

AGREEMENT FOR ROAD USE, REPAIR AND IMPROVEMENTS

This AGREEMENT FOR ROAD USE, REPAIR AND IMPROVEMENTS (this "Agreement") is made and entered into this ____ day of _____, 2018 by and among the TOWN OF PINCKNEY, a municipal corporation with offices at 307 State Route 177, Barns Corner, New York ("Pinckney"), the TOWN OF HARRISBURG, a municipal corporation a municipal corporation with offices at 7886 Cobb Rd., Harrisburg, New York ("Harrisburg"), and the COUNTY OF LEWIS, a body corporate and politic under the laws of the State of New York with an office at 7668 State Street, Lowville, New York (the "County") and ATLANTIC WIND, LLC, an Oregon limited liability company with offices at 7650 N State Street, Lowville, New York 13367 ("Atlantic") ("Atlantic" or "Company"). Pinckney and Harrisburg are sometimes referred to individually as the affected "Town" and collectively as the "Towns". Pinckney and Harrisburg, the County and Atlantic are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

1. The Company has been developing a wind-powered electric generating facility located in the Towns of Pinckney and Harrisburg, in Lewis County, New York (the "Deer River Wind Farm").
2. The Deer River Wind Farm has a planned nameplate capacity of up to approximately 79.9 MW (the "Project") and is owned by Atlantic Wind, LLC, a limited liability company currently controlled by Avangrid Renewables, LLC.
3. The Deer River Wind Farm advances the County's and Towns' desire for environmentally sound production of electrical power.
4. The Towns and County are responsible for the maintenance of certain roads and highways within Lewis County.
5. In connection with the development, construction, operation and maintenance of the Project, it will be necessary for Atlantic and its contractors and subcontractors or designees to: (i) transport heavy equipment and materials over the certain roads and highways located in the Towns and County (the "Designated Roads"), which may in certain cases be in excess of the design limits of the Designated Roads; (ii) transport certain locally sourced materials, such as concrete and gravel, on such Designated Roads; (iii) widen certain Designated Roads and make certain modifications and improvements (both temporary and permanent) to such Designated Roads (including to certain culverts, bridges, road shoulders and other related fixtures) to permit such equipment and materials to pass; and (iv) place certain electrical cables for the Project adjacent to, under or across certain roads for the purposes of carrying electrical current from the Project to the point of interconnection substation on National Grid's Lighthouse Hill - Black River 115 kV transmission line in the Town of Rodman.

6. The Towns, County and Atlantic wish to enter into an agreement for the use, repair and improvement of the Designated Roads by Atlantic, all in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I USE OF DESIGNATED ROADS BY ATLANTIC

Section 1.1 Use of Designated Roads by Atlantic. In connection with the development, construction, operation and maintenance of the Project, the Towns and County hereby acknowledges and agree that Atlantic, its contractors and subcontractors and each of their respective agents, employees, representatives, and permitted assigns (collectively, the "Atlantic Parties") may use the roads and highways located in the Towns and County identified on Appendix A hereto (the "Designated Roads"). Except in exceptional circumstances, concrete or other aggregate material trucks are limited to use from 6:00 AM to 8:00 PM, seven days a week ("Period of Use"). The Designated Roads may be used by Atlantic and the Atlantic Parties only in connection with the development, construction, operation, and maintenance of the Project, including the transportation of heavy equipment and materials to and from the Project. The Parties understand that deviations from the Project schedule may cause monetary and other harm to Atlantic. Accordingly, the Towns agree to use best efforts to accommodate the use of the Designated Roads by Atlantic and the Atlantic Parties outside the Period of Use. In addition to identifying the Designated Roads that will be used by Atlantic, Appendix A identifies the routes over the Designated Roads that will be used for: (i) transportation and delivery of wind turbine equipment and components and other materials and equipment to be used in connection with the Project; (ii) truck transportation leaving the Project site following delivery of equipment and materials; and (iii) transportation and delivery of locally sourced materials, including concrete and gravel (provided, however, that in the event the materials contemplated by the Parties in the development of the routes in Appendix A are not reasonably available, the Parties shall cooperate in good faith to amend the routes so as to allow for the alternate sourcing of those materials). Subject to the terms of the foregoing and the other terms of this Agreement, the Parties agree that, to the extent Atlantic's requirements for the Designated Roads change as a result of modifications to Atlantic's haul routes, the Parties shall substitute such other roads for the Designated Roads as Atlantic reasonably requests. Atlantic shall provide the Town Highway Superintendent reasonable notice that it anticipates the use of substitute roads. Substitute roads may only be used on consent of the Town Highway Superintendent and such consent shall not be unreasonably withheld. In the event that the Town Highway Superintendent does not respond within three (3) business days of a request to use a substitute road, the Town Highway Superintendent shall be deemed to have agreed to such substitute road being used. The Parties also agree that the restrictions in this Agreement pertaining to Designated Roads and Period of Use are restricted to concrete or other aggregate material trucks and do not apply to usage by passenger vehicles, light duty trucks or other vehicles that are properly licensed for use on public roadways in the State of New York.

Section 1.2 Construction Period Meetings. Beginning with commencement of construction of the Project, Atlantic and a representative from the Towns and County (each, a “Designee” and collectively, the “Designees”) shall meet on a weekly basis to discuss the expected use of the Designated Roads in the next succeeding week, including the construction schedule and the haul routes to be used. The Designees shall have authority to act on behalf of the Towns and County, including the right to allow use of the Designated Roads outside the Period of Use and approve use of substitute roads. To the extent necessary, the Designees and Atlantic may invite certain landowners to attend the weekly meetings if their property is near or adjacent to the areas of use. Within ten (10) days after the execution of this Agreement by the Parties, the Towns and County shall provide the names and contact information for each of its respective Designees. It is Atlantic’s sole responsibility and obligation to inform the Atlantic Parties of all obligations, restrictions and liabilities contained within this Agreement and specifically that, without limiting any other rights to use Town and County roads and highways, the Atlantic Parties are permitted the limited right to use the Town and County roads and highways as set forth herein or applicable law.

Section 1.3 Additional Conditions of Use. The use of Designated Roads by Atlantic and the Atlantic Parties is subject to the following conditions:

- a) In the event of an exceptional circumstance and Atlantic and the Atlantic Parties determine it is necessary for the Project to use the Designated Roads outside the Period of Use, then Atlantic or, if applicable, the Atlantic Parties shall seek approval of the Designees, describing in detail such use and the reasons therefore. The Designees will take into account weather conditions and the conditions of the roads in making their determination to grant permission for use of the Designated Roads outside of the Period of Use under this Section 1.3, which permission shall not be unreasonably withheld. In the event that the Designees fail to respond within three (3) business days, the Designees shall be deemed to have agreed to such use.
- b) In the event Atlantic and the Atlantic Parties determine it is necessary for the Project to use roads and highways of the Towns and County not identified on Appendix A as Designated Roads, then Atlantic or, if applicable, the Atlantic Parties shall notify the Designees, describing in detail such use and the reasons therefore. Atlantic shall provide the Designee reasonable notice that it anticipates the use of substitute roads. Substitute roads may only be used on consent of the Designees and such consent shall not be unreasonably withheld. In the event that the Designees do not respond within three (3) business days of a request to use a substitute road, the Designees shall be deemed to have agreed to such substitute road being used.
- c) Once construction begins on the Project, the Designee shall be entitled, at any time, to notify Atlantic and the Atlantic Parties that use of the Designated Roads may result in excessive damage to the Designated Roads due to weather conditions. Atlantic shall work with the Designee to develop a plan to mitigate or prevent the effect of such weather conditions. If the Parties are able to develop a plan to mitigate or prevent such damage, then Atlantic and the Atlantic Parties may continue to use such roads provided

such mitigation is implemented. If the Parties are unable to develop such a plan, Atlantic and the Atlantic Parties may propose an alternate route to the Project site for approval by the Designees of the Towns (such approval not to be unreasonably withheld).

Section 1.4 Surveys of Designated Roads. Prior to the commencement of construction at the Project site, the Towns, the County and Atlantic shall select a third party to survey the Designated Roads to document the conditions of such roads prior to their use ("Initial Survey"). The Initial Survey shall include for each road or road section: (i) Town specifications applicable to the construction of the existing road; (ii) the period of time since the road was constructed or last maintained; (iii) an assessment of the condition of the road based on visual inspection and any information available through road testing. A scope of the road testing work is attached to this Agreement as Appendix G. The Initial Survey shall also include a survey of the roads and highways within the boundaries of the Towns and County anticipated to be used by Atlantic and the Atlantic Parties as alternate routes from time to time (the "Non-Project Roads"). The third-party surveyor shall take photographs of or videotape the Designated Roads and Non-Project Roads, which photographs or video shall be accompanied by a written summary of findings regarding the condition of the Designated Roads and Non-Project Roads (the "Road Report"). Such Initial Survey, Road Report and any subsequent surveys or road reports shall be completed to the reasonable satisfaction of the Designees. Copies of the photographs or video and the Road Report shall be provided to the Designees and Atlantic. Within fourteen (14) days from the execution of this Agreement, the Towns and County agree to provide Atlantic a list of locations whereby the Towns and County have identified that core samples are required to fully delineate the conditions of the roads. The parties agree to negotiate in good faith and with reasonable efforts to identify a final list of road coring locations which shall be added to this Agreement as Appendix E. The results of these core samples will be incorporated into the Road Report. The costs of the Initial Survey and Road Report will be borne by Atlantic. Atlantic shall request the third party surveyor to conduct an additional survey following completion of construction of the Project to determine the then current condition of the Designated Roads and Non-Project Roads. Additional surveys shall only be conducted in the event the Parties mutually agree and the additional survey costs are borne by Atlantic. Atlantic agrees that the Initial Survey shall include an assessment of the haul routes identified in Appendix A for rutting conditions and potential for rutting. The post construction road inspection shall assess rutting for the locations identified.

Section 1.5 Trash Removal; Unnecessary Materials and Equipment. Throughout the term of this Agreement, Atlantic shall be responsible for keeping, at its cost, the Designated Roads and Non-Project Roads clean and free from rubbish and debris resulting from Atlantic's use of the Designated Roads and Non-Project Roads. Materials and equipment of Atlantic or the Atlantic Parties, if any, shall be removed from the Designated Roads and Non-Project Roads as soon as they are no longer necessary.

Section 1.6 Plowing. The Parties agree that there shall be no plowing of seasonal or minimum maintenance roads during or after construction of the Project except upon the issuance of a special permit by the Town Highway Superintendent.

ARTICLE II

REPAIR OF DESIGNATED ROADS AND NON-PROJECT ROADS

Section 2.1 Obligation to Repair Town Roads. In the event that any of the (i) Designated Roads or related appurtenances, including bridges, culverts and other road fixtures, (ii) modifications and improvements made pursuant to Section 3.1 and described on Appendix B, or (iii) Non-Project Roads are damaged as a result of the use by Atlantic or the Atlantic Parties, Atlantic agrees to repair (or cause to be repaired) such damage and to restore such road(s) or related appurtenance to the condition they were in prior to the use (as near as is reasonably practicable having due regard for normal wear and tear) under this Agreement. Atlantic shall either (i) restore Designated Roads in accordance with the specifications set forth on Appendix C or; (ii) ensure that the restored roads match core samples taken prior to construction. The Parties will mutually agree upon the best alternative and ensure said alternative is representative of the conditions of the Designated Roads which are to be used by Atlantic in excess of their design limits, both before and after construction in which specified roads are to be used by Atlantic in excess of their design limits. The Parties shall rely upon the Initial Survey and the Road Report conducted pursuant to Section 1.4 for purposes of determining whether the repair has been performed in accordance with the standard set forth in this Section 2.1. Any repair and restoration shall be promptly performed at such times as mutually agreed by Atlantic and the Designee, having due regard for time of year, weather, status of construction activities, safety, the presence of emergency conditions and the costs of such repairs compared with other times of year. Following completion of such repair, the Designee and Atlantic shall jointly inspect the repair to determine that it has been satisfactorily completed.

Section 2.2 Repairs of Designated Roads at the Request of Designees; Failure to Repair. The Designee may request in writing that Atlantic repair damage shown to be caused by Atlantic and the Atlantic Parties to the Designated Roads and related appurtenances and return such roads and appurtenances to the condition such roads and appurtenances were in prior to such damage (as near as is reasonably practicable having due regard for normal wear and tear). Prior to commencement of such repair, the Designees and Atlantic shall meet to review the damage in relation to the Initial Survey, Road Report or most recent subsequent survey, as applicable. Atlantic shall repair (or cause to be repaired) such damage and restore the road(s) to the standard set forth in Section 2.1, unless Atlantic or the Atlantic Parties demonstrate to the reasonable satisfaction of the Designees that the damage was not caused by Atlantic or the Atlantic Parties. Any repair and restoration shall be promptly performed at such times as Atlantic and the Designees determine, having due regard for the time of year, weather, status of construction activities, safety, the presence of emergency conditions and the costs of such repairs compared with other times of year. In the event that Atlantic fails to repair such roads and appurtenances within the agreed period, then, unless the Parties mutually agree otherwise, the applicable Town or County may make such repairs and shall invoice Atlantic for the costs incurred by the Town in connection with the repair. Atlantic shall pay such invoiced amounts within forty-five (45) days following receipt of the invoice. The burden shall be on Atlantic to establish that an invoice is unjustified or unreasonable subject to the dispute resolution provisions set forth in Section 11.2.

Section 2.3 Repairs of Non-Project Roads at the Request of Designee; Failure to Repair. To the extent that permission is granted for the use of Non-Project Roads, the Designee may, from

time to time, request in writing that Atlantic repair damage caused by Atlantic and the Atlantic Parties to the Non-Project Roads that are used by Atlantic or Atlantic Parties, and return such roads to the condition such roads were in prior to such damage (as near as is reasonably practicable having due regard for normal wear and tear). Prior to commencement of such repair, the Designee and Atlantic shall meet to review the damage in relation to the Initial Survey, Road Report or most recent subsequent survey, as applicable. Atlantic shall repair (or cause to be repaired) such damage and restore the road(s) to the standard set forth in Section 2.1, unless Atlantic or the Atlantic Parties demonstrate to the reasonable satisfaction of the Designees that the damage was not caused by Atlantic or the Atlantic Parties. Any repair and restoration shall be promptly performed at such times as Atlantic and the Designees determine, having due regard for safety, the presence of emergency conditions and the costs of such repairs. In the event that Atlantic fails to repair such roads within the agreed period, then, unless the Parties mutually agree otherwise, and if Atlantic fails to agree to undertake such repairs within five (5) days of its receipt of notice from the Town where the road is located, then the Town may make such repairs and shall invoice Atlantic for the costs incurred by the Town in connection with the repair. Atlantic shall pay such invoiced amounts within forty-five (45) days following receipt of the invoice. The burden shall be on Atlantic to establish that an invoice is unjustified or unreasonable subject to the dispute resolution provisions set forth in Article 11.2.

Section 2.4 Term of Obligation to Repair. Notwithstanding anything herein to the contrary, the obligations of Atlantic and the Atlantic Parties to repair certain roads in accordance with Sections 2.1, 2.2 and 2.3 shall terminate 240 days from completion of construction or such earlier date as the parties may agree. Atlantic shall notify the Town where the road is located in writing sixty (60) days prior to the date on which completion of construction is anticipated to occur.

ARTICLE III

IMPROVEMENT AND MODIFICATIONS TO DESIGNATED ROADS

Section 3.1 Improvements and Modifications to Designated Roads. The Parties acknowledge and agree that certain modifications and improvements to the Designated Roads and related appurtenant structures are necessary to accommodate the use of the Designated Roads by Atlantic and the Atlantic Parties contemplated hereby, including the widening of certain roads and modifications and improvements necessary to accommodate the heavy equipment and materials to be transported on the Designated Roads. The modifications and improvements that shall be made by Atlantic are described in detail on Appendix B hereto. Atlantic reserves the right to amend this Agreement to add roads and appurtenant structures if deemed necessary upon five (5) days' notice to the Towns or County. The Towns, County and Atlantic agree that such improvements and modifications shall be made in accordance with the specifications set forth on Appendix C. Notwithstanding anything herein to the contrary, upon the reasonable request of Atlantic, the Designees of the Towns are authorized from time to time to grant consent to deviations from the specifications set forth on Appendix C.

Section 3.2 List of Materials and Construction Techniques. Ten (10) days prior to the commencement of any modification or improvement pursuant to this Article III, Atlantic shall deliver to the Designees of the Towns and County a list of all materials to be used and construction

techniques to be employed in connection therewith, subject to the approval of the Designees of the Towns and County (not to be unreasonably withheld).

Section 3.3 Review of Designated Road Construction. Within seven (7) business days following completion of the work contemplated in Section 3.1, the Highway Superintendent in the Town where the road is located and County Highway Superintendent, as applicable, may review the pre-construction improvements and modifications.

Section 3.4 Compliance with Law. Atlantic agrees that all modifications and improvements shall comply with all applicable laws, and be in compliance with all applicable permits and other authorizations for the Project.

Section 3.5 Collection System Cabling. The Parties acknowledge that Atlantic may desire to route certain wires, cables, conduits and/or lines (and their associated equipment) related to the transmission of electricity at a voltage of up to 34.5 kV from the Project below ground at a location adjacent to, under or across certain Designated Roads, as identified on Appendix D (the "34.5 kV Installation"). The 34.5 k V Installation will include a fiber-optic communication cable that will be installed in conjunction with the electrical cables. In connection with the 34.5 kV Installation, the Parties further agree that Atlantic shall be responsible for obtaining all private land rights as are necessary to permit Atlantic to complete the 34.5 kV Installation and make the modifications and improvements to the Designated Roads contemplated by this Agreement, including obtaining all necessary land rights from private landowners adjacent to the Designated Roads. In connection with the 34.5kV Installation, the Towns and County hereby grants to Atlantic all such authorizations and approvals from the Towns and County as are necessary to complete the 34.5kV Installation, subject only to Atlantic's obtaining all private land rights as are required in connection therewith. In no event, shall underground cables be located within 25 feet of any culverts at crossings. When crossing town roads, cuts must be tapered back from center of cut 10 feet each way from half the distance of depth of cut.

Section 3.6 Permits. Atlantic shall obtain all necessary governmental permits and approvals that are necessary to permit Atlantic to make the modifications and improvements to the Designated Roads other than permits required from the Towns and County which are provided herein.

ARTICLE IV WARRANTIES BY ATLANTIC

Section 4.1 Workmanship and Material Warranties.

- a) Atlantic's engineering responsibility, including the selection of material and equipment suitable for the repair of, and modifications and improvements to, the Designated Roads and Non-Project Roads shall be carried out in accordance with generally accepted engineering practices, and Atlantic's construction responsibility shall be carried out in accordance with sound construction practices, subject to the provisions of Section 3.2. Atlantic shall require from its construction contractors and subcontractors the same standards of engineering and construction practice. Atlantic

warrants that it shall perform and complete all repairs, modifications and improvements hereunder in a good and workmanlike manner.

- b) Atlantic warrants during the Applicable Warranty Period (as defined below) that all repairs, modifications and improvements hereunder shall be free from defects in material and workmanship. Atlantic shall remedy any defects in the repairs, modifications and improvements performed hereunder, workmanship, materials and equipment, including repairs, modifications and improvements, workmanship, materials and equipment provided by subcontractors, in accordance with Section 4.2 which appear during the "Applicable Warranty Period". A "defect" means any and all design, engineering, construction, manufacturing, installation, materials, equipment, repairs, modifications or improvements which (i) does not conform to the terms of this Agreement, (ii) fails to comply with the standards set forth in Section 4.1 (a), (iii) is not of specified quality, (iv) is of improper or inferior workmanship, or (v) is not suitable for use under the applicable climatic and range of operating conditions. As used herein, "Applicable Warranty Period" means, with respect to any repair, modification, or improvement by Atlantic hereunder, the time period that begins on the date repairs, modifications or improvements to Designated Roads are identified by Atlantic to the Town where the road is located as complete and ending on the date that is twelve (12) months after such completion date.

Section 4.2 Remedies. During the Applicable Warranty Period, the affected Towns and County shall notify Atlantic in writing within fifteen (15) days of discovery of any defects in the repairs, modifications or improvements, provided that any delay by the Town beyond such fifteen (15) days in notifying Atlantic shall relieve Atlantic from liability only to the extent of any additional expense which may arise as the direct result of such delay. At no additional cost to the Towns and County, Atlantic shall proceed promptly to take such action relating to its performance hereunder as is necessary to cause the repairs, modifications and improvements to comply with the warranties specified in this Agreement. Atlantic shall be available either at the Project or by telephone for the performance of warranty repairs on a seven (7) day a week, twenty-four (24) hours per day basis. Atlantic shall not be obligated to remedy any materials, equipment, repairs, modifications or improvements which becomes defective as a result of improper operation or maintenance by the Towns or County or which results from normal wear and tear or use by parties other than Atlantic or the Atlantic Parties. In the event that Atlantic fails to repair such roads within the agreed period, then, unless the Parties mutually agree otherwise, and if Atlantic fails to agree to undertake such repairs within five (5) days of its receipt of notice from the Town where the road is located and/or County, then the Town and/or County may make such repairs and shall invoice Atlantic for the costs incurred in connection with the repair. Atlantic shall pay such invoiced amounts within forty-five (45) days following receipt of the invoice. The burden shall be on Atlantic to establish that an invoice is unjustified or unreasonable subject to the dispute resolution provisions set forth in Section 11.2.

Section 4.3 Warranty. Atlantic warrants that all repairs, modifications, improvements and materials furnished in connection with the performance by Atlantic and the Atlantic Parties under this Agreement shall be free and clear of all liens.

ARTICLE V
POST CONSTRUCTION USE OF TOWN ROADS AND HIGHWAYS

Section 5.1 Operating, Maintaining, and Decommissioning Project. In the event operating, maintaining, or decommissioning of the Project requires the use by Atlantic of oversized or overweight vehicles, prior to entry upon roads and highways with such vehicles, Atlantic shall inspect the affected roads and highways pursuant to this Agreement and produce to the Town an updated Post-Construction Report ("Updated Post Construction Report"). In the event of subsequent damage caused by operating, maintaining, or decommissioning of the Project (measured against the Updated Post-Construction Report), the Parties agree that this Agreement would be re-instated for a term necessary to repair such damage, in which event Atlantic's rights and obligations hereunder, including the warranty provisions of Article IV, shall be restored for the period necessary to repair such damage, if any. In no event shall the post-construction road use obligations limit the use of ordinary commercial trucks (i.e. pick-up trucks) in use for the Project.

ARTICLE VI
INDEMNIFICATION; LIMITATION OF LIABILITY

Section 6.1 Indemnification by Atlantic. Atlantic hereby releases and agrees to indemnify and hold harmless the Towns and the County and their respective officers, employees and agents, and their respective heirs, executors, administrators, successors and assigns (hereinafter collectively "Town and County Releasees") from any and all actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands against the Town and County Releasees arising out of or relating to the performance by Atlantic and the Atlantic Parties of their respective obligations under this Agreement. More particularly, but without in any way limiting the foregoing, Atlantic hereby releases the Town and County Releasees and agrees to indemnify and hold harmless the Town and County Releasees from any and all actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands arising directly or indirectly from any personal injury, death or property damage arising out of the use, construction, modifications, repair or improvement of any Designated Road or Non-Project Road by Atlantic, the Atlantic Parties and their respective employees, agents, representatives or contractors.

Section 6.2 Indemnification by the Towns and County. The Towns and County hereby release and agree to indemnify and hold harmless Atlantic and its members, officers, directors, contractors, subcontractors, employees and agents, and their respective employees, heirs, executors, administrators, successors and assigns (hereinafter collectively "Atlantic Releasees") from any and all actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands against the Atlantic Releasees arising out of or relating to the performance by the Towns and County of their obligations under this Agreement. More particularly, but without in any way limiting the foregoing, the Towns and County hereby release the Atlantic Releasees and agree to indemnify and hold harmless the Atlantic Releasees from any and all actions, causes of action, suits, claims, expenses (including reasonable attorney's fees) and demands arising directly or indirectly from any personal injury, death or property damage arising out of the use, construction, modifications, repair or improvement of any Designated Road by the Towns and

County, their respective employees, agents, representatives or contractors or their respective employees, agents or representatives.

Section 6.3 Limitation of Liability. Except as expressly set forth herein, the acts of each party are provided hereunder without warranty of any kind, express or implied, and each party hereby disclaims any such warranty including, without limitation any warranty of merchantability or fitness for a particular purpose. The Parties waive all claims against each other (and against each other's parent company and Affiliates and their respective members, shareholders, officers, directors, agents and employees) for any consequential, incidental, indirect, special, exemplary or punitive damages (including loss of actual or anticipated profits, revenues or product loss by reason of shutdown or non-operation; increased expense of operation, borrowing or financing; loss of use or productivity; or increased cost of capital); and, regardless of whether any such claim arises out of breach of contract or warranty, tort, product liability, indemnity, contribution, strict liability or any other legal theory.

ARTICLE VII INSURANCE

Section 7.1 Required Insurance. Atlantic shall at all times throughout the term of this Agreement maintain or cause to be maintained in full force and effect worker's compensation insurance in an amount required by applicable law and general liability insurance, naming the Towns and County as additional insureds, in an amount of Five Million Dollars (\$5,000,000) in the aggregate. Atlantic may utilize any combination of primary and/or excess insurance to satisfy this requirement. Atlantic may elect to self-insure any or all of the insurance requirements contained in this Agreement. Atlantic will provide proof of such insurance in the form of a certificate of insurance or proof of self-insurance upon request of either Town or County. If a Town or County performs the repair, Atlantic shall have no obligation relative to indemnity or insurance for work completed and the Town or County performing the repair shall be responsible for its own insurance protection.

ARTICLE VIII TERM; DEFAULT AND REMEDIES

Section 8.1 Term of Agreement. This Agreement shall become effective as of the date first written above and shall remain in effect, unless terminated earlier in accordance with this Agreement, until the date that is thirty (30) days after the date on which the Project facilities are decommissioned.

Section 8.2 Events of Default. The occurrence of anyone or more of the following events shall constitute an "Event of Default" hereunder:

- a) Failure by Atlantic to make any payment or reimbursement due under the terms of the Agreement when due and payable, and such failure continues for thirty (30) days after receipt by Atlantic of written notice of such failure from the affected Town or County.

- b) Any representation or warranty made by Atlantic in this Agreement or in any report, certificate, financial statement, or other instrument furnished at any time under or in connection with this Agreement shall prove to have been false, misleading, or incorrect in any material respect as of the date made.
- c) Failure by Atlantic to comply with any covenant, agreement or obligation contained in this Agreement, and such failure continues for thirty (30) days (or such longer period as the Parties may agree if such failure is not susceptible of cure within such thirty (30) day period) after receipt by Atlantic of written notice of such failure from the affected Town or County.
- d) Atlantic's:
 - i. application for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property;
 - ii. admission in writing of its inability to pay its debts as such debts become due;
 - iii. making of a general assignment for the benefit of its creditors;
 - iv. commencing a voluntary case under the United States Federal Bankruptcy Code (as now or hereafter in effect);
 - v. filing of a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; or
 - vi. failure to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the United States Federal Bankruptcy Code.
- e) The institution of a case or proceeding against Atlantic in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up or composition or readjustment of debts of Atlantic; or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of Atlantic or of all or any substantial part of its assets, unless such proceeding or case is dismissed within sixty (60) days thereafter.

Section 8.3 Remedies Upon Default. Whenever an Event of Default described in Section 8.2 shall have occurred, the affected Town shall have the right to take any or all of the following actions:

- a) Declare Atlantic in default and to seek immediate payment of any amount due hereunder from any surety guaranteeing Atlantic's full and faithful performance

hereunder, such payment to be immediately due and payable together with interest thereon at the rate of nine percent (9%) per annum from the date of default through the date of payment, without any further notice of demand of any kind or any presentment or protest.

- b) Take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce the performance or observance of any obligations, agreements, or covenants of Atlantic under this Agreement.

Section 8.4 Remedies Cumulative. The rights and remedies of the Towns and County under this Agreement shall be cumulative and shall not exclude any other rights or remedies the Towns and County may have at law or in equity with respect to any Event of Default under this Agreement.

Section 8.5 Arbitrary and Capricious. If at any time Atlantic shall disagree with the Designees, Atlantic may commence an Article 78 or other proceeding to determine whether such Designees have acted in an arbitrary or capricious manner. Any such litigation may only be commenced in Supreme Court, Lewis County, or within the same judicial district.

Section 8.6 Attorney's Fees. In the event that the Towns or County have to take any actions to enforce this Agreement or otherwise obtain compliance with its terms, Atlantic agrees to reimburse the Towns and the County for all costs so incurred, including reasonable attorney's fees.

ARTICLE IX PROVISION OF SECURITY FOR PERFORMANCE

Section 9.1 Form of Security. For the period commencing on the date that construction of the Project begins and ending on the date that commercial operation of the Project is achieved, Atlantic agrees to furnish a payment and performance bond or other reasonably equivalent form of security or guarantee (including, without limitation, an escrow agreement, letter of credit or parental guarantee) which Atlantic may elect to provide (i) in the amount of One Million Dollars (\$1,000,000.00) for the joint and several benefit of the Towns and County, with such surety and on such terms as are reasonably satisfactory to the beneficiaries, guaranteeing (i) the full and faithful performance of the repairs, modifications and improvements by Atlantic and the Atlantic Parties hereunder and (ii) the payment of all liens of all persons performing labor or providing services, materials, equipment, supplies, machinery, and other items in connection with the performance of such repairs, modifications and improvements by Atlantic and the Atlantic Parties hereunder. The amount of the payment and performance bonds is not intended to limit in any way the obligation of Atlantic to perform its obligations, all in accordance with this Agreement.

Section 9.2 Release of Security. Upon the achievement of commercial operation of the Project and the completion of the repair work to the reasonable satisfaction of the Designees, the Designees shall issue to Atlantic a certification in writing that the performance is accepted in the form provided in Appendix F. If further repair work is required to return roads to a condition that is not worse than the conditions identified in the initial survey, the bond shall be reduced to an

amount to cover the reasonable “repair” expenses for the remaining pre-construction repair work. Upon completion of the post-construction repair work, the Towns or County shall issue the certificate contained in Appendix F, and release the funds remaining in the bond or other form of security. At such time the security provided pursuant to Section 9.1 shall be returned to Atlantic.

ARTICLE X FORCE MAJEURE EVENT

Section 10.1 Force Majeure Event Defined. As used in this Agreement, "Force Majeure Event" means, causes or events that are beyond the reasonable control of, and without the fault or negligence of, the Party claiming such Force Majeure Event, including, without limitation, natural disasters; fire; lightning strikes; earthquake; unavailability of equipment; acts of God; unusually or unseasonably severe actions of the elements such as snow, floods, hurricanes, or tornadoes; causes or events affecting the performance of third-party suppliers of goods or services to the extent caused by an event that otherwise is a Force Majeure Event under this Section 10.1; sabotage; terrorism; war; riots or public disorders; strikes or other labor disputes; and actions or failures to act (including expropriation and requisition) of any governmental agency, to the extent such cause or event prevents or delays performance of any obligation imposed on the Party claiming such Force Majeure Event (other than an obligation to pay money).

Section 10.2 Applicability of Force Majeure Event. No Party will be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure Event, provided that:

- a) the non-performing Party will give the other Parties written notice within forty eight (48) hours of the commencement of the Force Majeure Event, with details to be supplied within fourteen (14) calendar days after the commencement of the Force Majeure Event further describing the particulars of the occurrence of the Force Majeure Event;
- b) the delay in performance will be of no greater scope and of no longer duration than is directly caused by the Force Majeure Event;
- c) the Party whose performance is delayed or prevented will proceed with commercially reasonable efforts to overcome the events or circumstances preventing or delaying performance and will provide a written report to the other Parties during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure Event, the schedule for such actions and the expected date by which performance will no longer be affected by the Force Majeure Event; and
- d) when the performance of the Party claiming the Force Majeure event is no longer being delayed or prevented, that Party will give the other Parties written notice to that effect.

ARTICLE XI DISPUTE RESOLUTION

Section 11.1 **Disputes Regarding Repair Work.** In the event Atlantic or the Atlantic Parties and the affected Town or County do not agree regarding the quality or completeness of any repair work conducted pursuant to this agreement, Atlantic and the affected Town or County shall commence mediation for adjudication of the dispute by notifying the independent engineer identified pursuant to this Agreement as the “mediator”. If the mediator is satisfied with the quality and completeness of the repair work, no further work shall be required. If the mediator is satisfied with the scope of the repair work, the affected Town or County shall be responsible to pay the full amount of the mediator’s invoice within 45 days. If the mediator is not satisfied with the quality and completeness of the repair, Atlantic shall perform the repair activities identified by the mediator but shall not be required to perform repair beyond what the affected Town or County had requested of Atlantic. If the mediator determines that the additional work was necessary, the mediator shall determine the appropriate amount of work which shall be performed by Atlantic. In the event that the work was deemed inadequate, Atlantic shall pay the full cost of the mediator’s invoice.

Section 11.2 The mediator for such disputes regarding road work shall be unless changed by mutual agreement of the parties.

ARTICLE XII MISCELLANEOUS PROVISIONS

Section 12.1 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to the conflict of laws provisions in such state.

Section 12.2 Amendments and Integration. This Agreement (including Appendices) shall constitute the complete and entire agreement between the Parties with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. This Agreement may be amended only by a written agreement signed by all of the Parties.

Section 12.3 Assignment.

- a) Except as provided in subsections (b), (c), and (d) below, no Party to this Agreement shall assign, transfer, delegate or encumber this Agreement or any or all of its rights, interests or obligations under this Agreement without the prior written consent of the other Parties. In those instances in which the approval of a proposed assignee or transferee is required or requested: (i) such approval shall not be unreasonably withheld, conditioned or delayed; and (ii) without limiting the foregoing, in the case of the Towns and County, the respective Town’s approval and the County’s approval may

not be conditioned on the payment of any sum or the performance of any agreement other than the agreement of the assignee or transferee to perform the obligations of Atlantic pursuant to this Agreement.

- b) Atlantic may with reasonable notice to the Towns and County, assign this Agreement or any or *all* of its rights, interests or obligations under this Agreement to (i) an affiliate of Atlantic or (ii) an entity to which Atlantic has conveyed or leased the Project provided the assignment is in connection with the conveyance or lease of the Project; provided further that, the Atlantic assignee agrees in writing to be bound by the terms of this Agreement.
- c) Atlantic may, without the consent of the Towns or the County, pledge, mortgage, grant a security interest in, or otherwise collaterally assign this Agreement or any or all of its rights, interests and obligations under this Agreement to any lender providing financing for the Project as security for Atlantic's obligations under the financing agreements (including a trustee or agent for the benefit of its lenders) (a "Permitted Collateral Assignee"). In connection with any such collateral assignment to a Permitted Collateral Assignee, each of the Towns and County shall, upon the request of Atlantic, deliver to Atlantic and the Permitted Collateral Assignee without delay a consent agreement in a form reasonably requested by Atlantic and the Permitted Assignee and which shall contain customary provisions.
- d) Atlantic may, without the consent of the Towns, assign this Agreement or any or all of its rights, interests and obligations under this Agreement to any corporation, partnership, limited liability company or other business entity that acquires all or substantially all of the assets used in connection with the Project or (ii) any corporation, partnership, limited liability company or other business entity that acquires all or a portion of the membership interests in Atlantic, provided that, in each case, such Atlantic assignee agrees in writing to be bound by the terms of this Agreement.

Section 12.4 Notices. All notices, requests, demands and other communications required or permitted to be given by the Parties hereunder shall be in writing and shall be delivered in person or by facsimile or by first class certified mail, postage and fees prepaid, to the address of the intended recipient as set forth below. Notice delivered in person shall be acknowledged in writing at the time of receipt. Notice delivered by facsimile shall be acknowledged by return facsimile within twenty-four (24) hours, excluding Saturdays, Sundays, and public holidays. All such notices, requests, demands and other communications shall be deemed to have been received by the addressee, if by first class certified mail, three (3) days following mailing; if by facsimile, immediately following transmission; or if by personal delivery, upon such delivery. All such notices, requests, demands and other communications shall be sent to the following addresses:

To Harrisburg:

Town of Harrisburg
7886 Cobb Rd.
Copenhagen, New York 13626
Attn: Supervisor

To Pinckney: Town of Pinckney
587 County Route 194
Copenhagen, NY 13626
Attn: Supervisor

To the County: Lewis County
7660 State Street
Lowville, NY 13367
Attn: County Manager

To Atlantic: Atlantic Wind, LLC
7650 N State Street
Lowville, NY 13367
Attn: Walter Meisner

With a copy to: Avangrid Renewables
c/o Contract Administration
1125 NW Couch Street
Suite 700
Portland, OR 97209

The foregoing addresses may be changed by any Party by giving written notice to the other Parties as provided above.

Section 12.5 Exercise of Rights and Waiver. The failure of any Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by any Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

Section 12.6 Independent Contractor; Relation of the Parties. The status of Atlantic under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, Atlantic and its officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the Towns or the County. As an independent contractor, Atlantic shall accept full responsibility for providing to its employees all statutory coverage for worker's compensation, unemployment, disability or other coverage required by law.

Section 12.7 Severability. In the event that any clause, provision or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.

Section 12.8 Headings and Construction. The section headings in this Agreement are inserted for convenience of reference only and shall in no way effect, modify, define, or be used

in construing the text of the Agreement. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words. Notwithstanding the fact that this Agreement has been prepared by one of the Parties, all of the Parties confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties. This Agreement is to be construed as a whole and any presumption that ambiguities are to be resolved against the primary drafting party shall not apply. All Appendices and Exhibits referenced in this Agreement are incorporated in and form a part of this Agreement.

Section 12.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

Section 12.10 No Third Party Beneficiary. No provisions of this Agreement shall in any way inure to the benefit of any person or third party so as to constitute any such person or third party as a third-party beneficiary under this Agreement, or of any one or more of the terms of this Agreement or otherwise give rise to any cause of action in any person not a Party hereto.

Section 12.11 Confidentiality. All data and information acquired by the Towns and the County from Atlantic (or its affiliates, representatives, agents or contractors) in connection with the performance by Atlantic of its obligations hereunder, including information regarding the Project, shall be confidential, subject to the limitations on confidential records and the related provisions of the NY Freedom of Information Law, and will not be disclosed by the Towns or the County to any third party, and upon request of Atlantic will be returned thereto, except that the Towns will not be obligated to return any such information contained in documents generated by the Towns or the County that are stored electronically by the Town and the County. With respect to any such retained electronically stored confidential information, the Towns and the County will continue to comply with the obligations of this Section 12.11, subject to the Towns' and County's obligations under the New York Freedom of Information Law. Notwithstanding the foregoing, the Parties acknowledge and agree that such confidential information may be disclosed to third parties as may be necessary for Atlantic and the Towns and the County to perform their respective obligations under this Agreement. This provision will not prevent the Towns and the County from providing any confidential information or in response to the reasonable request of any government agency charged with regulating such party's affairs, provided that, if feasible, the Towns and the County will give prior notice to Atlantic of such disclosure and, if so requested by Atlantic, will have used all reasonable efforts to oppose or resist the requested disclosure, as appropriate under the circumstance, or to otherwise make such disclosure pursuant to a protective order or other similar arrangement for confidentiality.

Section 12.12 Representative of Atlantic. Atlantic shall appoint a representative to act as the manager and coordinator of this Agreement on Atlantic's behalf ("Atlantic Representative"). The Atlantic Representative shall act as liaison for Atlantic's communications with the Towns, and their respective Designees. All written communications given to or received from the Atlantic Representative shall be binding on Atlantic.

Section 12.13 Safety. Atlantic and the Atlantic Parties shall perform the work hereunder in a safe manner and shall obey all safety requirements of Atlantic that may be established from time to time. While work is being done on Designated Roads, Atlantic shall cause the Atlantic Parties to (i) place signs stating that people and vehicles are entering a construction area and (ii) identify certain hazards that may be present on the road. Atlantic also agrees to cause the Atlantic Parties to provide traffic control on the Designated Roads when such roads are blocked during their use by Atlantic or the Atlantic Parties under this Agreement.

Section 12.14 Dust Control. Prior to commencing work under this Agreement, Atlantic shall prepare a plan for dust control during periods of construction or repair of the Designated Roads, which plan shall be subject to approval by the Designees of Towns and County (which shall not be unreasonably withheld, conditioned or delayed). If the Plan is not reviewed and either approved or disapproved within 5 business days, the plan is deemed approved. Atlantic agrees to use environmentally approved chemicals to control dust in necessary areas where water is not a sufficient source to keep dust under control for safety and visibility reasons. Atlantic shall maintain reasonable dust control measures throughout construction including applying water or other dust control palliative on the Designated Roads used during construction. In the event Atlantic does not maintain a reasonable level of dust control, the Highway Department for the affected Town or County, after notifying Atlantic of their failure to maintain proper level of dust control, will apply liquid dust control during Project construction and Atlantic agrees to reimburse the affected Town or County for said costs.

Section 12.15 Excess Materials. Atlantic and the Atlantic Parties agree that in connection with certain improvements to be made hereunder, there may be certain materials removed that are no longer necessary (the "Excess Materials"). Atlantic agrees to remove such materials from Town roads and intersections and stockpile them for use by the Towns and County. The Designees of the Towns and County agree to designate a place on Town property or such other location as the parties reasonably agree in which the Excess Materials will be stored.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement for Road Use, Repair and Improvements this ____ day of _____, 2018.

Town of Pinckney

By: _____
Name:
Title: Town Supervisor

Town of Harrisburg

By: _____
Name:
Title: Town Supervisor

Lewis County

By: _____
Name:
Title:

Atlantic Wind, LLC

By: _____
Name:
Title:

APPENDIX A

DESIGNATED ROADS

[Must be Agreed to Prior to Construction]

APPENDIX B IMPROVEMENTS AND MODIFICATIONS

Please see attached figure which may be provided prior to construction. Additional minimal improvements may be made at road intersections and we will supplement this figure upon completion of our final evaluation.

APPENDIX C

SPECIFICATIONS FOR IMPROVEMENTS AND MODIFICATIONS

The majority of the Designated Road modifications and improvements will be accomplished using conventional earth excavating equipment employing traditional cut and fill procedures. Rock excavation techniques may be warranted in certain locations to achieve the required grades. Road widening within the Towns' and County's road limits shall be accomplished as follows:

- After the removal of soft, wet or otherwise unsuitable materials from within the shoulder areas, the exposed sub grade of the area to be widened shall be proof-rolled with approved construction equipment such as a loaded 10 wheel tandem dump truck or loaded pan. This measure will help increase the density of the existing ground and help locate any isolated soft spots, which are too unstable to accommodate compacted fill.
- Unstable areas shall, as mutually agreed to by the parties, be excavated and, prior to fill placement, an approved geogrid shall be incorporated to stabilize abridged soft areas on an as needed basis. Alternative subgrade stabilization methods other than geogrid may be proposed by Atlantic and approval shall not be unreasonably withheld.
- New fill will not be placed on surfaces that are muddy or frozen, or have not been approved by testing and/or proof rolling.
- All sloping areas upon which fill is to be placed shall be benched or "notched" so that a smooth interface between existing ground and new fill will not be present.
- For permanent improvements or modifications, controlled fill slopes shall be constructed at 2.5H: 1 V slopes or flatter. All fill slopes will have final grades sloped such that surface water from precipitation is directed away from the face of the slopes. In addition, erosion matting may be used to help establish and maintain vegetative growth on the face of the slopes.
- All fill areas shall be sufficiently sloped and properly sealed with a smooth drum roller at the end of each workday to help prevent softening from surface water infiltration.
- For County Roads: A minimum surfacing thickness of 6" inches minus crushed limestone shall remain on all aggregate roads.
- For Town Roads: A minimum surfacing of thickness of 4" inches minus crushed limestone shall remain on all aggregate roads.
- When crossing Town Roads, cuts must be tapered back from center of cut 10 feet each way from half the distance of depth of cut.
- Upon the completion of the project and in conjunction with the repair of the Designated Roads, all ditches along those roads shall be cleaned and all culvert pipes shall, to the extent they have been damaged by Atlantic, be replaced.

Both coarse and fine aggregate materials to be used for improving Designated Roads will primarily be obtained from local quarries to the extent the materials meet the required specifications and the cost is competitive with other sources for material. Shale shall not be used as fill material except on road shoulders and for temporary roads; provided however; that Atlantic shall not use shale on road shoulders in the Towns. The typical fill section will utilize coarse aggregate such as a 4" crusher run in the deeper portion of a fill and be capped with finer aggregate meeting the requirements of a NYDOT approved road sub base material. The use of geogrids will be utilized as needed, to stabilize and/or bridge soft, wet or otherwise unsuitable soil conditions. If the improvements extend beyond the affected Towns' and/or County's right of way, it is Atlantic's responsibility to obtain the appropriate landowner's consent.

APPENDIX D
34.5Kv COLLECTION LINE INSTALLATION

1. Underground and Overhead Collection Lines – See Attached Map

Underground collection lines may be routed across and along and parallel to the following Designated Roads (exact locations and distances are subject to final engineering and approval by the Designee, not to be unreasonably withheld). The list of roads shall be set forth here and provided to the Towns and County prior to construction.

The description of the location of the overhead crossings shall be provided prior to construction.

There are a total of ___ crossings, ___ Town Roads, ___ County Road. The following is a list of these crossings:

[to be provided prior to construction]

APPENDIX E
IDENTIFICATION OF LOCATIONS FOR ROAD CORING
[To be Provided Prior to Construction]

**APPENDIX F
FORM OF RELEASE**

**RECEIPT OF REPAIR ESTIMATE PAYMENT AND
RELEASE FROM ROAD REPAIR OBLIGATIONS**

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN KNOW THAT the TOWN OF [HARRISBURG/PICKNEY], a municipal corporation duly organized and existing under the laws of the State of New York, as RELEASOR, in consideration of good and valuable consideration, received from ATLANTIC WIND, LLC, an Oregon limited liability company with offices at 7719 N State Street, Lowville, New York, as RELEASEE, receipt whereof is hereby acknowledged, releases and discharges RELEASEE, its successors and assigns, of any claims for damages or otherwise for repair and reconstruction of roads or road structures in the Town of [Harrisburg / Pickney] relating to, or arising out of, in any way, the construction of the Deer River Wind Farm Project and to hold Releasee harmless without responsibility for any damages incurred by the Town of [Harrisburg / Pickney] as a result.

Releasor hereby covenants to Releasee, and its principals, agents, members and/or managers, that Releasor will not sue or otherwise assert any claim of any nature or description whatsoever against Releasee with regard to, or associated with, any claims for or arising out of repair and reconstruction of roads or road structures in the Town of [Harrisburg / Pickney].

This release may not be changed orally.

In Witness Whereof, the Releasor has executed this Instrument on the ____ day of _____, _____.

TOWN OF [HARRISBURG / PICKNEY]
By: _____
Title: Town Supervisor

STATE OF NEW YORK
COUNTY OF _____

On _____, 2018 before me, the undersigned personally appeared _____ personally known to be as proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in the within instrument and acknowledged to be that he executed the same in his capacity and that his signature on the instrument, the individual or person upon behalf of which the individual acted, executed the instrument.

Notary Public

APPENDIX G

(scope of work for road inspection testing)

Deer River Wind Farm Road Assessment Scope

1. PROJECT MANAGEMENT AND COORDINATION

Contractor will provide ongoing project coordination and support throughout the assessment of the public roads. This includes coordination with County and Town and other jurisdictional staff, Owner, and other contractors. Contractor will attend site meetings to discuss the Public Road Improvements with the County and Town and other applicable jurisdictional authorities. In addition, Contractor will coordinate with Owner through any bidding or modifications of the public road improvements.

2. SUPERFICIAL ROAD STUDY

Contractor will go to the site and visually inspect and inventory all of the public roads in the project footprint, as well as roads that may be used for deliveries and/or other construction traffic. All culverts and bridges will also be visually inspected and inventoried. A map and report will be created that shows the following items:

1. Bituminous/Asphalt/Chip Seal roads inventoried based on a Good/Poor rating system.
2. Gravel roads inventoried based on a Good/Fair/Poor rating system.
3. Minimum Maintenance roads will be inventoried as such.
4. Road widths will be measured up to 3 times per mile.
5. Possible overhead obstructions including trees and overhead electrical lines will be noted and shown on the plan.
6. Visual areas of concern for road deflections that do not meet the industry standard of 6" change over 50' will be shown on the map.
7. Culverts inventoried based on a Good/Fair/Poor Rating system and include existing cover and culvert type. A picture of the culvert will be included.
8. Bridges inventoried based on a Good/Fair/Poor Rating system and include bridge deck dimensions. Publically available information from the county or state will be used to supplement the site visit information. Pictures of the bridge will be included.
9. Contractor will prepare an existing road inventory map and a report showing all of the culverts and bridges.

3. PRECONSTRUCTION ROAD EVALUATION

This task assumes that Contractor will study the existing public roads as indicated in the attached figure. Contractor may use a licensed, qualified sub-consultant to provide FWD/GPR testing on the potential haul roads identified in the delivery flow plan. The project scope will consist of the following:

1. Preconstruction Falling Weight Deflectometer Testing of XX miles of roadway, including XX miles of gravel surface roadways and XX miles of chipseal surfaced roadway.
2. Preconstruction Ground Penetrating Radar Testing of XX miles of roadway.
3. Preconstruction pavement condition index data collection and rating of XX miles of roadway.
4. Roadway borings on XX miles of roadways – approximately XX borings.
5. Data analysis and report

All of the chipseal roadways will be tested with ground penetrating radar (GPR) which will allow a more precise measurement of pavement thickness along the entire length of each roadway and to collect condition data using high resolution digital video.

Field

- Perform Ground Penetrating Radar Survey of each of the haul roads. The GPR survey will be done using GSSI Roadscan equipment and will provide data collection at approximately 30 miles per hour. The data collection will be done at 1 foot intervals to provide a complete picture of the pavement structure along the entire haul road.
- Collect high definition digital video of all roadways. This video will be taken with a digital video camera which will have the coordinates linked with GPS, and will show pavement condition as well as geographic benchmarks such as road signs and intersections which will assist in determining the location of the video.
- Physically measure the dimensions of any significant pavement distresses observed and record the locations for correlation with the video and for use with the pavement condition index (PCI) ratings.
- Perform Falling Weight Deflectometer (FWD) testing on the haul roads. Testing will be done at 1/10th mile intervals using the standard 7 sensor Strategic Highway Research Program (SHRP) spacing and will be done at 6,000 and 9,000 lbs force. On gravel surfaced roads only the 6,000 lbs force may be used because the deflections caused from the 9,000 lbs force may be higher than the equipment will measure accurately.
- Obtain cores and soil borings to be used to calibrate the GPR data and to determine the depth of the asphalt pavement surface, aggregate base, and aggregate/caliche surface, as well as the subgrade soils and in place moisture conditions.
- Backfill the core/boring holes with bituminous patching mixture or gravel, as appropriate for the roadway surfacing.

Report

- Analyze the GPR data for surfacing thickness, base thickness and any apparent subgrade irregularities
- Perform a pavement evaluation of the haul routes using the digital video and calculate pavement condition index for each roadway segment.
- Store the digital video and GPR data for future use.
- Provide video with integrated GIS map on digital media for documentation of roadway condition.
- Analyze the FWD data for load capacity of the roadway using the AASHTO pavement design and analysis procedures.
- Evaluate the soil boring information for pertinent soil and asphalt properties.
- Prepare two engineering reports 1) discussing axle load capacity, general roadway and pavement condition, specific potential problem areas identified by the video, and other issues related to suitability of the roadways to withstand truck traffic from the wind farm construction and 2) recommendations for roadway improvements to the haul routes based on proposed traffic volumes. (Note that both the report and recommendations will be amended after we are able to complete the FWD testing).

Schedule

Field work to be completed within X weeks of receiving notice to proceed. Report 1) to follow approximately [time period] after the field work is completed with report 2) to follow [time period] later. We expect that FWD testing may occur in [Month] and the report will be revised within [time period] of completion of the FWD field work.