

## **AGREEMENT FOR CONCURRENT USE AND NON-INTERFERENCE ON STATE LAND**

This Agreement For Concurrent Use and Non-Interference on State Land ("Agreement") is made this \_\_\_ day of October \_\_\_, 2011, between the Golden Valley Electric Association, Inc. ("GVEA"), whose address is P. O. Box 71249, Fairbanks Alaska 99707, and Boot Hill Gold, Inc. ("Boot Hill"), whose address is 3459 Sundial Drive, Bullhead City, Arizona 86429, concerning the following:

### **RECITALS**

WHEREAS GVEA has proposed a 25 megawatt wind energy project on state land in the Eva Creek drainage located in Township 10 South, Range 7 West, Sections 10-11, 21, and 23, Fairbanks Meridian known as the Eva Creek Wind Project ("Project") and sited approximately 15 miles northeast of Healy, Alaska; and,

WHEREAS the Project includes the construction and operation of 12 wind turbines, underground power collection system, transmission substation, operations and maintenance building, access roads and other support facilities, along with connection to the existing transmission corridor to Fairbanks; and,

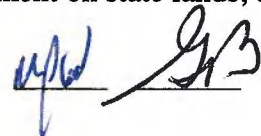
WHEREAS GVEA submitted an Application for Purchase or Lease of State Land to the Alaska Department of Natural Resources (DNR) in January 2010, which has been assigned Alaska Division of Lands (ADL) serial 418853; this application has been supplemented with a Development Plan and accompanying letter in April 2011, along with an Alternatives Analysis in August 2011 to further describe the Project; and,

WHEREAS DNR issued a Preliminary Finding and Decision on GVEA's application for the Project on July 15, 2011, and after notice and public comment thereon, issued a Final Finding and Decision on September 23, 2011 pursuant to several provisions of the Alaska Land Act, including AS 38.05.035(e), .285, .810(e) and .945-46; and,

WHEREAS Boot Hill holds 147 mining claims located on state land in Township 10 South, Range 6 West, Sections 7, 17, and 18, while also in Township 10 South, Range 7 West, Sections 1-5, 7-19, and 21-30; several of Boot Hill's mining claims may be affected by facilities proposed in GVEA's Project and these are further described herein ("Claims"); and,

WHEREAS Boot Hill has spent over \$ 5,000,000 in exploration of its mining claims to ascertain mineral values and the possibility of economic development thereof prior GVEA's submission of its application to lease state lands; and has commented on the Project to DNR both prior the Preliminary Finding and Decision, and thereafter during the official comment period; and,

WHEREAS DNR has stated in a letter addressed to both parties dated April 13, 2011 along with its Preliminary and Final Decisions that the Constitution and Alaska Land Act establishes a policy of concurrent use of state lands to the extent practicable; further, that the policy of the current administration is to encourage both mineral and energy development on state lands; and



accordingly, has encouraged the parties to negotiate arrangements for their concurrent use of state lands, which shall be considered for inclusion in the Final Decision; and,

WHEREAS GVEA and Boot Hill have exchanged comments and correspondence regarding their respective use of state lands, including benefits that Boot Hill may realize from GVEA's Project, towards the end of reaching an agreement regarding same;

NOW, THEREFORE, in consideration of the mutual promises and representations and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## **A G R E E M E N T**

### **I. TERM**

The term of this Agreement shall commence on the date when all of the parties' authorized representatives have signed it and shall continue until such time as:

1. The Claims have lapsed, have been extinguished or Boot Hill provides GVEA written notice that it intends to abandon the Claims; or,
2. The Claims or any right or interest in them are transferred or conveyed by Boot Hill without making them subject to this Agreement; or,
3. GVEA decommissions the Project and provides Boot Hill written notice that GVEA does not intend to operate the Project or any other project on or in the vicinity of the Claims; or,
4. GVEA's state land lease, ADL 418853, is terminated by GVEA or DNR; or
5. GVEA and Boot Hill agree to terminate this Agreement as provided below.

### **II. TERMINATION**

This Agreement may be terminated upon the written agreement of both parties. Such termination shall be effective upon its signature by the authorized representatives of both parties. This Agreement shall automatically terminate upon the expiration of its term as described above or upon GVEA's modification of its Facilities as defined herein without Boot Hill's review and approval.

### **III. BOOT HILL CLAIMS SUBJECT TO AGREEMENT**

Boot Hill's mining claims that are subject to this Agreement are only those identified in the map attached as Exhibit A entitled "Eva Creek Wind Project New Turbine Locations," (prepared by Alaska Rim Engineering, Inc.,) and are hereafter referred to as the Claims. The 14 Claims are listed below:





<b>Mining Claim ADL #</b>
607182
607183
607184
607185
607186
607187
612020
612021
612024
612026
612027
612029
613118
613119

**IV. GVEA EVA CREEK FACILITIES**

A. The GVEA facilities subject to this Agreement include all of the structures, equipment and components installed for the Eva Creek Wind Farm and placed upon or above the ground subject of lease from DNR, specifically:

- a) The wind turbines, which for purposes of this Agreement includes each turbine foundation and the equipment installed on each turbine foundation;
- b) The electrical facilities, both above and below ground, comprising the collector system between each turbine and between the turbines and the GVEA substation;
- c) The GVEA substation interconnecting the Project with the GVEA Northern Intertie;
- d) The Project’s maintenance and operations building, including the communications facilities; and,
- e) Access roads serving the Project (hereafter “Facilities”).

B. Any change or modification in the Project resulting in the placement of new or additional structures, equipment or components beyond those described herein shall constitute Facilities for purposes of this Agreement. Further, any change or modification to the Facilities shall be subject to paragraph VI.B herein.

**V. COVENANTS OF THE PARTIES**

A. The parties agree to cooperate in a commercially reasonable manner to avoid and to mitigate any interference with each other's activities on and adjacent to the Claims. Each party will provide notice in writing to the other of its intended activities on and adjacent to the Claims during any period when that party shall have personnel, contractors or other interest holders undertaking such activities. The obligation to provide notice includes, but is not limited to, any application or submission that either party is required to provide to DNR or another governmental entity and concerning its operations on the Claims. The obligation to provide notice shall be limited to activity on the ground within 300 feet of either party's facilities or operations on the claims.

B. Both parties shall have access to and use of state land on which the Claims and facilities are located, provided, however, that Boot Hill shall coordinate with GVEA prior to undertaking any activities within a three-hundred (300) foot radius of a Project turbine foundation.

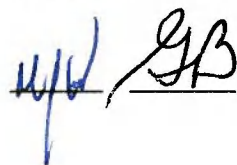
C. Both parties shall take all reasonable precautions to avoid damage to any above or below ground equipment or facilities of the other party that are on or adjacent to the Claims. GVEA shall provide and maintain monuments or signage identifying the location or linear alignment of any buried Facilities not visible or discernible from the surface. GVEA shall also provide Boot Hill with any as-built drawings or surveys on the location of its constructed Facilities.

D. Neither party shall take any action that will block or restrict the use of access roads on and connected to the Claims. Boot Hill has existing roads accessing its Claims. If GVEA proposes to obliterate or relocate such access in conjunction with its Project and Facilities, then it shall provide written notice to Boot Hill. Boot Hill shall have an opportunity to comment on GVEA's plans for road access construction or relocation of existing road access and GVEA shall incorporate such comments in its plans to the extent practicable.

E. GVEA will, at its expense, make the required modifications to the Eva Creek Substation to allow for a 19.9/34.5kV exit feeder to be built. Boot Hill, or other entity, will be responsible for the line extension costs per GVEA's Line Extension Policy.

F. Boot Hill shall notify GVEA in a reasonable time if it determines that a mineral reserve is proximate to or underlies a Project turbine foundation or other Facility subject to this agreement such that development of the reserve may adversely impact the Project Facility. For purposes of this Agreement, the term "mineral reserve" has the meaning established in mining industry and governmental guidelines for the evaluation and reporting of mineral properties. *E.g., U.S. Geological Survey, Principles of a Resource/Reserve Classification for Minerals, Geological Survey Circular 831 (1980); Society for Mining, Metallurgy and Exploration, A Guide for Reporting Exploration Information, Mineral Resources and Mineral Reserves (1999).*

G. Boot Hill shall notify GVEA in writing when it intends to develop a commercial mining operation and produce minerals from the Claims in a location where Facilities exist. With regard to such mining operation, if Boot Hill determines in its commercially reasonable judgment that a Project turbine or other GVEA Facilities subject to this Agreement must be





relocated, Boot Hill shall provide GVEA at least ten (10) years prior written notice of the need for such relocation. As part of such notice, Boot Hill shall justify its request to relocate the Facilities, including an analysis of site or design alternatives to the proposed relocation, and shall demonstrate that the location of the Facilities poses an irreconcilable conflict with Boot Hill's mining operation. Upon receiving the required notice and explanation, the notice period shall start and GVEA will move the affected GVEA facilities within the time period provided in the notice and subject to the following conditions:

1. Items described under "GVEA Eva Creek Facilities" shall be moved at GVEA's cost within the timeframe described above.
2. If Boot Hill desires to relocate any of the GVEA Facilities in less than 10 years from the date of the relocation request, the Facilities relocation may be done at Boot Hill's expense.

H. The parties agree and acknowledge that their respective rights and obligations regarding concurrent use of state lands pursuant to Article VIII of the Alaska Constitution and the Alaska Land Act shall be governed by the terms of this Agreement. Specifically, the parties agree and acknowledge that Boot Hill's concurrent use of the mineral estate, together with GVEA's use of the surface estate, on state lands identified in Exhibit A shall be governed by this Agreement. In this regard, the parties shall forward an executed copy of this Agreement to DNR for incorporation in the applicable ADL serial files.

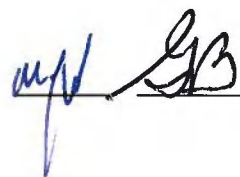
## **VI. ASSIGNMENT AND MODIFICATION OF AGREEMENT**

A. In the event Boot Hill transfers any portion of its interests in the Claims voluntarily or its interests in the Claims are transferred by, operation of law, devise, or otherwise, the transferee or assignee, as the case may be, shall be required to endorse and acknowledge this Agreement with GVEA's consent. GVEA's consent to such transfer or assignment shall not be unreasonably withheld. Boot Hill shall remain fully obligated under this Agreement unless it has transferred all of its interests in the Claims and the transferee has confirmed in writing signed by its authorized representative, and reasonably satisfactory to GVEA, that it has assumed all of Boot Hill's obligations under this Agreement.

B. In the event that GVEA proposes to DNR any change or modification in its Eva Creek Wind Farm, including the location of any structures, components or equipment comparable to the Facilities identified in paragraph IV herein, then Boot Hill shall have an opportunity to review such change or modification. Also upon GVEA's proposal of such change or modification, this Agreement shall terminate unless Boot Hill consents to a new agreement incorporating provisions, if any, regarding the changed or modified Facilities.

## **VII. LIMITATION OF LIABILITY; ADJUDICATION OF DISPUTES**

A. Neither party shall be liable to the other for any consequential, special, or indirect damages arising from or related to this Agreement.



B. Either party may seek declaratory and injunctive relief along with compensatory damages if the other party has breached a term of this Agreement.

C. Each party agrees to defend the other and hold it harmless from any and all losses, claims or suits for or on account of bodily or personal injury to or death of persons, including but not limited to employees, contractors, and agents or others, arising out of the indemnifying party's negligent acts, errors or omissions, except to the extent such injury or harm arises from the negligent acts, errors or omissions of the indemnified party.

D. This Agreement shall be interpreted according to Alaska law and jurisdiction for any dispute arising under this Agreement shall lie in the Alaska Court System.

**VIII. ENTIRE AGREEMENT**

The terms of this Agreement represent the entire agreement and understanding of the parties related to the subject matter hereof. All other understandings and representations if any, whether express or implied, regarding the subject matter hereof are merged into and superseded by this Agreement.

GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.

BY: [Signature] DATE: 10/25/2011  
TITLE: V.P. Transmission & Distribution



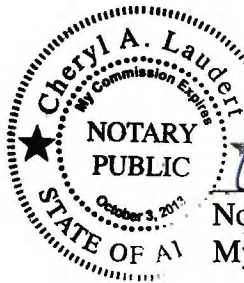
STATE OF ALASKA )  
) ss.  
FOURTH JUDICIAL DISTRICT )

On this 25<sup>th</sup> day of October, 2011, before me, a Notary Public in and for the State of Alaska, personally appeared Michael J. Wright, to me known to be the V.P. of Transmission and Distribution of Golden Valley Electric Association, an electric not-for-profit cooperative membership corporation organized and existing under the laws of the State of Alaska, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

[Signature] GB





Cheryl A. Lauder  
Notary Public in and for the State of Alaska  
My Commission Expires: Oct 3, 2013

BOOT HILL GOLD, INC.

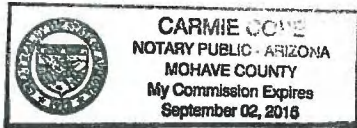
BY: [Signature]  
TITLE: President

DATE: 10-31-11

STATE OF AZ )  
 ) ss.  
 )

On this 31 day of October, 2011, before me, a Notary Public in and for the State of AZ, personally appeared [Signature] to me known to be the President of Boot Hill Gold, Inc., an Alaska corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated that s/he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Carmie Cope  
Notary Public in and for the State of AZ  
My Commission Expires: Sept 2, 2015

[Signature]



