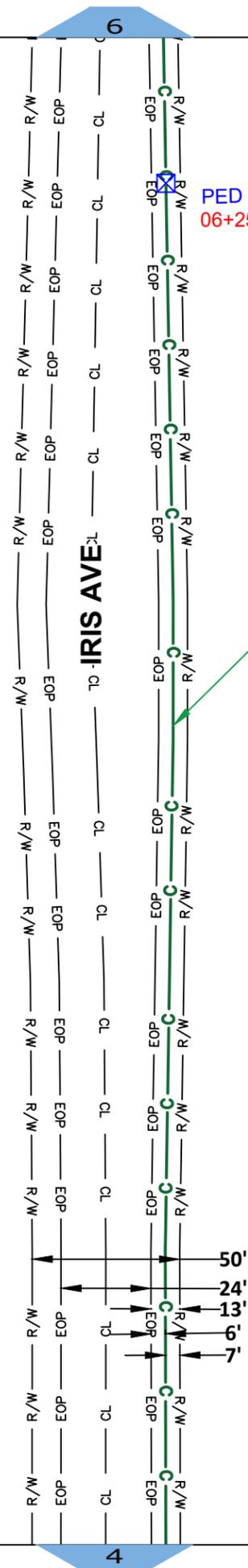
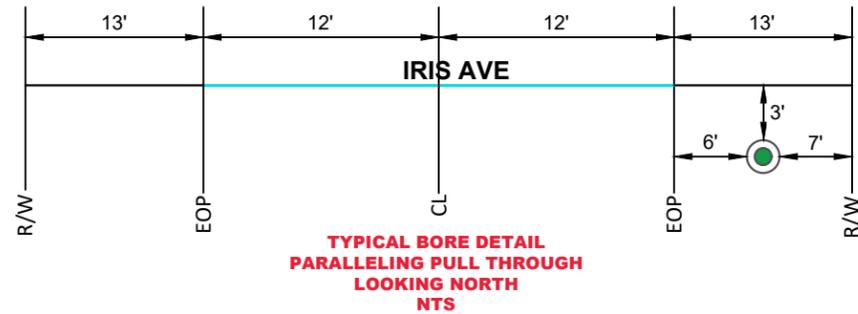
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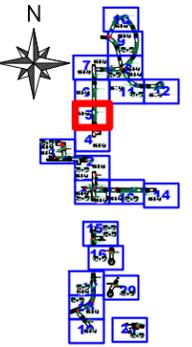
4 OF 21

RAMTeCH



PED 6014/437OF  
06+25

DIRECTIONAL BORE AND PLACE 3487' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 6014/460IL TO PED 6014/471OF.



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

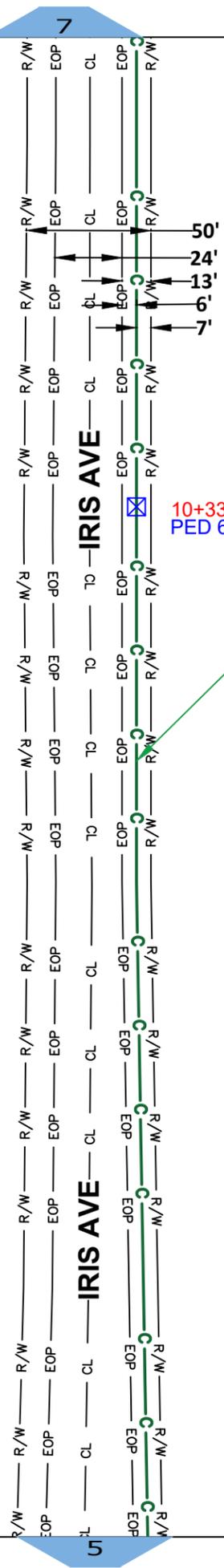
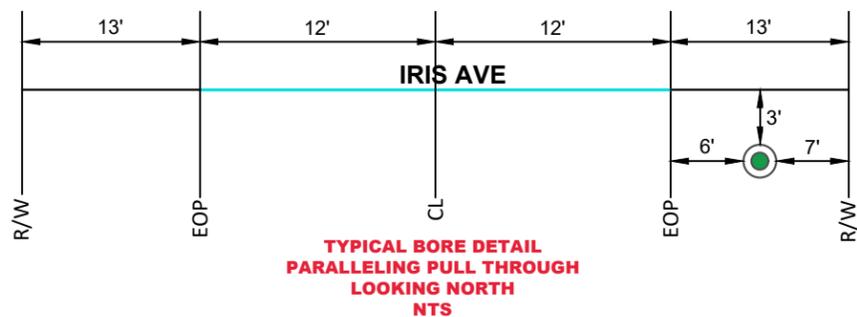
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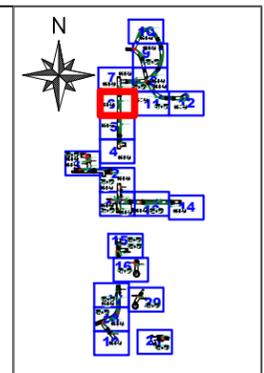
5 OF 21

RAMTeCH



10+33  
PED 6014/4570H

**DIRECTIONAL BORE AND PLACE 3487' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 6014/460IL TO PED 6014/4710F.**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22  
DATE REVISED:  
DRAWN BY: RAMTeCH

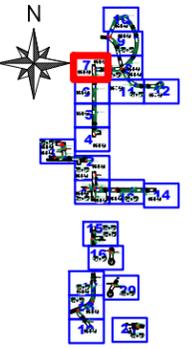


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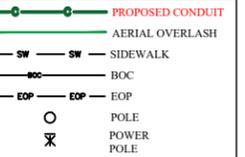
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CRETE, NE  
PROJECT NUMBER:  
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DESCRIPTION:  
FTTP GPON PERMIT

MAP:  
**6 OF 21**

**RAMTeCH**



LEGEND



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

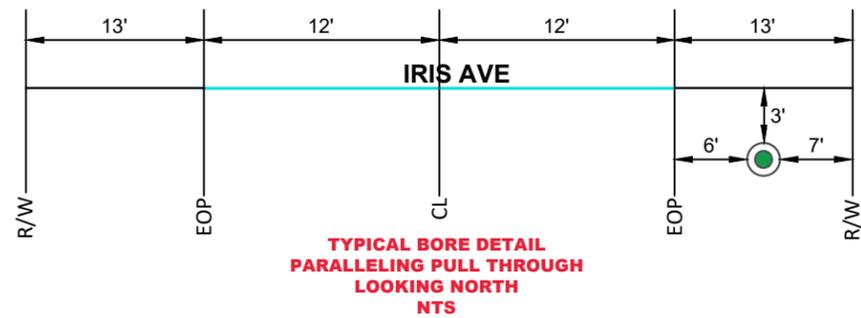
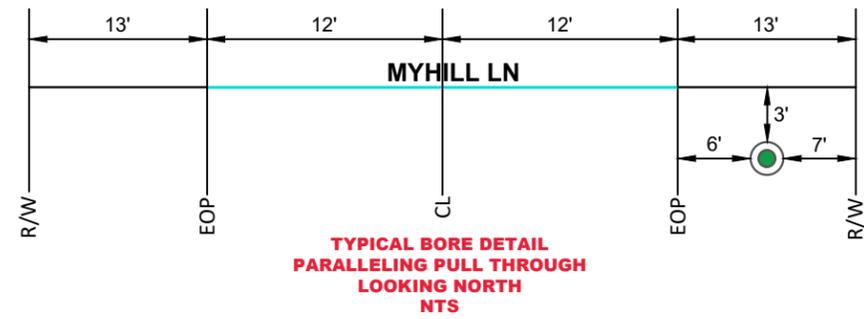
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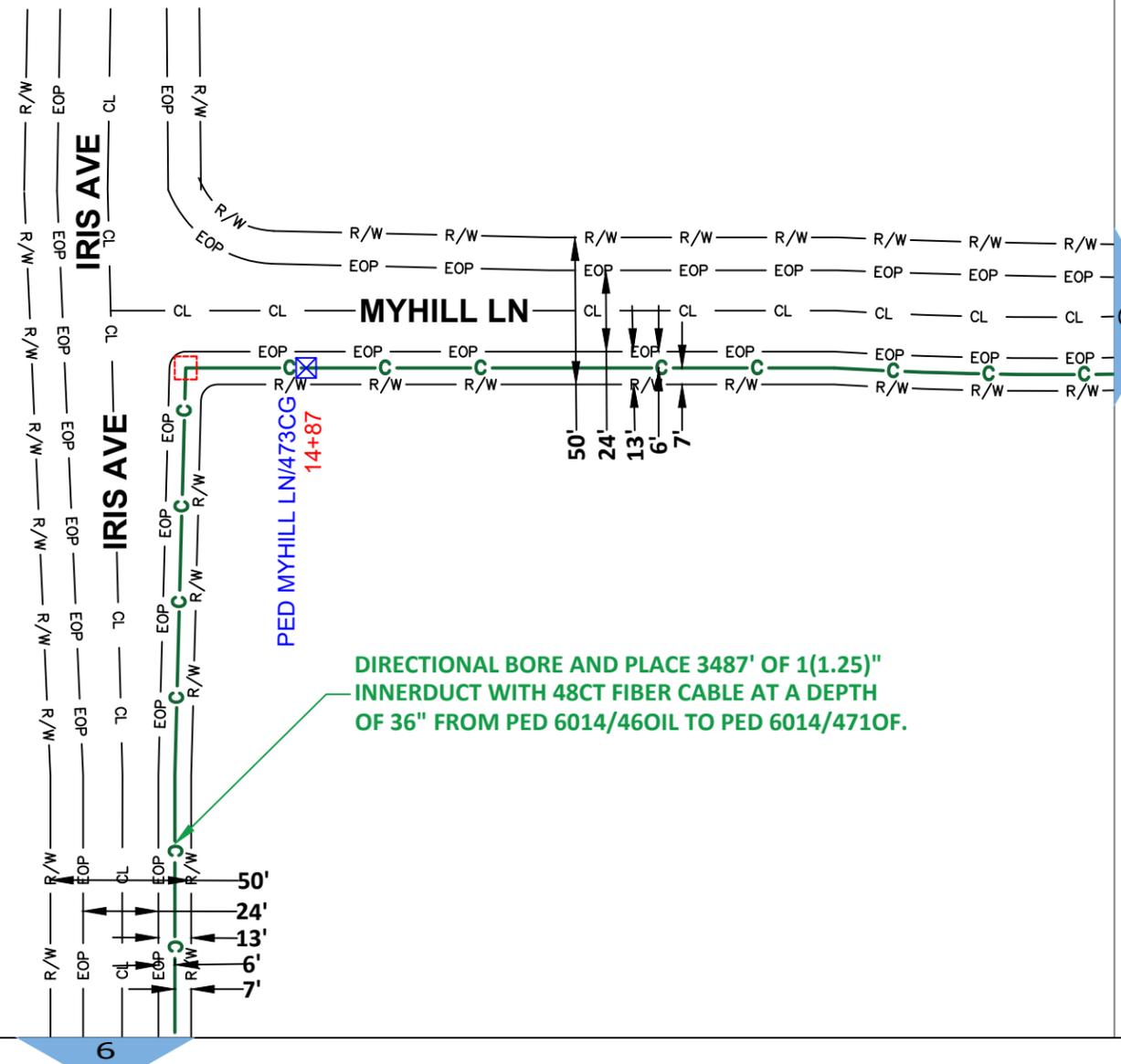
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7 OF 21

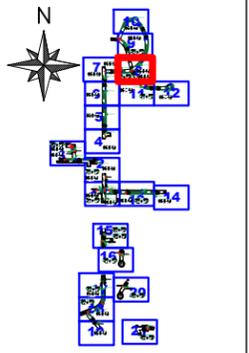
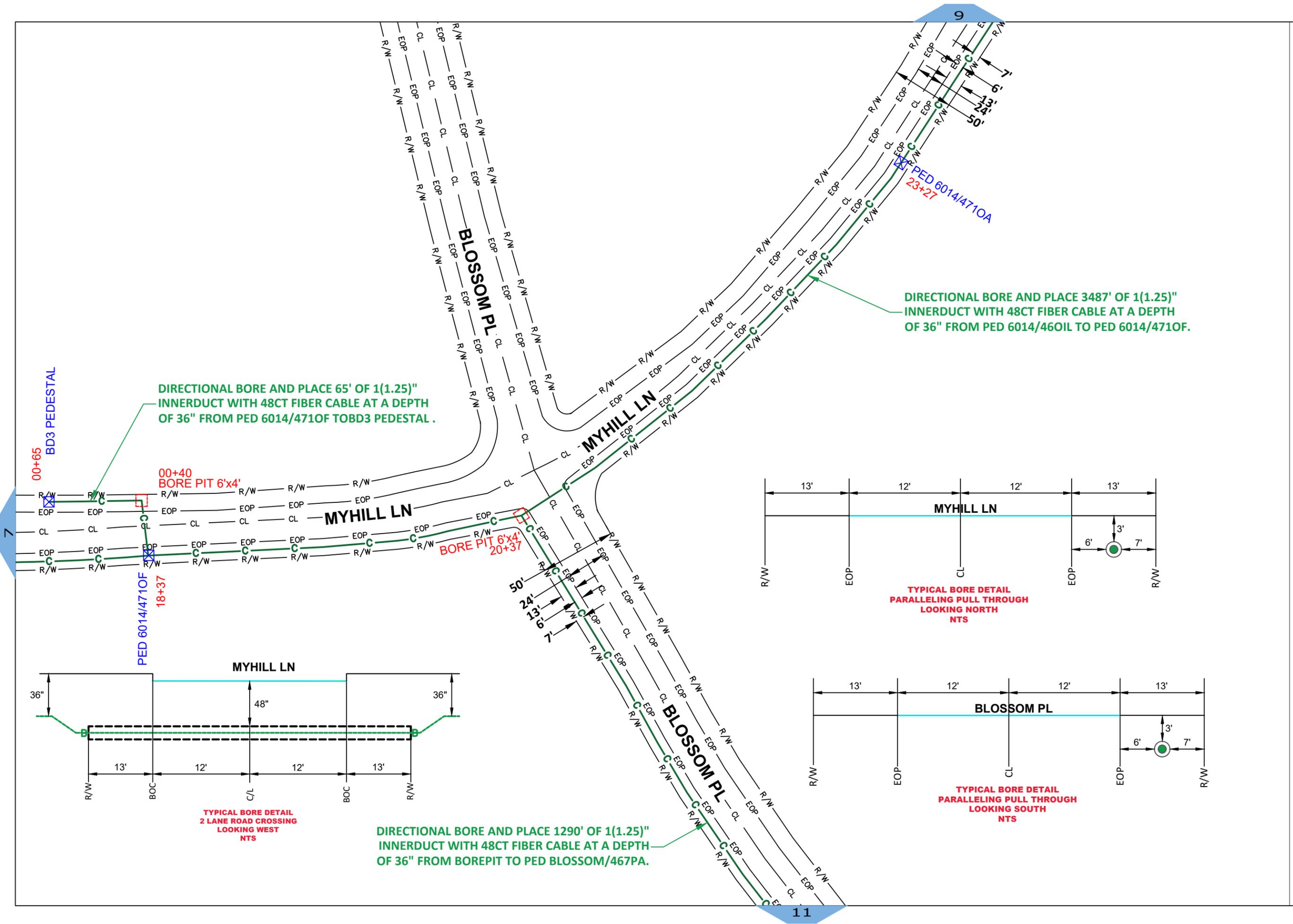
RAMTeCH



**BORE PIT 6'x4'  
14+50**



**DIRECTIONAL BORE AND PLACE 3487' OF 1(1.25)\"/>**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW — SIDEWALK
- BOC — BOC
- EOP — EOP
- POLE
- ⊗ POWER POLE



DATE CREATED: 7/9/22  
 DATE REVISED:  
 DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

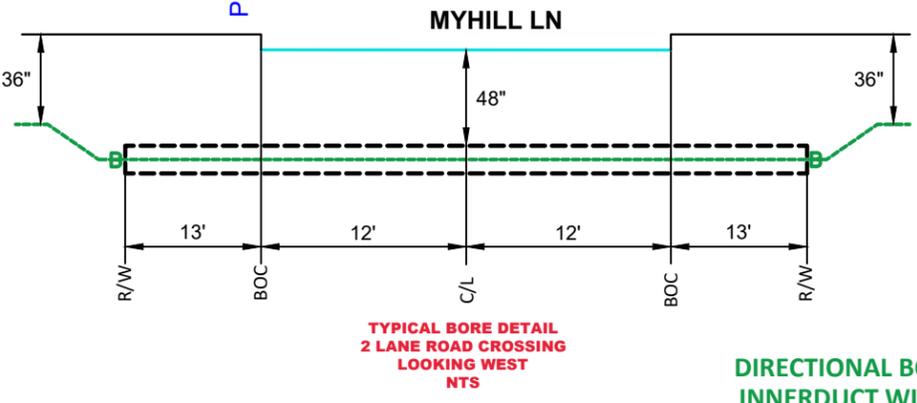
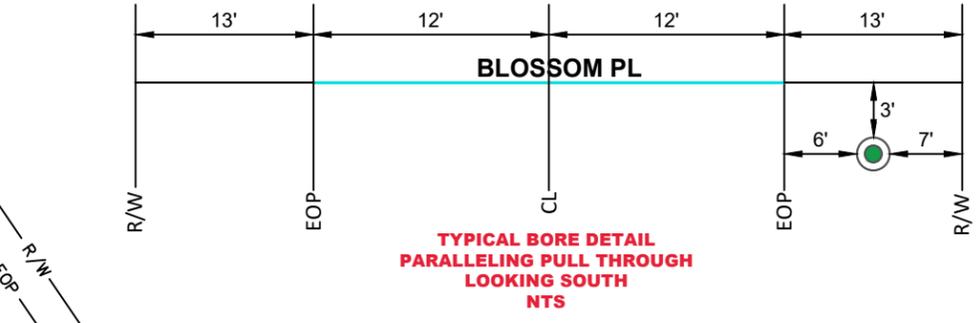
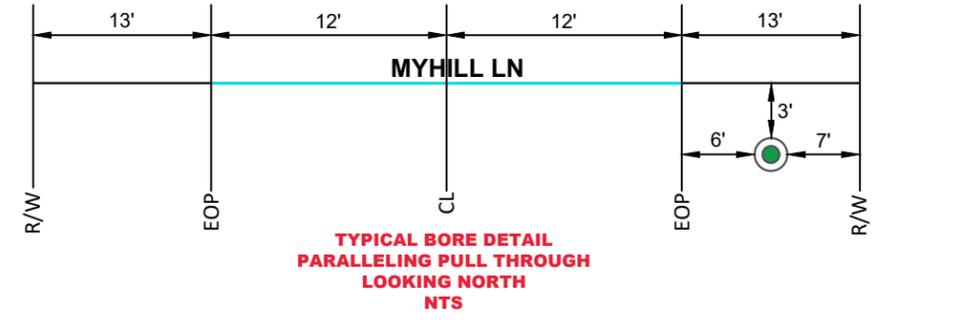
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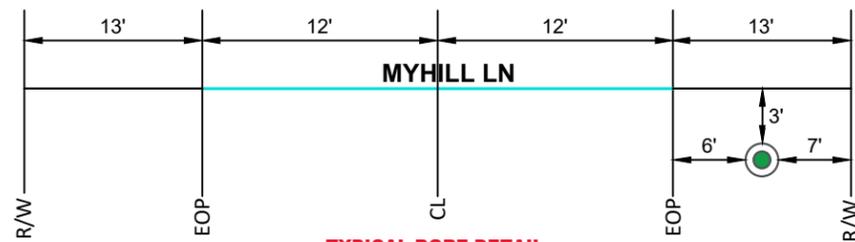
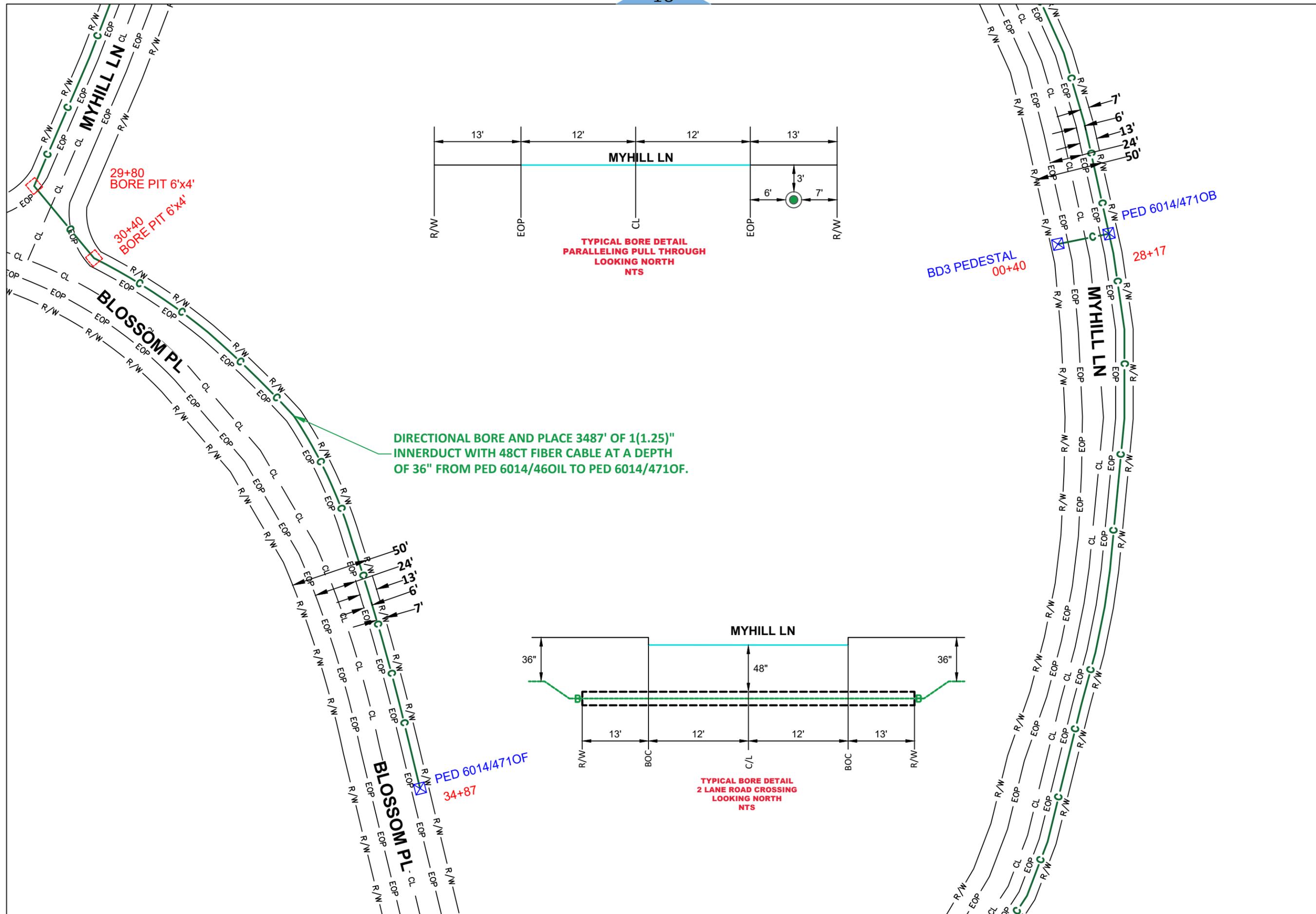
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MAP:  
**8 OF 21**

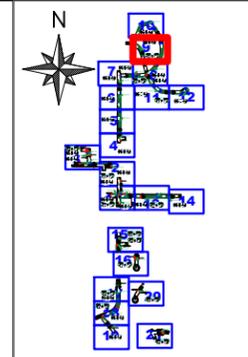
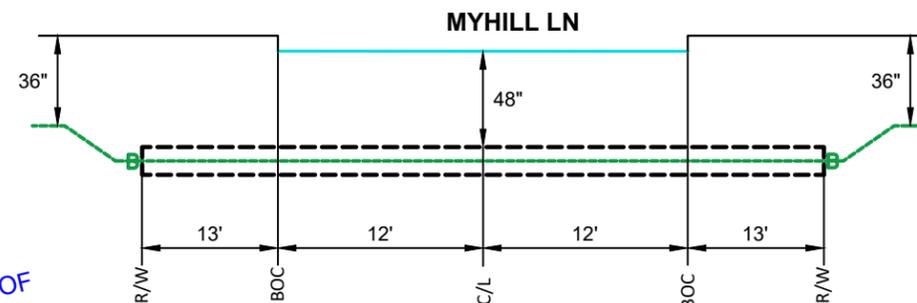
**RAMTeCH**



DIRECTIONAL BORE AND PLACE 1290' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM BOREPIT TO PED BLOSSOM/467PA.



DIRECTIONAL BORE AND PLACE 3487' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 6014/460IL TO PED 6014/4710F.



LEGEND

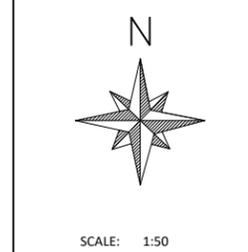
- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



COMPANY:  
Windstream

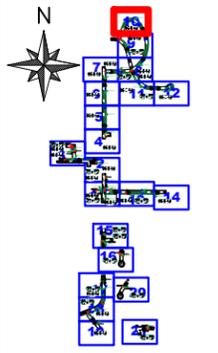
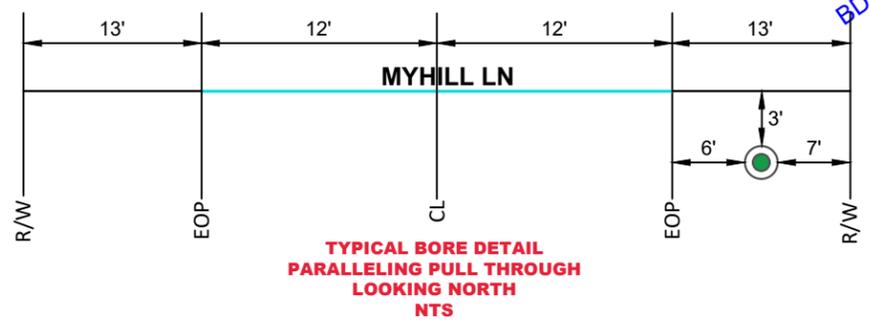
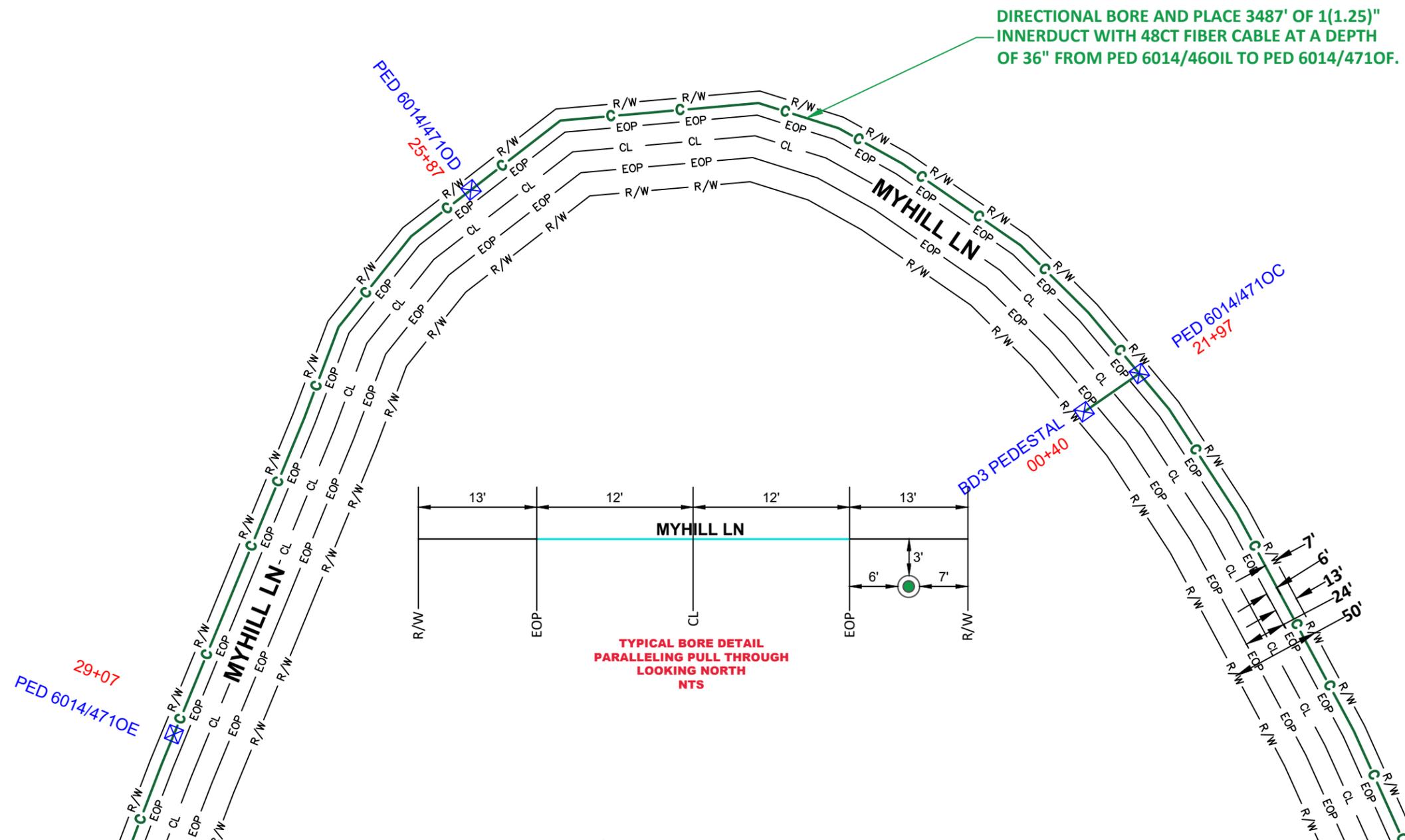
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PROJECT NUMBER:  
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DESCRIPTION:  
FTTP GPON PERMIT

MAP:  
**9 OF 21**

**RAMTeCH**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:

Windstream

SYSTEM:

CRETE, NE

PROJECT NUMBER:

715012481

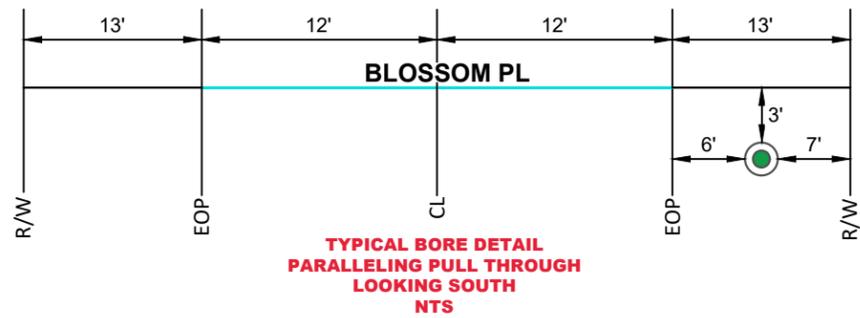
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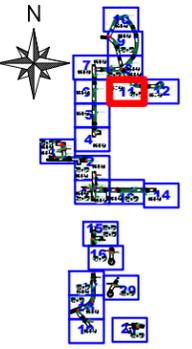
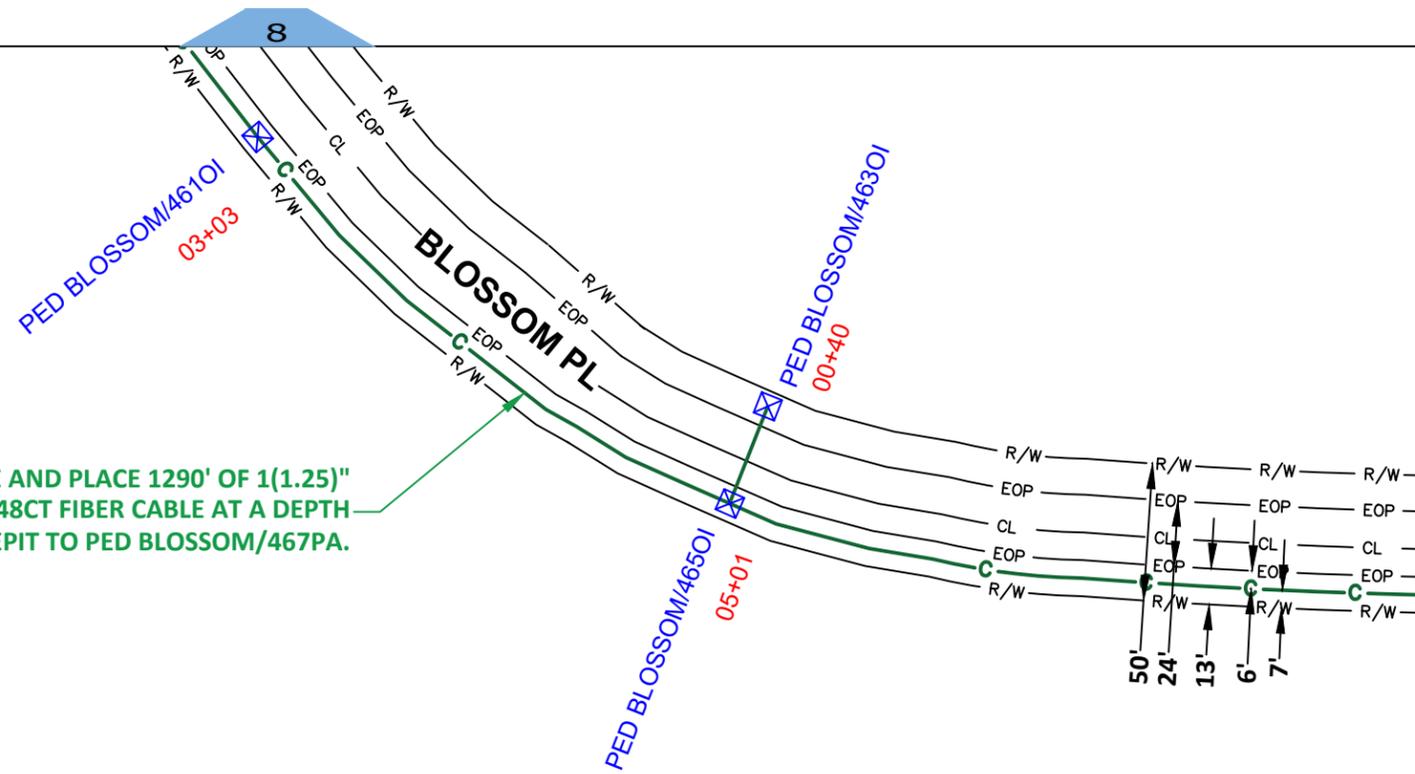
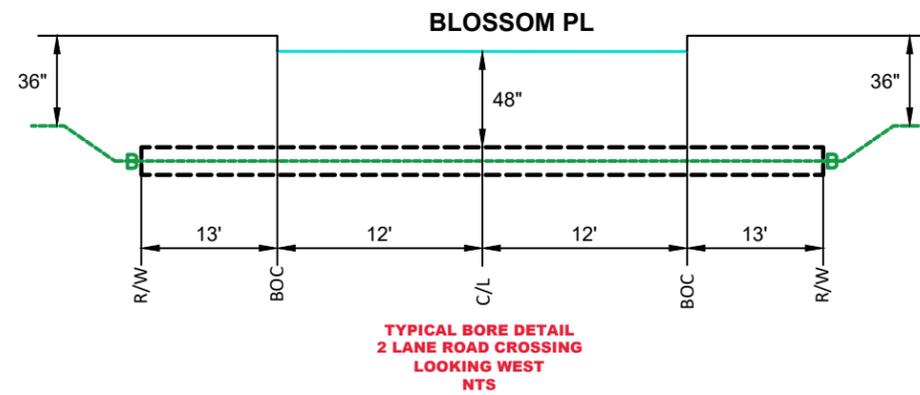
MAP:

10 OF 21

RAMTeCH



**DIRECTIONAL BORE AND PLACE 1290' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM BOREPIT TO PED BLOSSOM/467PA.**



**LEGEND**

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

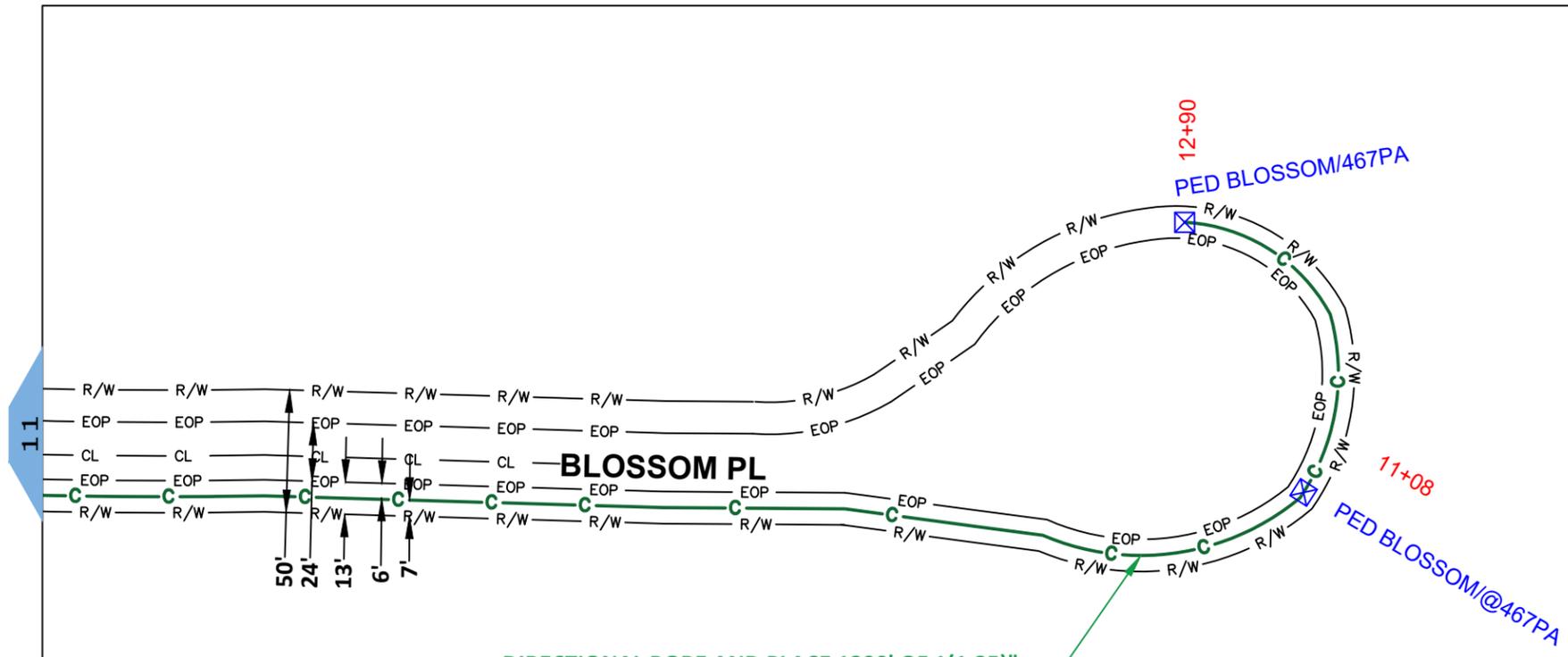
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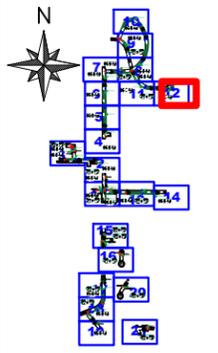
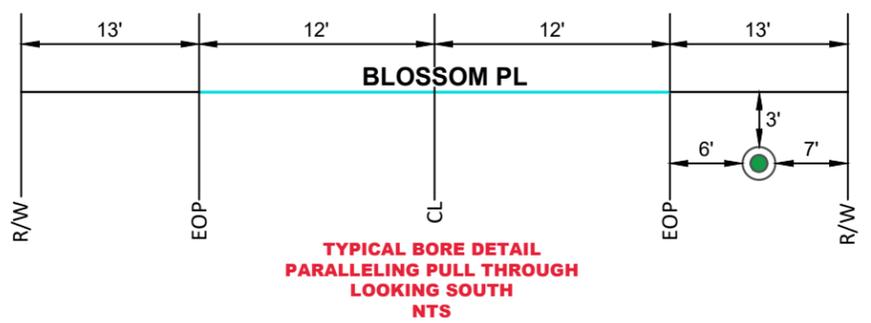
MAP:

11 OF 21

RAMTeCH



**DIRECTIONAL BORE AND PLACE 1290' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM BOREPIT TO PED BLOSSOM/467PA.**



**LEGEND**

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

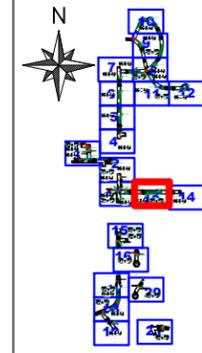
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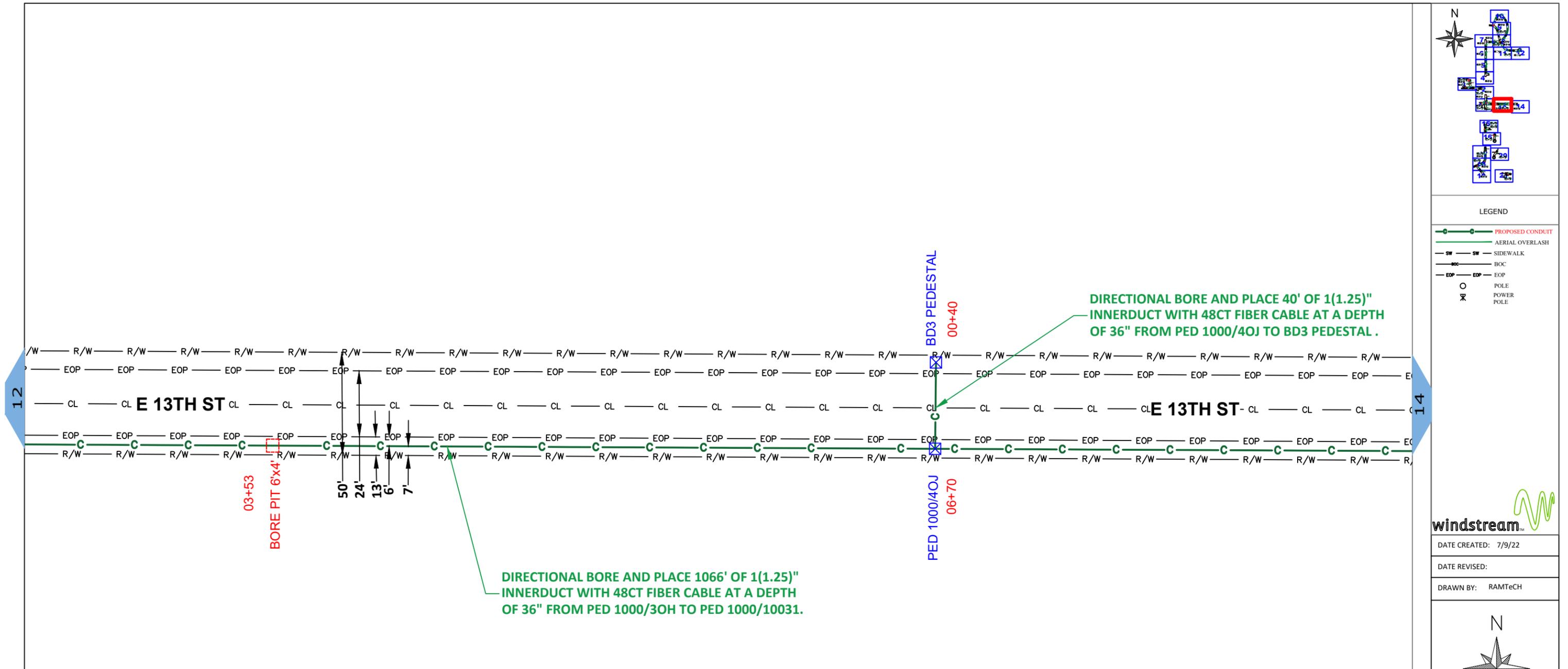
**12 OF 21**

**RAMTeCH**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW— SIDEWALK
- BOC— BOC
- EOP— EOP
- POLE
- ⊗ POWER POLE



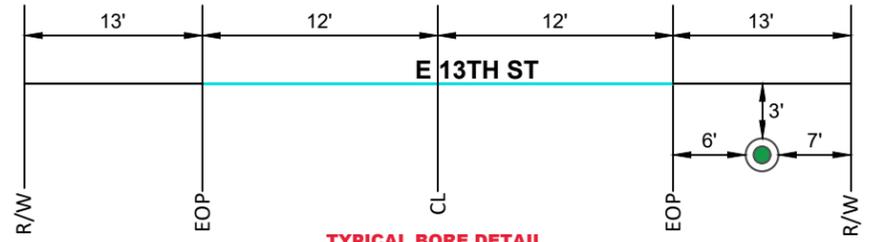
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14

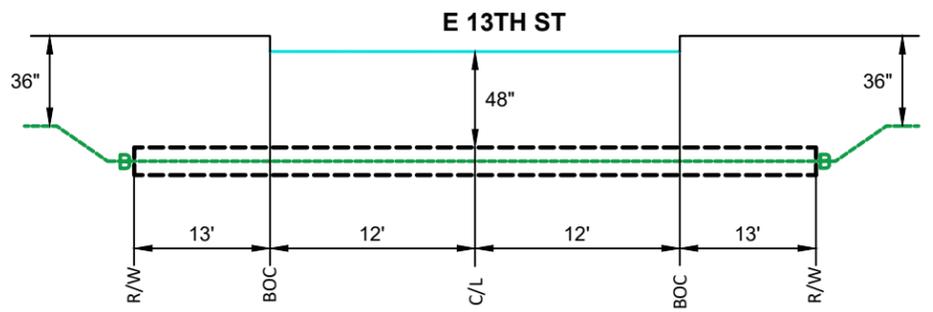
**DIRECTIONAL BORE AND PLACE 1066' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 1000/30H TO PED 1000/10031.**

**DIRECTIONAL BORE AND PLACE 40' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 1000/40J TO BD3 PEDESTAL .**

**TYPICAL BORE DETAIL  
PARALLELING PULL THROUGH  
LOOKING EAST  
NTS**



**TYPICAL BORE DETAIL  
2 LANE ROAD CROSSING  
LOOKING NORTH  
NTS**



DATE CREATED: 7/9/22  
DATE REVISED:  
DRAWN BY: RAMTeCH



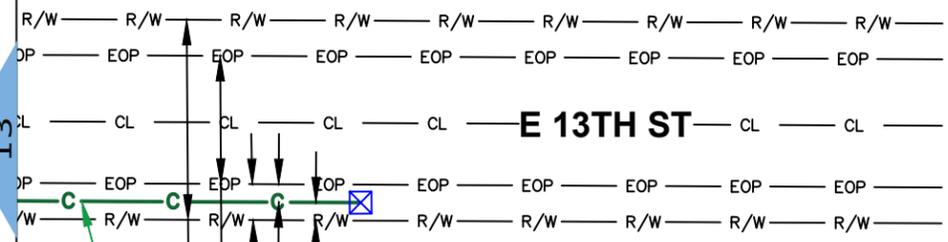
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COMPANY:  
Windstream  
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PROJECT NUMBER:  
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FTTP GPON PERMIT

MAP:  
**13 OF 21**

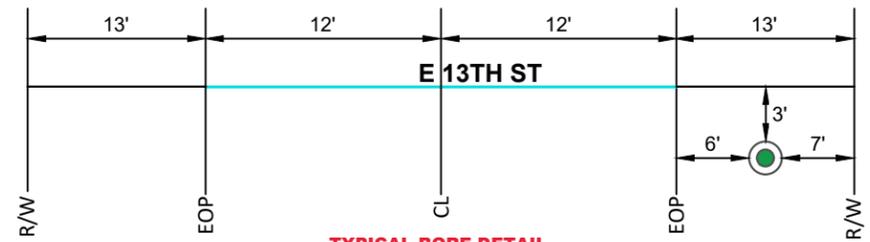
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13

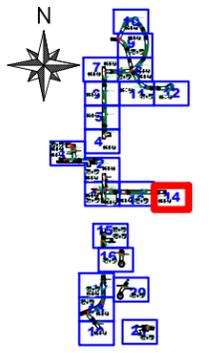


**DIRECTIONAL BORE AND PLACE 1066' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM PED 1000/30H TO PED 1000/10031.**

PED 1000/10031  
10+66



**TYPICAL BORE DETAIL PARALLELING PULL THROUGH LOOKING EAST NTS**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



DATE CREATED: 7/9/22

DATE REVISED:

DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

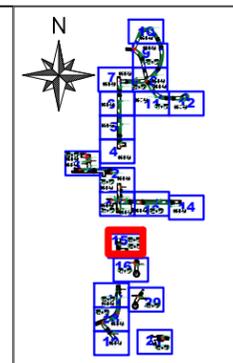
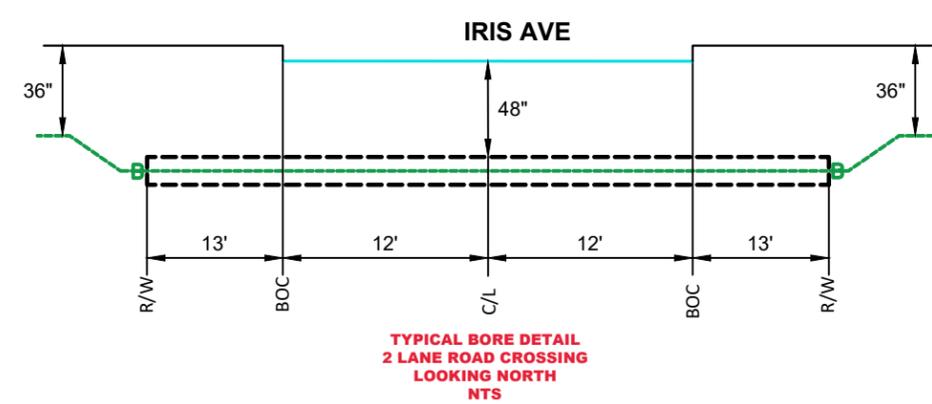
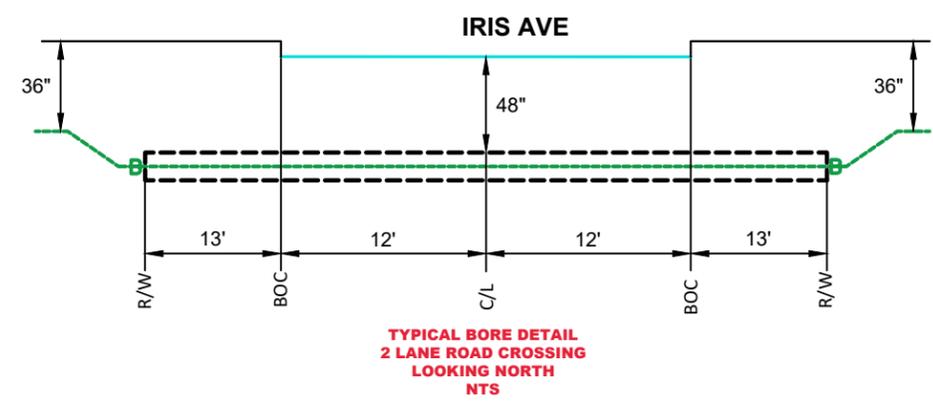
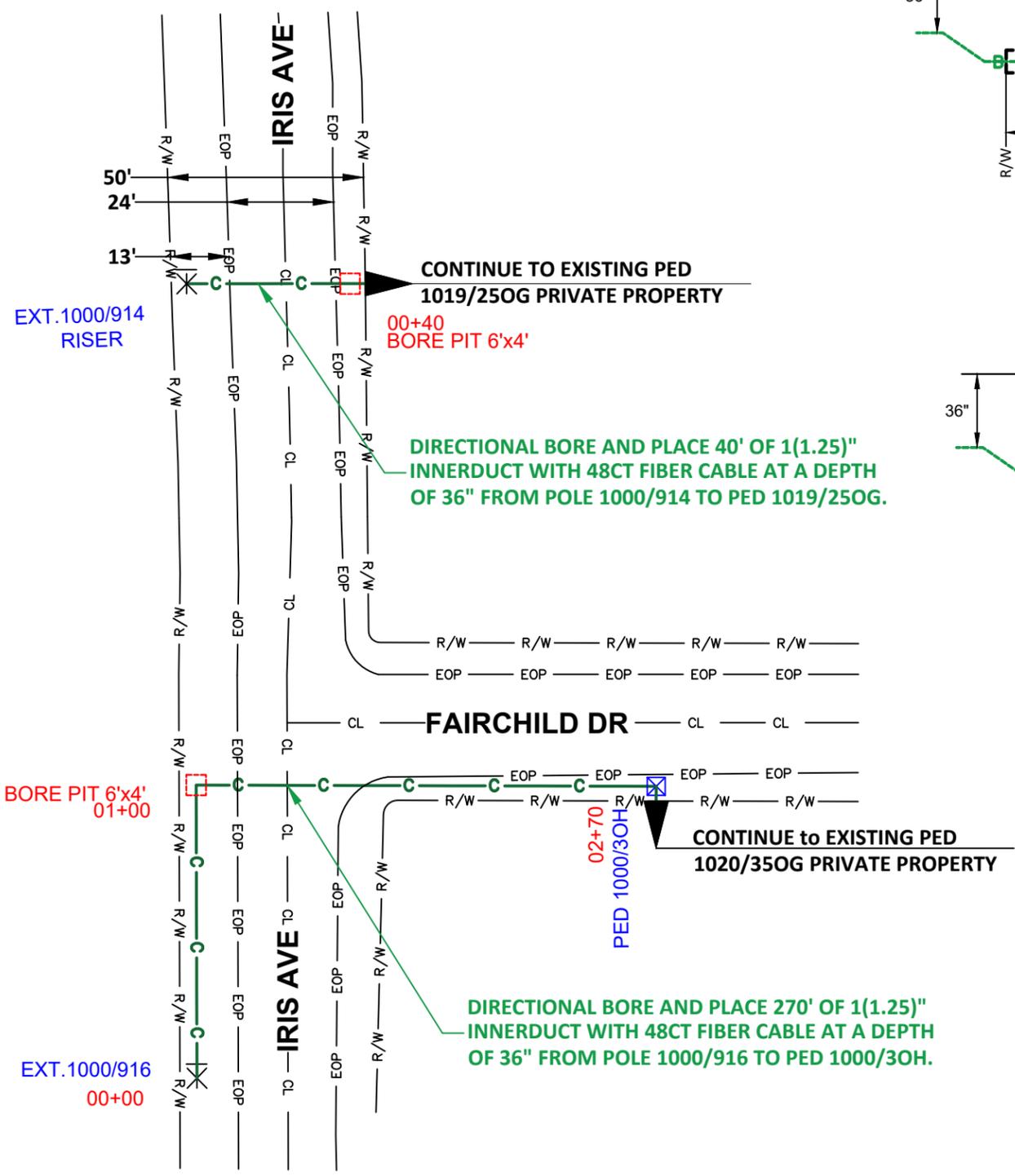
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DESCRIPTION:  
FTTP GPON PERMIT

MAP:

14 OF 21

RAMTeCH



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW— SIDEWALK
- BOC— BOC
- EOP— EOP
- POLE
- ⊗ POWER POLE



DATE CREATED: 7/9/22  
 DATE REVISED:  
 DRAWN BY: RAMTeCH



SCALE: 1:50

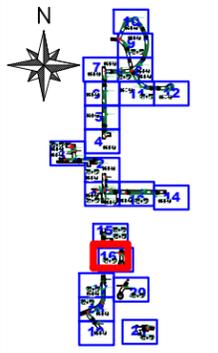
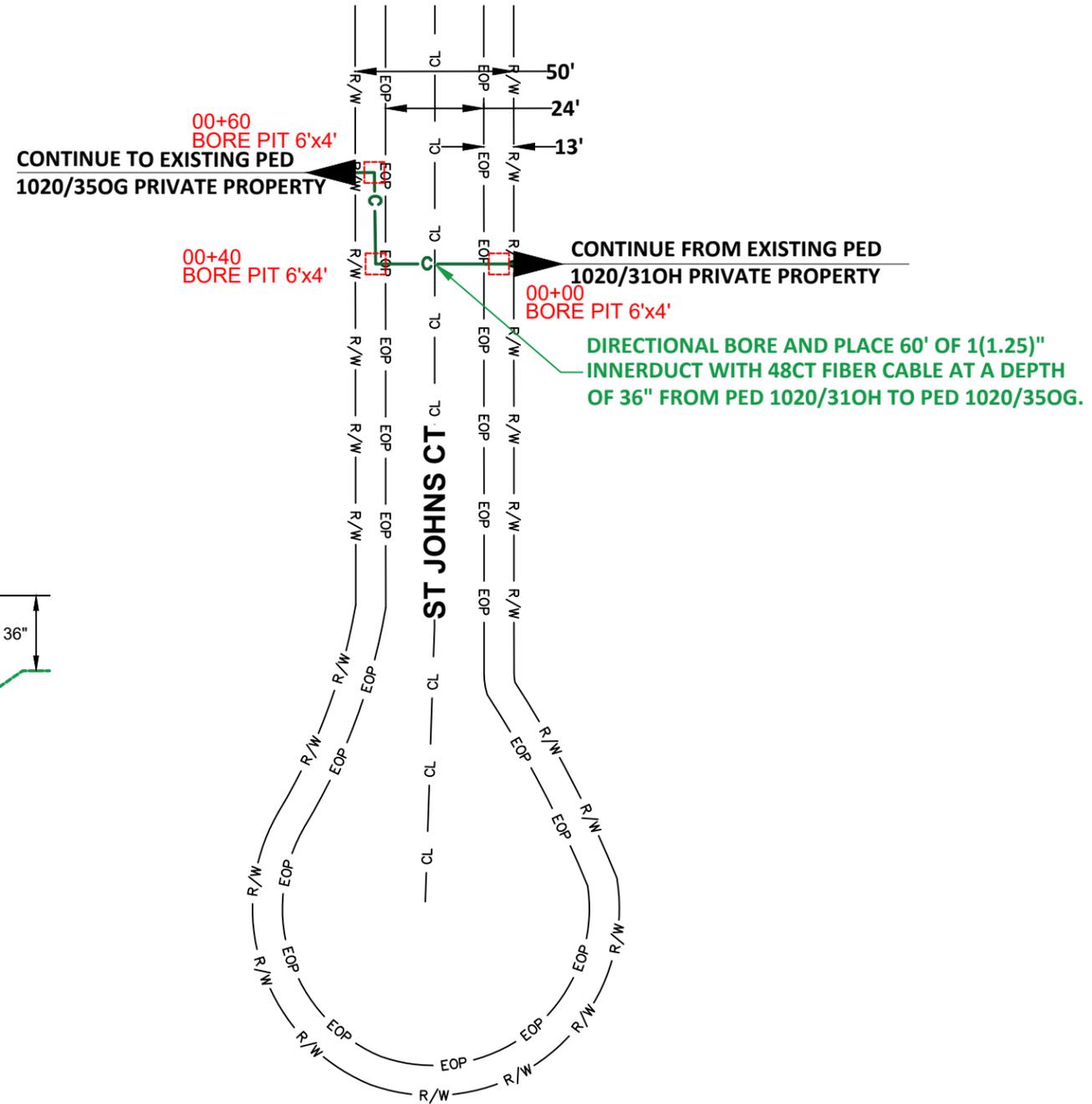
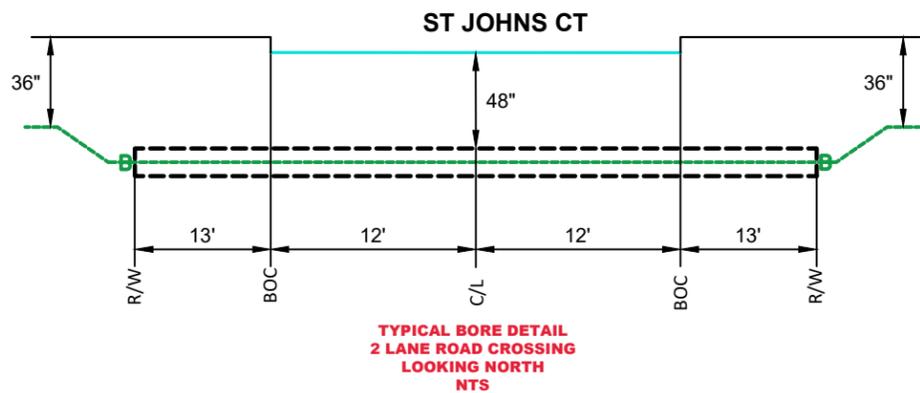
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SYSTEM:  
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PROJECT NUMBER:  
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DESCRIPTION:  
FTTP GPON PERMIT

MAP:



**LEGEND**

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW — SW SIDEWALK
- BOC — BOC
- EOP — EOP
- POLE
- ⊗ POWER POLE



DATE CREATED: 7/9/22  
DATE REVISED:  
DRAWN BY: RAMTeCH



SCALE: 1:50

COMPANY:  
Windstream

SYSTEM:  
CRETE, NE

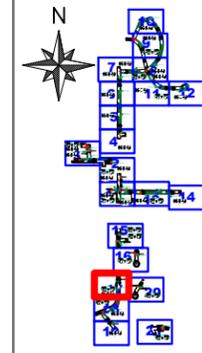
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DESCRIPTION:  
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MAP:

**16 OF 21**

**RAMTeCH**



LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SW— SIDEWALK
- BOC— BOC
- EOP— EOP
- POLE
- ⊗ POWER POLE



DATE CREATED: 7/9/22  
 DATE REVISED:  
 DRAWN BY: RAMTeCH

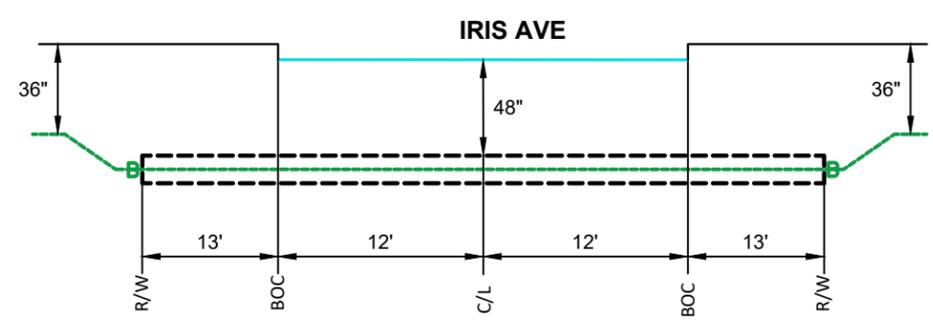
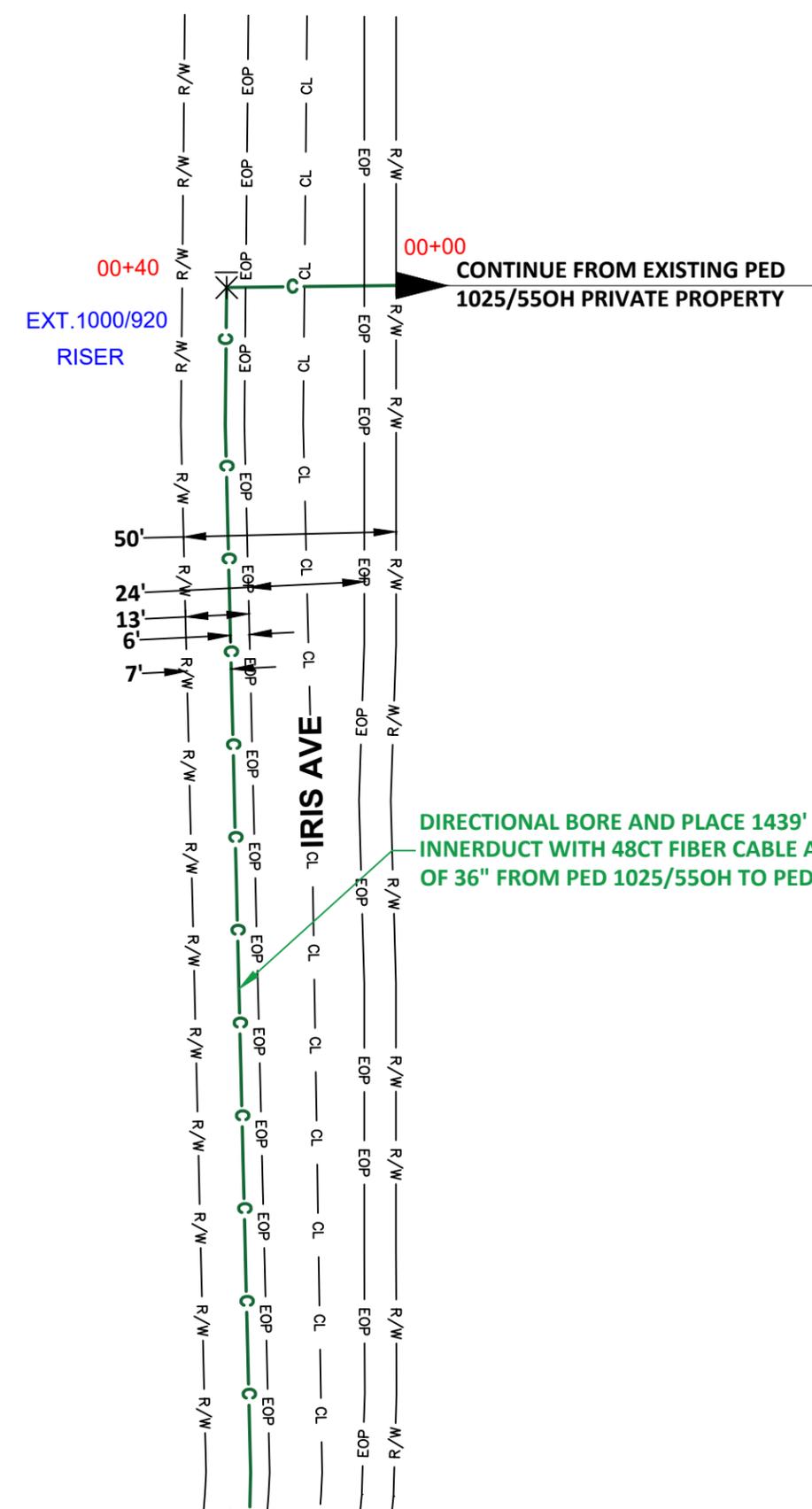


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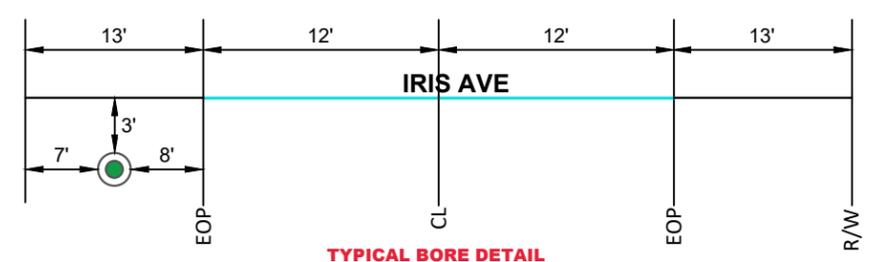
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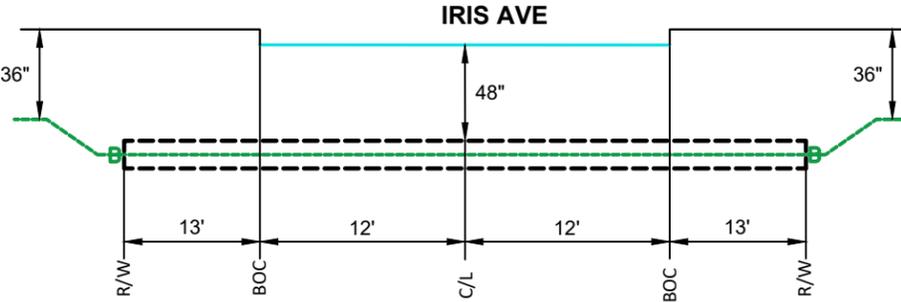
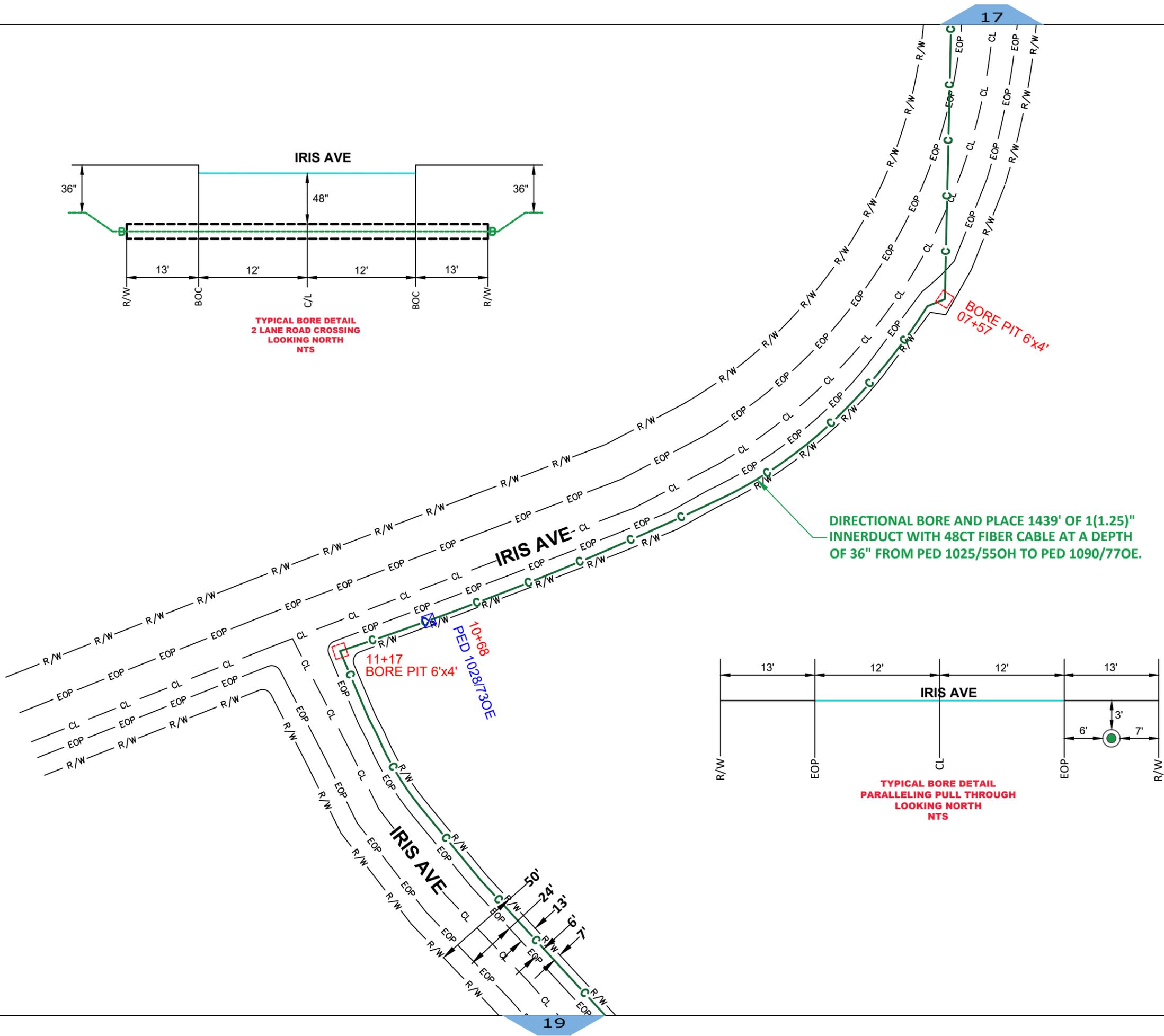
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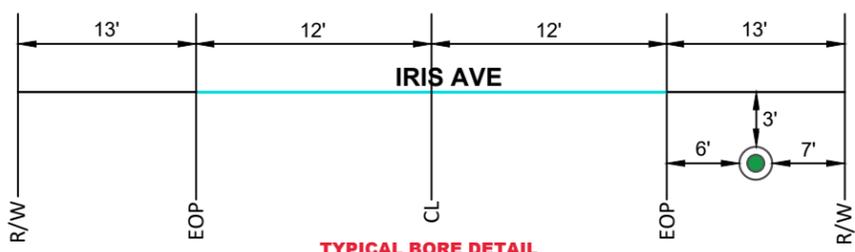
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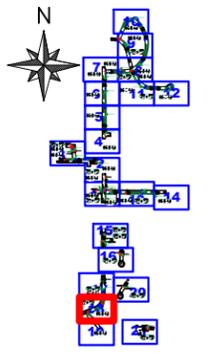
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TYPICAL BORE DETAIL  
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LEGEND

- PROPOSED CONDUIT
- AERIAL OVERLASH
- SIDEWALK
- BOC
- EOP
- POLE
- POWER POLE



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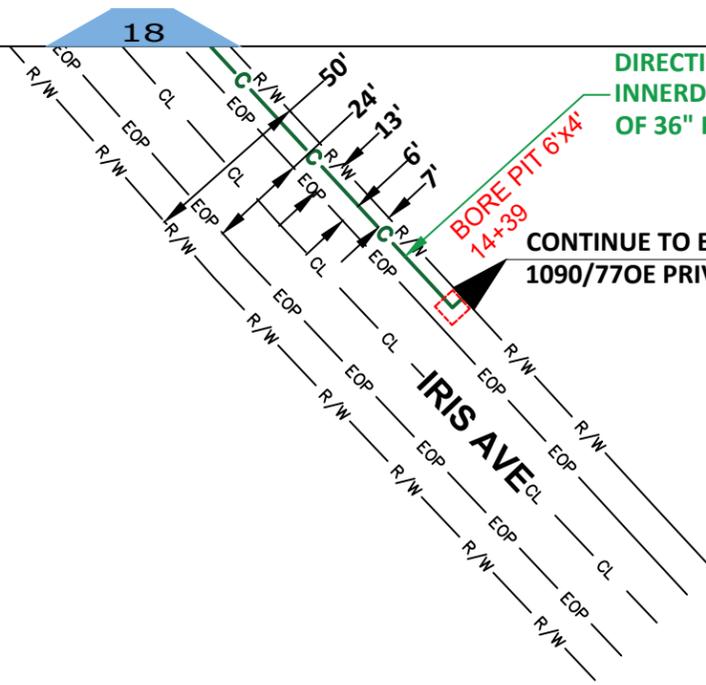
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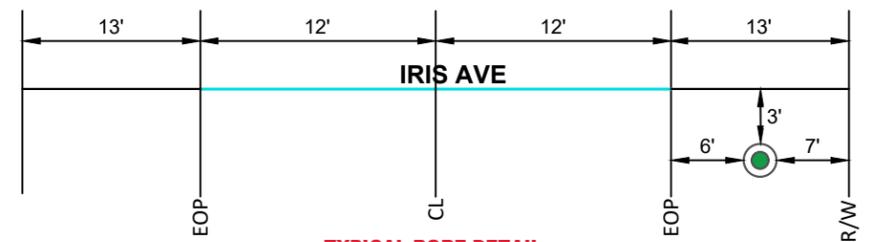
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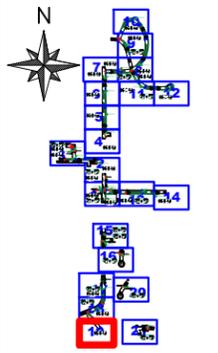


DIRECTIONAL BORE AND PLACE 1439' OF 1(1.25)"  
INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH  
OF 36" FROM PED 1025/550H TO PED 1090/770E.

CONTINUE TO EXISTING PED  
1090/770E PRIVATE PROPERTY



TYPICAL BORE DETAIL  
PARALLELING PULL THROUGH  
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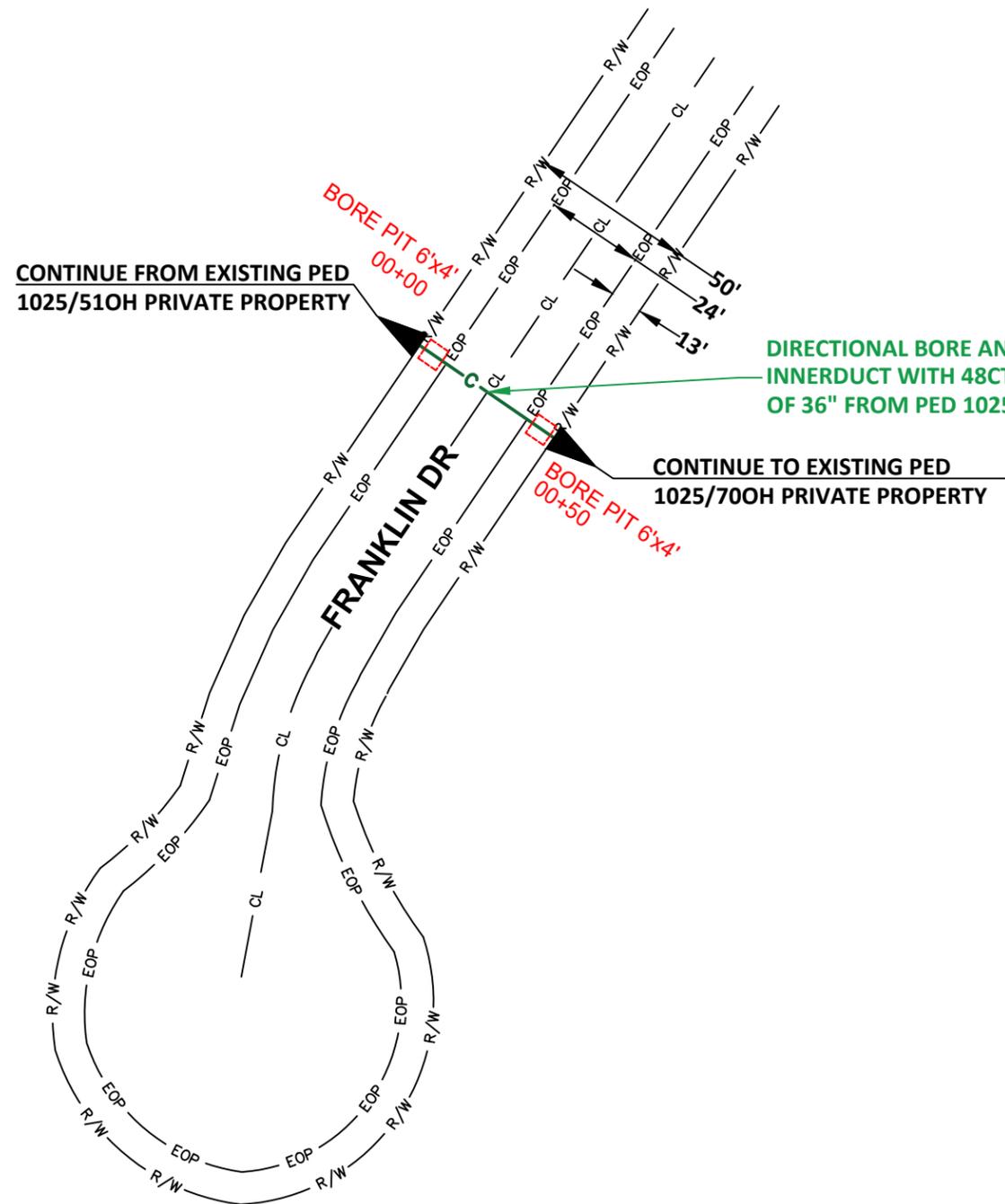
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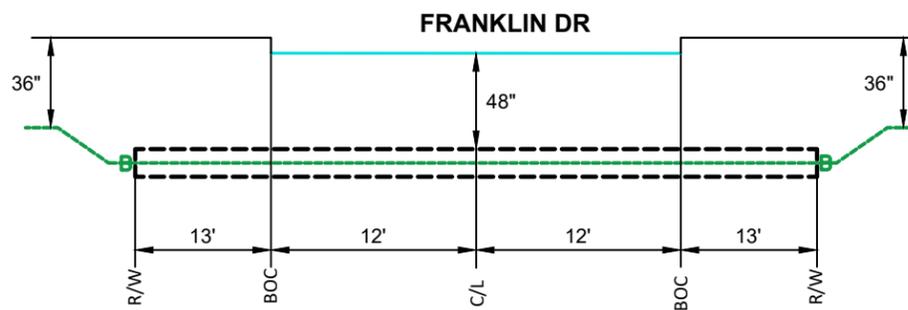
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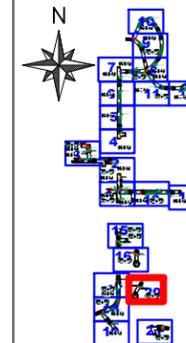
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DIRECTIONAL BORE AND PLACE 50' OF 1(1.25)" INNERDUCT WITH 48CT FIBER CABLE AT A DEPTH OF 36" FROM PED 1025/510H TO PED 1025/700H.



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LOOKING NORTHEAST  
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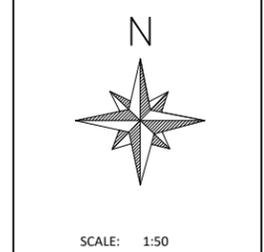


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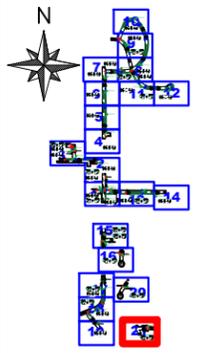
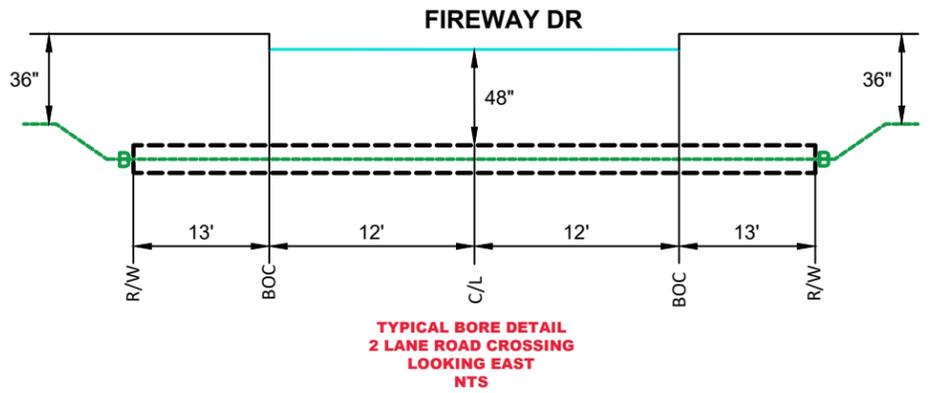
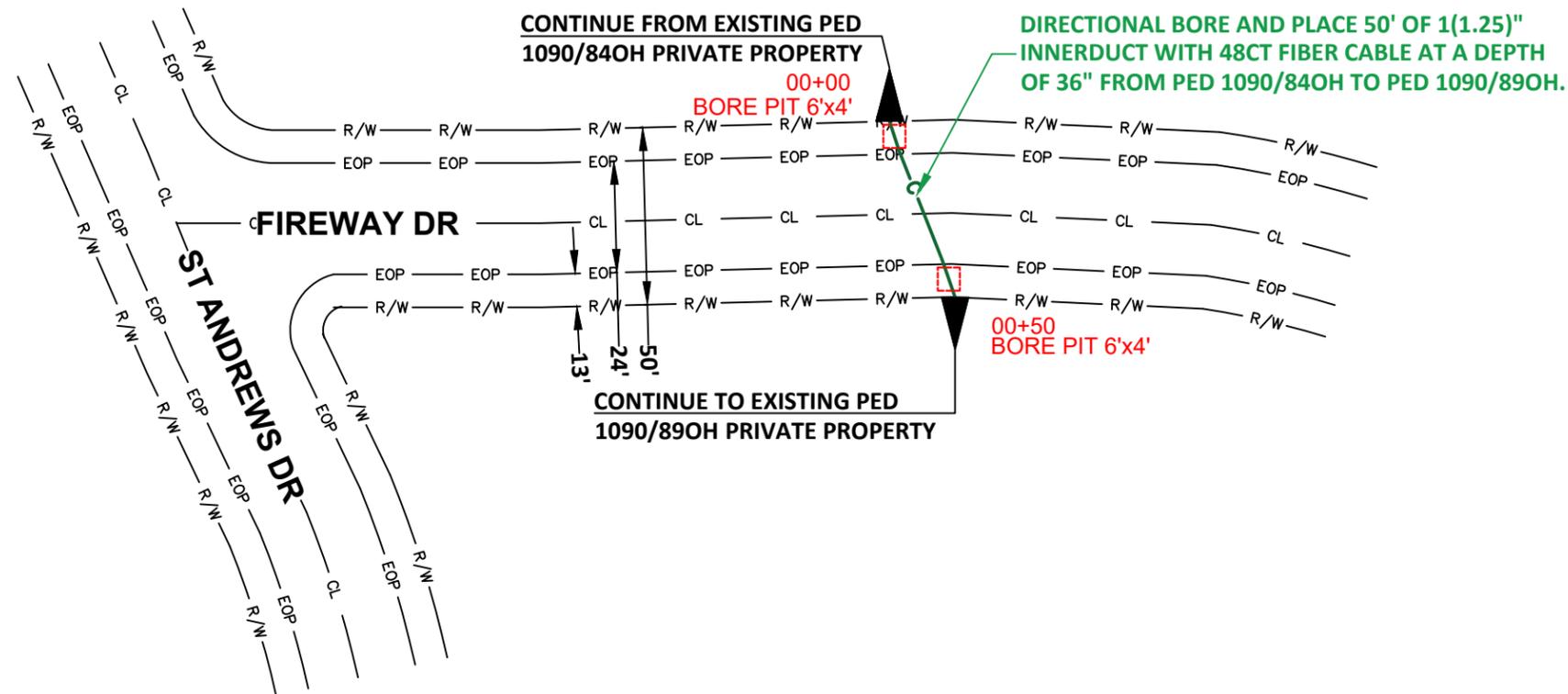
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**20 OF 21**

**RAMTeCH**



**LEGEND**

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Windstream

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CRETE, NE

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DESCRIPTION:  
FTTP GPON PERMIT

MAP:

**21 OF 21**

**RAMTeCH**



243 East 13th Street  
P.O. Box 86  
Crete, NE 68333-  
0086

## Application for a Permit to Occupy City of Crete Right-of-Way

(Rev. 2, 11-2015)

I Windstream Nebraska, LLC hereby request to occupy City of Crete Right-of-  
Name

Way at Various locations with a device or structure.  
Address

Description of structure or device:  
Windstream proposes to place 9,159' of buried 48-CO FOC to be pulled through new 1.25" conduit within the city right of way to better serve the area with fiber optic broadband.

WO#71501248100000;PR-7605

- Diagram, or print included?
- Necessary permits and licenses obtained? Insurance?
- Approved by the Public Works Director \_\_\_\_\_ Date: \_\_\_\_\_

Note:

- 1) All applicants to occupy public right-of-way understand and agree that if, for any reason, the City or its agents require access; the obstruction shall be moved at the applicant's expense.
- 2) Any items approved for placement in the right-of-way shall be held to the building or property line as closely as possible.
- 3) If this is a 3rd party utility type project, all affected property owners shall be notified prior to the beginning of project by the project owner, or the project's contractor.
- 4) City Council approval is required for large projects (more than one property involved, or utility oriented projects).
- 5) All requests to occupy right-of-way must include a detailed sketch, print, or drawing with dimensions with respect to property lines, paving, curbs etc....
- 6) If this application is for underground sprinkler systems, a print or drawing of the system including location of lines and heads with measurements listed must accompany the application. Additionally, the applicant may be required to provide proof of proper permits to install, plumb, and provide backflow protection for said underground sprinkler systems.
- 7) Application for a permanent structure deemed to be a traffic or public safety hazard or which limit visibility will be denied.
- 8) An application shall be approved before any construction or installation is allowed to begin.

Melvin Fecher  
Signature of Applicant

07/14/2022  
Date of Application

**CRETE, NEBRASKA**

**SOLAR POWER PURCHASE AGREEMENT  
BETWEEN  
CITY OF CRETE, NEBRASKA (BUYER)  
AND  
SE MUNICIPAL SOLAR, LLC (SELLER)**

**DATED AS OF \_\_\_\_\_, 20\_\_**

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## **SOLAR POWER PURCHASE AGREEMENT**

**THIS SOLAR POWER PURCHASE AGREEMENT (“Agreement”)** is made and entered into as the date on the cover page (“**Effective Date**”) and among the parties set forth in Exhibit 1 (each a “**Party**” and collectively, the “**Parties**”). The defined terms in Article I and Exhibit 1 shall apply throughout this Agreement. If there is a conflict between Article I and Exhibit 1, Exhibit 1 shall control.

### **WITNESSETH**

**WHEREAS**, Seller proposes to construct, own, operate and maintain a solar electric generating facility for the purpose of producing electric energy for sale to Buyer as more particularly described in Exhibit 1 (the “**Solar Energy Facility**”); and

**WHEREAS**, Buyer desires to purchase electric energy produced by the Solar Energy Facility from Seller, and Seller desires to sell such electric energy to Buyer; and

**WHEREAS**, the Parties desire to set forth in writing their respective rights and obligations with respect to the purchase and sale of such electric energy;

**NOW, THEREFORE**, in consideration of the mutual obligations and undertakings herein contained, and intending to be legally bound hereby, the Parties hereto agree as follows:

### **ARTICLE I** **DEFINITIONS**

#### 1.01 Defined Terms.

“Affiliate” shall mean, as to any Party, any Person (other than a natural person or a Tax Investor) that directly, or indirectly through one or more intermediaries, (i) controls, is controlled by, or is under common control with such Party, or (ii) is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, such Party or of which such Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests.

“Agreement” shall mean this Solar Power Purchase Agreement, including all exhibits hereto, and any written amendments hereto that may be made from time to time in accordance herewith.

“Associated Party(ies)” shall mean, with respect to any Party, any Affiliate of such Party, any officer, director, trustee, fiduciary, employee, agent, representative, contractor or subcontractor of such Party.

“Buyer” shall have the meaning given in the Preamble.

“Buyer’s Cost to Cover” shall mean the difference between the Energy Price during the Measurement Period and the price Buyer paid the Municipal Energy Agency of Nebraska

("MEAN") for energy available from MEAN's portfolio for the Energy during the Measurement Period, less the actual cost of replacement Environmental Attributes provided by Seller under Section 6.04(c) for such Measurement Period.

"Capacity" shall mean the Solar Energy Facility's nameplate rating.

"Carryover" shall mean, for each Contract Year, one-half of one percent (0.5%) of the Target Energy Production for all previous Contract Years minus the summation of the actual amount of Energy in each such Contract Year subject to Curtailment below the Curtailment Threshold applicable to such Contract Year, but in no event less than zero.

"Code" shall mean the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

"Collateral Agent" shall have the meaning given in Section 7.02.

"Commercial Operations Date" shall mean the date designated as the Commercial Operations Date pursuant to Section 3.01.

"Commissioned" shall mean, with respect to any Module, that such Module has been installed and that Seller has taken all action necessary to enable the Module to commence the regular delivery of Energy.

"Committed Capacity" shall be as set forth in Exhibit 1.

"Confidential Information" shall mean proprietary or commercial information which if released would give advantage to business competitors. The existence of this Agreement shall not be considered Confidential Information.

"Contract Year" shall mean each consecutive twelve (12) month period beginning on the first January 1 after the Commercial Operations Date occurs.

"Contract Term" shall be as set forth in Exhibit 1.

"Costs" shall mean, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into a new arrangement or arrangements which replace this Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

"Curtailment" shall mean a reduction in delivery of Solar Energy Facility output due to an action or operational decisions made by and for the benefit of Buyer. Notwithstanding the foregoing, Curtailment shall not include reductions in delivery of Solar Energy Facility output due to: (1) Buyer maintaining or upgrading the Distribution System, or a third party maintaining or upgrading the transmission system or subtransmission system in accordance with Good Utility Practices; (2) Force Majeure or emergency condition on the Distribution System or the transmission system or subtransmission system owned by a third party; or (3) Buyer maintaining the reliability of the Distribution System or a third party maintain the reliability of the

transmission system or subtransmission system. For the avoidance of doubt, reduction in delivery of Solar Energy Facility output due to any such circumstances shall not be a breach of this Agreement by Buyer and shall not constitute Lost Production.

“Curtailed Threshold” shall mean, for each Contract Year, the lesser of (a) sum of (i) one half of one percent (0.5%) of the Target Energy Production for such Contract Year plus (ii) the Carryover and (b) one percent (1.0%) of the Target Energy Production for such Contract Year.

“Defaulting Party” shall have the meaning set forth in Section 10.03.

“Delivery Meter” shall have the meaning given in Section 5.04(a).

“Delivery Point” shall have the meaning given in Section 5.01(b).

“Designated Representative(s)” shall mean the representatives of Seller and Buyer designated pursuant to Sections 6.01(e) and 6.02(a), respectively.

“Dispute” shall have the meaning given in Section 10.04.

“Distribution System” shall mean the electric system facilities owned, leased or operated by Buyer and which are rated at or below a voltage level of 15,000 volts.

“Due Date” shall have the meaning given in Section 4.04(a)(i).

“Early Termination Date” shall have the meaning set forth in Section 10.03.

“Effective Date” shall mean the date set forth in the preamble.

“Energy” shall mean three-phase, sixty (60) hertz alternating current energy generated at the Solar Energy Facility.

“Energy Price” shall mean the price for Energy delivered to the Delivery Point, as escalated in accordance with Section 4.01(c).

“Environmental Attributes” shall mean the aggregate amount of credits (including renewable energy credits and renewable energy certificates), set-offs, payments, rights, attributes, or other benefits of all kinds associated with or arising out of or otherwise corresponding to the Rated Capacity and associated Energy, or otherwise arising due to the production of Energy, and the sale and distribution of such Energy by Seller, Buyer and others, other than payments under this Agreement and Tax Benefits. Environmental Attributes shall include (i) environmental air quality credits, off-sets or other benefits related to the generation of Energy in a manner which reduces, displaces or off-sets emissions resulting from fuel combustion at another location pursuant to any Law, and (ii) credits, off-sets, green pricing programs, renewable energy credit trading programs, or any similar program or benefits derived from the use, purchase or distribution of renewable energy from the generation of Energy pursuant to any Law.

“Event of Default” shall have the meaning given in Sections 10.01 and 10.02.

“Excused Delay” shall mean a delay in achieving the Commercial Operations Date due to Force Majeure, delay by Interconnection Provider in entering into or performing its obligations under the Interconnection Agreement or any other agreement, breach by Buyer of this Agreement (including Seller’s exercise of any remedies for such breach), or any other action or inaction of Buyer or Interconnection Provider which prevents Seller from performing its obligations under this Agreement in a timely manner.

“Solar Energy Facility” shall mean Seller’s photovoltaic electric generation facility at the Facility Site, as described in Exhibit 1.

“Facility Debt” shall mean the obligations of Seller or a Seller Affiliate to any Lender pursuant to the Financing Documents, including without limitation, principal of, premium and interest (including all interest accruing after commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of Seller or a Seller Affiliate) on indebtedness, fees, expenses or penalties, amounts to fund reserves, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing, including without limitation, reasonable attorney’s fees. Facility Debt shall continue to constitute Facility Debt, notwithstanding the fact that such Facility Debt or any claim for such Facility Debt is subordinated, avoided or disallowed under the federal Bankruptcy Code or other applicable Law. Facility Debt shall also include indebtedness of Seller or a Seller Affiliate secured by the Solar Energy Facility and/or the Facility Site incurred in connection with a conversion of a construction loan or bridge loan, or refinancing of the Facility Debt.

“Facility Site” shall mean the real property on which the Solar Energy Facility will be located.

“Financial Closing” shall mean the execution of loan agreements with the Lender or Lenders, or the execution of equity investment agreements with the Tax Investor or Tax Investors, providing for the construction financing of the Solar Energy Facility.

“Financing Documents” shall mean the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, pledge agreements, swap agreements, letters of credit and other documents evidencing, securing or otherwise relating to the development, bridge, construction and/or permanent debt financing or other extension(s) of credit for obtaining Facility Debt, including any credit enhancement, credit support, swaps, caps, floors, collars, hedging agreements, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller or a Seller Affiliate in connection with the development, construction, ownership, leasing, operation or maintenance of the Solar Energy Facility.

“Financing Party” shall mean any Person (including any Tax Investor) providing debt or equity financing (including lease financing, tax equity, equity contributions or equity commitments), refinancing of any such financing, or any guarantee, insurance, credit

enhancement, swap, cap, floor, collar, hedging agreement, working capital financing, or credit support for or in connection with such financing or refinancing, in connection with the development, construction, ownership or leasing, operation or maintenance of the Solar Energy Facility, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Fitch" shall mean Fitch Ratings, Inc., or any successor thereto, or if there is no such successor, a nationally recognized credit rating agency.

"Force Majeure" shall have the meaning given in Section 8.01.

"Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior to such time, or any of the practices, methods and acts, which in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts generally acceptable in the region in light of the circumstances.

"Governmental Authority" shall mean any municipal, local, state, regional or federal administrative, legal, judicial or executive agency, court, commission, department or other such entity of competent jurisdiction, but excluding Buyer and any such agency, commission, department or other such entity acting in its capacity as lender or guarantor.

"Guaranteed Commercial Operations Date" shall be as set forth in Exhibit 1.

"Guaranteed Energy Production" shall be as set forth in Exhibit 1.

"Indemnifiable Cost" shall mean any cost, expense, damage, fine, penalty, liability or other loss, including reasonable out-of-pocket legal, accounting, consulting, engineering, investigatory, expert witness and other fees and expenses.

"Indemnified Party" shall have the meaning given in Section 9.02(e)(i).

"Indemnifying Party" shall have the meaning given in Section 9.02(e)(i).

"Insolation" shall mean the watt-hour per square meter insolation on the Facility Site, as measured by Seller's pyranometer or similar measurement device installed at the angle of Module tilt and located within the boundaries of the Solar Energy Facility. Insolation data will be time synchronized to Buyer's metering and historical data, will be made available to Seller, and shall be used to calculate Lost Production.

"Interconnection Agreement" shall mean an agreement entered into between Seller and Interconnection Provider providing for the interconnection of the Solar Energy Facility to Buyer's Distribution System.

"Interconnection Provider" shall be as set forth in Exhibit 1.

“Interconnection Provider’s Interconnection Facilities” shall mean all equipment and facilities on Buyer’s side of the Delivery Point for the purpose of interconnecting the Solar Energy Facility to Buyer’s Distribution System.

“Interest Rate” means, on any date of determination, the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* (the average thereof, if there is a range of such rates) as of such date of determination; provided, that the Interest Rate shall never exceed the maximum rate permitted by Law. If *The Wall Street Journal* ceases to publish the “prime rate,” then Buyer and Seller shall agree as to a substitute reference that represents the base rate on corporate loans posted by major banks having one or more lending offices in New York, New York.

“Investment Grade Credit Rating” shall mean that the applicable entity has a long-term credit rating (corporate or long-term senior unsecured debt) from at least two of S&P, Moody’s and Fitch, and is rated “BBB-” or better by S&P and Fitch and “Baa3” or better by Moody’s; provided, however, such entity shall be deemed not to have an “Investment Grade Credit Rating” if such entity’s long-term credit rating is lower than “BBB-” by either S&P or Fitch or lower than “Baa3” by Moody’s, or if a “credit watch,” “negative outlook” or other rating decline alert has been issued by S&P, Moody’s and/or Fitch.

“ITC” shall mean the investment tax credit established pursuant to Section 48 of the Internal Revenue Code of 1986, as it may be amended from time to time.

“Late Payment Rate” shall mean, for any period, the lesser of: (i) the Interest Rate plus one percent (1 %), or (ii) the maximum rate permitted by applicable Law.

“Law” shall mean: (i) any law, legislation, statute, act, rule, ordinance, decree, regulation, order, judgment, or other similar legal requirement, or (ii) any legally binding announcement, directive or published practice or interpretation thereof, enacted, issued or promulgated by any Governmental Authority.

“Lender” shall mean any Financing Party providing debt financing, refinancing of any such financing, or any guarantee, insurance, credit enhancement, swap, cap, floor, collar, hedging agreement, working capital financing, or credit support for or in connection with such financing or refinancing of any such financing, in connection with the development, construction, ownership or leasing, operation or maintenance of the Solar Energy Facility.

“Lost Production” shall mean, for any hour, the amount by which the Maximum Facility Output is reduced due to a Curtailment above the Curtailment Threshold or a breach of the Agreement by Buyer (including Seller’s exercise of any remedies for such breach).

“Maximum Facility Output” shall mean, for any hour, the amount of Energy that the Solar Energy Facility would have been able to produce during the hour, based on the average Insolation for such hour; provided that the Maximum Facility Output for any hour shall be reduced, but not below zero, to the extent that the Solar Energy Facility would not otherwise have been available during such hour due to a maintenance outage, derating, or other circumstance solely within the control of Seller.

“Measurement Period” shall have the meaning given in Exhibit 2.

“Module” shall mean a discrete unit of photovoltaic cells and inverter(s).

“Moody’s” shall mean Moody’s Investor Service, Inc. or any successor thereto, or if there is no such successor, a nationally recognized credit rating agency.

“MW” shall mean one megawatt of alternating current electric capacity.

“MWh” shall mean one megawatt-hour of energy.

“New Solar Incentive” shall have the meaning set forth in Section 4.01(d).

“Person” shall mean any legal or natural person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental or international body or agency, or other entity.

“Place of Delivery” shall mean Buyer’s renewable energy account established by Buyer and maintained with the administrator of the applicable Environmental Attribute program(s), or such other location or account for the delivery to Buyer of the Environmental Attributes as Buyer may specify via written notice to Seller.

“Rated Capacity” means the sum of the Capacities of all Commissioned Modules.

“S&P” shall mean Standard & Poor’s or any successor thereto, or if there is no such successor, a nationally recognized credit rating agency.

“Seller” shall have the meaning given in the Preamble.

“Settlement Amount” shall mean the Losses or Gains, and Costs, expressed in U.S. Dollars, which a Party incurs as a result of the termination of this Agreement pursuant to Section 10.03.

“Solar Incentive(s)” shall mean any and all credits, rebates, subsidies, payments or other incentives that relate to the use of technology incorporated into the Solar Energy Facility or other similar programs available from the manufacturer of any part of the Solar Energy Facility; provided, however, that Solar Incentives excludes Environmental Attributes.

“Substantial Commercial Operation” shall have the meaning specified in Section 3.04(a).

“Subtransmission System” shall be as set forth in Exhibit 1.

“Target Energy Production” for any Measurement Period shall mean the amount for such Measurement Period set forth in Exhibit 2.

“Tax” shall mean any tax (including franchise tax), charge, fee, levy or other assessment imposed by any Governmental Authority and based on or measured with respect to net income or profits, including any interest, penalties or additions attributable or imposed with respect thereto, and any tax, charge, levy, fee or other assessment, including any transfer, gross receipts, sales,

use, service, occupation, ad valorem, property, payroll, personal property, excise, severance, premium, stamp, documentary, license, registration, social security, employment, unemployment, disability, environmental (including taxes under Section 59A of the Code), add-on, value-added, withholding (whether payable directly or by withholding and whether or not requiring the filing of a tax return therefor), commercial rent and occupancy tax, and any estimated tax, deficiency assessment, interest, penalties and additions to tax or additional amounts in connection therewith, imposed by any Governmental Authority.

“Tax Benefits” shall mean federal, state or local investment tax credits (including ITCs), or any other tax credits or benefits which are or will be generated by the Solar Energy Facility, or any cash payments, outright grants of money or incentives from a Governmental Authority relating in any way to the development, ownership or operation of, or production from, the Solar Energy Facility other than Environmental Attributes.

“Tax Investor” shall mean any Person who acquires a direct or indirect interest in Seller as a part of a transaction to ensure that the Solar Energy Facility is owned in whole or in part by a Person able to use the Tax Benefits associated with holding an ownership interest in the Solar Energy Facility.

“Transmission System” shall be as set forth in Exhibit 1.

## **ARTICLE II**

### **REPRESENTATIONS AND WARRANTIES**

2.01 Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to Seller as of the Effective Date:

(a) Buyer has the legal power and authority to conduct its business and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable in accordance with its terms, except as enforceability may be limited by Laws affecting the rights of creditors generally.

(c) There is no pending or, to the knowledge of Buyer’s, threatened action or proceeding affecting Buyer before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. There are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending against or being contemplated by Buyer or, to Buyer’s knowledge, threatened against it.

(d) There are no approvals, Authorizations, consents, or other action required by any Governmental Authority necessary to authorize Buyer’s execution and delivery of this Agreement.

(e) The execution and performance of this Agreement does not conflict with or constitute a breach or default under any contract or agreement of any kind to which Buyer is a party or any judgment, order, statute, or regulation that is applicable to Buyer.

(f) The output of the facility is fully subscribed and Buyer meet the rural requirements of the United States Department of Agriculture Rural Utilities Service.

2.02 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer as of the Effective Date:

(a) Seller has the legal power and authority to conduct its business and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by Seller of this Agreement have been duly authorized by all necessary action.

(c) The Agreement constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as enforceability may be limited to Laws affecting the rights of creditors generally.

(d) There is no pending or, to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. There are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending against or being contemplated by Seller or, to Seller's knowledge, threatened against it.

(e) The execution and performance of this Agreement does not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party of any judgment, order, statute, or regulation that is applicable to Seller.

(f) There are no approvals, Authorizations, consents, or other action required by any Governmental Authority necessary to authorize Seller's execution and delivery of the Agreement.

**ARTICLE III**  
**CONTRACT TERM; COMMERCIAL OPERATIONS DATE; CONDITIONS**

3.01 General. The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the end of the Contract Term; provided, however that except as expressly provided herein, Seller's obligation to sell and deliver Energy and Buyer's obligation to accept and purchase Energy shall begin on the Commercial Operations Date which shall be no later than September 30, 2023. The termination of this Agreement shall be without prejudice to any rights or obligations of the Parties arising under this Agreement prior to such termination.

3.02 Conditions to Seller's Obligations.

(a) This Agreement shall be legally binding from and after the Effective Date.

(b) Notwithstanding the foregoing, Seller's obligations to construct the Solar Energy Facility and to sell the Energy produced thereby to Buyer are expressly subject to the fulfillment of each of the conditions listed below, in each case in form and substance satisfactory to Seller in Seller's reasonable discretion; provided that Seller may waive any such condition or may extend the date for fulfillment of any such condition:

(i) No later than ninety (90) days after the Effective Date, Seller shall have received all necessary Authorizations from the applicable Governmental Authorities for the development, construction, ownership, leasing, operation or maintenance of the Solar Energy Facility, and for the sale of the output thereof (excluding any Authorization which, by its nature, is not available or required prior to the commencement of construction, ownership, operation or maintenance of the Solar Energy Facility) and, with respect to each such Authorization, either: (A) all appeals or other challenges of such Authorization shall have been resolved to Seller's satisfaction, or (B) the time for filing appeals or other challenges to such Authorization shall have expired with no appeal or other challenge having been filed.

(ii) No later than ninety (90) days after the Effective Date, Seller and Interconnection Provider shall have entered into the Interconnection Agreement, and such Interconnection Agreement shall provide for the installation and energization of the Interconnection Provider's Interconnection Facilities at Buyer's cost within a time that will permit Seller to place the Solar Energy Facility in service in time to claim the ITC with respect to the Solar Energy Facility.

(iii) No later than ninety (90) days after the Effective Date, Buyer shall have provided to Seller a sufficient lease or similar property right to use the Facility Site, and any necessary leases, rights-of-way or utility or access easements related thereto to allow Seller to construct, operate and maintain the Solar Energy Facility for the Contract Term.

(iv) No later than ninety (90) days after the Effective Date, Seller shall have completed an evaluation of the Facility Site with respect to geotechnical conditions, environmental conditions, and obstructions indicating that the Solar Energy Facility can be constructed without substantial Facility Site remediation or substantially increased costs.

(v) No later than ninety (90) days after the Effective Date, Seller shall have determined that since the Effective Date, there has not been any change in any Law or in any operating standard applicable to Seller or the Solar Energy Facility which imposes material increased capital or operating costs on Seller, or materially decreases Seller's and Seller's owners' economic return from the ownership and operation of the Solar Energy Facility, including payments under this Agreement, Tax Benefits and Solar Incentives.

(vi) No later than one-hundred eighty (180) days after the Effective Date, the Financial Closing shall have occurred.

(c) If any condition set forth in Section 3.02(b) has not been satisfied or waived by Seller in writing on or before the date specified therein for reasons not due to act or omission of Seller, then Seller shall have the right to terminate this Agreement by written notice to Buyer no later than thirty (30) days after such date, without any further financial or other obligation to Buyer under this Agreement as a result of such termination. If Seller does not terminate this Agreement on or before the date that is thirty (30) days after the date for satisfaction of such condition, the applicable condition shall be deemed to have been waived.

3.03 Guaranteed Commercial Operations Date. If the Commercial Operations Date has not occurred by the Guaranteed Commercial Operations Date, Seller will pay Buyer Twenty Thousand Dollars (\$20,000) in delay damages (“Delay Damages”), and Buyer may also terminate this Agreement without further financial or other obligation on the part of either Party, other than for Seller to pay Buyer Delay Damages, by written notice to Seller no later than forty-five (45) days after the Guaranteed Commercial Operations Date. If Buyer does not deliver notice of termination by the end of such forty-five (45) day period, or if Commercial Operation is achieved prior to delivery of Buyer’s notice during such forty-five (45) day period, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 3.03.

3.04 Substantial Commercial Operation.

(a) Seller may declare the Solar Energy Facility to have achieved substantial commercial operation (“Substantial Commercial Operation”) provided that the Rated Capacity is at least ninety percent (90%) of the Committed Capacity.

(b) If Seller declares the Solar Energy Facility to have achieved Substantial Commercial Operation, the date of Substantial Commercial Operation and stated in the notice given under Section 5.09(c) shall be deemed to be the Commercial Operations Date for all purposes under this Agreement.

## **ARTICLE IV** **PURCHASE AND SALE OF ENERGY AND ENVIRONMENTAL ATTRIBUTES**

4.01 Purchase and Sale.

(a) Purchase and Sale. Following the Commercial Operations Date and continuing throughout the Contract Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase and accept from Seller, all of the Energy and Environmental Attributes produced by the Solar Energy Facility and delivered to the Delivery Point and Place of Delivery at the Energy Price. For the Energy Price, Buyer shall have all rights to claim the capacity associated with the Solar Energy Facility, including without limitation the right to claim the capacity for purposes of resource adequacy. The Solar Energy Facility will be designed, constructed and operated so that the nameplate capacity does not exceed the Committed Capacity size. Seller acknowledges that Buyer is not obligated to compensate Seller for the delivery of excess Energy when the Solar Energy Facility generates power in amounts above the Committed Capacity. Seller waives any right to seek the PURPA avoided cost rate.

(b) Lost Production. In any month in which there is Lost Production, Buyer shall pay Seller an amount equal to the sum of: (i) the product of the Energy Price multiplied by the amount of Lost Production, and (ii) any Solar Incentives that Seller would have received with respect to the Lost Production. If Lost Production results from Buyer's need to avoid breach of or default under its obligations under a total-requirements wholesale contract or similar obligation, Buyer shall remain obligated to Seller under this provision, Seller shall have no liability to Buyer, and Buyer shall hold Seller harmless for any such breach or default.

(c) Energy Price. The price for Energy and Environmental Attributes produced by the Solar Energy Facility, and for Lost Production, shall be as set forth in Exhibit 1.

(d) New Solar Incentives. If there is any New Solar Incentive for which the Solar Energy Facility or the Seller is eligible, Seller shall use commercially reasonable efforts to qualify for such New Solar Incentive, and if it does so qualify, it will pay Buyer fifty percent (50%) of the proceeds actually received from such New Solar Incentive, net of (i) any cost of applying for and qualifying for such New Solar Incentive, (ii) any tax imposed on Seller's receipt of the proceeds of the New Solar Incentive, and (iii) any associated reduction in any other Solar Incentive or other tax or economic benefit to Seller from the ownership or operation of the Solar Energy Facility, or the sale of the output thereof. For purposes of this Section 4.01(d), a "New Solar Incentive" is a state or local financial benefit or tax incentive enacted after the Effective Date, which is not intended to replace or substitute for a Solar Incentive in existence on the Effective Date, which does not require any modification to the Solar Energy Facility to qualify for such benefit or incentive, and which does not lead to a reduction or recapture of any Solar Incentive or Tax Benefits that would otherwise be available to Seller or, if Seller is a pass-through entity for tax purposes, to its owners and equity investors.

(e) New Environmental Attributes. If any new Environmental Attribute becomes available for which the Solar Energy Facility or Seller or Buyer is eligible, Seller shall consult with Buyer. Upon Buyer's request after consultation, Seller shall use commercially reasonable efforts to qualify for such new Environmental Attribute, and if it does so qualify, Seller shall deliver the new Environmental Attribute to Buyer under Section 4.01 of this Agreement and Buyer shall reimburse Seller for its reasonable cost of applying for and qualifying for such new Environmental Attribute. Seller's failure to obtain any new Environmental Attribute despite using commercially-reasonable efforts to do so shall not constitute a breach or default under this Agreement.

4.02 Test Energy. At Buyer's option, Buyer shall purchase all Energy generated during all testing conducted prior to the Commercial Operations Date at eighty-five percent (85%) of the Energy Price.

#### 4.03 Billing.

(a) Seller shall read meters promptly following the end of each month. The amount of Energy delivered to Buyer during the preceding month shall be determined from such readings, as such readings are adjusted pursuant to Section 5.06.

(b) Seller shall render bills for amounts due hereunder by e-mail, or other mutually agreed electronic means, as soon as practicable following the meter reading, and shall incorporate such information as may reasonably be necessary or desirable to determine the payments for Energy delivered during the preceding month, and other amounts due hereunder, including indemnification payments. Seller shall send bills to the address(s) in Exhibit 4.

(c) If this Agreement expires or is terminated, Seller shall, within five (5) Business Days after the termination or expiration, or as soon thereafter as practicable, provide a final billing statement to Buyer.

(d) If Seller owes any amount to Buyer pursuant to this Agreement, Buyer shall send Seller a statement of the amount then due in accordance with the above procedures.

#### 4.04 Payment and Interest.

##### (a) Payment.

(i) All payments shown to be due on a bill shall be due and payable not later than thirty (30) days after receipt (the "Due Date").

(ii) If the paying Party, in good faith, disputes a portion of any bill, the paying Party shall render payment for the undisputed portion of such bill to the billing Party. Upon resolution of the Dispute, any amount found to be due and payable to the billing Party shall be paid to the billing Party in accordance with Section 4.04(b)(ii).

(iii) All payments on account of errors of any kind, including overpayments and errors in billing or in metering, shall include interest at the Prime Rate accruing daily from the date of such erroneous payment to the date of payment. If, in the case of a Delivery Meter error, the date of the error cannot be determined, then interest shall accrue on the adjusted amount from the date set in accordance with Section 5.06.

(iv) The paying Party shall render payment by wire transfer, ACH, or such other payment method as the Parties mutually agreed upon. Payments shall be sent to the address(s) set forth in Exhibit 4, or if payment is by wire transfer, in accordance with wiring instructions provided by the receiving Party's representative identified in Exhibit 4.

##### (b) Interest.

(i) If the paying Party fails to pay all or a portion of the undisputed amounts billed within the time stated in Paragraph (a) hereof, the paying Party shall owe interest on the unpaid portion of the bill, which interest shall accrue daily at the Late Payment Rate, from the Due Date until paid.

(ii) If any portion of a disputed amount is ultimately determined to be due to the billing Party, such amount shall be due and payable not later than ten (10) Business Days after resolution of the Dispute, and the paying Party shall owe interest on such portion of such disputed amount to the extent that such portion is determined to be

due and owing to the billing Party, which interest shall accrue daily at the Late Payment Rate, from the original Due Date of such amount until such amount is paid.

(c) No Set-off. All payments made by either Party shall be free and clear of, and without any deduction for or on account of, any set-off, counterclaim, or other liability to the billing Party, except to the extent required by Law.

## **ARTICLE V**

### **DELIVERY OF ENERGY AND ENVIRONMENTAL ATTRIBUTES**

#### 5.01 Delivery of Energy.

(a) Characteristics. Energy to be furnished in accordance with Good Utility Practices.

(b) Delivery Point. All Energy sold by Seller to Buyer under this Agreement shall be delivered by Seller to the point of interconnection of the Solar Energy Facility on Seller's side of the transformer that connects the Solar Energy Facility with Buyer's Distribution System, as defined in the Interconnection Agreement (the "Delivery Point"). Energy shall be delivered by Seller to the Delivery Point free and clear of all liens, claims and encumbrances.

(c) Title and Risk of Loss. Title to Energy, and risk of loss with respect thereto, shall pass from Seller to Buyer at the Delivery Point.

#### 5.02 Transfer and Delivery of Environmental Attributes.

(a) Environmental Attributes. Following the Commercial Operations Date and continuing throughout the Contract Term, and for any Test Energy purchased by Buyer prior to the Commercial Operations Date, as between Buyer and Seller, Buyer shall own or be entitled to claim all Environmental Attributes associated with the Energy produced by the Solar Energy Facility to the extent such Environmental Attributes may exist during the Contract Term, including all rights and authority for Buyer to register, hold, manage and retire such Environmental Attributes in Buyer's own name and to Buyer's account, including any rights associated with any renewable energy information or tracking system that may be established with regard to monitoring, tracking certifying, or trading such Environmental Attributes.

(b) Receipt of Environmental Attributes. Buyer shall be responsible for all arrangements and other actions required to make Buyer ready to receive the Environmental Attributes into its account at the Place of Delivery (or, in the case of any Environmental Attributes that, by their nature, do not have a place of delivery, to be capable of receiving within the applicable Environmental Attribute program(s) and associated monitoring, tracking, certification and/or trading system(s)).

(c) Clear Title. Seller represents and warrants that, at the time of sale to Buyer of all Environmental Attributes as provided herein, (i) such Environmental Attributes shall not have been sold to any other Person or used to meet compliance requirements of any other regulatory or voluntary renewable energy program or standard, including any greenhouse gas reduction requirements; and (ii) Buyer shall possess all right, title to and interest in such

Environmental Attributes, free and clear of any liens or other encumbrances created by or through Seller.

(d) Risk of Loss. Risk of loss of any Environmental Attributes shall transfer from Seller to Buyer at the time the same are generated by the Solar Energy Facility.

(e) Attestation of Environmental Attributes. Seller shall present to Buyer a form set forth in Exhibit 3 with each invoice attesting to the amount of Energy produced by the Solar Energy Facility and delivered to Buyer and that Seller has not transferred to any other person the Environmental Attributes associated with such Energy.

5.03 Communications and Data Logging Systems. Seller shall provide Buyer and, provided Buyer is a member of the Municipal Energy Agency of Nebraska at the time, the Municipal Energy Agency of Nebraska, with access to the Solar Energy Facility, upon reasonable advance notice and during normal business hours, as may be necessary and appropriate to enable Buyer to install and maintain Buyer's remote terminal in a manner consistent with Good Utility Practice, provided that such access shall not unreasonably interfere with Seller's normal business operations. While at the Solar Energy Facility, Buyer shall observe such safety precautions as may be reasonably required by Seller and communicated to Buyer in writing.

5.04 Delivery Metering.

(a) Energy delivered by Seller to Buyer shall be measured by a meter located at the Delivery Point (the "Delivery Meter"), and shall have the metering instrument transformer, which measures the output of the Solar Energy Facility, on the side of the step-up transformer for the Solar Energy Facility set forth in Exhibit 1.

(b) Seller shall purchase and install the Delivery Meter, in accordance with Seller's standards and specifications for such metering, in effect on the effective date of the Interconnection Agreement, and shall operate and maintain the Delivery Meter at no cost to Buyer. The Delivery Meter shall be used for measuring the amount of Energy delivered to the Delivery Point under this Agreement.

(c) Buyer shall provide Seller full, real-time read access to Delivery Meter data. Seller shall use such data to bill Buyer for Energy.

5.05 Testing.

(a) The accuracy of the Delivery Meter shall be tested and verified, at Seller's expense, prior to the Commercial Operations Date by Buyer.

(b) Seller, at its expense, shall conduct a Delivery Meter test once every two (2) years following the Commercial Operations Date. If such test establishes that the Delivery Meter is not accurate, the Delivery Meter shall be appropriately adjusted or repaired at Seller's expense. Buyer reasonably may request additional Delivery Meter tests at any time. With respect to any such additional Delivery Meter test, if the Delivery Meter when tested is found to be inaccurate by at least two percent (2%), Seller shall pay for any such additional Delivery

Meter test. If the Delivery Meter is accurate to within two percent (2%), then Buyer shall pay for such additional Delivery Meter test. In either case, the Delivery Meter shall be appropriately adjusted or repaired at Seller's expense to correct the accuracy.

5.06 Corrections. If the Delivery Meter is found at any time to be inaccurate by more than two percent (2%), retroactive billing adjustments for such errors shall be made for (i) the actual period during which inaccurate measurements were made, if that period can be reasonably determined, or (ii) if the period during which inaccurate measurements were made cannot be reasonably determined, one-half of the period from the date of the last previous test of the Delivery Meter, but not to exceed six (6) months. If the difference of the payments actually made by Buyer minus the adjusted payment is a positive number, Seller shall pay the difference to Buyer; if the difference is a negative number, Buyer shall pay the difference to Seller. In either case, the Party paying such difference shall also pay interest at the Prime Rate from the date the original bill was due through the date of payment and such payment (including such interest) shall be made within thirty (30) days after receipt of a corrected billing statement.

5.07 Meter Maintenance. Each Party shall have the right to have a representative present whenever the other Party reads, cleans, changes, repairs, inspects, tests, calibrates, or adjusts the Delivery Meter. Each Party shall give timely notice to the other Party in advance of taking any such actions. A Party's failure to have a representative present whenever the other Party reads, cleans, changes, repairs, inspects, tests, calibrates, or adjusts the Delivery Meter shall not affect the validity of such action, provided that the notice required under the preceding sentence has been given.

5.08 Interconnection Agreement. The provisions of Sections 5.04 through 5.07 are subject to the applicable requirements of the Interconnection Agreement and any Governmental Authority with jurisdiction over the Delivery Meter. If any of the provisions of Sections 5.04 through 5.07 are inconsistent with such requirements, such requirements shall take precedence.

5.09 Start-Up Procedures.

(a) Expected Commercial Operations Date. Throughout construction, start-up, and testing, Seller shall keep Buyer informed of any changes to the expected Commercial Operations Date for the Solar Energy Facility.

(b) Start-Up. Not less than one (1) month prior to the projected Commissioning of the first Module at the Solar Energy Facility, Seller shall provide to Buyer a projected schedule for the start-up and testing of the Solar Energy Facility.

(c) Notice of Commercial Operations Date. As soon as practicable after completion of start-up and successful testing of the Solar Energy Facility (in compliance with the Interconnection Agreement and any applicable Law or Authorization, and any applicable requirement of any Governmental Authority), and provided that the Rated Capacity is at least ninety percent (90%) of the Committed Capacity, Seller shall provide Buyer a notice specifying when the Commercial Operations Date occurred.

5.10 Interconnection.

(a) Seller shall enter into an Interconnection Agreement with Interconnection Provider providing for the interconnection of the Solar Energy Facility with the Distribution System. Buyer shall be responsible for all costs associated with the interconnection of the Solar Energy Facility with the Distribution System, including all related capital costs and Subtransmission System upgrade costs, if any, as well as ongoing maintenance costs. Seller shall be responsible for all costs associated with system impact studies, facilities studies and upgrades required on any third-party transmission system in order to accommodate the interconnection of the Solar Energy Facility.

(b) Buyer shall be responsible for arranging for the transmission of Energy at and beyond the Delivery Point, scheduling of such transmission and any ancillary services required for such transmission, and all fees associated with such transmission and ancillary services, including congestion losses, scheduling services, balancing excluding generator imbalance, cash out of imbalances excluding generator imbalance, and any other charges resulting from the scheduling of an intermittent resource. Seller shall be responsible for any generator imbalance charges.

**ARTICLE VI**  
**RIGHTS AND OBLIGATIONS**

6.01 Rights and Obligations of Seller.

(a) Design, Construction and Operation. Seller, at its sole cost, shall design, construct, operate and maintain the Solar Energy Facility and shall be responsible for all costs of decommissioning. Seller warrants that it will maintain and operate the Solar Energy Facility in accordance with this Agreement, Good Utility Practice, applicable Open Access Transmission Tariffs and associated transmission provider business practices and protocols, applicable reliability standards, regional criteria, and regulations, Federal Aviation Administration requirements, and the Law and shall not increase or decrease the Nameplate Capacity without the prior written consent of Buyer as evidenced by written agreement signed by authorized representatives of both Parties. At the end of the Solar Energy Facility's useful life, Seller shall be responsible for all costs associated with decommissioning or repowering the Solar Energy Facility.

(b) Solar Incentives. Seller shall be the owner of all Solar Incentives, and is entitled to the benefit of any ITCs and other tax deductions, credits and incentives related to the Solar Energy Facility, and Buyer's purchase of Energy does not include Solar Incentives or the right to Tax Benefits or any other attributes of ownership and operation of the Solar Energy Facility except Environmental Attributes. If any Solar Incentives are paid directly to Buyer, Buyer shall immediately pay such amounts to Seller.

(c) Notice of Change in Delivery. Seller shall use its commercially reasonable efforts to give advance notice to Buyer in the event of either an interruption in the delivery of Energy or a significant variation in the quantity of Energy delivered (other than

interruptions or variations due to changes in levels of Insolation), whether or not caused by Force Majeure.

(d) Access to Solar Energy Facility. Seller shall allow representatives of Buyer and, if Buyer is then a member of the Municipal Energy Agency of Nebraska, the Municipal Energy Agency of Nebraska to have access to the Solar Energy Facility, upon advance notice and during normal business hours, to observe construction, operation and maintenance of the Solar Energy Facility, and to make inspections and obtain information required in connection with this Agreement. While at the Solar Energy Facility, such representatives shall observe such safety precautions as may be required by Seller and communicated to Buyer and shall conduct themselves in a manner that will not interfere with the construction, ownership, operation or maintenance of the Solar Energy Facility.

(e) Designated Representative. Seller shall designate one or more representatives (each a “Designated Representative”) to maintain communications with Buyer’s Designated Representative(s), and to facilitate coordination between Buyer and Seller during the Contract Term.

(f) Information and Data. Seller shall supply any information or data required by Buyer to comply with the requirements of any applicable Law or Authorization, or the requirements of any Governmental Authority and any other information or data related to the operation or maintenance of the Solar Energy Facility reasonably requested by Buyer in order to verify amounts due hereunder and verify compliance with the terms and conditions of this Agreement; provided, however, that Seller shall not be required to incur any expense pursuant to this provision unless Buyer agrees to reimburse Seller for such expense.

(g) Progress Reports. Beginning on the last day of the first month following the Effective Date, and on the last day of each month thereafter until the Commercial Operations Date, Seller shall provide Buyer with a reasonably detailed written report on the progress of the development of the Solar Energy Facility during the preceding month. Seller shall be available to meet with Buyer at Seller’s offices or by telephone call as is reasonably requested by Buyer, to provide additional information or clarification of the written report on the progress of the development of the Solar Energy Facility.

(h) Environmental Attributes. Seller shall take all actions reasonably necessary to enable Buyer to receive all Environmental Attributes associated with the Solar Energy Facility; provided, however, that Seller shall not be required to incur any expense pursuant to this provision unless Buyer agrees to reimburse Seller for such expense.

#### 6.02 Rights and Obligations of Buyer.

(a) Designated Representative. Buyer shall designate one or more representatives (each a “Designated Representative”) to maintain communications with Seller’s Designated Representative(s), and to facilitate coordination between Buyer and Seller during the Contract Term.

(b) Solar Incentives. Buyer shall take all actions reasonably necessary to enable Seller to receive the full benefits of any Solar Incentives during the Contract Term; provided, however, that Buyer shall not be required to incur any expense pursuant to this provision unless Seller agrees to reimburse Buyer for such expense.

(c) Environmental Attributes. If any Environmental Attributes are conveyed directly to Seller, Seller shall immediately transfer such Environmental Attributes to Buyer.

6.03 Information and Data. Buyer shall supply any information or data required by Seller to comply with the requirements of any applicable Law or Authorization, or the requirements of any Governmental Authority, provided, however, that Buyer shall not be required to incur any expense pursuant to this provision unless Seller agrees to reimburse Buyer for such expense. Buyer shall provide Seller with any other information or data reasonably requested by Seller in order to verify amounts due hereunder and verify compliance with the terms and conditions of this Agreement.

6.04 Guaranteed Energy Production.

(a) In each consecutive twelve (12) month period, beginning on the anniversary of the first day of the month following the month in which the Commercial Operations Date occurs (each, a "Measurement Period"), if the Guaranteed Energy Production for such Measurement Period exceeds the sum of the actual Energy production, the amount of such excess shall be the "Energy Shortfall" for such Measurement Period. If the final Measurement Period is less than twelve (12) full months, the Guaranteed Energy Production for such last Measurement Period shall be prorated based on the number of days in such last Measurement Period, with appropriate adjustments for monthly variations in the level of Insolation at the Facility Site.

(b) If there is an Energy Shortfall for any Measurement Period, then within thirty (30) days following the delivery of Buyer's invoice as set forth in Section 6.03(c), Seller shall (i) pay to Buyer an amount equal to the product of (A) the Energy Shortfall, in MWh multiplied by (B) Buyer's Cost to Cover and (ii) deliver to Buyer all replacement Environmental Attributes.

(c) No later than thirty (30) days after the end of each Measurement Period, Seller shall deliver to Buyer Seller's computation, in reasonable detail, of the sum of the actual Energy production for such Measurement Period. Within sixty (60) days after receipt of Seller's computation, Buyer shall deliver to Seller an invoice showing in reasonable detail Buyer's computation of any amount due Buyer for liquidated damages pursuant to Section 6.04(b) based on Seller's computation of the Energy Shortfall, which calculation shall include the amount of Environmental Attributes associated with the Energy Shortfall. Seller, at its sole cost, must deliver to Buyer within thirty (30) days replacement Environmental Attributes having the same attributes as the Environmental Attributes generated by the Solar Energy Facility. Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. Any objections Seller may have regarding any disputed portion of an invoice shall be raised by Seller within ninety (90) days after receiving the invoice. All

Disputes regarding such invoices shall be subject to Section 10.04. Objections not made by Seller within the twelve (12) month period shall be deemed waived.

(d) Each Party agrees and acknowledges that: (i) the damages that Buyer would incur in the event of an Energy Shortfall during any Measurement Period would be difficult or impossible to predict with certainty, and (ii) the liquidated damages contemplated by this Section are a fair and reasonable calculation of such damages.

## **ARTICLE VII**

### **SALE, TRANSFER OR ASSIGNMENT**

#### 7.01 Generally.

(a) Except as provided in Section 7.02 or Section 7.03, neither Party may assign this Agreement without the express written consent of the other Party.

(b) Notwithstanding Section 7.01(a), (i) either Party may assign this Agreement to an Affiliate without the consent of the other Party, provided, however, that the assigning Party shall remain liable for all of its obligations under this Agreement unless and until the consent of the other Party is secured in accordance with Paragraph (a); (ii) Seller may assign this Agreement to any purchaser or transferee of all or a substantial portion of its assets without the consent of the other Party, provided that (A) the credit quality of the assignee is equal to or better than the credit quality of Seller as of the Effective Date; (B) the assignee has at least two (2) years' experience operating facilities similar to the Solar Energy Facility or has contracted with an operations and maintenance provider having such experience; and (C) the assignee expressly assumes and agrees to perform each and every obligation of Seller under this Agreement; and (iii) Buyer may assign this Agreement to any purchaser or transferee of all or substantially all of its assets without the consent of Seller, provided that (X) the assignee expressly assumes and agrees to perform each and every obligation of Buyer under this Agreement, and (Y) the assignee has at least an Investment Grade Credit Rating, or the obligations of the assignee are guaranteed by a guarantor that has at least an Investment Grade Credit Rating, pursuant to a guarantee agreement that is acceptable in form and substance to Seller.

7.02 Finance Assignments. Either Party may collaterally assign this Agreement to any Lender or any Lender's agent, without the consent of the other Party, in connection with the financing of the construction and operation of the Solar Energy Facility, including the assignment of a security interest in this Agreement to the United States Rural Utility Service ("RUS"), regardless of whether such financing is provided by such Lender directly or indirectly through one or more intermediaries (each such assignee being referred to herein as a "Collateral Agent"); provided, however, that no such assignment shall be effective for purposes of this Section until the assigning Party shall have notified the other Party of such assignment, which notice shall include the name and address of the Collateral Agent. After any assignment to the Administrator of RUS, the Administrator may, without the consent of the other Party, assign its interest in the Agreement to a third party. So long as any assignment of which the other Party has been notified, or any consolidation, modification or extension of any such assignment, shall remain outstanding, the following provisions shall apply:

(a) The assigning Party shall, upon serving upon the other Party any notice pursuant to this Agreement, also serve a copy of such notice upon each Collateral Agent at the address provided for in the notice referred to above. No notice issued by the assigning Party pursuant to this Agreement shall be deemed to have been duly given unless and until a copy thereof shall have been so served.

(b) A Party providing notice of any Event of Default by the other Party shall provide such notice to such Collateral Agent, and the notifying Party will accept a cure to an Event of Default of the other Party performed by such Collateral Agent, so long as the cure is accomplished within the time allowed in the Consent and Acknowledgement attached as Exhibit 5.

(c) The making of an assignment pursuant to this Section in and of itself shall not be deemed to constitute an assignment or transfer of this Agreement, nor shall any Collateral Agent, as such, be deemed to be an assignee or transferee of this Agreement so as to require such Collateral Agent, as such, to assume the performance of any of the terms or conditions on the part of the assigning Party to be performed hereunder.

(d) Upon request from the other Party, a Party will enter into a Consent and Acknowledgement with any Lender, in the form attached as Exhibit 5.

7.03 Assignment to Municipal Energy Agency of Nebraska. Buyer may assign this Agreement to the Municipal Energy Agency of Nebraska without consent of Seller provided that the Municipal Energy Agency of Nebraska expressly assumes and agrees to perform each and every obligation of Buyer under this Agreement.

## **ARTICLE VIII** **FORCE MAJEURE**

8.01 Force Majeure Defined. The term “Force Majeure” as used herein, shall mean any cause or causes not reasonably within the control and without the fault or negligence of the affected Party which wholly or partly prevents the performance of any of its obligations under this Agreement, including, without limitation by enumeration, acts of God, acts of the public enemy, acts of terrorism or threats thereof (or actions to prevent the same), pandemics, blockages, strikes or differences with workmen, civil disturbances, fires, explosions, storms, floods, landslides, washouts, labor and material shortages, boycotts, breakdowns of or damage to equipment of facilities and actions to prevent the same, interruptions to supply or delays in transportation, embargoes, inability to obtain or renew a necessary license, permit or approval, acts of military authorities, acts or failure to act on the part of local, state or federal agencies or regulatory bodies, court actions, bankruptcy court actions, arrests and restraints. Force Majeure does not include the inability of a Party to obtain financing, property, equipment or materials necessary to construct the Solar Energy Facility (except to the extent that the inability to obtain property, equipment or materials is itself due to Force Majeure as defined herein, suffered by Seller’s supplier), financial hardship or general economic or financial conditions. Force Majeure also does not include a covered event under Seller’s insurance unless Seller reasonably pursues all commercially-reasonable steps to recover pursuant to such insurance but is denied recovery thereunder.

8.02 Effect of Force Majeure. If either Party is rendered wholly or partly unable to perform its obligations under this Agreement or its performance is delayed because of Force Majeure, that Party shall be excused from whatever performance it is unable to perform or delayed in performing due to the Force Majeure to the extent so affected, provided that:

(a) The Party affected by such Force Majeure, as soon as reasonably practical after the commencement of such affect, gives the other Party prompt oral notice, followed by a written notice within forty-eight (48) hours after such oral notice, fully describing the particulars of the occurrence; provided that failure to provide notice in accordance with this Clause (a) shall not affect the ability of a Party to claim Force Majeure with respect to any period after such notice is actually provided.

(b) Such event, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such Party;

(c) The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and

(d) The Party whose performance is affected by such Force Majeure uses its commercially reasonable efforts to overcome and remedy its inability to perform as soon as possible.

8.03 Payment Obligations Not Excused. Notwithstanding anything in this Article to the contrary, no payment obligation arising under this Agreement prior to the date of an event of Force Majeure shall be excused by such event of Force Majeure.

8.04 Deadlines Extended. Whenever either Party is required to commence or complete any action within a specified period, such period shall be extended by an amount equal to the duration of any event of Force Majeure occurring or continuing during such period except as otherwise specifically provided in this Agreement; provided, however, that in no event shall a Force Majeure extend the Contract Term.

## **ARTICLE IX**

### **RISK OF LOSS AND INDEMNIFICATION**

9.01 Risk of Loss.

(a) Seller. As between Buyer and Seller, Seller shall be responsible for and shall bear the full risk of loss (i) with respect to any loss of or damage to any property located on Seller's side of the Delivery Point; and (ii) with respect to any personal injury or death, or loss of or damage to any other property arising out of the construction, ownership or leasing, operation or maintenance of any property of Seller or Seller's Associated Parties on Seller's side of the Delivery Point; provided, however, that Seller shall not be responsible for any loss, damage, or injury to the extent that such loss, damage, or injury arises out of the negligence or willful misconduct of Buyer or Buyer's Associated Parties.

(b) Buyer. As between Buyer and Seller, Buyer shall be responsible for and shall bear the full risk of loss (i) with respect to any loss of or damage to any property located on Buyer's side of the Delivery Point, and (ii) with respect to any personal injury or death, or loss of or damage to any other property arising out of the construction, ownership, operation or maintenance of any property of Buyer or Buyer's Associated Parties on Buyer's side of the Delivery Point, provided, however, that Buyer shall not be responsible for any loss, damage, or injury to the extent that such loss, damage, or injury arises out of the negligence or willful misconduct of Seller or Seller's Associated Parties.

#### 9.02 Indemnification.

(a) By Seller. Seller shall defend, indemnify and hold harmless Buyer and Buyer's Associated Parties against and from any Indemnifiable Cost arising out of any injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction of, property belonging to or leased by Buyer, Seller, or others, or arising out of an action or omission of Seller or any of Seller's Associated Parties, (i) resulting from or attributable to the negligence or willful misconduct of Seller or any of Seller's Associated Parties, (ii) resulting from or attributable to the breach of any of Seller's representations or warranties contained herein, or (iii) resulting from, arising out of, or in any way connected with the performance of, or failure to perform, Seller's obligations under this Agreement or the construction, ownership or leasing, operation or maintenance of the Solar Energy Facility, including the delivery of Energy to the Delivery Point, excepting, in each case, any Indemnifiable Cost to the extent it is caused by the negligence or willful misconduct of Buyer or Buyer's Associated Parties.

(b) By Buyer. Buyer shall defend, indemnify and hold harmless Seller and Seller's Associated Parties against and from any Indemnifiable Cost arising out of any injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction of, property belonging to or leased by Seller, Buyer, or others, or arising out of an action or omission of Buyer or any of Buyer's Associated Parties (i) resulting from or attributable to the negligence or willful misconduct of Buyer or any of Buyer's Associated Parties, (ii) resulting from or attributable to the breach of any of Buyer's representations or warranties contained herein, or (iii) resulting from, arising out of, or in any way connected with the performance of, or failure to perform, Buyer's obligations under this Agreement or the construction, ownership, operation or maintenance of any property of Buyer or Buyer's Associated Parties on Buyer's side of the Delivery Point, including the receipt of Energy at the Delivery Point, excepting in each case any Indemnifiable Cost to the extent it is caused by the negligence or willful misconduct of Seller or Seller's Associated Parties. Buyer shall protect, indemnify and hold harmless Seller from any claims of Buyer's creditors to any right, title or interest in the Solar Energy Facility.

(c) By Buyer and Seller. If, due to the joint, concurring, comparative or contributory negligence or willful misconduct of the Parties or their Associated Parties, either Party incurs any indemnifiable Cost arising out of any claim, such Indemnifiable Cost shall be allocated between Seller and Buyer in proportion to their respective degrees of negligence or willful misconduct contributing to such claim.

(d) Employees. Neither Party nor such Party's Associated Parties shall be deemed an employee of the other Party. Neither Party shall bring any claim against the other Party or any of such Party's Associated Parties with respect to any liability for compensation under any applicable state or federal Worker's Compensation Act, including Worker's Compensation and/or employer's liability claims of employees. Each Party shall be liable for all claims of the Party's own employees arising out of any provision of any Workers' Compensation Law.

(e) Notice and Participation.

(i) If any Party entitled to indemnification hereunder (the "Indemnified Party") intends to seek indemnification under this Article from the other Party (the "Indemnifying Party") with respect to any claim, the Indemnified Party shall give the Indemnifying Party notice of such claim. The Indemnifying Party shall have no liability under this Article for any claim for which such notice is not provided, but only to the extent that the failure to give such notice materially impairs the ability of the Indemnifying Party to respond to or to defend the claim.

(ii) The Indemnifying Party shall have the right to assume the defense of any claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party; provided, however, that if the defendants in any such proceeding include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel, at the Indemnifying Party's expense, to assert such legal defenses and to otherwise participate in the defense of such claim on behalf of such Indemnified Party, and the Indemnifying Party shall be responsible for the reasonable fees and expenses of such separate counsel.

(iii) Should any Indemnified Party be entitled to indemnification under this Section as a result of a claim by a third party, and should the Indemnifying Party fail to assume the defense of such claim within a reasonable period of time, the Indemnified Party may, at the expense of the Indemnifying Party, contest (or, with or without the prior consent of the Indemnifying Party), settle such claim.

(iv) Except to the extent expressly provided herein, no Indemnified Party shall settle any claim with respect to which it has sought or is entitled to seek indemnification pursuant to this Section unless (i) it has obtained the prior written consent of the Indemnifying Party, or (ii) the Indemnifying Party has failed to provide, within a reasonable period of time, security, in a form reasonably satisfactory to the Indemnified Party, securing the payment of any Indemnifiable Cost, up to the amount of the proposed settlement.

(v) Except to the extent expressly provided otherwise herein, no Indemnifying Party shall settle any claim with respect to which it may be liable to provide indemnification pursuant to this Section without the prior written consent of the Indemnified

Party, provided, however, that if the Indemnifying Party has reached a bona fide settlement agreement with the plaintiff(s) in any such proceeding, which settlement includes a full release of the Indemnified Party for any and all liability with respect to such claim, and the Indemnified Party does not consent to such settlement agreement, then the dollar amount specified in the settlement agreement, plus the Indemnified Party's reasonable out-of-pocket legal fees and other costs related to the defense of the claim paid or incurred prior to the date of such settlement agreement, shall act as an absolute maximum limit on the indemnification obligation of the Indemnifying Party with respect to the claim, or portion thereof, that is the subject of such settlement agreement.

(f) Net Amount. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Indemnifiable Cost, net of any insurance or other recovery actually received by the Indemnified Party.

(g) Assertion of claims. No claim of any kind shall be asserted against either Party or such Party's Associated Parties, whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action, unless it is filed in a court of competent jurisdiction, or a demand for arbitration is made, within the applicable statute of limitations period for such claim.

(h) No Release of Insurers. The provisions of this Article shall not be deemed or construed to release any insurer from its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

(i) Survival of Obligation. The duty to indemnify under this Article shall continue in full force and effect notwithstanding the expiration or termination of this Agreement, with respect to any Indemnifiable Cost arising out of an event or condition which occurred or existed prior to such expiration or termination.

9.03 Limitation of Liability. For breach of any provision of this Agreement for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy. Unless expressly herein provided, neither Party shall be liable for consequential, incidental, punitive exemplary or indirect damages, by statute, in tort or contract or otherwise (except to the extent that an Indemnifying Party is obligated under Section 9.02 to indemnify against third party claims for consequential, incidental, punitive, exemplary or indirect damages or lost profits or business interruption damages). The limitations herein imposed on remedies and the measure of damages is without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. EXCEPT AS SET FORTH IN THIS AGREEMENT, THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT.

**ARTICLE X**  
**EVENTS OF DEFAULT AND REMEDIES**

10.01 Events of Default by Buyer. The following shall each constitute an Event of Default by Buyer:

(a) Buyer breaches or fails to observe or perform any of Buyer's material obligations under this Agreement, unless within thirty (30) days after written notice from Seller specifying the nature of such breach or failure, Buyer either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot be completed within thirty (30) days, commences such cure within thirty (30) days and thereafter diligently pursues such cure.

(b) Buyer fails to make any undisputed payment due under the Agreement within ten (10) days after such payment is due and fails to cure such failure within twenty (20) days after written notice from Seller.

(c) Buyer carries out any Buyer transactions prohibited by Article VII without the written approval of Seller.

(d) Buyer commences a proceeding or case in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of Buyer, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of Buyer or of all or any substantial part of its assets, or (iii) similar relief in respect of Buyer under any Bankruptcy Law.

(e) A proceeding or case is commenced, without the application or consent of Buyer, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of Buyer, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of Buyer or of all or any substantial part of its assets, or (iii) similar relief in respect of Buyer under any Bankruptcy Law, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days from commencement of such proceeding or case or the date of such order, judgment or decree.

(f) The Interconnection Provider shall default in the performance of any material obligation under the Interconnection Agreement and such default shall continue beyond any applicable cure period, unless, within thirty (30) days after the expiration of such cure period, Seller is able to enter into a replacement interconnection agreement sufficient to permit delivery of Energy to Buyer.

10.02 Events of Default by Seller. The following shall each constitute an Event of Default by the Seller:

(a) Seller breaches or fails to observe or perform any of Seller's material obligations under this Agreement, unless within thirty (30) days after written notice from Buyer specifying the nature of such breach or failure, Seller either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot be completed

within thirty (30) days, commences such cure within thirty (30) days and thereafter diligently pursues such cure.

(b) Seller is dissolved, or Seller's existence is terminated or its business is discontinued, unless this Agreement is assigned to a successor pursuant to Article VII, or unless a majority of the owners of Seller elect to continue the business of Seller under a successor company, and such company notifies Buyer of its intention to assume Seller's obligations under this Agreement within thirty (30) days after such dissolution, termination or discontinuation.

(c) Seller fails to make any undisputed payment due under the Agreement within ten (10) days after such payment is due and fails to cure such failure within twenty (20) days after written notice from Buyer.

(d) Seller carries out any of the Seller transactions prohibited by Article VII without the written approval of Buyer.

(e) Seller fails to comply with the provisions of and perform in accordance with the Interconnection Agreement such that Seller is in Breach or Default (each as defined therein) of the Interconnection Agreement and such Breach or Default is not cured within any applicable cure periods.

10.03 Remedies. If an Event of Default with respect to a Party (the "Defaulting Party") shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have, in addition to all rights and remedies available at law and equity, the right (i) to designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts then owing between the Parties and terminate this Agreement, (ii) withhold any payments due to the Defaulting Party under this Agreement, and (iii) suspend performance. If Buyer is the Defaulting Party, Seller may collect the sum of amounts that would have been due to Seller had Seller delivered Energy at the Energy Price to Buyer in the amounts in Exhibit 2 through the end of the Contract Term. If Seller is the Defaulting Party, Buyer's remedy for Seller's failure to deliver Energy is Buyer's actual damages resulting from locating, procuring and purchasing a replacement Energy supply.

#### 10.04 Dispute Resolution.

(a) General Provision. Every dispute of any kind or nature between the Parties arising out of or in connection with this Agreement (each a "Dispute") shall be resolved in accordance with this Section, to the extent permitted by Law.

(b) Referral to Senior Management.

(i) Upon the occurrence of a Dispute, either Party may deliver a notice to the other Party requesting that the Dispute be referred to the senior management of the Parties. Any such notice shall include the names of the senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the thirty (30) day period following the date of the notice. Any such notice shall be delivered within a reasonable time after the Dispute arises, but in no event shall it be

delivered less than thirty (30) days before the institution of legal or equitable proceedings based on such Dispute would be barred by any applicable statute of limitations.

(ii) Within seven (7) Business Days after receipt of a notice pursuant to Paragraph (i), the other Party shall provide a notice to the requesting Party indicating the names of the Senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the remainder of the thirty (30) day period following the date of the notice.

(iii) During the remainder of the thirty (30) day period following delivery of the notice, the nominated members of the senior management of the Parties shall meet as frequently as possible, and shall attempt in good faith to resolve the Dispute. Unless the Parties agree otherwise in writing prior to the commencement of such thirty (30) day period, neither Party shall be entitled to invoke or rely on any admissions, settlement offers or other statements made during the course of such discussions in any subsequent arbitration or legal proceedings.

(c) Litigation. Any Dispute that has not been resolved exclusively within thirty (30) days after the delivery of a notice in accordance with Section 10.04(b)(iii) shall be resolved by litigation in the trial court for the State in which the Solar Energy Facility is located having jurisdiction over the Solar Energy Facility location.

(d) Continued Performance. During the conduct of Dispute resolution procedures pursuant to this Section, except during any litigation, (i) the Parties shall continue to perform their respective obligations under this Agreement, and (ii) neither Party shall exercise any other remedies hereunder arising by virtue of the matters in dispute; provided, however, that nothing in this Section shall be construed to prevent Seller from suspending performance if Buyer has not paid undisputed amounts due and owing to Seller under this Agreement.

10.05 Effect of Termination. No early termination of this Agreement under Section 10.03 following an Event of Default shall relieve the Defaulting Party of its liability and obligations hereunder, and the Non-Defaulting Party may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligations under this Agreement, and the rights given hereunder shall be in addition to all other remedies available to the Parties, either, at law, in equity, or otherwise, for the breach of this Agreement, provided, however, that any damages for the termination of this Agreement shall be as provided in Section 10.03.

## **ARTICLE XI** **INSURANCE**

11.01 Coverage and Amounts. Seller, and all contractors and subcontractors performing any services in connection with the construction, operation or maintenance of the Solar Energy Facility, shall obtain and maintain in force comprehensive general liability insurance, public liability coverage and property insurance for injury to persons and property, automobile liability insurance and workman's compensation insurance, all in amounts and under terms which are generally carried by owners, operators or maintainers of projects similar to the Solar Energy

Facility. If any insured Party reasonably determines that any such policy of insurance is no longer available at commercially reasonable rates, such insured Party may use its commercially reasonable efforts to obtain substitute insurance which is as nearly identical as possible to the policy of insurance which it is intended to replace. Seller shall notify Buyer of any such substitution at least fifteen (15) days before it takes effect.

11.02 Additional Insureds. The insurance policies other than the workman's compensation policy shall name Buyer as an additional insured. Before commencing any deliveries under this Agreement, Seller shall deliver to Buyer, and require its contractors, subcontractors and agents to deliver to Buyer, in accordance with this Article 11, an insurance certificate evidencing the required coverage, limits and additional insured provisions as required by this Agreement. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against Buyer, insurance coverage shall be primary and non-contributory, and provide 15 days advance written notice to Buyer prior to anniversary date of cancellation or any material change in coverage or condition. A copy of the cancellation clause endorsement as noted above shall be attached to the insurance certificate.

**ARTICLE XII**  
**MISCELLANEOUS**

12.01 Applicable Law. This Agreement is executed in accordance with and is intended to be construed and governed under the Laws of the State of Nebraska, excluding any Law related to conflict or choice of Law which would result in the application of any Law to this Agreement other than the Laws of the State of Nebraska. Venue for any disputes regarding this Agreement shall lie in the trial court for the county or judicial district in which the Solar Energy Facility is located, as appropriate under applicable Law.

12.02 Notice and Service. Any notice, request, consent, approval, confirmation, communication, or statement which is required or permitted under this Agreement, shall be in writing, except as otherwise provided, and shall be given or delivered by personal service, Federal Express or comparable overnight delivery service, addressed to the Party to be notified at the address(es) set forth in Exhibit 4. Notices shall be deemed to have been received, and shall be effective, upon receipt. Notices of changes of address(s) by either Party shall be made in writing no later than ten (10) Business Days prior to the effective date of such change.

12.03 Amendment. No amendment or modification of the terms of this Agreement shall be binding on either Buyer or Seller unless such amendment is reduced to writing and signed by both Parties.

12.04 Expenses. Except as specifically set forth in this Agreement, Buyer shall be responsible for Buyer's expenses related to the performance of its obligations under this Agreement, and Seller shall be responsible for Seller's expenses related to the performance of its obligations under this Agreement.

12.05 Taxes and Other Charges.

(a) Seller's Taxes. Seller shall be solely responsible for any Tax relating to the ownership or leasing, operation or maintenance of the Solar Energy Facility or its components or appurtenances, provided, Seller shall not be responsible for any sales, excise, gross receipts or other Tax, not measured by Seller's net income, imposed with respect to the sale or the purchase of Energy hereunder;

(b) Buyer's Taxes. Buyer shall be solely responsible for any Tax imposed with respect to the sale or the purchase of Energy. Seller shall be solely responsible for any Tax imposed with respect to the Solar Energy Facility or the Energy produced thereby which is not the responsibility of Seller under Section 12.05(a).

12.06 Maintenance of Records. Both Seller and Buyer shall keep a record of all invoices, receipts, charts, computer printouts, punchcards or magnetic tapes related to the volume or price of sales of Energy made under this Agreement. Such records shall be made available for inspection by either Party from time to time upon reasonable notice at the principal place of business of the non-requesting Party during regular business hours. All such materials, excluding Energy Price, volume and information required to be disclosed by Law, shall be deemed to be proprietary information, and shall be kept on record for a minimum of two (2) years from the date of their preparation.

12.07 No Partnership. Notwithstanding any provision of this Agreement, Seller and Buyer do not intend to create hereby any lease, joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

12.08 No Duty to Third Parties. Except as provided in Article VII, this Agreement is for the sole benefit of the Parties hereto, and nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a party to this Agreement. Except as specifically provided herein, no Person shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder, or both, except Buyer and Seller. Except as provided in Article VII, the Parties specifically disclaim any intent to create any rights in any Person as a third-party beneficiary to this Agreement or the services to be provided hereunder, or both.

12.09 Dedication. No undertaking by one Party to the other under this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Seller as an independent entity and not a public utility or public service company.

12.10 Information. Each Party shall make available to the other such other information relative to the Solar Energy Facility as may be reasonably required to carry out the terms of this Agreement.

12.11 Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12.12 Severability. If any provision of this Agreement shall be determined to be unenforceable, void or otherwise contrary to Law, or if any of the provisions, or portions or applications thereof, of this Agreement are held unenforceable or invalid by any court of competent jurisdiction, such condition shall in no manner operate to render any other provision of this Agreement unenforceable, invalid, void or contrary to Law, and this Agreement shall continue in force in accordance with the remaining terms and provisions hereof; provided, however, that Seller and Buyer shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement by replacing the provision that is unenforceable, invalid, void, or contrary to Law with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be unenforceable, invalid, void, or contrary to Law.

12.13 Intentionally Omitted.

12.14 Successors and Assigns. Except to the extent otherwise indicated herein, all the rights, benefits, duties, liabilities and obligations of the Parties hereto shall inure to the benefit of and be binding upon their respective successors and permitted assigns.

12.15 Integration. There are no understandings between the Parties as to the subject matter of this Agreement other than as set forth herein, and this Agreement represents the entire understanding between the Parties in relation to the subject matter hereof. This Agreement supersedes any and all previous agreements, arrangements or discussions between the Parties (whether written or oral) in respect of the subject matter hereof, all of which are hereby abrogated and withdrawn.

12.16 Survival. The applicable provisions of this Agreement shall continue in effect after the expiration of the Contract Term, to the extent necessary to provide for final billing and adjustment, and to make other appropriate settlements hereunder.

12.17 Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" and that Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

12.18 Physical Settlement Intended. The Parties acknowledge and agree that the primary intent of this Agreement is for physical settlement of the commodity to be purchased and sold hereunder (i.e., to transfer ownership of the commodity and not to transfer solely its price risk), and that any option or optionality under this Agreement (a) is incidental to the primary purpose for entering into the Agreement and (b) cannot be severed and marketed separately from the Agreement. It is the intent of the Parties that this Agreement is not a "swap," as such term is defined in the Commodity Exchange Act and the Commodity Futures Trading Commission regulations and interpretations issued thereunder (the "CFTC rules"), or that this Agreement is generally exempt from requirements of the CFTC rules under CFTC Rule 32.3 (the "Trade Option Exemption") except those rules related to reporting and recordkeeping

requirements, as applicable. Accordingly, each Party represents and warrants to the other as follows:

- (a) With respect to the commodity to be purchased and sold hereunder, it is a commercial market participant and a commercial entity as such terms are used in the CFTC rules, and it is a producer, processor, or commercial user of, or a merchant handling the commodity, and it is entering into this Agreement for purposes related to its business as such.
- (b) It is not registered or required to be registered under the CFTC rules as a swap dealer or a major swap participant.
- (c) It has entered into this Agreement in connection with the conduct of its regular business and it has the capacity or ability to regularly make or take delivery of the commodity to be purchased and sold hereunder.
- (d) With respect to the commodity to be purchased and sold hereunder, it intends to make or take physical delivery of the commodity.
- (e) With respect to any embedded volumetric optionality in this Agreement, such optionality is primarily intended, at the time that the parties enter into this Agreement, to address physical factors or regulatory requirements that reasonably influence demand for, or supply of, the commodity to be purchased and sold hereunder.
- (f) With respect to any embedded optionality or commodity option in this Agreement, such option is intended to be physically settled, so that, if exercised, the option would result in the sale of the commodity to be purchased or sold hereunder for immediate or deferred shipment or delivery.
- (g) The commodity to be purchased and sold hereunder is a nonfinancial commodity, and is also an exempt commodity or an agricultural commodity, as such terms are defined and interpreted in the CFTC rules.

12.19 Nondiscrimination Clause. In accordance with the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122, Seller agrees that neither it nor any of its subcontractors shall discriminate against any employee, or applicant for employment to be employed in the performance of this Agreement with respect to hire, tenure, terms, conditions or privileges of employment because of the race, color, religion, sex, disability or national origin of the employee or applicant.

12.20 Applicable Law. The Parties understand and agree that this Agreement and the operations hereunder are subject to all applicable laws, ordinances, orders, rules and regulations of any governmental entity, regional transmission organization, or Transmission Authority having or asserting jurisdiction (such as the Federal Energy Regulatory Commission (FERC), Southwest Power Pool, Midcontinent Independent System Operator, Western Area Power Administration), and the terms and conditions stated herein are subject to modifications resulting from changes in any such laws, ordinances, orders, rules or regulations. In addition, if the third party-owned transmission service provider providing network transmission integration service

for Buyer's load has not transferred functional control to a regional transmission organization or independent system operator, the Parties agree to work together in good faith to make necessary or desired changes to the terms and conditions of this Agreement to honor the intent of this Agreement in the event the such transmission service provider joins a regional transmission organization or independent system operator or otherwise transfers functional control to another entity. Notwithstanding the foregoing, no such changes shall affect or modify the Energy Price unless such change is set forth in an amendment to this Agreement and signed by authorized representatives of both Parties.

**[The Remainder of This Page Intentionally Blank]**

**IN WITNESS WHEREOF**, the Parties have caused the signatures of their authorized officers and their seals to be affixed as of the day and year first above written.

**BUYER:**

**CITY OF CRETE, NEBRASKA**

By: \_\_\_\_\_  
David A. Bauer, Mayor

**SELLER:**

**SE MUNICIPAL SOLAR, LLC**  
a Nebraska limited liability company

By: \_\_\_\_\_  
Eric G. Johnson, President

## EXHIBIT 1

### Parties, Description of the Solar Energy Facility, Additional Definitions, and Supplemental Information

The Effective Date of this Agreement shall be this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

The Parties to this Agreement are: City of Crete, Nebraska (“Buyer”), and SE Municipal Solar, LLC (“Seller”). Buyer is a political subdivision and municipal corporation duly organized and validly existing and in good standing under the Laws of the State of Nebraska. Seller is a limited liability company duly organized and validly existing under the Laws of the State of Nebraska.

The solar energy conversion facility Seller proposes to construct, own, operate and maintain for the purpose of producing electric energy for sale (the “Solar Energy Facility”) is a 1600 MW AC solar electric generating facility in Crete, Nebraska.

“Committed Capacity” shall mean 1950 kW DC. Committed Capacity shall not increase and shall not change more than two percent (2%) down without Buyer’s written agreement.

“Contract Term” shall mean the period commencing on the Effective Date and ending at 12:59:59 p.m. on the date which is twenty-five (25) years from the last day of the year after the year in which the Commercial Operations Date occurs, or such earlier date when this Agreement may be terminated in accordance with the terms hereof.

“Guaranteed Commercial Operations Date” shall mean December 31, 2024; provided, however, that the Guaranteed Commercial Operations Date shall be extended on a day-for-day basis, or such longer time as may be necessary under the circumstances, for any delay in achieving the Commercial Operations Date due to an Excused Delay.

"Guaranteed Energy Production" for any Measurement Period shall mean ninety percent (90%) of the Target Energy Production (as defined in Exhibit 2) for such Measurement Period.

“Interconnection Provider” shall mean City of Crete, Nebraska or any successor pursuant to the terms of the Interconnection Agreement.

“Distribution System” shall mean the electric system facilities which are leased, owned or operated by Buyer and which are rated at a voltage level of 2.4kV volts and above, but less than 35kV volts. The Distribution System facilities serving the City of Crete, Nebraska, are rated at 13,800Y/7970 volts.

The price for Energy and Environmental Attributes the Solar Energy Facility produces that is delivered by Seller to the Delivery Point, and for Lost Production, shall be Thirty-Nine Dollars and Ninety Cents per megawatt hour (\$39.90/MWh) (the “Energy Price”). The Energy Price shall be escalated by one-half of one percent (0.5%) on the first January 1 after the Commercial Operations Date occurs, and on each anniversary thereof during the Contract Term. The Energy Price shall be payable by Buyer monthly in arrears.

Energy delivered by Seller to Buyer shall be measured by a meter located at the Delivery Point (the “Delivery Meter”), and shall have the metering instrument transformer, which measures the output of the Solar Energy Facility, located on the secondary side of the step-up transformer for the Solar Energy Facility.

## EXHIBIT 2

### Target Energy Production

(The chart below will be updated after the Commercial Operations Date based on the final Committed Capacity of the System as set forth in Exhibit 1, provided that any adjustment that is not a pro rata adjustment shall require the agreement of the Parties.)

<u>Measurement Period</u>	<u>Target Energy Production (MWh per year)</u>
Year 1 & 2	332
Year 3 & 4	328
Year 5 & 6	323
Year 7 & 8	319
Year 9 & 10	314
Year 11 & 12	310
Year 13 & 14	306
Year 15 & 16	301
Year 17 & 18	297
Year 19 & 20	293
Year 21 & 22	289
Year 23 & 24	285
Year 25 & 26	281

**EXHIBIT 3**

**Form of Attestation of Energy Production**

Pursuant to Section 5.02(e) of the Solar Power Purchase Agreement (the “Agreement”), dated \_\_\_\_\_, 20\_\_\_\_ between the City of Crete, Nebraska (“Buyer”) and SE Municipal Solar, LLC (“Seller”), Seller hereby attests and certifies that the below listed solar Energy was produced by the Solar Energy Facility and delivered to the City of Crete, Nebraska distribution system on or about the date identified and that Seller has not transferred to any person other than \_\_\_\_\_ any of the Environmental Attributes associated with such Energy. Capitalized terms not herein defined have the meaning ascribed thereto in the Agreement.

Solar Energy Facility name and location: City of Crete Solar, Crete, Nebraska

Solar Energy Facility ID#: \_\_\_\_\_

Energy Source: Photovoltaic

Capacity (MW): 1.95

Commercial Operations Date: \_\_\_\_\_

Solar Generator Identification Number: \_\_\_\_\_

<u>Dates</u>	<u>MWh generated</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Seller further attests, warrants, and represents as follows:

- i) The information provided herein is true and correct; and
- ii) The SE Municipal Solar solar electric generating facility generated and delivered to the City of Crete Solar distribution system the solar Energy in the amount indicated as undifferentiated Energy.

**SE MUNICIPAL SOLAR, LLC**  
a Nebraska limited liability company

By: \_\_\_\_\_  
Eric G. Johnson, President

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

**EXHIBIT 4**

**Addresses for Delivery Notices and Billing**

Notices:

Any notices or demand under or required by this Agreement shall be in writing and shall be deemed properly given when (i) mailed by United States registered or certified mail, postage prepaid, return requested, addressed as follows:

If to Buyer: City of Crete  
Attention: Jerry Wilcox, Clerk/Treasurer  
243 East 13th Street PO Box 86  
Crete, NE 68333  
[jerry.wilcox@crete.ne.gov](mailto:jerry.wilcox@crete.ne.gov)

Copy to: City of Crete  
Attention: Kyle Manley, City Attorney  
243 East 13th Street P.O. Box 86  
Crete, NE 68333  
[kyle.manley@crete.ne.gov](mailto:kyle.manley@crete.ne.gov)

and \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Seller: SE Municipal Solar, LLC  
Attention: Michael Knapp  
1209 Harney St. #400  
Omaha, NE 68102  
[michael@sandhillsenergyco.com](mailto:michael@sandhillsenergyco.com)

Billing and Payments:

Buyer: e-mail per 4.03(b): [jerry.wilcox@crete.ne.gov](mailto:jerry.wilcox@crete.ne.gov)

\_\_\_\_\_  
Wire transfer per 4.04(a)(iv):  
\_\_\_\_\_

Seller: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT 5

### Form of Consent and Acknowledgement

#### CONSENT AND ACKNOWLEDGMENT

This Consent and Acknowledgment, dated as of \_\_\_\_\_, 20\_\_ (this “Acknowledgment”), is made by the City of Crete, organized and existing under the Laws of the State of Nebraska (the “Buyer”), for the benefit of SE Municipal Solar, LLC (the “Seller”), and \_\_\_\_\_, as collateral agent (together with its successors and assigns, the “Collateral Agent”) for the financing institutions providing loans and other financial accommodations with respect to the Systems (as defined below).

The Buyer and Seller have entered into the Solar Power Purchase Agreement specified on the attached Annex 1 (the “PPA”) with respect to the photovoltaic solar power system (the “System”) located at the site described in such Annex 1.

The Seller has collaterally assigned or intends to collaterally assign, and has granted or intends to grant a security interest in, the PPA to the Collateral Agent to secure the obligations of the Seller and its affiliates under the financing and participation agreement (and related agreements and instruments) between the financial institutions for which the Collateral Agent acts as agent, pursuant to which agreement (and related agreements and instruments) such financial institutions are providing financial accommodations to the Seller and such affiliates in connection with, inter alia, the System (the “Financing Documents”).

Capitalized terms used but not otherwise defined in this Acknowledgment have the meanings given to them in the PPA.

#### 1. Acknowledgment and Consent.

a) The Buyer acknowledges and consents to the collateral assignment by the Seller to the Collateral Agent of, and grant by the Seller to the Collateral Agent of a security interest in, all of Seller’s right, title and interest in, to and under the PPA for the System as stated in the Financing Documents.

b) The Buyer acknowledges that, during the continuance of an event of default under the Financing Documents (as notified to the Buyer by the Collateral Agent), the Collateral Agent will have the right to foreclose upon or otherwise acquire and succeed to all of the Seller’s right, title and interest in, to and under the PPA, including the right to continue to perform in place of the Seller, the right to require the Buyer to continue to perform under the PPA for the benefit of the Collateral Agent or its successors or assignees (as the new “Seller” under such PPA), to the extent those rights

are contained in the Financing Documents and the right to rely upon all representations, warranties, indemnities and agreements made by the Buyer under the PPA.

c) Until further written notice from the Collateral Agent to the Buyer, the Buyer agrees to pay any and all amounts payable to the Seller under the PPA, including without limitation payments for energy purchased under the PPA, payments of any indemnities, or termination payments that may at any time become payable under or in respect of the PPA, to the Collateral Agent, by remitting such payments to the account specified on the attached Schedule 1.

d) The Buyer accepts that the Collateral Agent is a “Financing Party” as defined in and for the purposes of the PPA.

2. Rights of Collateral Agent. Notwithstanding anything to the contrary in the PPA:

a) The Collateral Agent, as collateral assignee, shall be entitled to exercise, in the place and stead of the Seller, any and all rights and remedies of the Seller under the PPA in accordance with the terms thereof.

b) The Collateral Agent shall have the right, but not the obligation, to pay all sums due under the PPA and to perform any other act, duty or obligation required of the Seller thereunder or cause to be cured any default of the Seller thereunder provided the Collateral Agent does not take possession of the System. The Buyer acknowledges and agrees that the Collateral Agent has not assumed and does not have any obligation or liability under the PPA, and that the exercise by the Collateral Agent of its rights or remedies under the Financing Documents shall not constitute an assumption of Seller’s obligations under the PPA, except to the extent any such obligations are expressly assumed by the Collateral Agent or its designee pursuant to an instrument in writing unless the Collateral Agent takes possession of the System.

c) If the Buyer becomes entitled to terminate the PPA due to an uncured default thereunder by the Seller, the Buyer agrees not to terminate the PPA without first giving written notice of such uncured default to the Collateral Agent and giving the Collateral Agent the same cure period afforded to the Seller under the PPA, plus an additional period of thirty (30) days, to permit the Collateral Agent to cause such default to be cured. The Buyer understands that in order to cure certain defaults by Seller under the PPA the Collateral Agent may need to have possession of the System or related assets, and accordingly the Buyer agrees that if the Collateral Agent diligently seeks such possession, whether by foreclosure proceedings or a court action (such as, for example, seeking the appointment of a receiver of the Seller’s property), the Collateral Agent’s additional 30-day cure period shall be extended for 30 days more to obtain such possession.

d) The Buyer agrees that it will promptly notify the Collateral Agent of any breach or default by Seller under the PPA at the notice address for the Collateral Agent

listed on the attached Schedule 2 (or at such other address for notices as the Collateral Agent may specify in writing to the Buyer).

3. Confirmation. The Buyer confirms the following matters for the benefit of Seller and the Collateral Agent with respect to the System: [Note: If any statement below is not true at time of signing, Buyer will so state in the execution version and indicate the reason a statement is not true at such time.]

a) To the Buyer's knowledge, no Event of Default by the Seller exists under the PPA, and, to the Buyer's knowledge, no breach or default by the Seller has occurred thereunder that would, with the giving of notice or lapse of time, constitute an Event of Default by the Seller.

b) No Event of Default by the Buyer exists under the PPA, and no breach or default by the Buyer has occurred thereunder that would, with the giving of notice or lapse of time, constitute an Event of Default by the Buyer.

c) The PPA is in full force and effect and has not been amended since the date of that agreement, except as specifically stated in the attached Annex 1; and there are no other agreements or representations of any kind between the Buyer and Seller as to the subject matter of the PPA.

d) The Buyer agrees that the Solar Energy Facility has achieved Commercial Operation and that the Commercial Operations Date has occurred.

e) All conditions precedent for the required performance of its obligations under the PPA have either been met or have been waived, and that Buyer has not received any written termination notice from the Seller due to any conditions to Seller's obligations set forth in Section 3.02(b) of the PPA not having been satisfied nor waived.

No termination, amendment, variation, waiver or other supplement of any provision of this Acknowledgement shall be effective unless in writing and signed by the Buyer, the Seller and the Collateral Agent.

The Buyer hereby represents and warrants that it has the full power, authority and legal right to execute, deliver and perform this Acknowledgment.

This Acknowledgment has been duly executed and delivered by each of the Buyer and the Seller, and constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms.

IN WITNESS WHEREOF, each of the undersigned has duly executed this Acknowledgment as of the date first above written.

**BUYER:**

**SELLER:**

**CITY OF CRETE, NEBRASKA**

**SE MUNICIPAL SOLAR, LLC**  
a Nebraska limited liability company

By: \_\_\_\_\_  
David A. Bauer, Mayor

By: \_\_\_\_\_  
Eric G. Johnson, President

**ANNEX 1**  
**to Consent and Acknowledgment**

**Systems**

Power Purchase Agreement:

**SCHEDULE 1**  
**Account Information**

(To be provided by Seller prior to COD)

Bank:

Account Name:

Account #:

ABA #:

**SCHEDULE 2**  
**Addresses for Notices**

If to Collateral Agent:

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If to Seller:

SE Municipal Solar, LLC  
Attention: Michael Knapp  
1209 Harney St. #400  
Omaha, NE 68102  
[michael@sandhillsenergyco.com](mailto:michael@sandhillsenergyco.com)

If to the Buyer:

City of Crete  
Attention: Jerry Wilcox, Clerk/Treasurer  
243 East 13th Street PO Box 86  
Crete, NE 68333  
[jerry.wilcox@crete.ne.gov](mailto:jerry.wilcox@crete.ne.gov)

Copy to:

City of Crete  
Attention: Kyle Manley, City Attorney  
243 East 13th Street P.O. Box 86  
Crete, NE 68333  
[kyle.manley@crete.ne.gov](mailto:kyle.manley@crete.ne.gov)

and

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Crete, Nebraska

**GENERATOR INTERCONNECTION AGREEMENT**

**by and between**

**City of Crete, Nebraska (Utility)**

**and**

**SE Municipal Solar, LLC (Customer)**

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## GENERATOR INTERCONNECTION AGREEMENT

**THIS GENERATOR INTERCONNECTION AGREEMENT ("Agreement")** is entered into by and among SE MUNICIPAL SOLAR, LLC, a Nebraska limited liability company ("**Customer**") and City of Crete, Nebraska ("**Utility**"), each individually a "**Party**" and collectively the "**Parties**". This Agreement is effective as of the Effective Date as defined in that certain Solar Power Purchase Agreement entered into by the Parties on the \_\_\_\_ day of \_\_\_\_\_, 2022.

### RECITALS

**WHEREAS**, Utility owns, controls and operates electrical facilities and is engaged in the sale of electric power and energy; and

**WHEREAS**, Customer intends to own and operate a generating facility and desires to interconnect it with Utility's electrical system; and

**WHEREAS**, Customer and Utility intend to enter into a separate Power Purchase Agreement ("**PPA**") governing the purchase and sale of the electrical output of the Customer generating facility; and

**WHEREAS**, Customer and Utility enter into this Agreement for the purpose of stating the rights and obligations governing the interconnection of Customer's generating facility with Utility's electrical system.

**NOW, THEREFORE**, in consideration of and subject to the premises, conditions and mutual covenants contained herein, it is agreed:

### ARTICLE 1 DEFINITIONS

- 1.1 **Affiliate** shall mean, as to any Party, any Person (other than a natural person or a Tax Investor) that directly, or indirectly through one or more intermediaries, (i) controls, is controlled by, or is under common control with such Party, or (ii) is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, such Party or of which such Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests.
- 1.2 **Breach** shall mean the failure of a Party to perform or fulfill any material provision, obligation, or condition of this Agreement.
- 1.3 **Breaching Party** shall mean a Party that is in Breach of this Agreement.
- 1.4 **Business Day** shall mean a day on which the Federal Reserve Member Banks in Nebraska are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time in Omaha, Nebraska.
- 1.5 **Commercial Operations** shall mean the status of the Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.
- 1.6 **Commercial Operations Date** shall have the same meaning and be the same date as the "Commercial Operations Date", as defined under the PPA entered into between the

City of Crete, Nebraska and Customer, such term and related provisions of the PPA being incorporated herein by this reference.

- 1.7 Customer Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of this Agreement that are located between the Generating Facility and the Point of Interconnection, including any modification, addition or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Utility Electrical System.
- 1.8 Day** shall mean a calendar day.
- 1.9 Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with this Agreement.
- 1.10 Emergency Condition** shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of Utility, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Utility Electrical System or the transmission systems of others to which the Utility Electrical System is directly connected; or (iii) that, in the case of Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or the Customer Interconnection Facilities.
- 1.11 Force Majeure** shall mean any cause or causes not reasonably within the control and without the fault or negligence of the affected Party which wholly or partly prevents the performance of any of its obligations under this Agreement, including, without limitation by enumeration, acts of God, acts of the public enemy, acts of terrorism or threats thereof (or actions to prevent the same), blockades, strikes or differences with workmen, civil disturbances, fires, explosions, storms, floods, landslides, washouts, labor and material shortages, boycotts, breakdowns of or damage to equipment or facilities and actions to prevent the same, interruptions to supply or delays in transportation, embargoes, inability to obtain or renew a necessary license, permit or approval, acts of military authorities, acts of local, state or federal agencies or regulatory bodies, court actions, bankruptcy court actions, arrests and restraints. A Force Majeure event does not include acts of gross negligence or intentional wrongdoing by the Party claiming Force Majeure.
- 1.12 Generating Facility** shall mean Customer's solar generation facility capable of the production of electricity which is located in Saline County, Nebraska, as further identified in Appendix B, but shall not include the Customer Interconnection Facilities.
- 1.13 Good Utility Practice** shall mean any of the practices, methods, and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

- 1.14 **Governmental Authority** shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board or other governmental subdivision, legislature, rulemaking board, tribunal or other governmental authority having jurisdiction over the Parties, their respective facilities or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police or taxing authority or power; provided, however, that such term does not include Customer, Utility, or any Affiliate thereof.
- 1.15 **Interconnection Facilities or Interconnection** shall mean all facilities and equipment required to interconnect the Generating Facility with the Utility Electrical System at the Point of Interconnection, including any modification, additions, or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility Electrical System. The Interconnection Facilities consist of the Customer Interconnection Facilities and the Utility Interconnection Facilities.
- 1.16 **Interconnection, Delivery and Facilities Study** shall mean a study conducted by Utility to determine a list of facilities required to interconnect the Generating Facility with the Utility Electrical System.
- 1.17 **Interconnection Service** shall mean the service provided by Utility associated with interconnecting the Generating Facility to the Utility Electrical System and enabling it to receive electric energy and capacity from the Generating Facility at the Point of Interconnection.
- 1.18 **Loss** shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs and all other obligations by or to third parties, arising out of or resulting from another Party's performance or non-performance of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnifying Party.
- 1.19 **Metering Equipment** shall mean all Utility-owned metering equipment installed or to be installed at the Generating Facility and Interconnection Facilities pursuant to this Agreement at the metering point, including instrument transformers and kWh-meters.
- 1.20 **Notice of Dispute** shall have the meaning given in Section 13.5.
- 1.21 **Party or Parties** shall mean Customer and Utility, or any combination thereof.
- 1.22 **Point of Interconnection** shall mean the point, as set forth in Appendix A to this Agreement, where the Customer Interconnection Facilities connect to Utility Interconnection Facilities.
- 1.23 **Reasonable Efforts** shall mean, with respect to an action required to be made, attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.
- 1.24 **Synchronization** shall mean the coordination of events to operate a system in unison.
- 1.25 **System Protection Facilities** shall mean the equipment, including necessary protection and communications equipment, required to protect (1) the Utility Electrical System from

faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the Utility Electrical System or on other delivery systems or other generating systems to which the Utility Electrical System is directly connected.

- 1.26 **Trial Operation** shall mean the period during which Customer is engaged in on-site test operations and commissioning of the Generating Facility prior to Commercial Operations.
- 1.27 **Utility Electrical System** shall mean Utility's \_\_\_\_\_ kV system.
- 1.28 **Utility Interconnection Facilities** shall mean all Interconnection Facilities other than Customer Interconnection Facilities and Utility Interconnection Facilities, as identified in Appendix A.

## ARTICLE 2 EFFECTIVE DATE, TERM AND TERMINATION

- 2.1 **Effective Date.** This Agreement shall become effective upon execution by the Parties provided the PPA is also executed by the Parties.
- 2.2 **Term of Agreement.** Subject to Section 8.3, this Agreement shall remain in effect until terminated.
- 2.3 **Termination Procedures.**
  - 2.3.1 **Written Notice.** This Agreement may be terminated by (i) any of the Parties providing not less than twelve (12) months advance written notice to all Parties or (ii) by Utility after the Generating Facility permanently ceases Commercial Operations; provided, however, no termination shall be effective unless and until a termination of the PPA between Utility and Customer dated \_\_\_\_\_, 2022, or any successor power purchase agreement, is legally effective.
  - 2.3.2 **Default.** Any Party may terminate this Agreement in accordance with Section 8.3.
- 2.4 **Termination Costs.** If Customer elects to terminate this Agreement pursuant to Section 2.3.2 above, Customer shall pay all costs or expenses of removing any equipment on the site that is no longer required by Utility, as of the date of all Parties' receipt of such notice of termination, for construction of the facilities shown in Appendix A. In the event of such termination by Customer, Utility and Customer shall use Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination.
- 2.5 **Disconnection.** Upon termination of this Agreement, Customer and Utility will take all necessary and appropriate steps to physically disconnect the Generating Facility from the Utility Electrical System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from a non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for such costs under this Agreement.

- 2.6 **Survival.** This Agreement shall continue in effect for one year after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit each Party to have access to the lands owned or controlled by Customer or Utility pursuant to this Agreement or other applicable agreements to disconnect, remove or salvage their own facilities and equipment.

### **ARTICLE 3 SCOPE OF SERVICE**

- 3.1 **Scope of Agreement.** This Agreement shall govern the interconnection of Customer's generation facility to Utility's transmission or distribution facilities as more particularly described in Appendix A. In the event of any conflict between Appendix A and any other portion of this Agreement, Appendix A shall control.
- 3.2 **Provision of Service.** Commencing on the Commercial Operations Date and continuing so long as this Agreement remains in effect, Utility shall provide Interconnection Service for the Generating Facility at the Point of Interconnection up to 1.6 MW of electrical output, which is the amount of capacity studied in the Interconnection, Delivery and Facilities Study.
- 3.3 **Performance Standards.** Each Party shall perform all of its obligations under this Agreement in accordance with Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement or its compliance therewith. Utility shall timely cooperate with Customer with respect to all interconnection studies or other documents or agreements necessary for Customer to perform its obligations under this Agreement.

### **ARTICLE 4 TESTING AND INSPECTION**

- 4.1 **Pre-Commercial Operations Date Testing and Modifications.** Prior to the Commercial Operations Date, the Parties shall test Interconnection Facilities and Customer shall also test the Generating Facility to ensure safe and reliable operation. Each Party shall make any modifications to its facilities that are found necessary as a result of such testing. Utility shall bear the cost of all such testing and modifications, except any such testing and modifications that do not result from the interconnection of the Plant.
- 4.2 **Post-Commercial Operations Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of their facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Generating Facility with the Utility Electrical System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Parties' facilities, at the requesting Party's expense, as may be required in accordance with Good Utility Practice.

- 4.3 **Right to Observe Testing.** Each Party shall notify the other Parties ten (10) working days in advance of its performance of tests of its Interconnection Facilities. The other Parties have the right, at their own expense, to observe such testing.

## **ARTICLE 5 METERING**

- 5.1 **General.** Customer shall install Metering Equipment at the Point of Interconnection as indicated in Appendix A prior to any operation of the Generating Facility and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Generating Facility shall be measured at the Point of Interconnection. Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment that are incurred by Customer. Customer or its subcontractors shall install, calibrate and test revenue quality Metering Equipment in accordance with applicable Utility and ANSI standards. Nothing in this Section 5.1 shall be considered to affect the PPA, and in the event of any such conflict, the PPA shall control.

- 5.2 **Use of Metering Data.** The metered data may be telemetered to one or more locations designated by Customer or Utility at the requesting party's expense. Utility shall maintain as confidential all metered data, and any other data related to the performance of the Generating Facility, and it shall be a breach of this Agreement for Utility to disclose any such data to any third-party without Customer's written consent.

If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Customers expense, in order to provide accurate metering. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent (2%) from the measurement made by the standard meter used in the test, Customer shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Utility's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half (1/2) the time from the date of the last previous test of the Metering Equipment.

- 5.3 **Errors or Malfunction.** Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Parties. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.
- 5.4 **No Annexation.** Except as otherwise provided in writing, any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property.

## **ARTICLE 6 OPERATIONS AND MAINTENANCE**

- 6.1 **General.** Each Party shall comply with any Good Utility Practice and requirements with respect to operations of its respective facilities. Each Party shall provide to the other

Party all information that may reasonably be required by the other Party to comply with any Good Utility Practice.

- 6.2 **Customer Obligations.** Customer shall at its own expense operate, maintain and control the Generating Facility and the Customer Interconnection Facilities in a safe and reliable manner and in accordance with this Agreement.
- 6.3 **Utility Obligations.** Utility shall cause the Utility Electrical System to be operated, maintained and controlled in a safe and reliable manner in accordance with Good Utility Practice.
- 6.4 **Synchronization.** Consistent with Utility's and Customer's mutually acceptable procedures and applicable standards, Customer is responsible to achieve and continually maintain the proper Synchronization of the Generating Facility to the Utility Electrical System.

Prior to the initial Synchronization of the Generating Facility, each Party shall provide such specifications, drawings and other information pertaining to its Interconnection Facilities to the other Parties to allow the other Parties to review the same for purposes of assuring that each Party's facilities are adequate to meet the requirements for the Interconnection and that the facilities will perform in accordance with the terms and provisions of this Agreement. Additionally, in accordance with Article 4, the Parties shall conduct such tests as they deem necessary for their Interconnection Facilities, and each Party shall have the right to observe such tests conducted by the other Parties, for such assurance of adequacy and performance.

## 6.5 Outages and Interruptions.

- 6.5.1 **Outage Authority and Coordination.** A Party may, in accordance with Good Utility Practice, in coordination with the other Parties, remove from service any of their respective Interconnection Facilities that may impact the other Parties' facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to the Parties. In all circumstances, the Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.
- 6.5.2 **Outage Restoration.** If an outage on Customer's or Utility's Interconnection Facilities adversely affects the other Parties' operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information on the nature of the Emergency Condition, an estimated time of restoration and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable explaining the nature of the outage. Customer's facilities shall not cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by any applicable electric industry standard.

**6.5.3 System Protection Facilities.** Customer shall, in accordance with Good Utility Practice and Appendix A, at its expense, install, operate and maintain System Protection Facilities as a part of the Generating Facility or the Customer Interconnection Facilities. Utility shall install at Customer's expense the System Protection Facilities described in Appendix A.

**6.6 No Use of Interconnection Facilities by Third Parties.** The Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Generating Facility to the Utility Electrical System and shall be used for no other purpose.

**6.7 Access Rights.** Upon reasonable notice to and supervision by Customer or Utility of the other Parties, Customer or Utility shall furnish at no cost to the other Parties any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by Customer or Utility, their agents, or any Affiliate, which Customer or Utility, their agents, or any Affiliate may hold and legally be able to furnish and which are necessary to enable any Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Generating Facility with the Utility Electrical System; (ii) operate and maintain the Interconnection Facilities and the Utility Electrical System; and (iii) disconnect or remove any Party's facilities and equipment upon termination of this Agreement. In exercising such licenses, rights-of-way and easements, Customer and Utility shall not unreasonably disrupt or interfere with normal operation of any Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by Customer and provided to Utility.

Upon reasonable notice to and supervision by Utility, Utility shall grant to Customer, at no cost to Customer, access to lands granted under a contract or otherwise owned or controlled by Utility, as necessary to enable Customer to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Generating Facility with the Customer Interconnection Facilities, up to but excluding the Point of Interconnection, (ii) operate and maintain the Customer Interconnection Facilities, and (iii) disconnect or remove Customer's facilities and equipment upon the termination of this Agreement. In exercising such right of access, Customer shall not unreasonably disrupt or interfere with normal operation of Utility's or Utility's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by Utility and provided to Customer.

**6.8 Coordination.** Utility and Customer shall coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Generating Facility and the Interconnection Facilities.

## **ARTICLE 7 EMERGENCIES**

**7.1 Notice.** Utility shall notify Customer promptly when it becomes aware of an Emergency Condition that affects the Interconnection Facilities or the Utility Electrical System that may reasonably be expected to affect Customer's operation of the Generating Facility or the Customer Interconnection Facilities. Customer shall notify Utility promptly when it becomes aware of an Emergency Condition that affects the Generating Facility or the Customer Interconnection Facilities that may reasonably be expected to affect the Utility Electrical System or Interconnection Facilities. To the

extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of Customer's and Utility's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken.

- 7.2 Customer Authority.** Consistent with Good Utility Practice and this Agreement, Customer may take actions or inactions with regard to the Generating Facility or the Customer Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Generating Facility or the Customer Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Utility Electrical System and Utility Interconnection Facilities. Utility shall use Reasonable Efforts to assist Customer in such actions.
- 7.3 Utility Authority.** Utility may take whatever actions or inactions with regard to the Utility Electrical System it deems necessary during an Emergency Condition in order to (i) preserve public health and safety and comply with the law governing this Agreement, (ii) preserve the reliability of the Utility Electrical System or Utility Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.
- 7.4 Limited Liability.** No Party shall be liable to the other for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

## **ARTICLE 8 DEFAULT**

- 8.1 General.** Upon a Breach, a non-Breaching Party may give written notice of such Breach to a Breaching Party. Except as provided in Section 8.2, a Breaching Party shall have thirty (30) Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Days, a Breaching Party shall commence such cure within thirty (30) Days after notice and continuously use Reasonable Efforts to completion; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 8.2 Effect on Default.** No Party shall be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Parties in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall use Reasonable Efforts to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.
- 8.3 Right to Terminate.** If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, a non-Breaching Party shall have the right to declare a Default and terminate this Agreement by written notice

at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from a Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

## **ARTICLE 9 INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE**

- 9.1 Indemnity.** The Parties shall at all times indemnify, defend and hold the other Parties harmless from any and all damages, Losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees and all other obligations by or to third parties, arising out of or resulting from such Party's action or inactions on its obligations under this Agreement, except in cases of gross negligence or intentional wrongdoing by an indemnified Party.
- 9.2 Indemnity Procedures.** Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Section 9.1 may apply, the indemnified person shall notify the indemnifying Party of such fact. Any failure of or delay in such notification not exceeding one (1) year shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The indemnifying Party shall have the right to assume the defense of the tendered claim, action or proceeding with counsel designated by such indemnifying Party and reasonably satisfactory to the indemnified person. If the defendants in any such action include one or more indemnified persons and the indemnifying Party and if the indemnified person reasonably concludes that there may be legal defenses available to it and/or other indemnified persons which are different from or additional to those available to the indemnifying Party, the indemnified person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an indemnified person or indemnified persons having such differing or additional legal defenses.

The indemnified person shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the indemnifying Party. Notwithstanding the foregoing, the indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the indemnified person and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the indemnified person, or there exists a conflict or adversity of interest between the indemnified person and the indemnifying Party, in such event the indemnifying Party shall pay the reasonable expenses of the indemnified person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the indemnified person, which shall not be reasonably withheld, conditioned or delayed.

- 9.3 Consequential Damages.** In no event shall the Parties be liable under any provision of this Agreement for any Losses, damages, costs or expenses for any special, indirect, incidental, consequential or punitive damages, including, but not limited to, loss of profit

or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to any other Party under another agreement will not be considered to be special, indirect, incidental or consequential damages hereunder. All damages shall be net of any insurance proceeds received by the indemnified person.

- 9.4 Insurance.** Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in the state of Nebraska:
- 9.4.1** Employers' liability and workers' compensation insurance providing statutory benefits in accordance with the laws and regulations of the state of Nebraska.
  - 9.4.2** Commercial general liability insurance, including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of one million dollars (\$1,000,000) per occurrence/one million dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
  - 9.4.3** Comprehensive automobile liability insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of one million dollars (\$1,000,000) per occurrence for bodily injury, including death and property damage.
  - 9.4.4** Excess public liability insurance over and above the employers' liability commercial general liability and comprehensive automobile liability insurance coverage, with a minimum combined single limit of two million dollars (\$2,000,000) per occurrence/two million dollars (\$2,000,000) aggregate.
  - 9.4.5** The commercial general liability insurance, comprehensive automobile insurance and excess public liability insurance policies shall name the other Party, its respective parent, associated and Affiliate companies and its respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
  - 9.4.6** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to

each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

- 9.4.7** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies, if written on a claims first made basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 9.4.8** Within thirty (30) days of receiving a written request by the other Party, each Party shall provide to the requesting Party certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.
- 9.4.9** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Sections 9.4.1 through 9.4.8 to the extent it maintains a self-insurance program. Should a Party elect to self-insure to meet the minimum insurance requirements of Sections 9.4.1 through 9.4.8, that Party shall provide documentation that the self-insurance program meets the minimum insurance requirements of this Agreement.

## **ARTICLE 10 ASSIGNMENT**

- 10.1 Permitted Transactions.** Customer and any assignee, designee, mortgagee or successor of Customer (collectively "**Customer Assignee**") shall have the right, without Utility's prior consent or approval, at any time and from time to time, to assign, designate, pledge or encumber all or any part of its rights and obligations under this Agreement, provided that any such action by Customer shall not release Customer from its obligations under this Agreement, unless Customer and Customer Assignee expressly agree to such a release in writing, provided, however, that an assignment by Customer to an entity that Customer owns or controls shall not require or be subject to Utility's prior consent. Utility and any assignee, designee, mortgagee or successor of Utility (collectively "**Utility Assignee**") shall have the right, with Customer's prior written consent, which Customer shall not unreasonably withhold, at any time and from time to time, to assign all or any part of its rights and obligations under this Agreement, provided that any such action by Utility shall not release Utility from its obligations under this Agreement, unless Utility and Utility Assignee expressly agree to such a release in writing and Customer approves the release.

## **ARTICLE 11 INFORMATION ACCESS AND REPORTING**

- 11.1 Information Access.** Each Party (the "**disclosing Party**") shall make available to the other Parties information that is in the possession of the disclosing Party and is necessary in order for the other Parties to carry out their obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Section 11.1 and to enforce their rights under this Agreement.

- 11.2 Reporting of Non-Force Majeure Events.** Each Party (the "**notifying Party**") shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this article shall not entitle the Parties receiving such notification to allege a cause for anticipatory Breach of this Agreement.

**ARTICLE 12  
REPRESENTATIONS, WARRANTIES AND COVENANTS**

- 12.1 General.** Each Party makes the following representations, warranties and covenants:

**12.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed or incorporated, as applicable; that it is qualified to do business in the state of Nebraska and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

**12.1.2 Authority.** Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**12.1.3 No Conflict.** The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

**12.1.4 Consent and Approval.** Such Party has sought or obtained or, in accordance with this Agreement, will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by law.

**ARTICLE 13  
MISCELLANEOUS**

- 13.1 Binding Effect.** This Agreement and the rights and obligations hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

- 13.2 Governing Law.** The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of Nebraska, without regard to its conflicts of law principles.
- 13.3 Notices.** Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by any Party to the others and any instrument required or permitted to be tendered or delivered by any Party in writing to the others shall be effective when delivered and may be so given, tendered or delivered by recognized national courier, or by depositing the same with the United States Postal Service, with postage prepaid, for delivery by certified or registered mail, addressed to the applicable Party, or personally delivered to the other Parties, at the address set out in Appendix C, Addresses for Delivery of Notices and Billings.

Parties may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

- 13.4 Conflicts.** In the event of a conflict between the body of this Agreement and any attachments, appendices or exhibits hereto, the terms and provisions of the body of this Agreement shall prevail and be deemed the final intent of the Parties.
- 13.5 Disputes.** In the event a Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance, such Party shall provide the other Parties with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Days of the other Parties' receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures agreed to at that time. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.
- 13.6 Rules of Interpretation.** This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument, standard, rule or tariff means such agreement, document, instrument, standard, rule or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) unless expressly stated otherwise, reference to any article, section or appendix means such article of this Agreement, such section of this Agreement or such appendix to this Agreement, as the case may be; (5) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article or other provision hereof or thereof; (6) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (7) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

- 13.7 Entire Agreement.** This Agreement, including all appendices and schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, among the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.
- 13.8 No Third-Party Beneficiaries.** This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.
- 13.9 Subcontractors.** Each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.
- 13.10 Severability.** If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement.
- 13.11 Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.
- Any waiver at any time by any Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or Default of this Agreement for any reason by Customer shall not constitute a waiver of Customer's legal rights to obtain an interconnection from Utility. Any waiver of this Agreement shall, if requested, be provided in writing.
- 13.12 Multiple Counterparts.** This Agreement may be executed in three or more counterparts, each of which is deemed an original but all constitute one and the same instrument.
- 13.13 Amendment.** The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by the Parties.
- 13.14 Modification by the Parties.** The Parties may by mutual agreement amend the appendices to this Agreement by a written instrument duly executed by the Parties. Such amendment shall become effective and a part of this Agreement upon the completion of execution by all of the Parties.
- 13.15 No Partnership.** This Agreement does not create and shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement

or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

SIGNATURES ON FOLLOWING PAGE

**IN WITNESS WHEREOF**, the Parties have executed this Agreement in triplicate originals, each of which shall constitute and be an original effective Agreement among the Parties.

**CUSTOMER**

**SE MUNICIPAL SOLAR, LLC**  
a Nebraska limited liability company

By: \_\_\_\_\_  
Eric G. Johnson, President

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

**CITY OF CRETE, NEBRASKA**

By: \_\_\_\_\_  
David A. Bauer, Mayor

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

**ATTEST for UTILITY**

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

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

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

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

**APPENDIX A**  
**Electrical Plan**

Final electrical plan to be agreed upon by both parties and inserted at a later date before construction begins.

## **APPENDIX B Generating Facility Location and Layout**

The Generating Facility will be located in Crete, Nebraska. The Generating Facility will include structures and improvements and appurtenant wind turbine equipment necessary for a complete and operable wind power plant as designed. The Generating Facility may be modified during the design and construction phase and Customer shall notify Utility of any changes to the following Generating Facility description incorporated into the balance of plant construction contract or other contracts for the construction of the Generating Facility.

The Generating Facility will consist of:

1. A solar array with a total rated capacity of 1.6 MW AC (the “**Solar Array**”).
2. An electrical collection system connecting the Solar Array to the Customer Interconnection Facilities. The collection system is made up of underground collector cables and inverters linking the Solar Array in three separate circuits. The circuits are ultimately brought to the Point of Interconnection through circuit breakers, disconnect switches and grounding transformers.
3. Other ancillary or accessory structures or facilities as required.

**APPENDIX C**  
**Addresses for Delivery of Notices and Billings**

To Customer: SE Municipal Solar, LLC  
Attention: Michael Knapp  
1209 Harney St. #400  
Omaha, NE 68102  
[michael@sandhillsenergyco.com](mailto:michael@sandhillsenergyco.com)

Copy to:

Baird Holm LLP  
Attention: David Levy  
1700 Farnam Street, Suite 1500  
Omaha, Nebraska 68102  
Email: [dlevy@bairdholm.com](mailto:dlevy@bairdholm.com)  
Fax: (402) 344-0588

To Utility: City of Crete, Nebraska  
Attention: Kyle Manley, City Attorney  
243 East 13th Street P.O. Box 86  
Crete, NE 68333  
[kyle.manley@crete.ne.gov](mailto:kyle.manley@crete.ne.gov)

Copy to:

**CRETE, NEBRASKA**

**LEASE AND EASEMENT AGREEMENT  
FOR SOLAR ENERGY SYSTEM**

## LEASE AND EASEMENT AGREEMENT FOR SOLAR ENERGY SYSTEM

**This Lease and Easement Agreement for Solar Energy System** (this “**Lease**”) is entered into to be effective as of the date fully executed by all parties hereto (“**Effective Date**”) by and between the **City of Crete, Nebraska** (“**Lessor**”) and **SE Municipal Solar, LLC**, a Nebraska limited liability company (“**Lessee**”). Lessee and Lessor are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

### **BACKGROUND**

A. Lessor is the owner of fee title to that real property located in Saline County, Nebraska, described and identified in Exhibit “1-A” attached hereto and incorporated herein by this reference (“**Real Property**”).

B. Lessee desires to lease all or part of the Real Property (such leased portion being referred to as the “**Leased Premises**”) for the location and operations of solar energy generation and transmission and related facilities thereon (“**Solar Operations**”) and Lessor desires to lease the Leased Premises to Lessee for that use.

C. Lessor further desires to grant Lessee, and Lessee desires to accept from Lessor, various easements over, under and across the Leased Premises in relation to the Solar Operations.

**NOW THEREFORE**, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. **Grant of Lease.** Lessor does hereby grant to Lessee, and Lessee does hereby accept, a lease for exclusive use by Lessee of the Leased Premises, on the terms and conditions hereinafter set forth.

2. **Use of Leased Premises by Lessee.**

2.1 **Permitted Uses.** This Lease is for use of the Leased Premises for solar energy collection and conversion, for generation and transmission of electric power and for all reasonably related and incidental purposes and activities (collectively, “**Operations**”), in accordance with all of the terms of this Lease, with Lessee deriving all profit therefrom, and including, without limitation:

(a) conducting studies of solar radiation, solar energy, soils, and other meteorological and geotechnical data;

(b) constructing, reconstructing, erecting, installing, improving, replacing, relocating and removing from time to time, and maintaining, using, monitoring and operating, existing, additional or new (i) individual units or arrays of solar energy collection cells, panels, mirrors, lenses and related facilities necessary to harness sunlight for photovoltaic electric energy generation, including without limitation, existing and/or future technologies used or useful in connection with photovoltaic energy conversion and generation of electricity from sunlight, and associated support structure, braces, wiring,

plumbing, and related equipment (“**Solar Energy Facilities**”), (ii) electrical transmission and distribution facilities, including without limitation, overhead and underground transmission, distribution or collector lines, circuit breakers, meters, conduit, footings, towers, poles, cross-arms, guy lines, anchors, cabling and wires, (iii) overhead and underground control, communications and radio relay systems, (iv) interconnection and/or switching facilities and electric transformers and transformer pads, (v) energy storage facilities, (vi) meteorological towers and solar energy measurement equipment, (vii) control buildings, control boxes and computer monitoring hardware, (viii) utility installation, (ix) safety protection facilities, (x) maintenance yards, (xi) roads and erosion control facilities, (xii) signs and fences, and (xiii) other improvements, fixtures, facilities, machinery and equipment associated or connected with the generation, conversion, storage, switching, metering, step-up, step-down, transmission, distribution, conducting, wheeling, sale or other use or conveyance of electricity generated on the Leased Premises (all of the foregoing, including the Solar Energy Facilities, collectively the “**Improvements**”);

(c) subject to Section 3.1 and Section 20.2 herein, and only to the extent such rights are vested in Lessor as the owner of the Real Property, reasonably removing, trimming, pruning, topping or otherwise controlling the growth of any tree, shrub, plant or other vegetation; reasonably dismantling, demolishing, and removing any improvement, structure, embankment, impediment, berm, wall, fence or other object constructed subsequent to the Effective Date of this Lease, on or that intrudes (or upon maturity could intrude) into the Leased Premises that could obstruct, interfere with or impair the Improvements or the use of the Leased Premises intended by Lessee hereunder; and excavating, grading, leveling and otherwise modifying the land; and undertaking any other lawful activities, whether accomplished by Lessee or a third party authorized by Lessee, that are necessary, helpful, appropriate or convenient in connection with, incidental to or to accomplish any of the foregoing purposes. Notwithstanding the foregoing, if Lessee uses chemicals to control vegetation on an area of the Leased Premises that is close in proximity to a water source, Lessor may, upon written notice to Lessee, prohibit the use of certain chemicals that pose a risk of contaminating the water source.

## 2.2 Additional Uses. The Parties acknowledge and agree:

(a) that solar energy technologies are improving at a rapid rate and that it is probable that Lessee may (although Lessee shall not be required to) replace from time to time existing Solar Energy Facilities on the Leased Premises, entirely or in part, with newer model or design Solar Energy Facilities, in Lessee’s sole discretion and at Lessee’s sole cost and expense. Any such replacements undertaken by Lessee shall not act to modify or extend the Term of this Lease, or otherwise alter the rights and obligations of the Parties under this Lease.

(b) Lessor acknowledges and agrees that it is solely responsible for maintaining certified groundwater use on the Leased Premises. Lessee shall cooperate with Lessor's efforts to maintain such use. Lessor is not assigning any rights or interest in such certified groundwater use to the Lessee, and Lessor shall hold Lessee harmless from all of Lessor’s certified groundwater use on the Leased Premises.

2.3 Exclusive Use. Lessee shall have the sole and exclusive right to collect and convert all of the solar resources of, and to conduct Operations on, the Leased Premises. Lessor shall not grant any rights in the Leased Premises purporting to permit others to conduct Operations or any activity or use that may interfere with the Lessee's Operations on the Leased Premises in derogation of Lessee's sole and exclusive rights on the Leased Premises.

2.4 Leased Premises; Alteration of Boundaries. Prior to constructing any permanently-affixed Improvements, Lessee shall obtain a survey of the Real Property, or portion thereof for which Lessee desires to utilize as the Leased Premises, and shall provide Lessor with a copy of the same. Subject to alterations by Lessor as provided below, the boundaries provided on the survey shall thenceforth constitute the Leased Premises and shall automatically be incorporated herein as Exhibit "1-B", attached hereto. Any portions of the Real Property not included within the boundaries of the Leased Premises shown on the survey shall be released from the terms and obligations of this Lease. Upon Lessor's receipt of the survey, Lessor shall have thirty (30) days to identify, via written notice to Lessee, a specific area (or areas) of the Real Property for which Lessor wishes to exclude from the Leased Premises due to Lessor's utilization of the same for a use that existed prior to the full execution of this Lease. If Lessor provides such notice within the time period prescribed above, and subject to the limitations set forth below, Lessee shall plot the revised boundaries of the Leased Premises on the survey to reflect the exclusion of the of the area(s) identified by Lessor, and such revised boundaries shall thereafter constitute the Leased Premises and shall automatically be incorporated herein as Exhibit "1-B", attached hereto. Notwithstanding the foregoing, under no circumstances shall the areas excluded from the Real Property result in: (i) a reduction of the area of the Leased Premises to less than what is required for Lessee's intended Operations related to the generation of solar energy; (ii) a reduction in the Solar Energy Facilities' ability to generate solar energy; (iii) a material increase in the costs of Lessee's Operations; or (iv) an increase in the commercial risks or regulatory barriers related to Lessee's Operations. If Lessee determines, in its sole and reasonable discretion, that Lessor's requested exclusions is likely to result in one or more of the above prohibited factors, Lessee shall only be obligated to revise the boundaries of the Leased Premises to the extent that such revisions are unlikely to result in the occurrence of the above factors. Unless and until the boundaries of the Leased Premises are revised pursuant to the terms of this Section 2.4, all of the Real Property shall constitute the Leased Premises. If Lessor fails to timely request alteration of the boundaries of the Leased Premises pursuant to the terms of this Section 2.4, Lessor's rights with respect thereto shall be deemed waived. If the boundaries of the Leased Premises established under this Section 2.4 differ from those of the Real Property, the Parties shall execute and file an amendment to the memorandum of this Lease, as set forth in Section 38 of this Lease, within thirty (30) days after finalizing the alterations, at Lessee's sole expense.

2.5 Commercial Operations Date. Lessee intends to install Solar Power Facilities on the Leased Premises consisting of such facilities, equipment and related improvements permitted under this Lease. The precise location on the Leased Premises and timing of such installation shall be determined by Lessee. The date of commencement of Operations as measured by the date the Project is interconnected to the electric utility grid at its fully rated capacity and transmits energy to the grid for commercial sale (not including test energy) shall be referred to herein as the "**Commercial Operations Date**." The Commercial Operations Date shall have the same meaning and be the same date as the "Commercial Operations Date", as defined under the power purchase agreement (the "**PPA**") entered into between Lessor and Lessee, such term and related provisions of the PPA being incorporated herein by this reference.

2.6 Lessor's Access. If Lessee's Operations result in the complete inability of Lessor to access (from any existing public right-of-way or private roadway to which Lessor has legal access) a part of the Leased Premises or land owned by Lessor adjacent to the Leased Premises, Lessee shall at its sole cost and expense, provide Lessor reasonable access to such land in a timely manner. Lessee and Lessor agree to cooperate with each other in good faith to establish the location of any such access points, and under no circumstance shall Lessor's right of access diminish or interfere with Lessee's rights under this Lease

3. Grant of Easements. Lessor grants to Lessee, and Lessee accepts from Lessor, for the Term referenced in Section 4, the following easements over and across the Leased Premises in accordance with the terms and conditions of this Lease. The following easements are for the benefit of Lessee and Lessee's agents, contractors, employees and assigns; are located on the Leased Premises; and are collectively referred to as the "Easements".

3.1 Sun Non-Obstruction Easement. Lessor grants Lessee an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed sunlight over and across the Leased Premises; provided such easement shall only apply to the Real Property and conditions thereon, and not adjacent parcels that Lessor does not legally own or control. Lessor shall not engage in any activity on the Leased Premises or any other neighboring property owned by Lessor that interferes with the sunlight direction over any portion of Leased Premises; cause a decrease in the output or efficiency of any Solar Energy Facilities; or otherwise materially interfere with Lessee's operation of the Project or exercise of any rights granted in this Lease (collectively "Interference"). Normal farm operations on neighboring properties that do not obstruct sunlight on a continuous basis shall not constitute Interference. Existing man-made improvements on the Leased Premises or on neighboring or adjoining properties owned by Lessor have been reviewed by Lessee prior to the Effective Date and the Parties agree that such improvements do not constitute Interference. Lessor retains the right to remove and replace any of such improvements if the replacement does not change the obstruction of sunlight caused by the existing improvements.

3.2 Effects Easement. To the extent permitted by law and within Lessor's rights and control as owner of the Real Property, Lessor grants to Lessee an easement over the Leased Premises for visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Project located on the Leased Premises.

3.3 Access Easement. Lessor grants to Lessee an easement for ingress to and egress from the Solar Energy Facilities over and across the Leased Premises by means of any existing roads and lanes thereon, and by such other route or routes as Lessee may construct on the Leased Premises from time to time, for the benefit of and for purposes incidental to Operations on the Leased Premises and to the Improvements.

3.4 Transmission Easement. Subject to Lessee's compliance with all zoning and permitting requirements, Lessor grants Lessee an easement for the right to (i) install and maintain on the Leased Premises transmission lines and facilities, both overhead and underground, which carry electricity to and/or from lands other than the Leased Premises, and (ii) install and maintain on the Leased Premises

communication lines and facilities, both overhead and underground, which carry communications to and/or from lands other than the Leased Premises.

The Improvements and Lessee's uses of the Leased Premises permitted under Section 2 and Section 3 of this Lease are hereinafter sometimes referred to as the "**Project**."

4. **Lease and Easement Term.**

4.1 **Development Term.** The initial period of this Lease, during which Lessee shall conduct development and construction activities shall commence on the Effective Date and shall continue until the Commercial Operations Date, unless sooner terminated in accordance with the provisions hereof, and subject to extension based on Force Majeure ("**Development Term**"). For purposes of this Lease, "**Force Majeure**" means: fire, earthquake, flood, tornado or other acts of God and natural disasters; strikes or labor disputes; war, civil strife or other violence; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency that goes into effect after the Effective Date and materially alters the Operations, or any other act or condition beyond the reasonable control of a Party.

4.2 **Operations Term.** The second period of this Lease, if any, during which Lessee may complete development and shall conduct Solar Operations, shall commence upon the expiration of the Development Term and shall continue for a period of twenty five (25) years ("**Operations Term**") unless sooner terminated or extended in accordance with the provisions hereof. Lessee shall have the exclusive right to extend the Operations Term of this Lease for two (2) consecutive terms of five (5) years each in accordance with the terms and provisions of this Lease (singularly, the "**Extended Operations Term**" and collectively, the "**Extended Operations Terms**") by providing written notice to Lessor of Lessee's intent to extend the Operations Term at least one hundred eighty (180) days prior to the end of the initial Operations Term; provided that Lessee shall only have the right to extend the Operations Term, as provided above, if the Improvements remain operational with respect to photovoltaic energy conversion and generation of electricity from sunlight, at the time of such election(s). Each Extended Operations Term shall begin on the expiration date of the initial Operations Term or previous Extended Operations Term, as the case may be. The Development Term, the Operations Term, and the Extended Operations Terms (if applicable) are collectively referred to herein as the "**Term**". Each one year period commencing on the Effective Date (hereinafter defined) and on each anniversary of the Effective Date during the Term shall be referred to herein as a "Lease Year".

4.3 **Limitations on Term.** Notwithstanding anything to the contrary in this Lease, in the event the PPA is terminated due solely to Lessee's uncured and uncontested default thereunder, the Term of this Lease shall end automatically on the date of the PPA's termination. Further, notwithstanding anything to the contrary in the Lease, in no event shall the Term of this Lease be longer than the longest period permitted by applicable law; accordingly, Lessor and Lessee agree that with respect to the time limitations set forth in Nebraska Revised Statute section 66-912.01, the length of the Development Term, the Operations Term, and the Extended Operations Terms shall each be treated and measured independent of each other; it being the intent of the Parties that the Development Term, the Operations Term, and the Extended Operations Terms are in compliance with the prescribed statutory time limitations for a "solar agreement" as set forth in section 66-912.01.

## 5. Ownership and Operation of the Improvements.

5.1 Title. Title to the Improvements has been and is reserved to Lessee and remains the sole property of Lessee. Lessee may add or remove all or any portion of the Improvements at any time during the Term, irrespective of the manner or method of attachment of the same to the Leased Premises, provided same is accomplished in accordance with applicable laws. During the Term, Lessor shall have no ownership or other interest in any component of the Improvements or any tax credits attributable to the Improvements or the electric energy, capacity or other generator-based products produced therefrom, whether in effect as of the Effective Date or as may come into effect in the future. For the avoidance of doubt, Lessee's right to benefit from any such tax credit relating to Lessee's Improvements, existing or in the future, shall be superior to Lessor's. Notwithstanding, any terms to the contrary in the PPA regarding ownership and/or entitlements with respect to the foregoing shall supersede and control while the PPA is in effect. Additionally, any such entitlements which, by law, are required to be passed through to the end users of the electric energy generated by the Project shall be excluded from the foregoing and be the property of Lessor while the PPA is in effect. If, under future laws, Lessee or any other holder of a leasehold interest in this Lease becomes ineligible for any tax credits resulting from the operation of the Improvements or the solar energy generated therefrom, Lessor shall use commercially reasonable efforts to assist Lessee in the amendment of this Lease or replacement of this Lease with a different instrument acceptable to Lessor, in Lessor's reasonable discretion (which discretion shall include but not be limited to Lessor's ability to obtain the approval of any lender of Lessor with a security interest in the Leased Premises), so as to convert Lessee's interest in the Leased Premises to a substantially similar interest that makes Lessee or any other holder of a leasehold interest in this Lease eligible for such tax credits; *provided, however*, that such Lease amendment or replacement instrument does not: (a) directly or indirectly increase Lessor's obligations identified in this Lease; (b) decrease the value of the Leased Premises; (c) decrease Lessor's rights under this Lease; (d) limit Lessor's ability to obtain financing in the future for the Leased Premises upon terms that are reasonably acceptable to Lessor; (e) increase the amount of Lessor's real property taxes; (f) otherwise decrease the value of the benefits received by Lessor under this Lease; and/or (g) decrease the value of Lessor's reversionary interest in the Leased Premises following the expiration of the Term, as amended, or at the end of the term of the replacement instrument. Lessee shall reimburse Lessor for all reasonable and documented out-of-pocket expenses up to Three Thousand Dollars (\$3,000.00) incurred by Lessor in assisting Lessee in obtaining the Lease amendment or replacement instrument, including, but not limited to, attorneys' fees. For purposes of this Section 5.1 only, the term "Lessee" shall include all direct and indirect owners and affiliates of Lessee. Notwithstanding the terms of this Section 5.1, the Parties acknowledge that Lessor may be entitled to certain other interests and attributes of the Project, as may be set forth in the PPA, or such other agreements concerning the Project (the PPA and such other agreements collectively being referred to herein as the "Project Agreements"), entered into between Lessor and Lessee. In accordance therewith, this Section 5.1 shall not be construed to prohibit, limit, cancel or reduce Lessor's rights and entitlements under the Project Agreements; provided the same does not conflict with or diminish Lessee's rights as to the ownership of the Improvements and tax credits under this Section 5.1, unless agreed to by Lessee in writing.

5.2 Operation of Improvements. The manner of operation of the Improvements, including, but not limited to, decisions on when to conduct maintenance, is within the sole discretion of Lessee. Notwithstanding the foregoing, Lessee at all times and at its sole cost and expense shall ensure that the Leased Premises and the Improvements are maintained and operated in accordance with prudent

industry practices in place from time to time and in compliance with all applicable laws, governmental authorities, insurance underwriters, mortgages, deeds of trust, and covenants, conditions, and restrictions pertaining to the Leased Premises and the Improvements. During the construction and operation of the Improvements, Lessee shall take reasonably prudent measures to control and mitigate soil erosion on the Leased Premises.

6. **Permits and Governmental Approvals.** Lessee shall be responsible for obtaining at its sole cost and expense from any governmental agency or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights that are necessary in connection with the Project or the Operations; and Lessor shall, upon Lessee's request, execute, and, if appropriate, cause to be acknowledged and recorded, any application, document or instrument (including any variance, encroachment agreement or setback waiver) that is reasonably requested by Lessee in connection therewith. Such documents shall be in the form required by state or local government(s). Lessor shall cooperate with Lessee as necessary to obtain any governmental approvals related to use of Leased Premises for the purposes stated in this Lease at no cost or expense to Lessor. Lessee shall reimburse Lessor for its out-of-pocket expenses incurred in connection with such cooperation within ten (10) days after Lessee's receipt of a written request for such payment.

7. **No Rent.** Except as otherwise explicitly set forth in this Lease or the PPA, Lessee shall have no obligations with respect to the payment of rent or other amounts to Lessor in exchange for Lessee's use and/or occupancy of the Leased Premises as provided under this Lease. The Parties acknowledge and agree that this Lease is entered into in consideration of the benefits to the Parties derived from the Project, as more specifically set forth in the PPA, the receipt and sufficiency of which is hereby acknowledged by the Parties.

8. **Payment of Taxes.** Lessee shall pay any and all general real property taxes or personal property taxes levied on the Leased Premises and the Improvements that are directly attributable to the Operations and any solar energy conversion equipment installed by Lessee on the Leased Premises, including any increases in the ad valorem property taxes levied against the Leased Premises that are assessed for the period from and after the Effective Date until the end of the Term hereof and are directly attributable to Improvements installed by Lessee and the change in Property's use prior to the Effective Date; provided, however, such obligation shall not include any recaptured taxes attributable to any period prior to the Effective Date or any interest or penalties thereon ("**Lessee's Taxes**"). Such Lessee's Taxes shall include any increase in taxes (or decrease in state property tax credits) due to: (i) a change in zoning classification of the Leased Premises or any other portion of the Lessor's real estate as a result of the Lessee's operations; (ii) a change in the classification of the Leased Premises or any other portion of the Lessor's real estate as agricultural or horticultural land for state property tax purposes; and (3) the loss or partial loss of any municipal or governmental exemption to state property taxes due to the Lease of the Leased Premises for commercial operations. Lessee's responsibility for payment of taxes shall apply even if the Improvements, or a portion thereof, become subject to a nameplate capacity tax pursuant to Nebraska Revised Statute section 77-6203, as amended. Lessee shall have the right, at its sole expense, to appeal or contest any such increase it could be responsible to pay under this Lease and to compromise and settle the same, and Lessor shall execute such petitions and agreements and otherwise cooperate with Lessee to the extent reasonably necessary for Lessee to do so. Lessor shall deliver to Lessee copies of all real property tax bills within thirty (30) days after receipt of the bill by Lessor from the taxing authority and Lessee shall

pay Lessee's Taxes on or before the date payment is delinquent. Lessee shall be responsible for any penalties and/or interest that may be due on the Lessee's Taxes as a result of the failure of Lessee to timely make such payments. If the Leased Premises are currently eligible, or become eligible, for an exemption from property taxes under applicable law, Lessor agrees that it will take reasonable actions to maintain, renew or obtain such exempt status, if possible to do so. Any costs to do so that exceed the normal and customary costs of the same (to Lessor) if the Project was not located on the Leased Premises, shall be the responsibility of Lessee.

9. **Utilities.** Lessee shall be solely responsible for obtaining and paying for all utilities needed or used by Lessee on the Leased Premises, including any costs associated with establishing utility service. Lessor will not be liable for damages for any interruption in the availability of any utility or service. Such unavailability will not constitute an eviction or a disturbance of Lessee's use and possession of the Leased Premises or relieve Lessee from performing any of Lessee's obligations under this Lease. Lessor shall use commercially reasonable efforts to cooperate with Lessee in Lessee's efforts to obtain utility service to and from the Leased Premises.

10. **Liens.** Lessor and Lessee shall keep the other's interest in the Leased Premises free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies and equipment furnished in connection with Lessor's or Lessee's (as applicable) ownership or use of the Leased Premises, subject to Lessor's and Lessee's (as applicable) right to contest such liens and claims. If Lessor or Lessee (as applicable) wishes to contest any such liens or claims, such Party shall, within forty-five (45) days after it receives notice of such lien or claim, provide a bond or other security as the other Party may reasonably request, or remove any such liens from the Leased Premises pursuant to applicable law.

11. **Maintenance of Leased Premises; Liability Waiver.**

11.1 **Maintenance.** Throughout the term of this Lease, Lessee shall, at Lessee's sole cost and expense, maintain the Improvements and all of the Leased Premises in good and clean condition and in accordance with all applicable laws, rules, ordinances, orders, and regulations of all governmental agencies, including the orderly maintenance and upkeep of all vegetation, grass, and shrubs under the Improvements. Lessee shall not unreasonably clutter the Leased Premises and shall collect and dispose of any and all of Lessee's refuse and trash. If Lessor or Lessee discovers noxious weeds on the Leased Premises during the Term or receives notice from the Saline County weed authority/superintendent that noxious weeds are present on the Leased Premises, Lessee will undertake all reasonable measures to control such weeds and comply with all directives of the Saline County weed authority/superintendent.

11.2 **Failure to Comply.** If Lessee fails to comply with any obligation of Lessee under this Section 11, after Lessor has given Lessee at least forty-five (45) days prior written notice of such failure (except in event of emergency need for immediate action), Lessor shall have the right, in addition to remedies under paragraph 18 below, but not the obligation to take such measures to correct the noticed failure as Lessor deems necessary, in its reasonable discretion, and charge the reasonable cost and expense thereof to Lessee within forty-five (45) days.

12. **Security; Lessor's Access.** All security measures reasonably necessary to protect against damage or destruction of Lessee's Improvements, or injury or damage to persons or property on the Leased Premises, or the Operations, shall be provided by Lessee on the Leased Premises, including, if reasonably necessary, warning signs, closed and locked gates, and other measures appropriate and reasonable. Lessor may access any part of the Leased Premises that is within Lessee's secured areas for the purpose of inspection of activities thereon upon twenty-four (24) hours' notice to Lessee, except in case of emergency, when no advance notice shall be required, provided that such access shall comply with Lessee's safety requirements and shall not in any manner interfere with Lessee's Operations nor violate applicable laws or governmental regulations.

13. **Insurance.** At all times during which Lessee is conducting any activities on the Leased Premises, and at all times during the Term of this Lease, Lessee shall, at its own cost and expense, obtain and maintain in effect coverage limits attributable to the Leased Premises under (a) commercial general liability insurance, with bodily injury and property damage coverage of at least One Million Dollars (\$1,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate, (b) workers' compensation or employers' liability insurance in the amount required by Nebraska law and (c) automobile liability insurance of at least One Million Dollars (\$1,000,000) per accident. Lessor shall be provided with additional insured status on all policies of such insurance, excluding those for workers' compensation or employers' liability. Lessee shall provide to Lessor a certificate evidencing such coverage. The foregoing requirements may be satisfied by combination of general liability and umbrella/excess liability policies. The insurance provided by Lessee shall be primary and non-contributing for Lessee's activities on the Leased Premises with respect to Lessor's insurance.

14. **Lessor's Representations, Warranties and Covenants.** In addition to all other representations, warranties or covenants set forth in this Lease, express or implied, Lessor hereby represents, warrants and covenants to Lessee as follows:

14.1 **Lessor's Authority.** Lessor is the sole owner of the Leased Premises and has the unrestricted right and authority to execute this Lease and to grant to Lessee the rights granted hereunder. Each person signing this Lease on behalf of Lessor is authorized to do so, and all persons having any ownership or possessory interest in the Leased Premises are signing this Lease as Lessor. When signed, this Lease constitutes a valid and binding agreement enforceable against Lessor in accordance with its terms. No consent or other approval, authorization or action by, or filing with, any person is required to be made or obtained by such party for Lessor's lawful execution, delivery and performance of this Lease.

14.2 **Liens and Tenants.** To the best of Lessor's actual knowledge, there are no liens, encumbrances, leases, fractional interests, mineral rights or oil and gas rights, or other exceptions to Lessor's fee title ownership of the Leased Premises or otherwise burdening the surface estate of Lessor in the Leased Premises which would prevent or inhibit Lessee's use and occupancy of the Leased Premises as contemplated under this Lease. Lessor has not received any notice (orally or in writing) from any third-party of any adverse claim or encumbrance burdening the Leased Premises. There are no tenants on the Leased Premises or leases encumbering the Leased Premises as of the Effective Date. If applicable, Lessor will cause Lessor's tenant(s) under such leases to vacate the Leased Premises as of the Effective Date to allow for Lessee's exclusive use and quiet enjoyment thereof, without liability to Lessee.

14.3 No Interference. On or after the Effective Date, Lessor shall not grant any rights to any person or entity, which would, currently or in the future, impede or interfere with: (a) Lessee's surface access to the Project and the siting, permitting, construction, installation, maintenance, operation, replacement, or removal of the Project; (b) the flow of solar radiation, or direction of exposure to the sun over the Leased Premises; or (c) the undertaking of any other activities of Lessee permitted under this Lease. Provided, however, the foregoing provision shall not apply to any utility easement that Lessor is required to execute pursuant to applicable law. If a question exists as to whether a potential grant of rights by Lessor would or would not interfere with Lessee's rights in the manner prohibited hereunder, Lessor may submit such question to Lessee in writing. Within sixty (60) days after Lessee's receipt of any such written inquiry from Lessor, Lessee shall respond to Lessor in a writing providing either Lessee's consent to or denial of the potential grant of rights. Any denial shall be based upon Lessee's receipt of an opinion from a qualified third-party engineer that the proposed grant of rights could interfere with the rights of Lessee in the manner(s) prohibited hereunder.

14.4 Title Review and Cooperation. Lessor, at no cost to Lessor, shall cooperate with Lessee to obtain non-disturbance, subordination and other title curative agreements as reasonably requested by Lessee from any person with a lien, encumbrance, mortgage, lease or other exception to Lessor's fee title to the Leased Premises to the extent necessary to eliminate any actual or potential interference by any such person with any rights granted to Lessee under this Lease. Lessor shall also provide Lessee with any further assurances and shall execute any truthfully accurate estoppel certificates, consents to assignments or additional documents that may be reasonably necessary for recording purposes or otherwise reasonably requested by Lessee.

14.5 Requirements of Governmental Agencies/Lenders. During the Term, Lessor, at no cost to Lessor, shall use commercially reasonable efforts to cooperate with Lessee in complying with or obtaining any land use permits and approvals, tax-incentive or tax-abatement program approvals, building permits, environmental impact reviews or any other approvals required or deemed desirable by Lessee in connection with the development, financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Improvements, including execution of applications for such approvals and delivery of information and documentation related thereto, and execution, if required, of any orders or conditions of approval. Lessee shall reimburse Lessor for its actual, reasonable out of pocket expenses incurred in connection with such cooperation.

14.6 Hazardous Materials. To Lessor's actual knowledge, Lessor is in material compliance with all environmental laws as the same are applicable to the Leased Premises, and is not subject to any environmental proceedings with respect to the Leased Premises, nor is there any environmental proceeding with respect to the Leased Premises to which any other person is subject. Lessor has not received any written notice of any violation, and to the actual knowledge of Lessor, no other person has received any written notice of any violation, that, as of the date hereof, remains uncured, and no writs, injunctions, decrees, orders or judgments outstanding, no suits, claims, actions, proceedings or investigations have been instituted or filed, and none are pending or, to the knowledge of Lessor, threatened, under any environmental laws with respect to the ownership, use or occupation of the Leased Premises. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation; provided, however, that normal agricultural

use of agricultural pesticides and other chemicals commonly used on crops in conformance with generally accepted agricultural practices shall not be included as a Hazardous Material for purposes of this Lease. As of the Effective Date, to Lessor's actual knowledge: (a) no Hazardous Materials have ever been produced on the Leased Premises or disposed of thereon or therein, (b) no release has occurred on the Leased Premises, and (c) no Hazardous Materials have migrated to the Leased Premises. Lessor shall not violate, and shall indemnify Lessee for, from and against any violation (past, present or future) by Lessor or Lessor's Agents (hereinafter defined), or by Lessor's predecessors-in-interest and known by Lessor as of the Effective Date, of, any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Materials which were or are introduced, released, or brought onto the Leased Premises by Lessor, Lessor's Agents or Lessor's predecessors-in-interest.

15. **Lessee's Representations, Warranties and Covenants.** In addition to all other representations, warranties or covenants set forth in this Lease, express or implied, Lessee hereby represents, warrants and covenants to Lessor as follows:

15.1 **Lessee's Authority.** Lessee is a Nebraska limited liability company, is not in violation of any provisions of its Articles of Organization or operating agreement(s), is authorized and financially capable to enter into and perform its obligations under this Lease and, to the best of the knowledge of Lessee, is not in violation of the laws of the State of Nebraska. Each person signing this Lease on behalf of Lessee is authorized to do so. When signed, this Lease constitutes a valid and binding agreement enforceable against Lessee in accordance with its terms. No consent or other approval, authorization or action by, or filing with, any person is required to be made or obtained by such party for Lessee's lawful execution, delivery and performance of this Lease.

15.2 **Mechanic's Liens.** Lessee shall at all times keep and maintain the Leased Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or for the benefit of Lessee in connection with the Leased Premises. The interest of Lessor in the Leased Premises shall not be subject to liens for improvements made by or on behalf of Lessee, and nothing contained in this Lease shall be construed as a consent on the part of Lessor to subject Lessor's estate in the Leased Premises to any lien or liability under applicable law. Lessee will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work by Lessee on the Leased Premises and will hold Lessor harmless from all losses, costs, or expenses based on or arising out of asserted claims or liens with respect to such work against the leasehold estate or against the interest of Lessor in the Leased Premises or under this Lease. Lessee will give Lessor immediate notice of any lien or encumbrance against the Leased Premises as a result of work by Lessee and cause such lien or encumbrance to be discharged within thirty (30) days of the filing or recording thereof; provided Lessee may contest such liens or encumbrances as long as such contest prevents foreclosure of the lien or encumbrance and Lessee causes such lien or encumbrance to be bonded or insured over in a manner satisfactory to Lessor within such thirty (30)-day period.

16. **Indemnity.**

16.1 **Indemnity by Lessee.** Lessee shall defend, indemnify and hold Lessor, and Lessor's elected and appointed officials, employees, agents, contractors, tenants, heirs and successors harmless from and against all Defaults (subject to applicable cure periods) and all actions, claims, demands, losses, expenses, (including attorney fees), liabilities and claims of liability, for damage to property or injury to persons resulting from the Operations or the Project or any actions, inaction or activities of Lessee, its agents, contractors, employees, guests, invitees, licensees and permittees (collectively, "**Lessee's Agents**") on or about the Leased Premises, except to the extent that such liability or loss is due to the negligence or willful misconduct of Lessor or its agents, employees, contractors, guests, invitees, licensees and permittees (collectively, "**Lessor's Agents**").

16.2 **Indemnity by Lessor.** To the extent allowed by law, Lessor shall defend, indemnify and hold Lessee, and Lessee's directors, officers, members, shareholders, partners, tenants, heirs and successors harmless from and against all Defaults (subject to applicable cure periods) and all liability and claims of liability, for damage to property or injury to persons resulting from actions or activities of Lessor's Agents on the Leased Premises, except to the extent that such liability or loss is due to the negligence or willful misconduct of Lessee or Lessee's Agents.

16.3 **Hazardous Materials.** Lessee shall not violate, and shall defend, indemnify and hold Lessor harmless against, any claims, costs, damages, fees or penalties arising from a violation by Lessee or Lessee's Agents of any federal, state or local law, ordinance, order, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Materials, on or under the Leased Premises, except for any such violation in existence on or under the Leased Premises as of the Effective Date of this Lease.

16.4 **Survival of Provision.** The obligations of the Parties under this Section 16 shall survive the expiration or earlier termination of this Lease.

17. **Assignment; Right to Mortgage and Assign.**

17.1 **Terms.** As used in this Lease, the term "**Sublessee**" means any person that receives an interest from Lessee of less than all of the right, title or interest under this Lease and the term "**Sublease**" means the grant or assignment of such rights from Lessee to a Sublessee.

17.2 **Encumbrances, Security Interests, and Mortgages.**

(a) Lessee or a Sublessee may, without Lessor's consent, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Lease, the leasehold estate and/or easement estate(s) created by this Lease (collectively, the "**Leasehold Estate**"), any Sublease, and the Project (collectively, the "**Solar Assets**") in connection with the financing of all or any portion of the Project, which security interests (including any deeds of trusts) in all or a part of the Solar Assets are collectively referred to in this Lease as "**Mortgages**" and the holders of the Mortgages, their designees and assigns are each referred to in this Lease as a "**Mortgagee**". Under no circumstances shall any Mortgagee or Sublessee have any greater rights of ownership or use of the Leasehold Estate than the rights granted to Lessee in this Lease, and under no circumstance shall any

Mortgagee or Sublessee have any greater rights or lesser responsibilities than Lessee under the terms of this Lease. Notwithstanding anything in this Lease to the contrary any Sublessee shall be bound by the terms of this Lease to the extent of such Sublessee's interest in and to the Leased Premises or Solar Assets. Lessee shall provide Lessor with written notice of any Mortgage(s) within ninety (90) days after such Mortgage(s) becomes legally binding.

(b) Subject to Section 14.4 of this Lease, Lessor may, upon prior written notice from Lessor to Lessee, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in the Leased Premises so long as such conveyances do not interfere with Lessee's rights and interests under this Lease. Notwithstanding the foregoing, Lessor may sell, devise or otherwise transfer fee title to the Leased Premises without Lessee's consent so long as any subsequent owner is bound by the terms of this Lease and so long as such conveyances do not interfere with Lessee's rights and interests under this Lease.

17.3 Assignments. Without the prior written consent of Lessor, Lessee and each Sublessee shall also have the right to sell, convey, transfer, lease, or assign its interest in this Lease or Sublease, as the case may be, or any portion thereof, and all or any portion of the Solar Assets on either an exclusive or non-exclusive basis, or to apportion, grant sub-easements, co-easements, separate easements, leases, subleases, co-leases, co-tenancy rights, licenses or similar rights, however denominated (collectively, "Assignments") to any third party; provided that the assignee assumes all duties and obligations of Lessee under this Lease. The terms of such Assignment(s) shall not expand, or alter in any way, the rights and obligations of the Parties under this Lease. Upon the effective date of any Assignment under which all of the interest of Lessee or any Sublessee (or the interest of their respective successors or assigns) in the Solar Assets is assigned, Lessee or Sublessee, as the case may be, shall be released from any liability under this Lease or Sublease, as applicable, accruing on or after the effective date of the Assignment, provided that the assignee assumes in writing the obligations of the assigning party. Notwithstanding the foregoing, in the event of any Assignment under which less than all of the interest of Lessee or any Sublessee (or the interest of their respective successors or assigns) in the Solar Assets is assigned, Lessee or Sublessee, as the case may be, shall not be relieved of its obligations under the Lease or Sublease, as applicable, and Lessee or Sublessee shall continue to be primarily liable to the same extent as though no Assignment has been made, unless otherwise agreed to in writing by Lessor. Lessee shall provide written notice to Lessor of any Assignment(s) within ninety (90) days after such Assignment(s) becomes legally binding; provided, however, that failure to give such notice shall not constitute a default under this Lease, but rather shall only have the effect of: (a) not binding Lessor with respect to such Assignment(s) until such notice is given, and (b) not releasing the assignor from liability under this Lease until such notice is given. Any member of Lessee or a Sublessee shall have the right from time to time without Lessor's consent to transfer any partnership, membership or other ownership interest in Lessee or a Sublessee to one or more persons or entities.

18. Default. Each of the following events shall constitute an event of default ("Default") by the Parties and shall permit the non-defaulting Party to terminate this Agreement and pursue all other appropriate remedies.

(a) The failure or omission by Lessee (or permitted assign) to pay any amount required to be paid hereunder when due, and such failure or omission has continued for thirty (30) days after the date Lessee (or permitted assign) receives written notice from Lessor of such failure or omission to pay;

(b) The failure or omission by any Party to observe, keep, or perform any of the other terms, agreements, or conditions set forth in this Agreement (except payment obligations), and such failure or omission has continued for thirty (30) days (or such longer period required to cure such failure or omission, not to exceed ninety (90) days, if such failure or omission cannot reasonably be cured within such thirty (30)-day period) after written notice from the other Party; or

(c) A Party files for protection or liquidation under the bankruptcy laws of the United States or any other jurisdiction or has an involuntary petition in bankruptcy or a request for the appointment of a receiver filed against it and such involuntary petition or request is not dismissed within thirty (30) days after filing.

In the event of any Default, the non-defaulting Party shall give written notice thereof to the alleged defaulting Party and any Mortgagee that has, in writing to the noticing Party, requested Default notice copies, which notice shall include the acts required to cure the same with reasonable specificity. Delinquent payments shall bear interest from their respective due dates until paid at the rate of eight percent (8%) per annum. Any prohibited conduct under this Lease may be enjoined and this Lease shall be specifically enforceable. Subject to the other terms and conditions of this Lease, each Party shall have all rights and remedies available at law and in equity for any Default by the other Party. The obligations of the Parties under this Section 18 shall survive the expiration or earlier termination of this Lease.

(d) Upon a default, the non-defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including the right to terminate this Lease pursuant to applicable law, all of which remedies shall be cumulative.

19. **Termination by Lessee.** Provided Lessee is not in default under any term of this Lease, Lessee, at its option, shall have the right to terminate this Lease at any time during the Term of the Lease, as to all or any part of the Leased Premises. Termination shall be effective on the date when Lessee has fulfilled its obligations under Section 20 of this Lease. If Lessee's notice is a full termination of all the Leased Premises, the Parties shall be relieved of all further duties and obligations under this Lease, other than (i) the payment of any accrued and unpaid obligations or liabilities owed by either Party as of the date of termination; (ii) the removal of the Improvements by Lessee pursuant to Section 20.2; and (iii) any other obligations and liabilities that are expressly stated in this Lease to survive such termination. Upon any such partial termination by Lessee, the Parties shall be relieved of all further duties and obligations under this Lease with respect to the portion thereof terminated by Lessee, subject to the obligations and liabilities referenced in items (i) through (iii) above that shall continue to be applicable to the terminated portion of this Lease. The Parties agree to execute an amendment to this Lease evidencing such partial termination at the sole cost and expense of the Lessee and the Lessor shall be reimbursed for its reasonable and documented out-of-pocket costs up to Three Thousand Dollars (\$3,000.00), including, but not limited to attorneys' fees, incurred as a direct result of obtaining such amendment.

20. **Surrender and Restoration.**

20.1 **Surrender.** Upon any termination, surrender, or expiration of this Lease, Lessee shall remove all of Lessee's Improvements as stated below and restore the Leased Premises to the condition in which they existed before the Effective Date, and shall peaceably deliver up to Lessor possession of the Leased Premises or any part thereof, and other rights granted by this Lease, and shall execute, at Lessor's request, any and all documents needed to record or evidence such termination with the appropriate governmental agency.

20.2 **Restoration.** Within six (6) months after any termination, surrender, or expiration of this Lease, Lessee at its sole cost and expense, shall decommission the Solar Energy Facilities, which shall include the removal of all Improvements including, but not limited to all improvements, structures, and sub-stations. Within such six (6) month period, subject to tolling as provided below, Lessee shall also restore the Leased Premises to the condition as it existed on the Effective Date, including the removal or remediation of any Hazardous Materials existing on the Leased Premises as a result of the Project, and shall repair any damage to the Leased Premises as a result of the construction, operation or removal of Lessee's Improvements under this **Section 20.2 ("Restoration")**. Beginning on the Commercial Operations Date, and for the remainder of the Term under this Lease, Lessee shall maintain a performance bond or comparable financial security (the "**Restoration Security**") in an amount equal to the expected cost to complete the Restoration, less the salvage value of all the Improvements, as determined by a qualified third-party engineer, and as shall be updated at least every five (5) years. Upon written request from Lessor to Lessee, Lessee shall provide Lessor with a copy of the Restoration Security. As of the Commercial Operations Date, the Restoration Security shall remain in effect at all times until Lessee fully satisfies its Restoration obligations in accordance with this **Section 20.2**. The Restoration Security shall explicitly prohibit rescission or termination by Lessee before such time without the contemporaneous substitution of an equivalent security or the prior written consent of Lessor. Notwithstanding the foregoing, Lessee's Restoration obligations shall not include the removal of below ground electric lines and cables buried at a depth of four (4) feet or more measured from the topsoil directly above such electric lines and cables, and such Improvements may remain on the Leased Premises without liability to Lessee beyond termination, surrender or expiration of this Lease, and shall become the property of Lessor at such time. Upon the written consent of Lessor, Lessee may leave all roads and grading in their condition existing at the time this Lease terminates. Lessor shall have the opportunity to reasonably inspect the Restoration completed by the Lessee hereunder and, if Lessor does not believe Lessee has satisfied its Restoration obligations, Lessor shall notify Lessee in writing of any incomplete Restoration Obligations within nine (9) months after any termination, surrender, or expiration of this Lease. Upon receipt of such notice, Lessor and Lessee agree to cooperate with each other in good faith to resolve any disputes with regard to completion of Restoration, and if resolved, the deadline for Restoration shall be tolled until completion; provided that such deadline shall not be tolled beyond a maximum of twenty-four (24) months. If, following Lessor's notice to Lessee, Lessee is unable or unwilling to complete Restoration, then Lessor shall be entitled to apply the proceeds of the Restoration Security toward the cost to complete Lessee's outstanding Restoration obligations. If Lessor fails to notify Lessee in writing of any incomplete Restoration Obligations within nine (9) months after any termination, surrender, or expiration of this Lease, it shall be conclusively deemed that Lessee satisfied all obligations with respect to Restoration hereunder. This **Section 20.2** shall survive expiration or termination of this Lease.

21. **Condemnation.**

21.1 **Complete Taking.** If, at any time, any authority having the power of eminent domain shall condemn all or substantially all of the Leased Premises, or the Improvements thereon, for any public use or otherwise, then the interests and obligations of Lessee under this Lease in or affecting the Leased Premises shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Leased Premises or the Project thereon, (ii) the date that Lessee determines it is no longer able or permitted to operate the Project on the Leased Premises in a commercially viable manner, or (iii) the date of the condemnation judgment; at which time this Lease shall terminate and Lessor and Lessee shall be relieved of any and all further obligations and conditions to each other under this Lease except the obligations which arose prior to such termination and/or that survive the expiration or earlier termination of this Lease.

21.2 **Partial Taking.** If, at any time during the Term, any authority having the power of eminent domain shall condemn any portion, less than substantially all, of the Leased Premises, then the interest and obligations of Lessee under this Lease as to those Improvements or the Leased Premises so taken shall cease and terminate upon the earlier of (i) the date that the condemning authority takes physical possession of the Leased Premises, (ii) the date that Lessee determines it is no longer able or permitted to operate portion of the Project so taken on the Leased Premises, in a commercially viable manner, or (iii) the date of the condemnation judgment, and, unless this Lease is terminated as herein provided, this Lease shall continue in full force and effect as to the remainder of the Leased Premises; provided, however, that if Lessee, in its sole discretion, determines that such partial taking would cause the continued operation of the entire Project not to be commercially viable, Lessee shall have the right to terminate this Lease via written notice to Lessor. If Lessee so terminates, Lessor and Lessee shall be relieved of any and all further obligations and conditions to each other under this Lease except the obligations which arose prior to such termination and/or that survive the expiration or earlier termination of this Lease.

21.3 **Condemnation Award.** In the event of a complete or partial taking of the Solar Assets, Lessee shall be entitled to receive all compensation and damages paid by the condemning authority arising from such taking and payable on account of Lessee's Improvements, loss of revenue, relocation costs, inability to relocate, and loss of interest in and to the Leased Premises provided under this Lease; Lessor shall be entitled to all other amounts of the award. If allowed under the law, Grantee may separately pursue a claim against the condemner for such damages.

22. **Certain Protective Covenants.**

22.1 **Noninterference.** Subject to Section 3.1 of this Lease, during the term of this Lease, Lessor covenants and agrees that it will not (i) materially interfere with or prohibit the free and complete use and enjoyment by Lessee of its rights granted by this Lease; (ii) take any action or permit any condition to exist on the Leased Premises which will materially interfere with the availability or accessibility of sunlight on or to the Leased Premises; (iii) take any action which will in any way materially interfere with the transmission of electric, electromagnetic or other forms of energy to or from the Leased Premises; or (iv) take any action which will materially impair Lessee's access to the Leased Premises for the purposes specified in this Lease, materially obstruct access to sunlight on, over or across the Leased Premises or materially impair Lessee's access to any or all of the Improvements. Notwithstanding the

foregoing, Lessor shall have no obligation under this Lease to provide, obtain or maintain any easement for sunlight on, over or above any real property not owned or controlled by Lessor. If a question exists as to whether an act or potential act by Lessor would or would not interfere with Lessee's rights in the manner prohibited hereunder, Lessor may submit such question to Lessee in writing. Within sixty (60) days after Lessee's receipt of any such written inquiry from Lessor, Lessee shall respond to Lessor in a writing providing either Lessee's consent to or denial of the act. Any denial shall be based upon Lessee's receipt of an opinion from a qualified third-party engineer that the proposed act could interfere with the rights of Lessee in the manner(s) prohibited hereunder.

22.2 Quiet Enjoyment. Provided Lessee observes the terms and conditions of this Lease, Lessor warrants that Lessee shall peaceably hold and enjoy the Leased Premises, and any and all other rights granted by this Lease for its entire term without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under Lessor except as expressly provided in this Lease.

22.3 Observance of Laws and Covenants; Safety. Lessee shall use the Leased Premises granted by this Lease only for the purposes stated herein and shall conduct all of its operations on the Leased Premises in a lawful manner after obtaining all necessary permits and government approvals.

23. Consequential Damages Waiver. The Parties shall have no liability for any special, consequential or exemplary damages or losses of any kind, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including, but not limited to, losses of use, profits, business, reputation, or financing.

24. Mortgagees.

24.1 Mortgagee Protection. Any Mortgagee, upon delivery to Lessor of notice of its name and address, for so long as its Mortgage is in existence shall be entitled to the following protections which shall be in addition to those granted elsewhere in this Lease or a Sublease as the case may be:

(a) Right to Cure Defaults/Notice of Defaults. To prevent termination of this Lease or any partial interest in this Lease, each Mortgagee shall have the right, but not the obligation, at any time prior to termination of this Lease, to perform any act necessary to cure any Default by Lessee and to prevent the termination of this Lease or any partial interest in this Lease. As a precondition to exercising any rights or remedies as a result of any alleged Default by Lessee, Lessor shall give written notice of such Default to each Mortgagee that has delivered to Lessor notice of its name and address and who has requested to receive copies of a Default notice concurrently with delivery of such notice to Lessee, specifying in detail the alleged Default and the required remedy. Each such Mortgagee shall have the same amount of time to cure the Default as is given to Lessee. The cure period for each Mortgagee shall begin to run upon receipt of written notice from Lessor to Mortgagee.

(b) Extended Cure Period. If any Default by Lessee under this Lease cannot be cured without the Mortgagee obtaining possession of all or part of the Leased Premises and/or all or part of the Improvements and/or all or part of Lessee's interest in this Lease, then any such Default shall be deemed remedied if: (i) Mortgagee or its assignee cures any outstanding monetary Default within the cure periods provided in Section 18; (ii) within the cure period granted to Mortgagee in Section 18 above, either

Mortgagee or its assignee shall have acquired possession of all or part of the Leased Premises and/or all or part of the Improvements and/or all or part of such interest in this Lease, or shall have commenced appropriate judicial or non-judicial proceedings to obtain the same; (iii) the Mortgagee or its assignee, as the case may be, shall be in the process of diligently prosecuting any such proceedings to completion; and (iv) after gaining possession of all or part of the Leased Premises and/or all or part of the Improvements and/or all or part of such interest in this Lease, the Mortgagee or its assignee cures all Defaults under the Lease to the extent required in Section 18, and performs all other obligations as and when the same are due in accordance with the terms of this Lease. If a Mortgagee or its assignee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Lessee or any defaulting assignee, as the case may be, from commencing or prosecuting the proceedings described above, the period specified above for commencing such proceeding shall be extended for the period of such prohibition.

(c) **Acquisition of Title.** Following acquisition of all or a portion of the Solar Assets by the Mortgagee, its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Lease or a Sublease, as the case may be, shall continue in full force and effect, and the party acquiring title to the Solar Assets shall cure all monetary Defaults within thirty (30) days of acquiring title, and as promptly as reasonably possible, commence the cure of all other Defaults under this Lease or a Sublease, as the case may be, and thereafter diligently process such cure to completion within ninety (90) days after title is acquired, whereupon Lessor's right to terminate this Lease based upon such Defaults shall be deemed waived, providing all Defaults are cured. Any Mortgagee or other party who acquires Lessee's leasehold interest, pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Lessee by this Lease incurred or accruing after such Mortgagee or acquiring party no longer has ownership of the Lease and possession of the Leased Premises.

(d) **Mortgagee's Right to Possession, Right to Acquire and Right to Assign.** A Mortgagee shall have the absolute right (i) to assign its Mortgage; (ii) to enforce its lien and acquire title to all or any portion of the Solar Assets by any lawful means; (iii) to take possession of and operate all or any portion of the Solar Assets and to perform all obligations to be performed by Lessee or a Sublessee under this Lease or a Sublease as the case may be, or to cause a receiver to be appointed to do so; and (iv) to acquire all or any portion of the Solar Assets by foreclosure or by an assignment in lieu of foreclosure and thereafter without Lessor's consent to assign or transfer all or any portion of the Solar Assets to a third-party so long as such assignee or transferee is financially capable of carrying out Lessee's obligations under this Lease, and Lessor's consent, which shall not be unreasonably withheld, conditioned or delayed, shall be required for any other assignment or transfer. Upon acquisition of the interests of all or any portion of the Solar Assets by a Mortgagee or any other third-party which acquires the interests, from or on behalf of the Mortgagee, in accordance with the terms of this Lease, Lessor shall recognize the Mortgagee or such other party (as the case may be) as Lessee's or a Sublessee's proper successor, and this Lease and any such Sublease shall remain in full force and effect.

(e) **Liability.** Any Mortgagee that does not directly hold an interest in the Solar Assets, or whose interest is held solely for security purposes, shall have no obligation or liability under this Lease or a Sublease as the case may be prior to the time the Mortgagee directly holds an interest in the Solar Assets, or succeeds to absolute title to Lessee's or a Sublessee's interest therein. A Mortgagee shall be liable to perform Lessee's or a Sublessee's obligations under this Lease or a Sublease as the case may be only for and during the period it directly holds such interest or title. Furthermore, if Mortgagee elects to (i) perform Lessee's or a Sublessee's obligations under this Lease or the Sublease as the case may be, (ii) continue Operations on the Leased Premises, (iii) acquire any portion of Lessee's or a Sublessee's right, title or interest in all or any of the Solar Assets or (iv) enter into a new Lease or a Sublease as the case may be as provided in Section 24.1(g), then the Mortgagee shall not have any personal liability to Lessor, and Lessor's sole recourse against Mortgagee shall be to execute against the Mortgagee's interest in the Solar Assets. Moreover, any Mortgagee or other party which acquires the Solar Assets by foreclosure or an assignment in lieu of foreclosure shall not be liable to perform any obligations under this Lease or a Sublease, as the case may be, to the extent the obligations are incurred or accrue after that Mortgagee or other party no longer has ownership of the Solar Assets and possession of the Leased Premises.

(f) **Termination.** Neither the bankruptcy nor the insolvency of Lessee or a Sublessee shall be grounds for terminating this Lease or a Sublease so long as all payments and all other monetary charges payable by Lessee or Sublessee under this Lease or a Sublease, as the case may be, are paid by the Mortgagee in accordance with the terms of this Lease or a Sublease, as the case may be.

(g) **New Lease.** If this Lease or a Sublease, as the case may be, terminates for any reason, including, without limitation, because of Lessee's or a Sublessee's uncured Default or because it is rejected or disaffirmed under bankruptcy law or any other law affecting creditors' rights, then, so long as a Mortgagee has cured any monetary and/or insurance Default prior to expiration of the Mortgagee cure period identified in Section 18 and is making commercially reasonable efforts to cure any non-monetary Default, Lessor will, immediately upon written request from the Mortgagee received within ninety (90) days after the termination, rejection, or disaffirmance, without demanding additional consideration therefor, enter into a new Lease or a new Sublease as the case may be in favor of the Mortgagee, which new Lease or new Sublease shall (i) contain the same covenants, agreements, terms, provisions and limitations as this Lease or the Sublease, as the case may be (except for any requirements that have been fulfilled by Lessee or a Sublessee prior to the termination, rejection, or disaffirmance), (ii) be for a term commencing on the date of the termination, rejection, or disaffirmance and continuing for the remaining Term or the term of the Sublease, as the case may be, before giving effect to the termination, rejection, or disaffirmance, (iii) contain a lease or sublease as the case may be on, over, under, upon along and across the Leased Premises or such portion thereof as to which the Mortgagee held a lien on the date of the termination, rejection, or disaffirmance, (iv) contain a grant to the Mortgagee of access, transmission, communications, utility, and other easements covering such portion or portions of the Leased Premises as Lessee held under this Lease prior to its termination, (v) impose the same rights and obligations of the Parties as imposed under this Lease, (vi) not provide Mortgagee with any rights or entitlements in excess of those provided to Lessee, or change or increase the obligations of Lessor, as provided under this Lease, and (vii) enjoy the same priority as this Lease or a replaced Sublease, as the case may be, has over any lien, encumbrance or other interest created by Lessor, and, until such time as the new Lease or Sublease as the case may be is executed and delivered, the Mortgagee may enter, use and enjoy the Leased Premises and conduct Operations on the Leased Premises as if this Lease or the

Sublease, as the case may be, were still in effect at the option of the Mortgagee, the new Lease or Sublease, as the case may be, may be executed by a designee of the Mortgagee, with the Mortgagee assuming the burdens and obligations of Lessee or a Sublessee thereunder. If more than one Mortgagee makes a written request for a new Lease or Sublease, as the case may be, under this Section 24.1(g), then the new Lease or Sublease shall be delivered to the Mortgagee whose lien is senior in priority.

(h) **Mortgagee Consent.** Lessor shall not agree to any material amendment, mutual termination or modification or accept any surrender of this Lease, nor shall any such amendment, termination, modification or surrender be effective, without the written consent of the Mortgagee.

(i) **Amendments.** Lessor and Lessee shall cooperate in amending this Lease from time to time to include any provision that may reasonably be requested by any Mortgagee for the purpose of preserving the Mortgagee's interest in the Leased Premises, provided that neither Lessor's rights nor Lessee's obligations under this Lease are diminished thereby.

24.2 Estoppel Certificates and Cooperation. Lessor will, within thirty (30) business days following receipt of written request, execute estoppel certificates (certifying as to truthful matters, including that no default then exists under this Lease or a Sublease, if such be the case), consents to assignment and non-disturbance agreements provided for in this Lease as Lessee, a Sublessee or any Mortgagee may reasonably request at any time and from time to time. Lessor, Lessee and Sublessee (if applicable) will cooperate in (a) amending this Lease or a Sublease, as the case may be, from time to time to include any provision that may be reasonably requested by Lessee or a Sublessee or any Mortgagee to implement the provisions contained in this Lease or a Sublease as the case may be, or to preserve a Mortgagee's security interest, and does not materially prejudice Lessor's rights under, or interest in, this Lease, and (b) execute any documents that may reasonably be required by Lessee, a Sublessee, or a Mortgagee to implement the provisions of this Section 24.1. Lessor will request any of Lessor's lenders to execute an agreement of non-disturbance furnished by any Mortgagee with respect to Lessee's or a Sublessee's interest in the Lease. Lessor's cooperation with Lessee under this provision shall be at the sole cost and expense of the Lessee and the Lessor shall be reimbursed for its reasonable and documented out-of-pocket costs up to Fifteen Hundred Dollars (\$1,500.00), including, but not limited to attorneys' fees, incurred as a direct result of Lessor's cooperation.

24.3 No Merger. There shall be no merger of this Lease with the fee estate in the Leased Premises by reason of the fact that this Lease or any interest in the Leased Premises may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Leased Premises, and all persons (including each Mortgagee) having an interest in this Lease or in the estate of Lessor and Lessee, shall join in a written instrument effecting such merger and shall duly record the same.

24.4 Damage/Condemnation. Notwithstanding anything to the contrary in this Lease, the disposition of any condemnation award and/or casualty insurance proceeds shall be governed by the terms of any first priority Mortgage encumbering Lessee's interest in the Solar Assets to the extent the same conflicts with the terms of this Lease.

25. **Notice.**

25.1 **Writing.** All notices given or permitted to be given hereunder shall be in writing.

25.2 **Delivery.** Notice is considered given either (a) when delivered in person to the recipient named below, or (b) when delivered by courier service which certifies in writing the date of delivery, or five (5) business days after deposit in the United States mail as certified or registered mail (return receipt requested), in a sealed envelope or container, postage and postal charges prepaid, addressed by name and addressed to the Party or person intended as follows:

Notice to Lessor: City of Crete, Nebraska  
Attention: Jerry Wilcox, Clerk/Treasurer  
243 East 13th Street PO Box 86  
Crete, NE 68333

With copy to: City of Crete, Nebraska  
Attention: Kyle Manley, City Attorney  
243 East 13th Street P.O. Box 86  
Crete, NE 68333  
kyle.manley@crete.ne.gov

Notice to Lessee: SE Municipal Solar LLC  
Attention: Michael Knapp  
1209 Harney St. #400  
Omaha, NE 68102  
michael@sandhillsenergyco.com

With copy to: Michael D. Sands  
Baird Holm LLP  
1700 Farnam Street, Suite 1500  
Omaha, NE 68102  
msands@bairdholm.com

25.3 **Change of Recipient or Address.** Either Party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a Party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

26. **Expenses of Enforcement.** To the extent permitted under Nebraska law, if any Party hereto brings any action or proceeding to interpret or enforce any of the terms, covenants or conditions hereof, the prevailing Party in such action or proceeding shall be entitled to recover from the other Party or

parties thereto reimbursement for all reasonable expenses, costs and fees incurred in connection with the action or proceeding, including such expenses, costs and fees incurred due to any appeal.

27. **Further Assurances.** The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Lease and to give full force and effect to each and all of the provisions thereof.

28. **Amendments.** This Lease shall not be amended or modified in any way except by an instrument signed by Lessor and Lessee.

29. **Severability.** If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable shall not be affected thereby.

30. **Governing Law and Dispute Resolution.**

30.1 This Lease shall be governed by the laws of the State of Nebraska. Any action to enforce or interpret any provision of this Lease shall be filed in any state or federal court having jurisdiction and which is a proper venue in the matter.

30.2 The Parties agree to first attempt to settle any dispute arising out of or in connection with this Lease by good-faith negotiation. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Lease, each shall have all remedies available at law or in equity and as provided by this Lease. **Each Party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this Lease shall be to the court of competent jurisdiction.**

31. **Article and Paragraph Headings.** The Section headings herein are inserted only for convenience of reference and shall in no way define, limit or describe the scope or intent of a provision of this Lease.

32. **Entire Agreement.** This Lease shall constitute the entire agreement between the Parties with respect to the subject matter of this Lease and supersedes all other prior writings, negotiations and understandings.

33. **Effect of Termination.** Any termination of this Lease pursuant to the terms hereof shall not relieve either Party from any liabilities, obligations or indemnities arising prior to the effective date of such termination.

34. **Time of Essence.** Time is of the essence regarding each provision of this Lease.

35. **No Waiver.** No waiver by either Party of any provision of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by the other Party.

36. **Counterparts.** This Lease may be executed in counterparts.

37. **Ownership of Improvements.** The Improvements shall not be deemed to be permanent fixtures (even if permanently affixed to the Leased Premises) and shall be and remain the sole property of Lessee. Within the ninety (90) day period after receipt by Mortgagee of a notice that the Lease has been terminated prior to the expiration date (or such longer time as may be reasonably necessary to remove the Improvements from the Leased Premises), Mortgagee, may remove the Improvements from the Leased Premises, provided that Mortgagee complies with all requirements of Lessee set forth in the Lease related to Restoration.

38. **Recording of Memorandum.** Concurrent with the execution of this Lease, the Parties shall execute, acknowledge and record in the land records office for Saline County, Nebraska, a memorandum of this Lease in the form attached as Exhibit 2, hereto.

39. **No Partnership.** Nothing contained in this Lease shall be deemed or construed by the Parties or by any third person to create the relationship of principal and agent, partnership, or any other association between Lessor and Lessee, other than the relationship of lessor and lessee.

40. **Brokerage Commissions.** Lessor and Lessee each represent that such Party has not incurred, directly or indirectly, any liability on behalf of the other Party for the payment by the other Party of any real estate brokerage commission or finder's fee in connection with this Lease. Lessor and Lessee shall indemnify, defend and hold the other Party harmless from and against any claim for any brokerage commissions or finder's fees claimed to be due and owing by reason of the indemnifying Party's activities.

41. **Taxes on Lease.** If any governmental authority levies, assesses, and/or imposes on Lessor a transfer tax as a result of this Lease, Lessor shall timely pay such tax and Lessee shall reimburse the same to Lessor.

42. **Forfeiture of Leased Premises.** If at any time the Leased Premises or any part thereof shall then be subject to forfeiture, or if Lessor shall be subject to any liability arising out of the nonpayment of real property or personal property taxes that are the responsibility of Lessor hereunder, Lessee may, in its sole and absolute discretion, following the expiration of ten (10) business days' advance notice to Lessor and Lessor's failure to remedy the outstanding tax liability within such ten (10) business day period, notwithstanding any pending contest or review, elect to either pay such taxes or post such bonds as the taxing authority may require to prevent such forfeiture or liability and may offset the amount of such payments from amounts due Lessor under this Lease. Notwithstanding the foregoing, in the event Lessee pays such taxes or posts such bonds during a pending contest or review and Lessor subsequently prevails over the taxing authority, Lessee shall pay Lessor any amounts previously offset under the foregoing sentence if such amounts have been reimbursed to Lessee by the taxing authority.

**(Signatures on Following Page)**

**IN WITNESS WHEREOF**, the Parties have executed this Lease to be effective as of the Effective Date.

**LESSOR**

**LESSEE**

**CITY OF CRETE, NEBRASKA**

**SE MUNICIPAL SOLAR, LLC,**  
a Nebraska limited liability company

By: \_\_\_\_\_  
David A. Bauer, Mayor

By: \_\_\_\_\_  
Eric G. Johnson, President

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

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

**EXHIBIT 1-A TO LEASE AND EASEMENT AGREEMENT**  
**DESCRIPTION OF THE REAL PROPERTY**

The land referred to herein below is situated in Saline County, Nebraska:

Lot One (1), Block "A", Belohlavy Industrial Tract II, part of Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska, being more particularly described as:

A tract of land located in Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska, described as follows: Beginning at the Northwest corner, NE ¼ of Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska and assuming the North line of the NW ¼ of Section 4 to have a bearing of S89°59'03"W; thence S89°59'03"W, on the North line, NW ¼ of Section 4, 100.61 feet, to a point on the Easterly right-of-way of Highway No. 103; thence S56°43'26"E on said Easterly right-of-way of Highway No. 103, 287.90 feet; thence S56°43'26"E on said Easterly right-of-way of Highway No. 103, 545.00 feet; thence S40°17'46"E along the chord of a 1994.86 foot radius curve concave Southwesterly, 1119.08 feet, to a point on the South line, NW ¼ NE ¼ of Section 4, said point also being on the Easterly right-of-way line of Highway No. 103; thence N89°56'36"E on the South line, NW ¼ NE ¼ of Section 4, 1.73 feet, to a point on the Westerly right-of-way of the Chicago, Burlington and Quincy Railroad tracks; thence N14°20'51"W, on said Westerly railroad right-of-way, 1355.50 feet, to a point on the North line, NE ¼ of Section 4; thence S89°54'31"W, on said North line, NE ¼ of Section 4, 984.21 feet, to the point of beginning.

**EXHIBIT 1-B TO LEASE AND EASEMENT AGREEMENT**  
**DESCRIPTION OF THE LEASED PREMISES**

[TO BE INSERTED PURSUANT TO SECTION 2.4 OF LEASE]

**EXHIBIT 2 TO LEASE AND EASEMENT AGREEMENT**  
**FORM OF MEMORANDUM OF LEASE**

**[Follows this page.]**

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(Space above line for Recorder's use only)

REQUESTED BY AND  
WHEN RECORDED RETURN TO:

SE Municipal Solar LLC  
Attention: Michael Knapp  
1209 Harney St. #400  
Omaha, NE 68102  
michael@sandhillsenergyco.com

**MEMORANDUM OF LEASE AND EASEMENT AGREEMENT  
FOR SOLAR ENERGY SYSTEM**

This Memorandum of Lease and Easement Agreement for Solar Energy System (“**Memorandum**”) is made and dated as of \_\_\_\_\_, 20\_\_ (“**Effective Date**”) by and between the **City of Crete, Nebraska** (“**Lessor**”) and **SE Municipal Solar, LLC**, a Nebraska limited liability company (“**Lessee**”), in light of the following facts and circumstances:

Lessor and Lessee entered in that certain Lease and Easement Agreement for Solar Energy System, of even date herewith (the “**Lease**”), pursuant to which Lessor has leased to Lessee certain real property of Lessor (“**Leased Premises**”) located in Saline County, Nebraska, as more particularly described on the attached Exhibit A and which said Exhibit A is hereby incorporated herein. Lessor and Lessee have executed and acknowledged this Memorandum for the purpose of complying with Section 66-911.01 of the Nebraska Revised Statutes and to provide constructive notice of the Lease. Capitalized terms not otherwise defined in this Memorandum shall have the meanings provided in the Lease.

NOW THEREFORE, Lessor and Lessee hereby agree as follows:

**1. Lease of Leased Premises; Easements.** Lessor has granted and leased the Leased Premises to Lessee on the terms, covenants and conditions stated in the Lease. The Lease is solely and exclusively for the development and operation of a solar energy project, and Lessee shall have the exclusive right to use the Leased Premises for such purposes, together with certain related sun non-obstruction,

effects, access, and transmission easements, as more fully granted and described in the Lease. Reference is hereby made to the Lease for a complete description of the respective rights and obligations of the parties regarding the Leased Premises and the covenants, conditions, restrictions and easements affecting the Leased Premises pursuant to the Lease.

**2. Term.**

**Development Term.** The initial period of this Lease, during which Lessee shall conduct development and construction activities shall commence on the Effective Date and shall continue until the until the “Commercial Operations Date”, as defined under the power purchase agreement (the “**PPA**”) entered into between Lessor and Lessee, such term and related provisions of the PPA being incorporated herein by this reference, unless sooner terminated in accordance with the Lease (“**Development Term**”). The Development Term shall not exceed twenty-four (24) months, subject to extension based on Force Majeure.

**Operations Term.** The second period of this Lease, if any, during which Lessee shall conduct Solar Operations, shall commence upon the expiration of the Development Term following the Commercial Operations Date and shall continue for a period of twenty-five (25) years (“**Operations Term**”) unless sooner terminated in accordance with the provisions hereof, with two (2) options to extend held by Lessee for five (5) years each; provided that Lessee shall only have the right to extend the Operations Term, as provided above, if the Improvements remain operational with respect to photovoltaic energy conversion and generation of electricity from sunlight, at the time of such election(s).

**3. Ownership.** Lessor shall have no ownership or other interest in any Improvements (as defined in the Lease) installed on the Leased Premises.

**4. Assignment.** The Lease provides, among other things, that Lessee and any Assignee shall have the right to sell, convey, lease, assign, mortgage, encumber or transfer to one or more assignees or mortgagees the Lease, or any right or interest in the Lease, or any or all right or interest of Lessee in the Leased Premises, or any portion thereof, or in any or all of the Improvements that Lessee or any other party may now or hereafter install on the Leased Premises.

**5. Successors and Assigns.** This Memorandum and the Lease shall burden the Leased Premises and shall run with the land. The Lease and this Memorandum shall inure to the benefit of and be binding upon Lessor and Lessee and, to the extent provided in any assignment or other transfer under the Lease, any assignee or Mortgagee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them.

**6. No Conflict.** In the event of any conflict or inconsistency between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall control. Nothing in this Memorandum shall be deemed to amend, modify, change, alter, amplify, limit, interpret or supersede any provision of the Lease or otherwise limit or expand the rights and obligations of the parties under the Lease and the Lease shall control over this Memorandum in all events.

7. **Multiple Counterparts.** This Memorandum may be executed by different parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date.

**LESSOR:**

**CITY OF CRETE, NEBRASKA**

By: \_\_\_\_\_  
David A. Bauer, Mayor

STATE OF NEBRASKA        )  
                                          ) ss.  
COUNTY OF \_\_\_\_\_ )

Before me, \_\_\_\_\_, the undersigned notary public in and for this state, on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared David A. Bauer, as Mayor of the City of Crete, Nebraska, to me known to be the identical person(s) who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same on behalf of said City of Crete, Nebraska and that he/she was duly authorized so to do.

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

\_\_\_\_\_  
Notary Public

(SEAL)



**EXHIBIT A TO MEMORANDUM OF LEASE**  
**DESCRIPTION OF LEASED PREMISES**

The land referred to herein below is situated in Saline County, Nebraska:

Lot One (1), Block "A", Belohlavy Industrial Tract II, part of Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska, being more particularly described as:

A tract of land located in Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska, described as follows: Beginning at the Northwest corner, NE ¼ of Section 4, T7N, R4E of the 6th P.M., Saline County, Nebraska and assuming the North line of the NW ¼ of Section 4 to have a bearing of S89°59'03"W; thence S89°59'03"W, on the North line, NW ¼ of Section 4, 100.61 feet, to a point on the Easterly right-of-way of Highway No. 103; thence S56°43'26"E on said Easterly right-of-way of Highway No. 103, 287.90 feet; thence S56°43'26"E on said Easterly right-of-way of Highway No. 103, 545.00 feet; thence S40°17'46"E along the chord of a 1994.86 foot radius curve concave Southwesterly, 1119.08 feet, to a point on the South line, NW ¼ NE ¼ of Section 4, said point also being on the Easterly right-of-way line of Highway No. 103; thence N89°56'36"E on the South line, NW ¼ NE ¼ of Section 4, 1.73 feet, to a point on the Westerly right-of-way of the Chicago, Burlington and Quincy Railroad tracks; thence N14°20'51"W, on said Westerly railroad right-of-way, 1355.50 feet, to a point on the North line, NE ¼ of Section 4; thence S89°54'31"W, on said North line, NE ¼ of Section 4, 984.21 feet, to the point of beginning.

## ORDINANCE NO. 2149

**AN ORDINANCE OF THE CITY OF CRETE, NEBRASKA RELATING TO THE VACATION OF STREETS OR ALLEYS; TO VACATE TAYLOR STREET SOUTH OF BLOCK 8, COLLEGE PARK ADDITION; AND TO RESERVE TITLE TO THE VACATED PROPERTY.**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CRETE, NEBRASKA:**

**Section 1.** That, pursuant to Neb. Rev. Stat. § 16-611, the following described street, alley, or right-of-way that was previously dedicated to the public shall be and is hereby vacated:

All of Taylor Street that lies directly south of and adjacent to Block 8, College Park Addition, City of Crete, Saline County, Nebraska.

**Section 2.** That the City of Crete shall reserve title to the entire vacated property and may sell, convey, exchange, or lease the property upon such terms and conditions as shall be deemed in the best interests of the City.

**Section 3.** That all ordinances or parts of ordinances in conflict herewith shall be repealed and that any partial repeal shall not affect the other parts of ordinances that can be given effect without the repealed parts.

**Section 4.** That if any section, part, or provision of this ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any other section, part, or provision of this ordinance.

**Section 5.** That this ordinance shall be published in a newspaper of general circulation or in pamphlet or book form and shall take effect and be in full force and effect from and after its passage, approval, and publication, as provided by law.

PASSED AND ENACTED the 19th day of July 2022.

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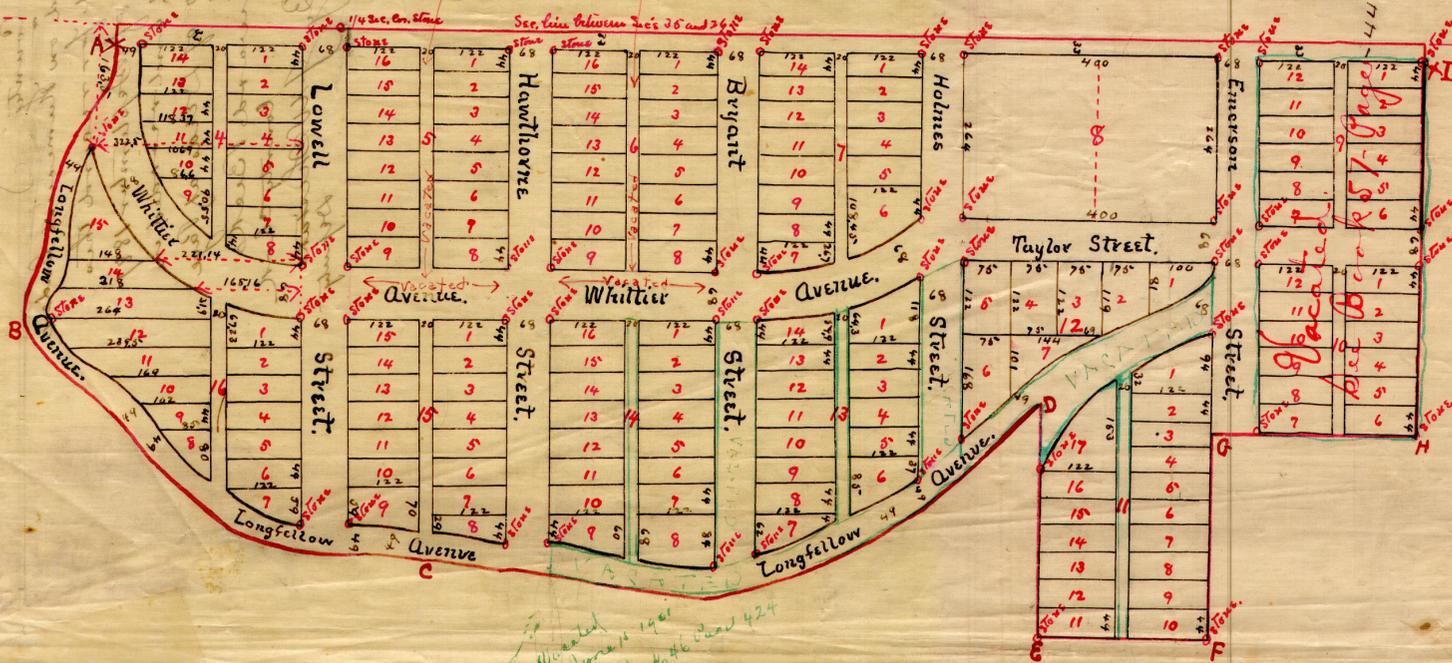
Mayor

ATTEST:

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City Clerk

College Park.



I hereby certify that the annexed Plat and Legend are a correct plat and description of College Park as by me surveyed in the month of July, 1887.

College Park is situated in the N. 1/2 of the N. 1/2 of Sec. 30, T. 8, R. 4, East of the sixth principal meridian in Saline County, Nebraska. The boundary line commences at the point marked A on the map, 2291.7 feet east of the east line of the city of Cete and 33 feet south of the section line between sections 30 and 26, thence thence as indicated by the rd line A. B. C. D. E. F. G. H. I. to the point I, 33 feet south of the sec. line between sections 30 and 26, thence west 2109 feet to the place of beginning.

Ordinary sized lots are 44x122 feet, the sizes of all other lots are designated in feet on the Plat. The width of each avenue, street and alley is marked on the Plat.

There are trees permanently planted at the several places indicated on the Plat, and stakes are driven at the front corners of each lot.

A. B. Fairchild,  
Surveyor.

This is to certify that we, Lewis Engory, Chairman, and James W. Dawes, Secretary of the Board of Trustees of Doane College and owners in fee simple of College Park have caused the same to be surveyed, laid out and platted with streets, alleys, blocks and lots as numbered designated and described in the Plat and Legend.

Now, Therefore, know all men by these presents, that we, Lewis Engory, Chairman, and James W. Dawes, Secretary of the Board of Trustees of Doane College do hereby dedicate the streets and alleys, as in and by the said Plat described, to the public use.

In testimony whereof we have hereunto set our hands this 24th day of September, A.D. 1887.

Lewis Engory, Chairman of Doane College.  
James W. Dawes, Secretary of Doane College.

In presence of  
A. B. Fairchild.

State of Neb.,  
Saline Co. }  
On this 24th day of September A.D. 1887, before me the subscribers, a Notary Public, duly appointed, commissioned and qualified for and residing in said County, personally appeared Lewis Engory, Chairman, and James W. Dawes, Secretary of the Board of Trustees of Doane College, to me known to be the identical persons described in and whose names are affixed to the foregoing Plat, as aforesaid, and they each acknowledged the same to be their free act and deed and the free act and deed of Doane College.

In testimony whereof, I have hereunto set my hand and notarial seal at Cete, in said County, the day and year last above written.

Not L. Stevens  
Notary Public.



College Park Addition

Vacated	
12	1
11	2
10	3
9	4
8	5
7	6
6	7
5	8
4	9
3	10
2	11
1	12

Book 50 Page 50