

20-41

**MARSHALL COUNTY, ILLINOIS – MINONK STEWARDSHIP WIND LLC
(BENNINGTON WIND PROJECT)
ROAD USE AGREEMENT**

THIS AGREEMENT (the “**Agreement**”) is made and entered into as of June 11, 2020, by and between Marshall County, Illinois (referred to herein as the “**Road Authority**”) and Minonk Stewardship Wind LLC, a Delaware limited liability company, doing business as and referred to herein as “**Bennington Wind**”). The Road Authority and Bennington Wind may each be referred to herein as a “**Party**” and together, as the “**Parties**.”

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BACKGROUND

- (1) Bennington Wind is a validly existing Delaware limited liability company authorized to do business within the State of Illinois. As of the date of this Agreement, Minonk is wholly owned by Akuo Energy USA, a Delaware limited liability company.
- (2) Bennington Wind is in the process of developing a wind energy generating facility known as the "Bennington Wind Project" (the "**Project**") in Marshall County, Illinois (the "**County**").
- (3) Bennington Wind proposes to construct up to thirty-three (33) wind energy conversion systems ("**Turbines**") in the County.
- (4) Bennington Wind intends to use roads under the jurisdiction of the Road Authority for construction of and routine maintenance for the Project, including, but not limited to, transporting components for Turbines which will be erected in the County.
- (5) By this Agreement, the Parties desire to address issues related to certain roads and roadway appurtenances (including, but not limited to bridges and box culverts) operated and maintained by the Road Authority which Bennington Wind desires to use for construction, operation and maintenance of the Project (the "**Local Roads**"). Bennington Wind and its respective agents, contractors, subcontractors, material suppliers, vendors, employees, and designees (collectively "**Bennington Wind's Parties**") desire use of the Local Roads to, among other things, (a) transport heavy equipment and materials and the number of, weights, and sizes of the vehicles to be used will exceed the capacity of the Local Roads; (b) transport certain locally sourced materials, such as concrete and gravel, and (c) make certain modifications and improvements which may include culverts, road shoulders, and other related fixtures that may be temporary or permanent in nature in order to construct, operate and maintain the Project, including the underground electrical cable network.
- (6) The County is directed and authorized pursuant to the Counties Code, 55 ILCS 5/5-101 *et seq.*, and the Illinois Highway Code, 605 ILCS 5/5-101 *et seq.* (the "**Highway Code**"), to construct, administer, operate and maintain highways in the County, acting by and through its County Engineer (the "**County Engineer**"). To the maximum extent permitted, the Marshall County Board appoints the County Engineer to act on its behalf as a Road Authority under this Agreement.
- (7) This Agreement includes the following defined terms.
 - (a) "**Engineer**" means a civil engineer licensed in the State of Illinois who regularly practices and has experience in highway construction and design standards in rural central Illinois and is mutually acceptable to Bennington Wind and the Road Authority.
 - (b) "**IDOT**" means the Illinois Department of Transportation.

(c) **“Manual on Uniform Traffic Control Devices”** means the Manual on Uniform Traffic Control Devices (Illinois Supplement and any updates thereto) issued by IDOT.

(d) **“Pre-Construction Preparatory Work”** means the work necessary to prepare the Road Authority’s Local Roads for Project Construction including, but not limited to, upgrades to existing roads surfaces, installing road entrances to private property, installation of culverts and increasing turning radii at intersections.

(e) **“Project Construction”** includes, but is not limited to, the delivery, off-loading, site preparation and installation of turbine driveways, access roads, foundations, wind turbines (including towers, nacelles, and blades), electrical infrastructure, transformers, substations, transmission lines, fiber optic cables, meteorological equipment, operations and maintenance buildings, and other materials and appurtenances.

(8) The Road Authority and Bennington Wind wish to set forth their understanding and agreement as to the road issues relating to the construction of the Project in this Agreement which the Parties intend to satisfy the requirements of Section 4.22 6. of the Marshall County Zoning Ordinance.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Parties, intending to be legally bound, agree as follows:

Section 1: Road Authority Approvals. The Road Authority hereby agrees to permit:

- (A) Project site access road entrances to the Local Roads;
- (B) Underground collection system cable crossings under the Local Roads and the road rights-of-way;
- (C) Underground collection system cable crossings under the Local Roads and running along the Local Roads in the right of way, more specifically and limited to the depiction in Exhibit B; and
- (D) The widening of existing Local Road intersections within the public rights-of-way to accommodate Turbine components, main power transformers, and other equipment deliveries needed to construct the Project.

Section 2: Bennington Wind Undertakings. Bennington Wind hereby agrees to, and shall cause Bennington Wind’s Parties to abide by, the terms and conditions set forth below. Although the following subparagraphs refer to Bennington Wind, the Parties agree that Bennington Wind is responsible for Bennington Wind’s Parties abiding by the terms and conditions set forth in this Agreement and Bennington Wind shall be

responsible for any breach by Bennington Wind's Parties of the terms and conditions set forth in this Agreement.

(A) Project Undertakings in General

(1) Although the final plans for the Project may vary from the Project layout as shown on Exhibit A (the "**Project Layout Map**"), Bennington Wind represents and warrants that no Turbines will be constructed in areas other than those areas for which the Marshall County Board has granted a Special Use Permit(s) to Bennington Wind.

(2) Bennington Wind represents and warrants that the Project plans shall be prepared by a qualified professional engineer and all plans affecting Local Roads shall be designed in accordance with IDOT design manuals, including but not limited to the IDOT Bureau of Local Roads and Streets Manual, unless included in the accepted Transportation Impact Analysis or otherwise accepted by the Road Authority in writing. Bennington Wind shall hold harmless, indemnify, defend, pay costs of defense (including reasonable attorneys' fees), and pay any and all claims or judgments which may hereafter accrue against the Road Authority and/or (notwithstanding that such individuals are not specifically named herein) the Road Authority's elected and appointed officials, employees, contractors and consultants, with respect to any damage caused by increased runoff or change in drainage patterns caused by Bennington Wind's construction of the Project (including, but not limited to, the construction of access roads, laydown yards and substations) for a period not to exceed three (3) years following the date of the Notice of Acceptance as defined in Section 3(D)(2) of this Agreement.

(3) This Agreement shall be included in the contracts provided to contractors, subcontractors, and material suppliers performing work on the Project.

(4) Bennington Wind shall use commercially reasonable efforts to obtain temporary right-of-way easements for Pre-Construction Preparatory Work and/or Project Construction from private landowners that are not otherwise participating landowners in the Project and any such temporary easements shall be recorded in the public records of Marshall County. Bennington Wind shall use commercially reasonable efforts to obtain permanent easements from private landowners so that widened road corners, drainage structures, or other improvements intended to be permanent in nature can remain fully in place. Such permanent easements shall be substantially in the form attached as Exhibit C and assigned to the Road Authority after receipt of the Notice of Acceptance. Such assignment must be accepted by the Road Authority and recorded with the Marshall County Recorder.

(B) Matters to be Completed Before Project Construction Begins

(1) Bennington Wind, at least sixty (60) calendar days prior to the proposed start of Pre-Construction Preparatory Work, shall provide to the Road Authority a transportation impact analysis prepared by an Engineer which includes the following information (the "**Transportation Impact Analysis**").

(a) A list identifying the road bridges and box culverts to be traversed during construction of the Project. Bridges and box culverts inventoried by IDOT in the Illinois Structure Information System existing at the time of the on-site road survey for the Transportation Impact Analysis shall be inspected in accordance with the National Bridge Inspection Standards and a load rating of all load carrying components of any such bridge or box culvert shall be completed by an Engineer. A copy of this inspection report shall be included with the Transportation Impact Analysis. The inspection report shall set forth recommendations as to actions, if any, to be taken in advance of Project construction to assure that the bridges and box culverts can withstand the volume and weight of Project construction vehicles. If the inspection report concludes that a bridge or box culvert is structurally insufficient to handle the projected loads, it shall not be used by Bennington Wind, unless Bennington Wind, subject to the reasonable approval of the Road Authority, first makes pre-construction improvements, such as constructing a jump bridge or strengthening box culverts such that the bridge or box culvert is then capable of withstanding the volume and weight of Project construction vehicles. The inspection report shall include a photograph of the interior of each bridge and culvert. This inspection report shall also include estimates of the cost to replace the bridges and box culverts.

(b) An evaluation of all crossroad culverts and culverts in the existing right-of-way to determine if any need to be replaced.

(c) A map indicating the locations of Turbines, the substations and the construction laydown yard(s).

(d) Information obtained from the core samples or Falling Weight Deflectometer ("FWD") testing or Dynamic Cone Penetrometer ("DCP") testing obtained by Bennington Wind of the Local Roads.

(e) Information about the weights and sizes of the Turbines, substation and transmission line components.

(f) A schedule setting forth the expected number of loads, per axle weight of each load and type of equipment that will be used to transport each load and the intra-Project equipment movements.

(g) Other information concerning construction vehicles, equipment and activities relevant to Bennington Wind's use of the Local Roads.

(h) A map prepared by a civil engineer licensed in the State of Illinois, which will, at a minimum, designate the location of the Turbines (identified by a number), the proposed access road locations (entrances) for the Turbines, the construction laydown yard(s), the jurisdictional boundaries of the Road Authorities affected by the Project, the haul route for Project construction vehicles

and the ingress and egress routes to and from the footprint of the Project for all material deliveries, including components parts for the Turbines and substation, as well as the concrete and gravel haul routes (the **"Project Traffic Map"**).

(i) The plan for pre-construction improvements to be made to the Local Roads to provide structural capacity for the duration of Project construction and subsequent operation (the **"Pre-Construction Plans"**). The Pre-Construction Plans should provide the following information:

- (i) "General Notes" governing the construction plans;
- (ii) Schedules for material testing;
- (iii) Intersection details showing draining patterns and related information at temporary widenings;
- (iv) Traffic control details for all intersections with State Highways and all other high traffic intersections;
- (v) Typical roadway cross sections and pavement design calculations;
- (vi) Plan (and Profile, if needed) sheets for all public road improvements showing drainage patterns, culvert and bridge locations; proposed right-of-way locations, culvert strengthening details, applicable IDOT standards, *et cet.*;
- (vii) Cross sections at all cross-road culverts, utility crossings and locations where the proposed utility is parallel to the road in the right-of-way; and
- (viii) Measurements of apparent rights-of-way; and
- (ix) Miscellaneous details as appropriate.

(j) A map depicting the locations of the proposed crane movements and a description of the measures to be used to protect the Local Roads when the heavy lift crawler crane crosses a Local Road.

(k) The projected scope of repairs and estimated repair costs for the Local Roads following Project construction (the **"Projected Scope of Repairs"**). The Projected Scope of Repairs shall include the Surface Repair Payment estimate provided in Section 3(E).

(2) Before construction of the Pre-Construction Road Improvements or Project Construction may proceed, the Road Authority must accept the Transportation Impact Analysis, including the proposed Pre-Construction Plans, as well as the Projected Scope

of Repairs. The Road Authority shall accept or reject the Transportation Impact Analysis forty-five (45) calendar days after receiving the Transportation Impact Analysis; provided, however, the Road Authority may provide notice to Bennington Wind of any material issues or anticipated conditions to acceptance of the Transportation Impact Analysis within thirty (30) calendar days after receiving it. In the event the Road Authority rejects the Transportation Impact Analysis, it shall provide to Bennington Wind a list of conditions to be satisfied in order to gain the Road Authority's acceptance of the Transportation Impact Analysis and any other details explaining the rejection. In connection with review and acceptance of the Transportation Impact Analysis, the Road Authority may retain an Engineer and Bennington Wind shall reimburse the Road Authority for all reasonable engineering fees incurred in connection with the review of the Transportation Impact Analysis. Payment shall be made within thirty (30) days of receipt of such engineering bills by Bennington Wind, which may be sent by the Engineer directly to Bennington Wind or included in a request for reimbursement from the Road Authority.

(3) Concurrently with the preparation of the Transportation Impact Analysis, Bennington Wind shall retain an Engineer to conduct an inspection of all roads on the Project Traffic Map designated for use by Bennington Wind and produce a report which shall include the following components:

(a) a series of still images of the road surfaces or a high definition video of the entire road network; however, if the Transportation Impact Analysis provides the Local Roads will be resurfaced following construction because cement-based treatments are to be used or aggregate will be placed on the Local Roads during the construction period, then there is no need for still images or a high definition video; and

(b) to the extent reasonably accessible, photographs of the interior of all bridges, box culverts, culverts, and the road surface above each bridge, box culvert, and culvert on roads designated for use by construction and delivery vehicles.

A copy of the report shall be delivered to the Road Authority and shall be included as a part of the Transportation Impact Analysis.

(4) After acceptance of the Transportation Impact Analysis, the Pre-Construction Road Improvements as determined by the Transportation Impact Analysis shall be completed by Bennington Wind to the satisfaction of the Road Authority before the Road Authority will permit the Local Roads to be used for construction traffic. Bennington Wind may complete the pre-construction improvements in phases (not less than four (4) miles) and submit a notice of completion for each portion of the Project site as the pre-construction road improvements for that portion are completed. Provided the pre-construction improvements are acceptable, the Road Authority shall provide permission to proceed with construction for all or a portion of the Project site, as applicable, within seven (7) calendar days of receiving a notice from Bennington Wind of completion of pre-construction road improvements.

(a) Bennington Wind shall develop and implement a traffic control plan in compliance with the Manual on Uniform Traffic Control Devices for the pre-construction road improvements and shall distribute on a daily basis the Plan of Day ("POD") report which shall set forth, among other things, road closures and roadway activity. The POD shall be substantially in the form of Exhibit D. The POD shall be distributed by 2:00 p.m. the preceding day by e-mail or facsimile to the Road Authority and its designee(s), local school districts, local postmasters, Marshall County Highway Department, Marshall County Emergency Services and Disaster Agency, local law enforcement agencies, and fire protection and ambulance service providers (the "**POD Recipients**"). The contact list of relevant addressees shall be provided by the Road Authority to Bennington Wind prior to the start of construction.

(5) At least thirty (30) calendar days prior to the start of Project Construction, Bennington Wind shall physically mark the proposed locations of the underground collection system cable crossings. The Road Authority shall review and comment within seven (7) calendar days of notification that all crossings are marked. Except for the cable right-of-way usage depicted in Exhibit B, where cable will be laid within the Road Authority's right-of-way. The Parties anticipate that cable installations will not be within one hundred fifty feet (150') of any bridges or box culverts (measured from the center of the stream or ditch and within the right-of-way) and any parallel installations shall be no closer than thirty-three feet (33') (measured from the middle of the road), unless otherwise agreed upon by the Parties. Any proposed cable installations within 150 feet of any bridges or box culvert shall be subject to review and approval by the County Engineer. Prior to installing any cables that cross a road controlled and maintained by the Road Authority, Bennington Wind shall apply for and receive a Utility Installation Permit from the Road Authority. In the case of a permit rejection, the Road Authority shall detail the conditions that must be satisfied for approval of the permit. The Utility Installation Permit form is attached hereto as Exhibit E.

(6) At least thirty (30) calendar days prior to the start of Project Construction Bennington Wind shall physically mark the locations of the Turbine access road entrances. The proposed access road entrance locations shall:

- (a) provide for the most favorable vision, grade, and alignment conditions for motorists using the proposed driveway and the Local Road;
- (b) not unduly interfere with the free and safe movement of traffic on the Local Road;
- (c) provide maximum safety and convenience for other users of the Local Road rights-of-way; and

- (d) not cause a materially adverse effect on existing drainage patterns or cause water to flow across the Local Road or pond on the shoulders or in the ditch, or otherwise result in erosion of the Local Road or road right-of-way.

These marked locations shall then be subject to review and comment by the Road Authority. Bennington Wind shall submit applications for all access road entrances and shall not start construction on an access road until the application is approved by the Road Authority and a permit is issued. The Road Authority agrees to approve or reject such permit applications within seven (7) calendar days. In the case of a permit rejection, the Road Authority shall detail the conditions that must be satisfied for approval of the permit. The permit application form and standard entrance detail is attached hereto as Exhibit F

(7) At least twenty (20) calendar days prior to the start of Project Construction, Bennington Wind shall become a member of Joint Utility Locating Information for Excavation ("JULIE"). In accordance with the Illinois Underground Utility Facilities Damage Prevention Act and the regulations promulgated thereunder, Bennington Wind shall provide JULIE with the necessary information to update their records and memorialize where the underground cables are located under the Local Roads and Local Road rights-of-way. Bennington Wind shall, upon request, provide proof of its membership in JULIE to the Road Authority. Bennington Wind shall preserve and protect all properties of public utility companies, such as lines, conduits, gas or water pipes, sewers and tile lines which run over, through, or under any part of the Local Roads and rights-of way used by Bennington Wind. It shall be Bennington Wind's responsibility to contact the various public utility companies and locate their properties before any construction shall start and Bennington Wind shall assume full responsibility for reimbursing owners for any damage or injury to such properties which may be caused by Bennington Wind's activities and operations.

(8) At least sixty (60) calendar days prior to the start of Turbine part deliveries, Bennington Wind shall identify all heavy lift crawler crane road crossings at locations to be coordinated with the Road Authority. During the actual Project Construction, previously identified crane crossing locations may be modified, subject to coordination with the Road Authority and, depending upon proposed locations, time of movements, road conditions, and proposed road protection measures, the Road Authority may require the heavy lift crawler crane to be disassembled for movement or may impose conditions upon the crane movement so as to minimize the potential for road damage.

(9) At least thirty (30) calendar days prior to the start of construction on the Project Bennington Wind shall deliver written confirmation to the Road Authority that Bennington Wind has met with the school bus operator(s) and the relevant school officials to ensure that Local Roads used by school buses are not closed during times students are transported to and from school or that acceptable alternative routes are put in place and to further ensure that suitable arrangements are put into place for the safe and timely transport of the local children to and from school via the normal services for such transport.

(10) At least fifteen (15) calendar days prior to the start of construction on the Project, a pre-construction meeting shall be held at a date, time and place designated by the Road Authority with such Road Authority representatives and professional advisors and consultants in attendance as the Road Authority deems necessary. Bennington Wind and a representative from its general contractor and any major component suppliers, major transportation providers, and other subcontractors and suppliers the Parties may agree upon will be in attendance. The meeting shall be for the purpose of reviewing the Project Traffic Map of the routes to be used by construction and delivery vehicles, the terms and conditions of this Agreement, and reviewing special considerations necessary in the areas where work will occur. A second meeting can eventually be organized in an identical manner, at least fifteen (15) calendar days prior to the start of Turbine parts delivery, to include all other subcontractors, suppliers or transportation providers that could not reasonably be present at the first meeting.

(11) At least fifteen (15) calendar days prior to the start of construction or deliveries of materials, as applicable, Bennington Wind shall provide sworn statements substantially in the form of Exhibit G ("**Sworn Statement**") from those general contractors and major steel, cable, aggregate and concrete suppliers, major transportation providers, and other subcontractors and suppliers the Parties may agree upon stating that such contractor, subcontractor or supplier has received and read a copy of this Agreement, including exhibits, and agrees to abide by those terms and conditions applicable to such contractor, subcontractor, or supplier.

(C) Ongoing Obligations

(1) Permanent markers/stakes meeting the requirements of State and Federal regulations and good utility practice shall be installed at the edge of the road right-of-ways to identify where the collection system cables cross the Local Roads.

(2) Horizontal/directional boring shall be used where the collection system cables cross under the Local Roads such that the road surface shall not be cut, and such cables shall be installed in Schedule 80 PVC (or like material as approved by the Road Authority) in Local Road rights-of-way locations in accordance with good utility practice. Boring shall begin and end at least ten feet (10') outside the Local Road right-of-way or apparent right-of-way if no formal dedication, except as may be required for the cable right of way usage depicted in Exhibit B. All boring in drainage ditches shall be at least four feet (4') below the lowest part of the drainage ditch.

(3) Bennington Wind shall ensure that utility interruptions, if required for heavy lift crawler crane crossings, are coordinated with and approved by the local utility(ies) and shall make reasonable efforts to advise property owners likely to be affected by utility interruptions. Bennington Wind shall advise the Marshall County Highway Department, Marshall County Emergency Services and Disaster Agency, local law enforcement agencies, and fire protection and ambulance service providers of such crane crossings at least 24 hours in advance.

(4) Except as expressly provided for elsewhere in this Agreement, the size and type of any culverts installed or replaced as a result of construction of the Project or repair to the Local Roads shall be included in the Pre-Construction Plans or otherwise mutually determined by the Road Authority and Bennington Wind prior to the time such culvert is installed or replaced. The Parties agree that any such culverts shall be no less than eighteen inches (18") for cross road culverts and fifteen inches (15") for road entrance culverts, and in accordance with IDOT Specification 542, Class C, polymer coated, corrugated steel or dual wall HDPE, or such other material as the Parties mutually agree. No spiral culverts shall be used.

(5) In the event that Local Road corners are widened for truck navigation for Project Construction, such modifications shall be designed by an Engineer and shall satisfy the applicable sections of the April 2005, Revision Date December 2018, Bureau of Local Roads and Streets Manual (and any subsequent updates thereto) issued by IDOT ("**IDOT Standards**"). If the widened corners are removed, Bennington Wind shall repair all damage and ensure proper drainage in accordance with IDOT Standards; *provided, however*, the Parties agree that widened corners may be left in place if requested by the Road Authority and permanent easements are obtained in accordance with Section 2(A)(4).

(6) For intersections which are altered by utilizing privately-owned real estate to obtain adequate turning radii for oversized vehicles, Bennington Wind shall ensure adequate drainage at such intersections by installing necessary culverts, shall block the turn lanes when not in use so that they are not accessible to the motoring public and shall provide signage as necessary to ensure the safety of the motoring public.

(7) Bennington Wind shall provide, upon request, the Road Authority with a copy of each overweight and oversize permit issued by IDOT and/or any permits issued by Marshall County to Bennington Wind or Bennington Wind's Parties. Bennington and Bennington Wind's Parties shall obtain permits for overweight and oversize vehicles from the Road Authority and the application form for such permits is attached hereto and incorporated herein as Exhibit H. The Road Authority shall approve or reject permit applications submitted by Bennington Wind within seven (7) calendar days after the application is submitted for the permit. In the case of a permit rejection, the Road Authority shall detail the conditions that must be satisfied for approval of the permit. In the event this provision is violated by Bennington Wind, the Road Authority may issue a notice of violation in the form attached hereto and incorporated herein as Exhibit I (a "**Notice of Violation**") and may impose a fine of \$1,000.00 for each violation.

(8) Bennington Wind shall, upon request, provide copies to the Road Authority of any delivery ticket bound for or delivered to the Project site so that the Road Authority may monitor the actual weights of construction vehicles that do not require permits for overweight loads. If applicable, delivery tickets shall identify destinations by Turbine number. If the Road Authority observes a Project construction vehicle appearing to be overweight and the driver is unable to produce a scale ticket, the Road Authority may

direct the vehicle to the nearest scale for weighing and the driver shall immediately proceed to such scale.

(9) Project traffic, including heavy lift crawler crane crossings, shall be scheduled in a way to reasonably minimize the adverse impact on the motoring public and local agricultural truck transport. Traffic control plans for such crane crossing shall be provided by Bennington Wind to the Road Authority. In the event of traffic conflicts, priority shall be given to emergency response vehicles, rural mail delivery, transportation of children to and from school, the transportation of agricultural commodities and implements of husbandry, and funeral processions. Bennington Wind agrees that it shall coordinate with the Road Authority the scheduling of Project construction traffic in weekly scheduled meetings, which meetings will include all affected parties (including school bus transporters) and shall be held at the construction site offices of Bennington Wind or other convenient local location; provided, however, that if the Road Authority or his designee chooses not to participate in such weekly meetings, the Parties may coordinate via telephone, email, or other means of remote communication. Bennington Wind shall develop and implement a traffic control plan in compliance with the Manual on Uniform Traffic Control Devices and shall distribute on a daily basis the Plan of Day ("POD") report which shall set forth, among other things, road closures and roadway activity. The POD shall be distributed by 2:00 p.m. the preceding day by e-mail or facsimile to the Road Authority and its designee(s), local school districts, local postmasters, Marshall County Highway Department, Marshall County Emergency Services and Disaster Agency, local law enforcement agencies, and fire protection and ambulance service providers. The contact list of relevant addressees shall be provided by the Road Authority to Bennington Wind prior to the start of construction.

(10) Upon receipt of an overweight/oversize vehicle permit, Bennington Wind may transport oversize or overwide loads or vehicles or otherwise engage in construction activities proscribed on Local Roads during the spring posting season; provided, however, in the event weather conditions (by way of example and not limitation, sudden thaws or heavy rains) make road conditions hazardous for the motoring public, the Road Authority may close the road to construction traffic upon providing reasonable notice and details of such hazardous conditions to Bennington Wind.

(11) Bennington Wind and its Parties shall not use the Local Roads or road rights-of-way as storage or staging areas or as parking areas for vehicles and equipment.

(12) Except as otherwise provided for in this Agreement, Bennington Wind shall ensure that its contractors, subcontractors, material suppliers and their respective transport providers transporting oversize and overwide loads use the Local Roads during daylight hours only.

(13) While traveling on gravel roads, Project construction vehicles shall limit their speed to 35 miles per hour.

(14) Bennington Wind shall comply with all recommendations as to vehicle speeds, maximum vehicle loads, number of vehicles permitted on a bridge or box culvert at one time, location of vehicle travel, *et cetera*, which may be set forth in a report of the inspection of the bridges and box culverts and included as part of the Transportation Impact Analysis.

(15) Bennington Wind shall employ dust control measures to limit the hazards and inconvenience of dust associated with Project Construction. Only liquid calcium chloride (28 to 32%) or lignin shall be used for dust control on Local Roads and access roads with the calcium chloride being the preferred method of dust control for instances when long term dust control measures are needed.

(16) If Local Roads degrade (by way of example and not limitation "degrade" means drop offs from the road to road shoulder (that is, not a smooth transition); to show signs of bleeding, rolling, breaking or pumping of the road base; or decrease in the capacity of drainage structures or ditches which may be evidenced by debris or ponding) while construction of the Project is ongoing due to construction activities or the volume of construction traffic related to the Project, Bennington Wind, at the written request of the Road Authority, shall cause necessary remedies to be implemented to ensure safe passage of the motoring public within a reasonable time, and in any event within twenty-four (24) hours; unless the construction activities cause an immediate hazard to exist that renders a Local Road incapable of being used, in which case Bennington Wind shall take action as soon as reasonably possible to make the Local Roads safe for the motoring public. Spray patching shall be the preferred method of interim road repair. If Bennington Wind fails to act as set forth herein, the Road Authority may take remedial action and may close the road until the road is made safe for the motoring public.

(17) Bennington Wind shall comply with the time limits established by the Road Authority with respect to any requested closures of Local Roads for Project Construction. In any event, no road closures shall exceed three (3) hours past the approved starting time for which such closures shall be approved by the Road Authority, unless otherwise agreed to by the Parties. Notwithstanding the foregoing, the Parties agree that road closures necessary for pre-construction road improvement work, post-construction road repair work, turbine deliveries, and emergency road repairs may exceed three (3) hours; provided, that, such maximum closure time has been approved by the Road Authority. Bennington Wind shall provide at least twenty-four (24) hours' advance notice to the Marshall County Highway Department, the Marshall County Emergency Services and Disaster Agency, local law enforcement agencies, affected rural mail providers, affected school districts and fire protection and ambulance service providers of road closings prior to closing any roads, portion of roads or intersections. In the event this provision is violated by Bennington Wind, the Road Authority may issue a "Notice of Violation" and impose a fine of \$1,000.00 for each hour increment that the approved road closure period is exceeded and Bennington Wind shall pay any fine imposed within thirty (30) business days. The Road Authority may issue a Notice of Violation and impose a fine of \$5,000.00 in the event Bennington Wind fails to notify the Road Authority of a road closure; provided, however, that in the case of an emergency Bennington Wind shall not

be required to provide prior notice to the Road Authority, but shall notify the Road Authority as soon as reasonably practical. The Notice of Violation form is attached hereto and incorporated herein as Exhibit I.

(18) Bennington Wind shall obtain and post traffic signs, including signs advising "No Wind Farm Construction Traffic" at various locations as an aid to traffic management. All such signage or postings shall comply with the Manual on Uniform Traffic Control Devices. Bennington Wind shall post signs at locations designated by the Road Authority before Project Construction begins.

(19) In the event that Bennington Wind damages or moves an existing permanent sign to accommodate its construction traffic, Bennington Wind shall immediately notify the Road Authority and such sign shall be immediately replaced by Bennington Wind in accordance with the Manual on Uniform Traffic Control Devices at its expense.

(20) All roadway construction activities, including road and intersection closures shall be marked and signed in accordance with the applicable IDOT Highway Standard and in accordance with the Manual on Uniform Traffic Control Devices and any other applicable requirements set forth in State statute or regulation or Marshall County or other applicable local ordinance. All road closures shall comply with IDOT BLR Standard 21 with RC 500, RCA, and Road Closed signs.

(21) The Road Authority may issue a Notice of Violation (Exhibit I) and impose a fine of \$2,500.00 if the Road Authority is notified of and determines a traffic control deficiency exists. Before issuing a Notice of Violation the Road Authority shall notify and direct Bennington Wind to correct the deficiency within a specified time which will be between 2 hours to 24 hours based upon the urgency of the situation and the nature of the deficiency. Such time for curing a traffic control deficiency may be extended as may be reasonably required due to the nature of the deficiency; provided, that Bennington Wind is using diligent efforts to actively cure the deficiency. A deficiency may be any lack of repair, maintenance, or non-compliance with the traffic control plan.

(22) In accordance with Section 9-104 of the Illinois Highway Code, all section corner stones and monuments shall be properly preserved.

(23) All work on Local Roads and rights-of-way shall be performed in a good and workmanlike manner and all permanent work shall be in accordance with the IDOT Standards and the "Standard Specifications for Road and Bridge Construction" (and any updates thereto, the "IDOT Standard Specifications") issued by IDOT.

(24) Junction and utility boxes installed in connection with the Project shall be located at least fifty feet (50') from the center of the local road. Junction and utility boxes installed on privately owned property shall not interfere with the public right-of-ways. At any time in the future, if it becomes necessary or desirable to maintain, relocate, construct, expand, or replace any Local Road abutting private property containing such junction or utility boxes and as a result a Bennington Wind junction or utility box is

required to be protected, repaired, or relocated, Bennington Wind agrees to timely protect, repair, or relocate such junction or utility box at its expense, and if it fails to do so, the Road Authority may do so in which event Bennington Wind shall pay reasonable costs incurred by the Road Authority in connection with the repair or relocation or protection of the affected Bennington Wind junction or utility boxes.

(25) Steel tracked equipment shall be allowed to cross Local Roads with an aggregate surface and/or protective matting at locations designated on the Project Traffic Map, and/or identified in Clause B.8 above. Proper traffic control measures shall be used for the temporary closure of Local Roads to allow for such crossings. The Road Authority may issue a Notice of Violation (Exhibit I) and impose a fine of \$2,500 if this provision is violated. Protective matting materials shall be promptly removed from the Local Road and rights-of-way.

(26) All construction traffic (other than private vehicles and light duty trucks used solely for personnel transportation) related to the Project shall use exclusively the routes designated for use by construction traffic on the Project Traffic Map to be provided by Bennington Wind and approved by the Road Authority in accordance with Section 2(B)(1)(h) of this Agreement and shall not use Local Roads other than those so designated. In the event this provision is violated by Bennington Wind (including empty return trips after material or equipment has been unloaded), the Road Authority may issue a Notice of Violation and impose a fine of \$5,000.00 per occurrence on Bennington Wind and Bennington Wind shall pay any fine imposed within thirty (30) days business days. The Road Authority will substantiate such a fine with a general description of the vehicle and the approximate time and location of the occurrence. In the event of a driver's second violation, the fine shall be doubled and for each violation thereafter by the same driver the fine shall be increased by \$2,500.00 for each subsequent violation. Bennington Wind shall also be obligated to repair any road damage resulting from Bennington Wind's improper use of Local Roads. If five (5) fines are imposed for unauthorized road use on five (5) separate calendar days on the same road, the road shall be deemed to be included as a road used for Project Construction and to the extent damage is caused to such road as a result of Bennington Wind's use of the road, Bennington Wind shall be responsible for the cost to repair such road as set forth in Section 3 of this Agreement.

(27) In accordance with permits issued by State authorities and as otherwise required by the Illinois Vehicle Code (and regulations promulgated thereunder), oversize/overweight vehicles shall display slow moving vehicle emblems and provide escort vehicles and related signage and lighting, to the end of protecting public safety and property.

(28) At all times during the construction of the Project and repair work performed on Local Roads, Bennington Wind shall ensure that construction areas and routes are free and clear of construction-related mud, dirt, debris, garbage, obstructions, or hazards. Upon request of the Road Authority, Bennington Wind shall clear any construction-related mud, dirt, debris, garbage, obstructions, or hazards from a Local Road, culvert, or ditch prior to dusk on the day such a request is made, or within two (2) hours if such

request is made less than two (2) hours before dusk. Bennington Wind is not responsible for the removal of mud, dirt or debris related to third-party agricultural operations.

(29) If, during the course of construction of the Project, the Road Authority notifies Bennington Wind of significant potholes or other conditions caused by the construction traffic or construction activities which make travel on a Local Road hazardous, Bennington Wind shall remediate the hazard as soon as reasonably possible, preferably prior to dusk on the day it receives notice of the hazardous condition from the Road Authority (or place illuminated or night condition warning signs pending the remediation of the hazard within twenty-four (24) hours). If Bennington Wind fails to act within this time frame, the Road Authority may take remedial action and may close the road until the road is made safe and the Road Authority may issue a Notice of Violation and impose a fine of \$1,000.00 per occurrence on Bennington Wind and Bennington Wind shall pay any fine imposed within five (5) business days.

(30) All such actions undertaken by Bennington Wind to prepare the roads for winter conditions and the plowing of the roads by the Road Authority shall be subject to the supervision of the Road Authority. In the event rapidly changing winter weather conditions (by way of example and not limitation, sudden thaws or heavy rains) make road conditions hazardous for the motoring public, the Road Authority may close the road to construction traffic upon providing reasonable notice to Bennington Wind.

(31) If work during the construction phase of the Project or the post-construction road repair phase is suspended for an extended period (not to exceed six (6) months), due to seasonal conditions or other cause, Bennington Wind, at its expense, shall take such measures as laying additional gravel, installing barriers, posting signs or providing interim repairs or protections, as may be reasonably required to render Local Roads safe for vehicular traffic during the period such work is suspended. If work is to be suspended for a period exceeding six (6) months, then reconstruction and repair of the Local Roads in accordance with Section 3 of this Agreement shall commence.

(32) The Road Authority and/or its designee(s) shall have unfettered access to the Local Roads to inspect the roads, culverts, adjacent ditches, *et cetera*, provided however, that The Road Authority shall respect OSHA rules and regulations.

(33) Unless otherwise directed by the Road Authority, existing road surface materials, culverts (permanent and temporary), flood gates, and signs shall remain the property of the Road Authority and shall be in priority re-use for the Project construction, or if not so used, delivered to locations as directed by the Road Authority within 10 miles.

(34) Bennington Wind shall reimburse the Local Road Authority for all reasonable direct costs for oversight and management of the inspection process, including but not limited to on-going engineering and surveying fees, incurred in connection with any and all the road issues relating to the Project Construction, coordination of construction traffic, issuance of required permits, and repairs to the Local Roads and all roadway appurtenances. The Road Authority shall notify Bennington Wind in advance of incurring

such costs. Payments shall be made within thirty (30) calendar days of receipt of such undisputed engineering bill or other bills by Bennington Wind or request for reimbursement from the Local Road Authority.

(35) Bennington Wind shall hold harmless, indemnify, defend, pay costs of defense (including reasonable attorneys' fees), and pay any and all claims or judgments which may hereafter accrue against the Road Authority, the affected Township, and/or (notwithstanding that such individuals are not specifically named herein) their respective elected and appointed officials, employees, contractors, and consultants, caused by Bennington Wind and its respective successor and/or assigns in connection with construction of the Project or improvements, repairs, or reconstruction of the Local Roads performed by Bennington Wind.

(36) Bennington Wind shall pay to the Road Authority a fee of Ten Thousand dollars (\$10,000.00) for each Turbine to be erected in connection with the Project within the Road Authority's jurisdiction (the "**Road Permits Fee**") payable as follows:

(a) Five Thousand Dollars (\$5,000.00) within fourteen (14) calendar days after execution of this Agreement;

(b) Ten Thousand Dollars (\$10,000.00) within ten (10) calendar days after delivery of the Transportation Impact Analysis; and

(c) The remaining balance at the time the Letter of Credit is delivered in accordance with Section 6 of this Agreement.

This fee shall be deemed to provide permission for the overweight, oversize, and overwidth vehicles related to the Project to travel upon the Local Roads as designated on the Project Traffic Map and for the issuance of driveway access permits and utility installation permits, use and alteration of the Local Roads and rights-of-way for Project Construction as provided for in this Agreement and permits issued in accordance with this Agreement during Project Construction, use of the rights-of-way for installation of the transmission, communication, and collection system cable and crossings, and for the issuance of any other permit, inspection, consent, or approval required under this Agreement during Project Construction. The Parties further agree that the fee compensates the Road Authority for time spent on this Project by the Road Authority prior and subsequent to the execution of this Agreement, and to ensure that the Road Authority's taxpayers do not bear any financial burden as result of the construction of Project. The fee shall be made payable to the Road Authority. The fee shall be deposited in the Road Authority's County Highway Fund. The fee is non-refundable.

(37) With regard to work performed on Local Roads in connection with construction of the Project, Bennington Wind, its contractors and subcontractors shall pay wages in accordance with the Illinois Prevailing Wage Act, 820 ILCS 130/1, *et seq.* Upon request, Bennington Wind shall provide to the Road Authority documents establishing compliance with the Illinois Prevailing Wage Act.

(38) All materials used on or incorporated into the Local Roads in connection with the construction of the Project shall be approved by IDOT and in accordance with IDOT's Standard Specifications and the Supplemental Specifications in effect as of the effective date of this Agreement.

(39) With regard to work performed on concrete, seal coat, or hot mix Local Roads in connection with construction of the Project, parties engaged by or on behalf of Bennington Wind shall be pre-qualified by IDOT to perform the work such parties are hired to perform. Upon request, Bennington Wind shall provide to the Road Authority documents establishing that a contractor or subcontractor has been pre-qualified by IDOT. In the event a contractor or subcontractor loses pre-qualified status with IDOT after being awarded a contract for work, but before starting work, the contractor or subcontractor shall not be permitted to perform work on the Local Roads. Bennington Wind shall make commercially reasonable efforts to use qualified contractors and subcontractors located in Marshall County, Illinois.

(40) Bennington Wind shall provide to the Road Authority any "As-Built" drawings of improvements to the Local Roads or rights-of-way that Bennington Wind, its engineers, contractors or subcontractors may possess.

(41) Bennington Wind shall provide written notice to the Road Authority identifying the name, address and both regular and emergency contact information of Bennington Wind's on-site representative for communication purposes regarding this Agreement and the Project. Bennington Wind's on-site representative may be changed and any such change or change in contact information shall be promptly communicated to the Road Authority in writing.

Section 3: Bennington Wind's Obligations for the Repair and Improvement of the Local Roads.

(A) Bennington Wind shall bear financial responsibility for necessary improvements and repairs to the Local Roads as a result of Project Construction, including the costs incurred for engineering estimates and inspections. Upon commencement of use of the Local Roads (including pre-construction improvements to such roads) by Bennington Wind, damage from Project Construction requiring immediate repair to ensure the safety of the motoring public may trigger Bennington Wind's obligation to perform road work. The term "damage" as used in this Agreement shall be interpreted broadly and shall include, but is not limited to, bleeding, rolling, breaking, damage to the road surface, subsurface, bridges, box culverts, culverts, drainage tiles, signs or adjacent ditches. The Local Roads currently do not require significant improvements, reconstruction or significant repairs to accommodate the current use of the Local Roads by the motoring public; accordingly, the Road Authority shall not contribute any funds for the road work required upon completion of Project Construction or as needed to effect an immediate repair to ensure the safety of the motoring public. The Road Authority is not aware of any known drainage issue existing which might impact the Project.

(B) The Parties acknowledge that the full scope of post-Project construction road work cannot be determined at the time this Agreement is executed because the loss of useful service life of the roads, bridges and box culverts and visible damage is subject to various factors, including, but not limited to, weather conditions during Project Construction. The Parties agree that post-construction repairs and improvements (the "Road Work") may include the work described in the following paragraphs.

(1) All work shall be in accordance with the IDOT Standards and the IDOT Standard Specifications.

(2) Bennington Wind shall be responsible, at its expense, for performing a loaded truck test roll in the presence of the inspector retained by the Road Authority of the Local Roads used for Project Construction (a "Proof Roll") before surface treatments are applied. The Proof Roll shall be conducted in accordance with the IDOT Subgrade Stability Manual. Any areas which upon visualization and other customary methods of road evaluation show rutting, cracking, rolling, and/or pumping will require subsurface repairs to be made by Bennington Wind at its expense.

Subsequent Proof Rolls shall be performed as required, at Bennington Wind's expense, so that the Road Authority is assured the Local Roads are properly prepared for surface coat treatments by Bennington Wind and the Road Authority.

In addition to such subsurface repair work, Bennington Wind shall be responsible for the following items:

(a) Repairing drainage problems resulting from Project Construction so that proper drainage is achieved.

(b) Ditch and shoulder work to be completed as required by the particular conditions existing of each road at the time of the post-construction road work. Disturbed ditches will be graded and seeded in accordance with IDOT Standard Specifications.

(c) All culverts shall be inspected for damage following Project Construction by a qualified Engineer and, if due to Bennington Wind's construction activities it becomes necessary, replaced with new culverts of the same size which are riveted, corrugated, aluminized or pre-coated galvanized steel, metal culvert pipes. No spiral culverts shall be used. The Road Authority shall engage an Engineer to conduct the inspection. Bennington Wind will have the burden of proving damage was not caused by its construction activities, but only for culverts within the Local Roads identified in the Transportation Impact Analysis or, if documented by the Road Authority, on Local Roads improperly used by Bennington Wind or its Bennington Wind's Parties.

(d) All bridges and box culverts shall be inspected by a qualified structural engineering firm mutually agreed upon by the Parties for damage following Project Construction and, if due to Bennington Wind's construction activities it becomes necessary, replaced or repaired as needed. The Road Authority shall engage an Engineer to conduct the inspection. Bennington Wind will have the burden of proving damage was not caused by its construction activities, but only for bridges and box culverts within the Local Roads identified in the Transportation Impact Analysis or, if documented by the Road Authority, on Local Roads improperly used by Bennington Wind or its Bennington Wind's Parties.

(e) With respect to roadbed damage to seal coat and gravel roads resulting from subbase failures caused by Project construction activities, the repair work will include completing subsurface base repairs including subsurface drainage work. The entire length and width of the damaged roadway with the subbase failure shall be marked for repair and excavated to a depth of eighteen inches (18") and the material disposed of off-site. The area shall be overlain with six (6) ounce non-woven fabric for ground stabilization per IDOT Standard Specification 201, followed by eighteen inches (18") of CA-6 compacted in lifts according to Article 358 of the IDOT Standard Specifications. If the road was a seal coat road prior to Bennington Wind's use it shall be primed and an A-3 surface treatment will be applied according to the Marshall County specifications set forth in Exhibit K.

(f) With respect to any occurrence of roadbed damage to hot mix asphalt roads resulting from subbase failures caused by Project construction activities, repair work shall include, but not be limited to, stabilization and subsurface drainage, excavating to a depth of at least fifteen inches (15") within damaged roadbeds. Further sub-base excavation may be needed. The actual depth shall be determined in accordance with the IDOT Subgrade Stability Manual. The sub-base shall be stabilized with geotechnical fabric and CA-1. A four inch (4") minimum layer of compacted CA-6 base course shall be placed over the CA-1, according to Article 358 of the IDOT Standard Specifications. The hot mix asphalt thickness shall match the existing hot-mix asphalt thickness; provided, however, the thickness shall be a minimum of six inches (6"). The work shall be done in accordance with Article 442 of the IDOT Standard Specifications for a Class D patch. The top two inches (2") of hot mix asphalt patch shall be Hot Mix Asphalt Surface Course Material IL 9.5, N 50 and lower lifts shall be Hot Mix Asphalt Binder Course IL 19.0, N50 in accordance with Section 1030 of the IDOT Standard Specifications. If weather conditions do not allow for the placement of hot mix asphalt in accordance with the IDOT Standard Specifications at the time of repair, the final six inches (6") may be

temporarily backfilled in the same method using CA-16 patch mix, in which case the patch mix will be removed and replaced with hot mix asphalt when conditions allow.

(g) With respect to road damage resulting from surface failures caused by Project construction activities, such repair work shall include milling the deteriorated surface to a depth necessary to eliminate further damage. Aggregate shall be used to reconstruct the surface of gravel roads. Hot-mix asphalt shall be used to reconstruct the surface of asphalt roads. Hot-Mix Asphalt overlays shall be a Class D Patch in accordance with the IDOT Standard Specification 442, with a minimum thickness of the patch to be three inches (3").

(h) With respect to road damage resulting from surface failures to seal coat roads caused by Project construction activities, such repair work shall include recycling the road surface for the length and the full width of the road and according to the Marshall County specifications set forth in Exhibit K. The surface repair shall include base repair special, placing sufficient aggregate surface course, type B, to attain a minimum of eight inch (8") thickness, prime and an A-3 cover and seal coat. Tilling for base repair, special, shall be conducted to a minimum depth of six inches (6"), unless soil is encountered. All filled areas will have a minimum of three inches (3") of aggregate placed plus additional aggregate if filling indicates soil at a depth less than six inches (6").

(i) Road Work shall extend to the next logical termini, that is, intersection to intersection or to the next bridge or to the next change of surface type. Consistent road widths and pavement types on road segments shall be utilized.

(j) Shoulders shall be restored adjacent to the road to the extent to which they existed prior to construction or as required by IDOT Bureau of Local Roads Manual.

(C) Upon the Road Authority's determination, to be made in coordination with Bennington Wind, that construction of the Project, or a portion of the Project, is substantially complete, the Road Authority and Bennington Wind shall perform a joint inspection of the Local Roads to identify possible needed Road Work.

Additionally, for aggregate surfaced roads only, Bennington Wind shall be responsible, at its expense, for performing a loaded truck test roll in the presence of the inspector retained by the Road Authority of the Local Roads used for Project construction (a "Proof Roll"). The Proof Roll shall be conducted in accordance with the IDOT Subgrade Stability Manual. Any areas which upon visual inspection and other customary methods of road evaluation show rutting, cracking, rolling, and/or pumping will require subsurface repairs.

Following the above described inspection and Proof Roll, the Road Authority shall obtain and deliver to Bennington Wind an Engineer's estimates of the engineering, labor and material for the Road Work, or applicable portion of the Road Work, clearly identifying the scope and estimate of repairs and work to be performed that differs from the work and costs set forth in the Projected Scope of Repairs (the "Engineer's Estimate"). The Engineer's Estimate shall be made in good faith to assess, qualify, and quantify damages resulting from Project Construction. Bennington Wind then shall have fourteen (14) calendar days to accept or dispute the Engineer's Estimate from the date the Engineer's Estimate is delivered by overnight delivery to Bennington Wind. If Bennington Wind disputes the Engineer's Estimate, Bennington Wind shall, within the fourteen (14) calendar days, deliver by overnight delivery, a written notice to the Road Authority setting forth disputed portions of the Engineer's Estimate and the factual basis the disputed portions. The Parties shall then make a good faith effort to resolve the dispute(s). If the Parties are unable to resolve the dispute, the Parties may submit the dispute to the Neutral Engineer, as provided for in this Agreement for resolution.

(D) Bennington Wind shall provide written notice to the Road Authority when Bennington Wind has completed its portion of the Road Work, which may be submitted for all or an incremental portion of the Project (each a "Completion Notice"). The Completion Notice shall attest, under oath, that all contractors, subcontractors, and material suppliers retained by or for the benefit of Bennington Wind who performed the Road Work have been paid in full. Upon receipt of the Completion Notice, the Road Authority shall have ten (10) business days to inspect the Road Work and provide written notice to Bennington Wind that the Road Work is accepted or rejected in whole or in part.

(1) If the Road Authority rejects the Road Work, the Road Authority shall state, with particularity the work rejected, the action required to make the rejected work conform to the accepted Engineer's Estimate and a reasonable time period for the completion of the work (the "Punch List Work"). Upon completion of the Punch List Work, Bennington Wind shall provide another Completion Notice to the Road Authority. If Bennington Wind disputes the Punch List Work and the Parties are unable to resolve the dispute, the Parties may submit the dispute to the Neutral Engineer, as provided for in this Agreement, for resolution.

(2) If the Road Authority accepts the Completion Notice, then the Road Authority shall issue a written notice of acceptance substantially in the form of the attached Exhibit L ("Notice of Acceptance").

(3) If the Road Authority does not provide written notice to Bennington Wind that the Road Work is accepted or rejected in whole or in part within twenty (20) business days, then the Notice of Acceptance is deemed issued.

(E) At least fourteen (14) calendar days after receipt of the last Notice of Acceptance for the Project, Bennington Wind shall pay to the Road Authority the cost of the final

surface coat treatment to be applied by the Road Authority in the year following the Road Authority's acceptance of Bennington Wind's Road Work, which is detailed in the attached Exhibit J (the final Surface Repair Cost plus the Engineering Cost shall be the "Surface Repair Payment"). In the event a final Notice of Acceptance is delayed due to a dispute which has been submitted to a Neutral Engineer (as defined in Section 3(G)), Bennington Wind shall pay the Surface Repair Payment in an amount proportional to Notices(s) of Acceptance issued by the Road Authority. The Surface Repair Payment is based upon material costs at the time this Agreement is executed. In the event of price fluctuations, the Surface Repair Payment may be adjusted at the request of either Party and the Letter of Credit may be adjusted to reflect fluctuations in material costs.

(F) If any Local Road used by Bennington Wind shall require repairs in the reasonable opinion of the Road Authority as a result of damage caused by Bennington Wind or Bennington Wind's Parties or Road Work performed by Bennington Wind is defective and additional repairs are required, the warranty period ("Warranty Period") for such repairs is as follows:

- (1) for any subsurface work performed by Bennington Wind or Bennington Wind's Parties, the three (3) year period following the date of the last Notice of Acceptance; and
- (2) for any surface work performed by Bennington Wind or Bennington Wind's Parties, the period shall end on the earlier of (i) one (1) year following the date of the last Notice of Acceptance, and (ii) for those Local Roads on which the Road Authority will apply the final surface coat treatment, the date when the Road Authority commences such final surface coat treatment.
- (3) In the event another entity, pursuant to a road use agreement similar to this Agreement, begins use of a Local Road still under warranty, the remaining warranty period for the Local Road actually used by the other entity shall terminate.

Bennington Wind shall, upon notification by the Road Authority of the necessity for the repair, make repairs at its own cost and expense, and shall remain liable for any additional cost or expense incurred. Should Bennington Wind fail to make the repairs (i) within the reasonable time period specified in the notification, or (ii) within the time period determined by the Neutral Engineer (if a dispute is submitted for resolution to a Neutral Engineer (defined below)), then the Road Authority shall provide Bennington Wind with a written notice of default and Bennington Wind shall have ten (10) calendar days to cure such default. In the event Bennington Wind fails to cure such default, the Road Authority may cause the work to be done and draw upon the Letter of Credit to pay the entire cost or expense of the repair, including, but not limited to, reasonable engineer, attorney and consultant fees and costs. Should the cost or expense exceed the amounts set forth in the Letter of Credit, Bennington Wind shall remain liable for any additional cost or expense incurred by the Road Authority. The Warranty Period shall not be construed as a limitation or modification of any applicable statute of limitations.

(G) The Parties shall make a good faith effort to resolve any disagreements about the nature and/or scope of required road repairs, the projected costs of those repairs or the performance of road work by Bennington Wind. In the event the negotiation efforts of the Parties are unsuccessful or upon written demand by either Party, the Parties, within twenty-one (21) calendar days shall select a neutral engineer for resolution of the dispute (the "Neutral Engineer"). The Neutral Engineer shall be an independent civil engineering firm which regularly practices and has experience in highway construction and design standards in rural central Illinois. The Neutral Engineer shall have no prior relationship with the Parties. Acceptable Neutral Engineers include:

- (1) Kaskaskia Engineering Group, LLC
619 Water Street, Suite 2B
Peoria, Illinois 61602
(309) 319-9579
- (2) Terra Engineering
401 Main Street, Suite 1120
Peoria, Illinois 61602
(309) 999-0123
- (3) Klinger & Associates
44 N. Prairie Street
Galesburg, Illinois 61401
(309) 343-1268

The Parties and the Neutral Engineer shall promptly agree to procedures for submitting position papers and information to the Neutral Engineer and for an on-site inspection (if needed) by the Neutral Engineer. The Neutral Engineer shall complete its review and inspection within thirty (30) business days of its engagement by the Parties and issue its written report. The determination of the Neutral Engineer shall be binding upon the Parties except in case of gross negligence, willful misconduct, fraud or manifest error. The costs for such inspection and report by the Neutral Engineer shall be paid by Bennington Wind.

Section 4: Road Authority Undertakings. In consideration for the obligations of Bennington Wind under this Agreement, the Road Authority agrees as follows.

(A) Upon receipt of the Road Permits Fee, the Certificate of Insurance as provided for in Section 5 of this Agreement, the Letter of Credit as provided for in Section 6 of this Agreement and the other items to be delivered to the Road Authority as provided for herein, to permit Bennington Wind to use the Local Roads for Project Construction, including overweight, oversize, and overwidth vehicles. All other applicable and necessary permits and approvals shall be issued by the Road Authority and delivered to Bennington Wind's onsite project manager in a timely manner upon the filing of applications by or on behalf of Bennington Wind.

(B) To coordinate and cooperate with Bennington Wind to minimize the impact of Bennington Wind's use of the Local Roads on normal local traffic.

(C) To continue to be responsible for routine maintenance of the roadways under their jurisdiction. Such activities shall include snow removal, signage, and other regularly scheduled maintenance or repairs.

(D) To coordinate the post-construction surface repair work as set forth in Section 3 and detailed in Exhibit J with other jurisdictions which have executed road use agreements with Bennington Wind.

Section 5. Insurance. Bennington Wind shall furnish the Road Authority with evidence of liability insurance in the amount of at least Ten Million Dollars (\$10,000,000.00) (United States currency) per occurrence covering the activities of Bennington Wind contemplated by this Agreement. The insurance shall be written by a company rated by Standard & Poor's rating group as B+ or better or as otherwise determined to be acceptable by the Road Authority. A Certificate of Insurance shall be provided to the Road Authority before the commencement of any work by Bennington Wind, its contactors, subcontractors, material suppliers or their respective transport providers. The insurance policy shall provide for a thirty (30) calendar day "prior notice of changes or termination" provision in favor of the Road Authority. Should Bennington Wind allow such liability insurance to terminate, the Road Authority shall have recourse against the Letter of Credit for funds sufficient to cause the liability insurance to be reinstated. The Road Authority, the applicable Township and their respective elected and appointed officials, agents and employees shall be named as additional insureds on the policy and Bennington Wind shall provide a copy of the Additional Insured Endorsement to the Road Authority at least thirty (30) calendar days prior to the start of Project Construction.

Section 6: Financial Security.

(A) At least 15 calendar days prior to the commencement of any pre-construction improvements or use of Local Roads, Bennington Wind shall provide to the Road Authority an irrevocable Letter of Credit (the "**Letter of Credit**") issued by a sound financial institution located in the United States of America; provided that the Letter of Credit may be issued by a United States branch of a foreign bank, substantially in the form attached as Exhibit M to this Agreement. The Parties acknowledge that the exact terms of the Letter of Credit may be subject to terms requested by the financial institution issuing the Letter of Credit.

(B) When initially delivered to the Road Authority, the Letter of Credit shall be in the amount of the Projected Scope of Repairs plus thirty percent (30%).

(1) During the Warranty Period, the Letter of Credit shall be reduced to ten percent (10%) of the original amount of the Letter of Credit.

(2) Following the expiration of the Warranty Period, the Letter of Credit shall be reduced to the amount of a single Annual Operation Fee as set forth in Section 7(E).

(C) At six (6) month intervals from the date the Letter of Credit is initially provided by Bennington Wind to the Road Authority, and until the Road Authority's receipt of the Surface Repair Payment, the Parties may reassess the cost of the Projected Scope of Repairs, and the Letter of Credit shall be adjusted to reflect the periodically revised estimate.

(D) A reduction in the Letter of Credit shall not amount to acceptance by the Road Authority of improvements or repairs to Local Roads by Bennington Wind.

(E) The amount stated on the Letter of Credit shall not be deemed to be the limit of Bennington Wind's financial obligations under this Agreement. Should the cost or expense of any of Bennington Wind's financial responsibilities under this Agreement exceed the amount stated on the Letter of Credit, Bennington Wind shall remain liable for any additional cost or expense.

(F) The Road Authority shall not draw on the Letter of Credit until ten (10) calendar days after the receipt of a written notice to Bennington Wind specifying a default hereunder by Bennington Wind, during which ten (10) calendar days Bennington Wind may cure such default or for a defaulting event which cannot be reasonably cured within ten (10) calendar days, provided Bennington Wind commences the cure within such ten (10) calendar day period and diligently pursues the cure to its completion and, in the event Bennington Wind so cures, the Road Authority shall not draw on the Letter of Credit on account of such default.

(G) The Letter of Credit may be used by the Road Authority, in its reasonable discretion, to cure any uncured defaults of any kind or nature with respect to Bennington Wind's obligations under this Agreement, including, but not limited to:

(1) providing payment for any of Bennington Wind's obligations under this Agreement which remain unpaid for thirty (30) calendar days after such obligations have been incurred and notice sent to Bennington Wind, which obligations shall include without limitation, modification, repairs and improvement of the Local Roads, subject to the Warranty Period and dispute resolution mechanisms set forth in Section 3;

(2) keeping the liability insurance policy required pursuant to Section 5 in force and effect;

(3) in the event the Road Authority is served with a notice pursuant to the Illinois Mechanics' Lien Act from any of Bennington Wind's contractors, subcontractors, material suppliers, engineers or others (a "**Lien Claimant**") that Bennington Wind has not paid for work performed in connection with this

Agreement and, after written notice of such claim, Bennington Wind has not provided a payment bond for the amount claimed either as required by any court in which an action is pending or pursuant to the Illinois Mechanic's Lien Act with respect to such Lien Claimant, payment may be made to such Lien Claimant; in such circumstance, the payment may be made through a title insurer or escrowee after a review of lien waivers and other documents for the purpose of insuring against claims by a Lien Claimant; and further provided that this right in the Road Authority shall not be construed as granting to any Lien Claimant any right as a third party beneficiary or otherwise to the proceeds of the Letter of Credit;

(4) reimbursement for emergency actions by the Road Authority to respond to an accident related to construction of the Project to protect public health and safety; or

(5) reimbursement for such other actions or costs incurred (erection of traffic control devices, payment for outside consultants and advisors, *et cetera*.) as are provided for under this Agreement.

Section 7: Operations Phase of the Project

During the operations and maintenance phase of the Project, Bennington Wind agrees to, and shall cause Bennington Wind's Parties to, abide by the terms and conditions set forth below.

(A) As needed, Bennington Wind shall apply for overweight, oversize, and overwidth vehicle permits from the Road Authority using the application forms in effect at the time of application and shall not move such vehicles until the necessary permits are issued.

(B) As needed, Bennington Wind shall apply for entrance permits from the Road Authority using application forms in effect at the time of application. Bennington Wind shall not create an entrance point until the permit is issued.

(C) As needed, Bennington Wind shall apply for utility permits from the Road Authority using the application forms in effect at the time of application. Bennington Wind shall not proceed with utility work until the permit is issued.

(D) Bennington Wind shall be financially responsible for damage, ordinary wear and tear excepted, to Local Roads caused by Project vehicle traffic during the course of ordinary operations and maintenance of the Project. By way of illustration and not limitation, ordinary operations and maintenance includes activities such as changing the gear oil, coolants, seals, brake pads, and filters; greasing the bearings; adjusting sensors and actuators; and visually inspecting the blades, tower, and electrical connections and the replacement or refurbishment of these components. Repairing or replacing up-tower components, such as a gear box, generator, nacelle or blade(s) on an individual turbine is also an example of ordinary operations and maintenance. Repairing a single Turbine due

to damage caused by a lightning strike or faulty part is also an example of ordinary operations and maintenance.

(E) On the first day of April following the completion of construction, and on the first day of April every year thereafter while the Project is operating, Bennington Wind shall pay to the Road Authority an annual maintenance permit fee of One Thousand Five Hundred Dollars (\$1,500.00) for each mile of Local Road actually used for Project construction (for Local Roads with a parallel utility installation for the Project, the fee shall be Ten Thousand Dollars (\$10,000.00) per mile) (the "Annual Operation Fee"). The Annual Operation Fee shall be deposited in the Road Authority's County Highway Fund. The Annual Operation Fee shall be adjusted annually two percent (2%) annually starting on the first of January of the year following the first payment of the Annual Operation Fee.

(F) Extraordinary Events. In the event Bennington Wind elects to repower any Turbine(s) or is required to perform work or repairs such that a minimum of four (4) overweight or oversize vehicles must make successive deliveries of Turbine parts (by way of example and not limitation, replacement or repair of multiple nacelles and/or replacement of tower segments), Bennington Wind shall:

- (1) give advance written notice of the intended movements to the Road Authority;

- (2) provide a transportation impact analysis and plan, with a schedule of bridges and culverts to be used and an estimate of pre- and post-construction repairs and estimated costs, similar in form to the information provided when the Project was constructed, all of which is subject to reasonable approval by the Road Authority; and

- (3) provide a Letter of Credit (or other form of financial security acceptable to the Road Authority) to the Road Authority to protect the Road Authority from the expense of repair and/or restoration of Local Roads resulting from such Extraordinary Events.

- (4) Bennington Wind's obligations to comply with subparagraphs (1) through (3) immediately above shall be suspended if more than two (2) Turbines are damaged due to a "Force Majeure" event such as floods, fire, storms, earthquakes, war (whether declared or undeclared), acts of terrorism, civil disturbances, acts of God or other similar events beyond the reasonable control of Bennington Wind. If a Force Majeure event occurs, the Road Authority shall allow permitted vehicles access to the Local Roads (as the circumstances allow safe travel on the Local Roads) to take emergency action needed to protect public health, safety, and welfare from harm that may be caused to Turbines damaged during the Force Majeure event. Following the Force Majeure event, the Parties shall work cooperatively to address required repairs (if any) to Local Roads and to establish a schedule for Bennington Wind to comply with the terms of

subparagraphs (1) through (3) immediately above for work required to repair or remove and replace Turbines damaged during the Force Majeure event.

(G) In the event that Bennington Wind desires use of Local Roads for demolition or decommissioning of the Project as a whole or for repowering of the Project or for the development of another Project, another road agreement with the Road Authority shall be required.

Section 8: Miscellaneous.

(A) Incorporation of Background Recitals. The recitals set forth in the Background section of this Agreement are hereby incorporated herein and made a part of this Agreement.

(B) Approvals. Whenever the consent or approval of any Party hereto is required in this Agreement such consent or approval shall be in writing and shall not be unreasonably withheld or delayed, and, in all matters contained herein, the Parties shall have an implied obligation of reasonableness, except as may be expressly set forth otherwise in this Agreement.

(C) Remedies and Enforcement. Each of the Parties hereto, their successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by any Party, or their successors or assigns, which default is not cured for a period of ten (10) calendar days after receipt of a written notice to the defaulting Party of such default or such longer period for default, that cannot be reasonably cured within ten (10) calendar days provided the defaulting party commences the cure within such ten (10) calendar day period and diligently pursues a cure of the same, the Party seeking to enforce said provisions shall thereafter have the right to file a breach of contract claim, an action for a declaratory relief and/or to seek the remedies of specific performance and injunctive relief, as well as other remedies available at law or in equity. Notwithstanding the foregoing, the Road Authority may, without notice, take remedial action if immediate hazards exist and Bennington Wind is unable to or fails to take immediate action to make the Local Roads safe for the motoring public and any costs reasonably incurred by the Road Authority in such a circumstance shall be reimbursed by Bennington Wind.

(D) Due Authorization. Bennington Wind hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Bennington Wind. The Road Authority hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of the Road Authority.

(E) Severability. If any provision of this Agreement is held invalid under any applicable law, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision and, to this end, the provisions hereof are severable.

(F) Entire Agreement. This Agreement contains the entire understanding of the Parties as to the matters set forth herein, and this Agreement supersedes any prior agreements or understandings by and between the Parties.

(G) Amendments. No waiver of a Party's rights hereunder shall be binding unless it shall be in writing and signed by the Party against whom enforcement is sought. Any amendment or modification to this Agreement shall be in writing and executed by each Party hereto.

(H) Notices. All notices shall be in writing. Unless otherwise provided, a notice shall be deemed to be received by a Party (1) on the date of personal service; (2) five (5) calendar days after being sent by registered or certified mail, return receipt requested, postage prepaid, or (3) on the next business day if sent by overnight delivery service (e.g. Federal Express) with all fees prepaid. Notice may be sent via facsimile to a facsimile number; provided or to a provided e-mail address, however, notice sent via facsimile or e-mail shall be followed by notice delivered in accordance with (1), (2), or (3) unless such additional notice is waived in writing by the Party receiving the notice by facsimile or e-mail. If notice is effected by facsimile or e-mail, notice shall be deemed received on the date the receiving Party provides written notification to the other Party that a delivery of notice by supplemental means is not required.

Notices shall be addressed as follows:

If to Bennington Wind:

Minonk Stewardship Wind
ATTN: Manager
645 N. Michigan Avenue
Suite 980
Chicago, IL 60611
Telephone: 312-283-3400
Email: cote@akuoenergy.com

If to the Road Authority:

Patrick G. Sloan
Marshall-Putnam County Engineer
Marshall County Highway Department
552 State Route 26
Lacon, IL 61540
Telephone: 309-246-6401
Email: psloan@marshallcountyillinois.com

with copies to:

Marshall County State's Attorney
122 North Prairie St.
P.O. Box 328
Lacon, IL 61540
Telephone: 309-246-2028
Email: 62mcsa@gmail.com

and

Sheryl H. Churney
Klein, Thorpe & Jenkins, Ltd.
7 Northpoint Drive
Streator, Illinois 61364
Telephone: 815-672-3116
Facsimile: 815-672-0738
Email: shchurney@ktjlaw.com

or to such other party or address as any Party hereto may from time to time designate in a written notice to the other Party.

(I) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic mail shall be as effective as delivery of a manually signed counterpart to this Agreement.

(J) Commencement of Project. This Agreement shall be void if construction of the Project is not commenced pursuant to Marshall County Special Use Permit # 19-0224 and no later than November 14, 2021 and is thereafter diligently pursued to completion, provided, however, Bennington Wind's obligations to pay for third party costs incurred prior such date by the Road Authority shall survive.

(K) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois, (the state in which this Agreement is deemed to have been executed and delivered), irrespective of any conflict of laws provisions.

(L) Forum Selection. The Parties agree that any disputes arising out of, related to, or connected with this Agreement shall be litigated, if at all, solely in the Circuit Court for the Tenth Judicial Circuit, Marshall County, Illinois.

(M) Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto, their respective successors, assignees and legal representatives. This Agreement may not be assigned without the written consent of the other Parties hereto; provided, however, that Bennington Wind may without the consent of the Road Authority collaterally assign this Agreement in connection with any financing or refinancing of the Project. Any such permitted assignment will not relieve Bennington Wind of its obligations under this Agreement. In the event of such a permitted assignment, Bennington Wind shall, no later than seven (7) calendar days after such assignment, provide written notice to the Road Authority of the name, address, entity type and state of incorporation of the assignee, as well as the name and address of the assignee's registered agent in the State of Illinois. Prior to any assignment, Bennington Wind shall provide to the Road Authority a written sworn statement executed by the proposed assignee stating that the assignee has received and read a complete copy of this Agreement, including the exhibits, agrees to be bound by the terms and conditions

of this Agreement and, if requested to do so, will meet with the Road Authority to review the terms and conditions of this Agreement.

(N) No Waiver or Relinquishment of Right to Enforce Agreement. Failure of any Party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

(O) Attorney's Fees and Costs. Bennington Wind agrees to reimburse the Road Authority for all reasonable attorneys' fees and costs associated with the negotiation, drafting, and execution of this Agreement, and for the ongoing review of compliance with the Agreement in the ordinary course.

(P) Memorandum of Agreement. A Memorandum of this Agreement, substantially in the form of Exhibit N hereto, shall be recorded with the Marshall County Recorder of Deeds by Bennington Wind at its expense within sixty (60) calendar days after the execution of this Agreement and a copy of the recorded Memorandum shall be delivered to the Road Authority within ninety (90) calendar days after the execution of this Agreement.

(Q) Construction of Agreement. In the event of any ambiguity in the terms of this Agreement that the Parties are unable to resolve and a dispute concerning such an ambiguity is subject to resolution by a judicial or alternative dispute resolution proceeding, then the ambiguity, if an ambiguity is found to exist, shall be interpreted and resolved in the light most favorable to the Road Authority.

SIGNATURES ON FOLLOWING PAGE

Marshall County, Illinois

By: Gary R. Kroeschen
Name: Gary R. Kroeschen
By: County Board Chairman

County of _____)
) ss
 State of _____)

By: Jill M. Kenyon
Jill M. Kenyon, County Clerk


Given under my hand and notarial seal June ___,
2020.

Page 33 of 72

EXHIBIT A

PROJECT LAYOUT MAP

(attached)



| Author | Journal | Year | Page |
|--------|---------|------|------|
| ... | ... | ... | ... |

[illegible]

0.45% Methylene Blue, 1 in the 1000



Bennington Wind Project

Marshall County, Indiana

Project Layout Map

NAME: [REDACTED] DOB: [REDACTED] AGE: [REDACTED] GALT: [REDACTED]

日本郵政株式会社
 Japan Post

CS/4/2020

— 8 —

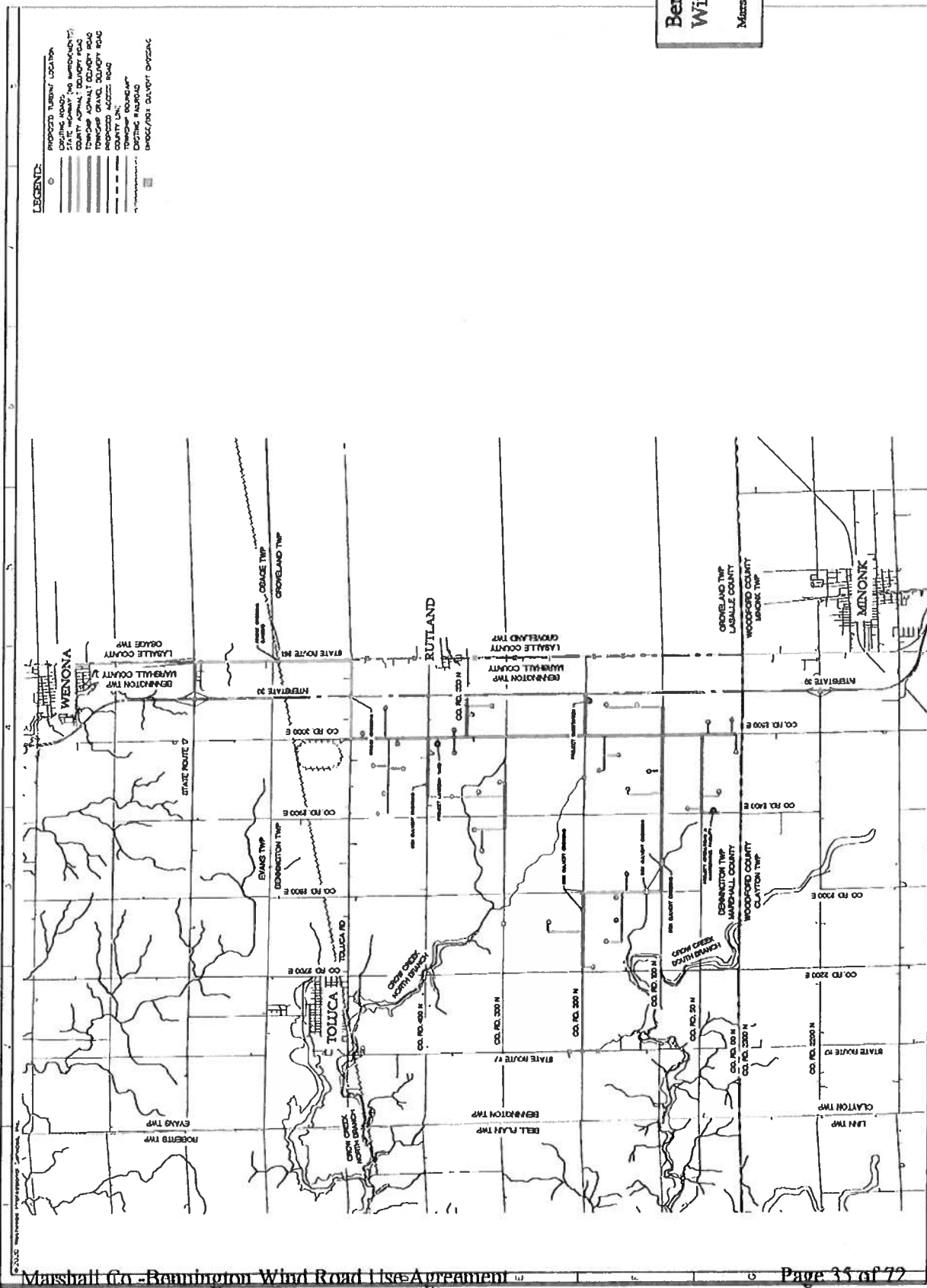


EXHIBIT B

CABLE RIGHT OF WAY USAGE

(attached)

IL-117

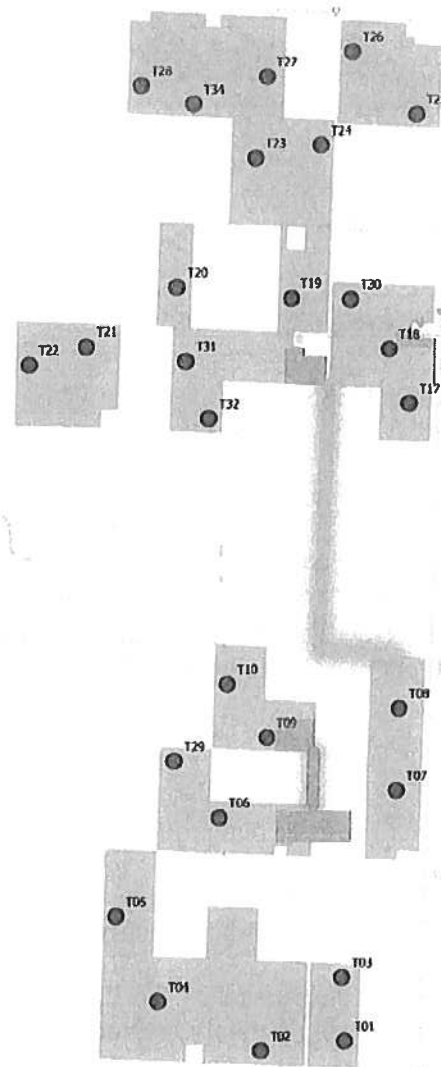
I-39

Toluca

Rutland

IL-117

IL-251



- Participating Landowner
- Wind Turbine
- Township Road RoW - Underground
- Township Road RoW - Underground

Road Use Agreement Exhibit B Cable Right of Way Usage



EXHIBIT C

FORM OF RIGHT OF WAY EASEMENT AGREEMENT

(Above Space for Recorder's Use Only)

Prepared by:
INSERT NAME, LLC
c/o INSERT
STREET ADDRESS
CITY STATE ZIP

Return to:
INSERT NAME, LLC
c/o INSERT
STREET ADDRESS
CITY STATE ZIP

RIGHT OF WAY EASEMENT AGREEMENT

This Right of Way Easement Agreement ("**Agreement**") is made as of the ____ day of _____, 20__ ("**Effective Date**") by and between _____ ("**Owner**"), and INSERT NAME, LLC, a INSERT STATE limited liability company ("**Developer**"). Owner and Developer may hereafter be referred to herein individually as a "**Party**" and together as the "**Parties**".

RECITALS

- A. Owner owns the real property described on Exhibit A ("**Property**").
- B. Developer plans to develop, construct, own and operate a commercial wind energy conversion facility in Marshall County, Illinois ("**Project**").
- C. Prior to construction of the Project, Developer will widen and improve portions of the roads and associated rights-of-way, including installation of culverts to improve drainage.
- D. Developer desires to obtain and Owner desires to grant easement rights necessary to make such road and drainage improvements as set forth in this Agreement.

In consideration of the mutual covenants provided herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Developer hereby agree as follows:

AGREEMENT

1. Grant of Easement.

(a) Owner hereby grants and conveys to Developer a non-exclusive, irrevocable perpetual easement, under, over, across, through and upon a portion of the Property as depicted on the attached Exhibit B ("Easement Area") for the purposes of construction and expansion of existing roadways and rights of way, including grading, culvert installation, and general road construction ("Improvements"), together with the right of access over and across that portion of the Property outside the Easement Area as may reasonably be required for construction and maintenance of the Improvements ("Easement"). Developer will use reasonable efforts to minimize surface disturbance on the portion of the Property lying outside the Easement Area.

(b) Developer shall use good engineering practices to avoid damage to Owner's existing drainage tiles on the Property. Developer shall repair (including replacement of damaged tile as necessary) any tile damage on the Property caused by Developer's activities on the Property. Developer's repairs to drainage tiles shall preserve the function of the tile system as it existed prior to Developer's activities on the Property.

2. Assignment to Road Authority. No later than 60 calendar days after completion of construction of the Project, Developer shall assign this Agreement and the Easement to *[applicable road authority]* for public roadway purposes and thereafter the Easement shall be maintained by the *[road authority]*. Upon such assignment, *[applicable road authority]* shall have the right to permit others to use or operate, install, maintain, alter, repair, replace, renew, improve and remove other facilities and structures, including but not limited to, underground communication lines, fiber optics, wire, or other means of electricity, voice data, video, digitized information, pipes and conduits, upon and beneath the surface of the Easement Area, and overhead wires, cables, and poles of other structures for the support of such facilities and structures on the Easement Area.

3. Non-Interference. Owner shall not do or permit anyone else to do anything that would adversely affect or interfere with Developer's or the Road Authority's use of the Improvements or Easement Area.

4. Default & Remedy. If Developer fails to perform its obligations in this Agreement, Owner shall be entitled to any remedy available under applicable law or equity; provided, however, that no such violation shall result in a termination of the Agreement or any right conveyed or granted in this Agreement. This Agreement shall not be terminable by Owner under any circumstances. Developer shall have the right to terminate this Agreement at any time, by giving written notice of termination to the Owner.

5. Covenants Running With the Land. The Parties hereby agree that all of the covenants and agreements contained in this Agreement touch and concern Owner's Property and are expressly intended to, and shall, be covenants running with the land and shall be binding and a burden upon Owner's Property and each Parties' present or future estate or interest therein and upon each of the Parties, their respective heirs, administrators, executors, legal representatives, successors and assigns. Upon transfer of Owner's interest in the Property, or Developer's interest

in this Agreement, the transferring Party shall be deemed released from further obligation or liability under this Agreement as to matters first arising after such transfer.

6. Further Acts and Assurances. Each Party hereby agrees that each shall execute such additional documents or instruments, and shall undertake such actions as are necessary and appropriate to effectuate the intent of this Agreement, including in the case of Owner, such additional documents as may be reasonably required for Project permits or any document that may be reasonably required in connection with any financing or sale.

7. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Developer regarding the subject matter of this Agreement and no promises or representations express or implied, either written or oral, not set forth in this Agreement shall be binding upon or inure to the benefit of Owner and Developer. This Agreement shall only be modified in writing signed by both Parties.

8. Severability. The enforceability, invalidity, or illegality of any provisions of this Agreement shall not render the other provisions in this Agreement unenforceable, invalid or illegal.

9. Governing Law. This Agreement shall be governed by the laws of the State of Illinois.

10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

SIGNATURES AND ACKNOWLEDGMENTS FOLLOW

IN WITNESS WHEREOF, Owner and Developer have caused this Right of Way Easement Agreement to be executed and delivered as of the Effective Date.

OWNER:

Name:

STATE OF ILLINOIS)
) ss.
COUNTY OF MARSHALL)

On the ____ day of _____, 20__ before me, the undersigned, personally appeared _____, an individual personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument, the individual, executed the instrument.

Notary Public

IN WITNESS WHEREOF, Owner and Developer have caused this Right of Way Easement Agreement to be executed and delivered as of the Effective Date.

DEVELOPER:

INSERT NAME, LLC,
a INSERT STATE limited liability company

By: _____
Name: _____
Title: _____

STATE OF)
) ss.
COUNTY OF)

On the ____ day of _____, 20____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he is the _____ of INSERT NAME, LLC, a INSERT STATE limited liability company, and he/she signed and delivered said instrument as the free and voluntary act of said company and in accordance with authority granted to him/her by its managing member(s).

Notary Public

RIGHT-OF-WAY EASEMENT AGREEMENT EXHIBIT A
DESCRIPTION OF PROPERTY

RIGHT-OF-WAY EASEMENT AGREEMENT EXHIBIT B
EASEMENT AREA

EXHIBIT D

PLAN OF DAY FORM

(attached)

**PLAN OF THE DAY
PUBLIC ROADWAYS**

Date: ____/____/____

Page ____ of ____

Roadway: _____ From: _____ To: _____
☐ Full Closure ☐ Partial Closure Expected Date of Reopening: ____/____/____

Will residents living along the roadway have access? ☐ Yes ☐ No
From which direction? _____ Have they been notified? ☐ Yes ☐ No

Scope of Work:

- | | |
|--|--|
| <input type="checkbox"/> Culvert(s): _____ | |
| <input type="checkbox"/> Soil Cement Stabilization | <input type="checkbox"/> Aggregate Capping |
| <input type="checkbox"/> Roadway Preparation | <input type="checkbox"/> Seal Coat |
| <input type="checkbox"/> Other: _____ | |

Roadway: _____ From: _____ To: _____
☐ Full Closure ☐ Partial Closure Expected Date of Reopening: ____/____/____

Will residents living along the roadway have access? ☐ Yes ☐ No
From which direction? _____ Have they been notified? ☐ Yes ☐ No

Scope of Work:

- | | |
|--|--|
| <input type="checkbox"/> Culvert(s): _____ | |
| <input type="checkbox"/> Soil Cement Stabilization | <input type="checkbox"/> Aggregate Capping |
| <input type="checkbox"/> Roadway Preparation | <input type="checkbox"/> Seal Coat |
| <input type="checkbox"/> Other: _____ | |

Roadway: _____ From: _____ To: _____
☐ Full Closure ☐ Partial Closure Expected Date of Reopening: ____/____/____

Will residents living along the roadway have access? ☐ Yes ☐ No
From which direction? _____ Have they been notified? ☐ Yes ☐ No

Scope of Work:

- | | |
|--|--|
| <input type="checkbox"/> Culvert(s): _____ | |
| <input type="checkbox"/> Soil Cement Stabilization | <input type="checkbox"/> Aggregate Capping |
| <input type="checkbox"/> Roadway Preparation | <input type="checkbox"/> Seal Coat |
| <input type="checkbox"/> Other: _____ | |
-

EXHIBIT E

UTILITY INSTALLATION PERMIT FORM

(attached)

BENNINGTON WIND FARM PROJECT

UTILITY PERMIT No. _____

Select Road Authority: _____ Marshall Co. _____ Bennington Twn. Rd. Dist.

Applicant Name: _____ (the "Permittee")

Company: _____

Street Address: _____

City, State ZIP: _____

Email: _____

Telephone (day): _____

Emergency Phone: _____

requests permission and authority to occupy, and to do certain work herein described on the right-of-way of the County or Township highway in Marshall County, Illinois known as:

_____ , Section _____
from _____ to _____

The work is described in detail below and/or on the attached sketch or plans.

Traffic control operation:

No. of Lane Closures: _____ Time of Closures: _____

Starting Date: _____ Completion Date: _____

I have read and agree to all terms and conditions of this permit and shall do all work in accordance with the plans submitted and approved by the issuing Road Authority. I understand any change in an approved plan must be submitted to and approved by the issuing Road Authority.

Signature: _____ Date: _____, 20

Print Name: _____ Title: _____

The work authorized by this permit shall be completed by _____ or within _____ days after the date of approval by Road Authority, otherwise the permit will be considered null and void.

This permit allowing occupancy and work on County or Township Road District right-of-way is approved.

Approved by: _____ (Signature)

Print Name: _____

Date: _____, 20

**THIS PERMIT IS SUBJECT TO THE TERMS
AND CONDITIONS STATED ON THE FOLLOWING PAGE**

This permit covers the operation and presence of specified equipment, material or facility on the right-of-way that may be related to the authorized work. A copy of this permit must be present when crews or equipment occupy highway right-of-way. Failure to comply may result in the cessation of all construction.

This permit is subject to conditions and restrictions of Part 530 of Title 92 of the Illinois Administrative Code, Accommodation of Utilities on Right-of-Way of the Illinois State Highway System (except the State of Illinois shall also include Marshall-Putnam Counties). The removal, relocation or modification of facilities permitted to occupy the right-of-way is governed by Section 9-113 of the Illinois Highway Code, as amended by Public Act 92-0470 and the Road Use Agreement entered into by Minonk Stewardship Wind LLC and Marshall County or the Bennington Township Road District, as applicable. The Permittee agrees to comply with the requirements of these laws and with all terms and conditions established by this permit. This permit is subject to revocation by this issuing Road Authority on violation of the terms and conditions governing its use.

This permit is also subject to the conditions and restrictions established in accordance with the Illinois Highway Code and Part 530 of Title 92 of the Illinois Administrative Code including but not limited to the following:

- (1) The applicant represents all parties in interest and shall furnish material, do all work, pay all costs and shall in a reasonable length of time restore the damaged portions of the highway to the condition similar or equal to that existing before the commencement of the described work, including any landscape restoration necessary. (See Section 530.250 of Title 92).
- (2) The proposed work shall be located and construction to the satisfaction of the County Engineer or Township Highway Commissioner or his duly authorized representative. No revisions or additions shall be made to the proposed work on the right-of-way without the written permission of the County Engineer or the Township Highway Commissioner or his duly authorized representative (See Section 530.200 of Title 92). In certain circumstances the Road Authority may require that the construction plans and/or the as-built documents be sealed by an Illinois Registered Professional Engineer. Typical of such projects would be petroleum or gas pipelines.
- (3) The applicant shall at all times conduct the work in such a manner as to minimize hazards to vehicular and pedestrian traffic. All signs, barricades, flaggers, etc. required for traffic control shall be furnished by the applicant. (See Section 530.240 of Title 92).
- (4) The applicant must ascertain the presence of Highway Authority Agreements established in accordance with 35 Ill. Admin. Code Section 742.1020 in the path of its proposed installation and take precautions to protect its workers, human health and the environment in those areas. (See Section 530.240 of Title 92). Where contamination is encountered through excavation in the ROW, it should be managed offsite.
- (5) The applicant shall not trim, cut or in any way disturb any trees or shrubbery along the highway without the approval of the County Engineer or Township Highway Commissioner or his duly authorized representative (See Section 530.600 of Title 92).
- (6) The facilities authorized to occupy the right-of-way by this permit are subject to removal, relocation or modification by the permittee at no expense to the County Highway on notice given by the Department in accordance with Section 9-113 of the Illinois Highway Code, as amended. Permittee shall cooperate with the County Highway Department of any removal, relocation or modification deemed necessary for highway or highway safety purposes (See Section 9-113 of the Illinois Highway Code). Use of and compliance with current IDOT Traffic Control Standards will be required.
- (7) The permittee agrees to fully comply with the following legal obligations in advance of entering and while upon any right-of-way within the Illinois State Highway System.
 - (a) Only a permit issued by the Road Authority under this Part will satisfy the "written consent" requirement of Section 9-113 of the Illinois Highway Code (the Code).
 - (b) A permit from the Road Authority grants a license only to undertake certain activities in accordance with this Part on a County or Township highway right-of-way and does not create a property right or grant authority to the permittee to impinge on the rights of others who may have an interest in the right-of-way. Such others might include an owner of an underlying fee simple interest if the right-of-way is owned as an easement or dedication of right-of-way, an owner of an easement, or another permittee.
 - (c) It shall be the responsibility of the permittee to ascertain the presence and location of existing above-ground or underground facilities on the purpose of identifying possible facilities. When notified of an excavation or when requested by the Road Authority, a permittee shall locate, physically mark and indicate the depth of its underground facilities within 48 hours excluding weekends and holidays.
 - (d) The permittee shall avoid conflicts with any existing underground or above-ground facilities on or near the highway right-of-way. Both the Road Authority and J.U.L.I.E. are to be contacted for assistance during the application process.
 - (e) The permittee shall comply with all other applicable laws relating to the placement of utility lines.
 - (f) The issuance of a utility permit by the Road Authority does not excuse the permittee from complying with any existing statutes, local regulations or other requirements of the Road Authority (e.g. oversize and overweight vehicles) or the requirements of other Agencies including, but not limited to, the following: Illinois Commerce Commission, Illinois Department of Agriculture, Illinois Department of Natural Resources, Illinois Department of Mines and Minerals, Illinois Environmental Protection Agency, and the Illinois Historic Preservation Agency.
 - (g) Rights of abutting and underlying property owners are protected by common law and Section 9-113 and 9-127 of the Code. The permittee will address these rights prior to initiating activities on Road Authority's highway right-of-way. The Road Authority will not be a party of any negotiations between the utility and abutting property owners.
 - (h) In no case shall the permit give or be construed to give an entity any easement, leasehold or other property interest of any kind, upon, under above or along the Road Authority's highway right-of-way.

EXHIBIT F

ACCESS PERMIT APPLICATION

(attached)

Permit No. _____

County/Township Highway No. _____

**BENNINGTON WIND FARM
APPLICATION FOR ACCESS PERMIT**

Select Road Authority: _____ Marshall Co. _____ Bennington Twn. Rd. Dist.

Upon review of the completed application, a Road Authority representative will contact you to make arrangements for installation of the entrance pipe as requested. Please mark location where pipe is to be installed.

Request for Access: _____ Turbine Access Road (Turbine # _____)

Other (describe): _____

Property Owner: _____

Owners Mailing Address: _____

Property Owner's Telephone #: _____ Email: _____

Applicant (name and company): _____

Applicant's Address: _____

Applicant's Telephone #: _____ Email: _____

Property Location: _____

Area of Property: _____

Length of Frontage along County/Township Highway: _____

Location of Proposed Access Point

(Address & Distance to Nearest Crossroad/Street): _____

I have read and agree to all terms and conditions of this permit and shall do all work in accordance with the plans submitted and approved by the issuing Road Authority. I understand any change in an approved plan must be submitted to and approved by the issuing Road Authority. I understand this permit may be further subject to the Road Use Agreement entered into by Minonk Stewardship Wind LLC and Marshall County or the Bennington Township Road District (as applicable).

Signature: _____ Date: _____, 20

Print Name: _____ Title: _____

Approved by: _____ (Signature)

Print Name: _____

Date: _____, 20

Office Use

Notes: _____

**THIS PERMIT IS SUBJECT TO THE TERMS
AND CONDITIONS STATED ON THE FOLLOWING PAGE**

1. The Applicant represents all parties in interest and shall furnish material, do all work, pay all costs and shall in a reasonable length of time restore the damaged portions of the highway to a condition similar or equal to that existing before the commencement of the described work, including any seeding or sodding necessary.
2. The proposed work shall be located and constructed to the satisfaction of the County Engineer Township Highway Commissioner or his duly authorized representative. No revisions or additions shall be made to the proposed work on the right-of-way without the written permission of the County Engineer or the Township Highway Commissioner.
3. The Applicant shall at all times conduct the work in such a manner as to minimize hazards to vehicular and pedestrian traffic. Traffic controls and work site protection shall be in accordance with the applicable requirements of Chapter 6 (Traffic Controls for Highway Construction Maintenance Operations) of the Illinois Manual on Uniform Traffic Control Devices for Streets and Highways and with the traffic control plan if one is required elsewhere in the permit. All signs, barricades, flaggers, etc., required for traffic control shall be furnished by the Applicant. The work may be done on any day except Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Work shall be done only during daylight hours.
4. The work performed by the Applicant is for the *bona fide* proposed expressed and not for the purpose or nor will it result in the parking or servicing of vehicles on the highway right-of-way. Signs located on or overhanging the right-of-way shall be prohibited.
5. The Applicant, his successors or assigns, agrees to hold harmless the Road Authority and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.
6. The Applicant shall not trim, cut or in any way disturb any trees or shrubbery along the highway without the approval of the County Engineer or the Township Highway Commissioner or his duly authorized representative.
7. The Road Authority reserves the right to make such changes, additions, repairs and relocations within its statutory limits to the facilities constructed under this permit or their appurtenances on the right-of-way as may at any time be considered necessary to permit the relocation; reconstruction, widening, or maintaining of the highway and/or provide proper protection to live and property on or adjacent to the Road Authority's right-of-way. However, in the event this permit is granted to construct, locate operate and maintain utility facilities on the Road Authority's right-of-way, the Applicant, upon written request by the County Engineer or the Township Highway Commissioner, shall perform such alterations or change of location of the facilities, and should the Applicant fail to make satisfactory arrangements to comply with this request within a reasonable time, the Road Authority reserves the right to make such alterations or change of location or remove the work, and the Applicant agrees to pay for the cost incurred.
8. The permit is effective only insofar as the Road Authority has jurisdiction and does not presume to release the Applicant from compliance with the provisions of any existing statutes or local regulations relating to the construction of such work.
9. The construction of access driveways is subject to the regulations in accordance to the Illinois Department of Transportation Entrance Policies. If in the future, the land use of property served by an access driveway described and constructed in accordance with this permit changes so as to require a higher driveway type as defined in that policy, the owner shall apply for a new permit and bear the costs for such revisions as may be required to conform to the regulations listed in this policy.
10. The Applicant affirms that the property lines shown on the attached sheet(s) are true and correct and binds and obligates him to perform the operation in accordance with the description and attached sketch and to abide by these regulations.

In the construction of the drive, the earth for a least 8" shall be removed from the shoulder for its full width (starting at the end of the pavement) and be replaced with material used in the construction of the drive. The grade of the driveway, shall slope downward from the road surface at a rate equal to the slope of the shoulder, but not less than 3/16 in 1', for a distance of 15' from the edge of the pavement.

The Applicant or its Contractor(s) shall control and protect all vehicular and pedestrian traffic by use of signs, barricades, flagmen, lights, watchmen and by any other means as required in the Manual on Uniform Traffic Control Devices for Streets and Highways during the progress of the work as described within this permit. Minimum desirable standards are attached for normal situations. However, additional protection must be provided when special complexities and hazards arise.

EXHIBIT G

FORM OF SWORN STATEMENT

**MINONK STEWARDSHIP WIND LLC
BENNINGTON WIND PROJECT ROAD USE AGREEMENT
SWORN STATEMENT
[MONTH] [DAY], 202[0]**

Minonk Stewardship Wind LLC (d/b/a “**Bennington Wind**”) and *[Insert Road Authority]* (“**Road Authority**”) entered into that certain Road Use Agreement, dated as of *[month] [day], 2020* (“**Agreement**”), which governs the rights and obligations of the Road Authority and Bennington Wind with respect to construction of the wind energy generating facility (“**Project**”) and Bennington Wind’s use of roads and appurtenances operated and maintained by the Road Authority for construction of the Project.

In accordance with Section 2(B)(11) of the Agreement, [name of contractor or supplier] (“**Contractor**”) has agreed to provide this sworn statement certifying that:

1. Contractor has received and read a copy of the Agreement, including the exhibits.
2. Contractor agrees to abide by the terms and conditions of the Agreement and to provide a copy of the Agreement to any subcontractors and independent contractors performing work on the Local Roads.

All capitalized terms used and not otherwise defined shall have the meaning ascribed to them in the Agreement.

CONTRACTOR

[name of contractor or supplier]

By: _____

Name: _____

Title: _____

EXHIBIT H

OVERWEIGHT/OVERSIZE VEHICLE PERMIT FORM

(attached)

PERMIT NUMBER: _____

MARSHALL COUNTY HIGHWAY DEPARTMENT

552 State Route 26
Lacon, IL 61540

Ph: 309-246-6401
Fax: 309-246-3446

**PERMIT FOR OPERATION OF OVERSIZE AND FOR OVERWEIGHT
VEHICLES AND OBJECTS OVER HIGHWAYS UNDER DIRECT
JURISDICTION OF THE MARSHALL COUNTY HIGHWAY DEPARTMENT**

Applicant (name and company): _____

Applicant's Address: _____

Applicant's Telephone #: _____ Email: _____

Turbine Destination: _____ (if applicable)

Permit Issued to: _____

Object or Load to be Moved: _____

Method of Movement: _____

Speed Shall not Exceed _____ MPH (speed not to exceed 35 MPH on gravel roads)

Permitted Route: _____

| | | | | | | | | | | | |
|-----------|---|---|---|---|---|---|---|---|---|----|----|
| Axles: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| Weights: | | | | | | | | | | | |
| Spacings: | | | | | | | | | | | |

ATTACH ADDITIONAL INFORMATION, IF NEEDED

Vehicle Configuration: Axles _____ Gross Weight _____

Permit Issued by: MARSHALL COUNTY HIGHWAY DEPARTMEN

By: _____
County Engineer

I, the undersigned, do hereby solemnly affirm that I have read the foregoing permit, and that I have read and agree to abide by the GENERAL PROVISIONS set forth on the following page. I further understand this permit is subject to the Road Use Agreement entered into by Minonk Stewardship Wind LLC and Marshall County.

Signature: _____
Print Name: _____
Title: _____

GENERAL PROVISIONS

1. The acceptance of the permit by the permittee constitutes an agreement that the movement will be made strictly in compliance with the terms set forth in the permit.
2. This permit is effective only insofar as the Department has jurisdiction and does not release the permittee from fulfilling any other existing laws which may apply to the movement.
3. This permit does not authorize movement over any bridge that may be posted for a load limit nor for any movement over highways not maintained by the Marshall-Putnam County Highway Departments.
4. The movement will be made between sunrise and sunset any day except Saturday, Sunday or a holiday.
5. The equipment, load or object to be transported will not be loaded or unloaded nor parked either day or night upon the highway with specific permission from the County Engineer.
6. The movement will be made in such a manner that the highway will remain open at all times if at all possible and not obstruct the flow of traffic. Other traffic will be given the right of way over this movement.
7. The permittee assumes all responsibility for injury to persons or damage to public or private property, caused directly or indirectly by the transportation of vehicle or loads under this permit. Furthermore, the permittee agrees to hold the Counties of Marshall and Putnam harmless from all suits, claims, damages or proceedings of any kind, as a direct or indirect result of the transportation of the vehicle or loads.
8. The driver of the vehicle will have the permit in his possession during the progress of the movement and will show said permit, on demand, to any police officer or any authorized employee of the Department.
9. This permit does not grant authority for the operation of any vehicle or combination of vehicles which is not properly licensed with Illinois plates.
10. Flagmen will be furnished by permittee to insure safety to other traffic when the overall width of the vehicle or load exceeds 8'-0". The flagman shall be an employee of the permittee and may either ride in the cab of the motor vehicle with the driver or may accompany the movement in a passenger car or truck. (The driver of another vehicle transporting an over-dimension load cannot qualify as a flagman under this provision).
11. When a load extends beyond the left edge of a vehicle, or a load extends more than 4 feet beyond the rear of a vehicle, a red flag not less than 16 inches square shall be displayed at the extreme rear end of such load.
12. Except as specified in the permit, the vehicle and load shall be moved in compliance with the statutory restrictions set forth in the Illinois Vehicle Code.
13. This permit has been issued by the Department with the understanding that:
 - (a) All legal requirements concerning operation authority imposed by the Illinois Vehicle Code; or the Interstate Commerce Commission, have been complied with by the applicant.
 - (b) The vehicles have been properly licensed in accordance with Illinois law.
 - (c) Both the driver and owner of the vehicle to be moved have met all financial responsibility requirements imposed by law.
 - (d) The operator is properly licensed.Hence, when this permit has been acted upon by the permittee, such action shall be deemed an unequivocal allegation by the permittee that all operational, licensing, and financial responsibility requirements have been complied with.
14. Height of structures shall be checked by permittee to insure that adequate clearance is available for the movement.

EXHIBIT I NOTICE OF VIOLATION FORM

NOTICE OF VIOLATION

Deliver to:

| | |
|---|---|
| Minonk Stewardship Wind LLC Attn: _____ STREET ADDRESS CITY, STATE ZIP Telephone: _____ Email: _____ | Method of Delivery (Select all that apply) <input type="checkbox"/> Email <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Personal Delivery to construction manager at site <input type="checkbox"/> Facsimile |
|---|---|

Date: _____

Notice is hereby given to Minonk Stewardship Wind LLC (d/b/a "Bennington Wind") that a violation of the Road Use Agreement entered into by the Road Authority and Bennington Wind has occurred.

| Check one: | Type of Violation: | Fine: | Notes: |
|------------|--|---------------------------|--------|
| | Road closure exceeds 3 hours or other approved time | \$1,000 (each 30 minutes) | |
| | Use of non-construction road | \$5,000 | |
| | Failure to remediate road hazard | \$1,000 | |
| | Failure to obtain overweight / oversize vehicle permit | \$1,000 | |
| | Failure to provide notice of road closure | \$5,000 | |
| | Traffic control deficiency | \$2,500 | |
| | Improper steel tracked vehicle crossing | \$2,500 | |

Location/Intersection: _____

Date/time: _____

Worker(s) or Contractor(s) involved: _____

Additional Notes: _____

Signature: _____

Print Name: _____

Title: _____

Fine must be paid within 30 days' of receipt of this Notice and be delivered to:
Bennington Township Road District / Marshall County Highway Department
Address: _____

EXHIBIT J

SURFACE REPAIR PAYMENT

(attached)

| Final surface coat treatment | Road | Road Type - Wear Course | Miles used | Unit Cost | Surface Repair Cost | 4% Engineering Cost | Total Cost |
|------------------------------|-----------|-------------------------|--------------|------------|---------------------|---------------------|------------------|
| Marshall County | Toluca rd | Paved/Asphalt | 1.00 | \$ 132,156 | \$132,156 | N/A | \$132,156 |
| | 3000E | Paved/Asphalt | 5.00 | \$ 114,987 | \$574,933 | \$22,997 | \$597,931 |
| | 2900E | Tar-Chip | 0.50 | \$ 10,652 | \$5,326 | \$213 | \$5,539 |
| | 50N | Tar-Chip | 1.00 | \$ 11,363 | \$11,363 | \$455 | \$11,817 |
| | 100N | Tar-Chip | 2.50 | \$ 10,652 | \$26,631 | \$1,065 | \$27,696 |
| Bennington TRD | 200N | Tar-Chip | 1.50 | \$ 14,203 | \$21,305 | \$852 | \$22,157 |
| | 300N | Tar-Chip | 2.00 | \$ 14,203 | \$28,406 | \$1,136 | \$29,543 |
| | 350N | Tar-Chip | 0.50 | \$ 14,203 | \$7,102 | \$284 | \$7,386 |
| | 400N | Tar-Chip | 1.00 | \$ 14,913 | \$14,913 | \$597 | \$15,510 |
| TOTAL | | | 15.00 | | \$822,136 | \$27,599 | \$849,735 |

EXHIBIT K

MARSHALL COUNTY ROAD MAINTENANCE SPECIFICATIONS

PREQUALIFICATION

All Contractors are to be prequalified with the Illinois Department of Transportation under Prequalification Category 15A Cover and Seal Coats, 5 HMA Paving or 8B Aggregate Bases & Surfaces (Type B), depending on the work bid.

EQUIPMENT REQUIREMENTS

The pressure distributor and aggregate spreader shall be capable of covering the entire width in one pass. A minimum of two (2) operating and staffed pneumatic-tired rollers will be required if the contractor elects to conduct operations for the entire width of the roadway in a single pass.

TRAFFIC CONTROL AND PROTECTION

The road will be closed while sealing and opened to traffic when that mile or section is completed. All traffic control devices used shall conform to Traffic Control and Protection (TC&P) Standard 701901-02. For road closures, the Contractor shall place barricades with "Road Closed" sign per Traffic Control and Protection (TC&P) BLR 22-7.

If conditions require that only a single lane can be closed, Traffic Control and Protection (TC&P) Standard 701501-06 shall be used. Equipment maneuvering or staging on State or County Highways will be conducted under the protection of flaggers per TC&P 701501-06.

SURFACE PREPARATION

The contractor shall sweep existing pavement before applying bituminous material. Sweeping shall be done to the satisfaction of the Engineer and Road Commissioner; the Engineer or Road Commissioner can require that the contractor re-sweep at any time up to the point in time that the seal oil is applied.

Mail box turnouts, side roads and entrances shall be sealed, unless directed otherwise by the Road Commissioner. The Contractor must notify the Engineer and Road Commissioner a minimum of one (1) week (five working days) before starting the work and on each day that weather is causing a delay in starting or continuing work activities.

BASE PREPARATION

Initial placement for aggregate base shall be done by the Road District, except when other contractual arrangements have been made. The pay item for base preparation shall consist of final grading by road grader and steel drum roller, which shall have the ability to operate simultaneously. Regardless of the contractual arrangement, the Contractor shall make a final pass with steel wheel roller to seat larger aggregate prior to priming operations on a square yard for BASE PREPARATION.

TREATMENT OF BRIDGE DECKS

Bridge decks shall not be paved or seal coated unless the existing deck is bare concrete bridge beams. If an existing concrete deck has never been seal coated, the A-1 course shall be applied across the bridge if it within the limits of the project. The intent is that township bridges will have a single bituminous layer applied.

BITUMINOUS MATERIAL (PRIME COAT)

This material shall typically be MC-30 and shall be applied at the rate of 0.25 gallon per square yard for SEAL COAT and 0.08 gallon per square yard for priming of INCIDENTAL HOT MIX ASPHALT "skip paving" when indicated in the plans as directed by the Engineer.

Prime width shall typically be one foot wider than seal width or as indicated in the plans and/or as directed by the Engineer. Quart sized paint can samples may be collected at random intervals for testing by the Illinois Department of Transportation.

INCIDENTAL HOT MIX ASPHALT AND HMA SURFACE

Intermittent resurfacing shall be done prior to chipping in areas designated by Engineer. Areas may be as small as 5'x5' patch, partial lane width (3'-5'), to full lane widths for short distances. Asphalt can be placed in either a single lift or as a scratch coat and a full width surface lift. The average thickness of the asphalt for the areas selected by the Road Commissioner shall not exceed 2.5 inches or 0.14 tons per square yard.

An IDOT approved surface mix shall be used, such as Hot-Mix Asphalt Surface Course, Mix "C", N50. Material is to be placed on road through an appropriate asphalt paver for the paving required. In no case will tailgating be allowed.

The Contractor must notify the Road Commissioner a minimum of one (1) week (five working days) before starting the skip pave and on each day that weather is causing a delay in starting or continuing work activities.

BITUMINOUS MATERIAL (COVER AND SEAL COAT)

This material shall be Asphalt PG 46-28 (AC 2.5) and shall be applied at the rate of 0.30 (or greater if shown on the schedule) gallon per square yard over prime coat (if specified) for cover and seal coat or as directed by the Engineer. Widths shall be as indicated in the plan schedules or as directed by Engineer or Road Commissioner. If oil is applied in a single pass by the distributor, chips must be applied in a single pass by the chipper and two pneumatic-tired rollers shall be on-site and operating to properly set the aggregate. Minimum application temperature for this material shall be 290 degrees F.

Quart sized paint can samples may be collected at random intervals for testing by the Illinois Department of Transportation. Tankers and pressure distributors shall be weighed on delivery / daily basis. It will only be at the discretion of the Engineer if bill of lading tickets for tankers will be accepted as evidence of the initial delivery weight.

BITUMINOUS MATERIAL (COVER AND SEAL COAT) EMULSION

This material shall be applied at the typical rate of 0.37 (0.40 in some Townships) gallons per square yard or as directed by the Engineer. This bituminous material can be HFE150, HFE90, or CRS2, but the emulsified asphalt shall have a residual asphalt content of approximately 0.25 gallons per square yard at an approximate 1/3 cutback to 2/3 residual. Variations to such must be approved by the Engineer. If oil is applied in a single pass by the distributor, chips must be applied in a single pass by the chipper (using one or two chippers) and two pneumatic-tired rollers shall be on-site and operating to properly set the aggregate.

The Contractor and his materials supplier shall insure that the aggregate and emulsion do not have the same charge to insure binding of the emulsion to the aggregates.

Quart sized paint can samples may be collected at random intervals for testing by the Illinois Department of Transportation. Tankers and pressure distributors shall be weighed on delivery / daily basis. It will only be at the discretion of the Engineer if bill of lading tickets for tankers will be accepted as evidence of the initial delivery weight.

SEAL COAT AGGREGATE AND COVER COAT AGGREGATE

These materials shall be applied at the rate of 23 pounds per square yard or as directed by the Engineer. Seal coat aggregate shall meet CA-16 gradation and cover coat aggregate shall meet CA-14 gradation. Seal coat aggregate for County Roads shall be CM-16 and must be 100% crushed as currently defined by the Illinois Department of Transportation. Aggregates shall be free of excessive dust that would prevent adhesion of bituminous material and could lead to an unsuccessful operation.

Per Section 403.06, aggregates used for cover and seal coat shall contain no free moisture. Moistures will be spot checked by the Engineer at the County's materials lab. The Contractor's aggregate supplier shall take immediate steps to reduce excessive moisture from further deliveries.

The Contractor and his materials supplier shall insure that the aggregate and emulsion do not have the same charge to insure binding of the emulsion to the aggregates.

Seal and cover coats shall be rolled with a minimum total of two (2) passes over any one location across the entire width of the mat. Roller(s) shall be operated at a slow enough speed so that tires do not pick up or shove aggregates, approximately 5 mph. The distributor and chipper shall in turn be operated at a speed that allows for the required number of rollers passes.

Material yields will be randomly checked by the Engineer during the Contractor's operations using a 3' x 3' piece of building fabric (or other material) in advance of the operation. The Contractor shall accommodate this testing and make provisions to touch up these areas as part of the contract, anticipated at a sample rate of once per day or once per Township.

Touch up work may be done as a separate operation using a hand-wand and hand shovel distributed aggregate, provided all materials used are in conformance with the specifications.

BASE PREPARATION SPECIAL

Placement of aggregate and rototilling/reclaiming of the road will be conducted in sequence. Scheduling shall provide no more than a 7 day delay between the two processes.

Aggregate shall be furnished and placed to a uniform thickness, as specified in the plans. An aggregate spreader shall be used or, with Engineer's approval, tailgating maybe allowed if the thickness can be achieved. Payment for material, delivery and placement on the road shall be at the unit cost per TON for AGGREGATE BASE COURSE, TYPE B.

Processing shall consist of rototilling / reclaiming to a depth of 8 inches across the width specified in the plans. The depth may be adjusted if required to minimize incorporating any soil into the aggregate. The tilled depth shall uniformly mix the underlying aggregate, existing bituminous material and new aggregate. Grading and compacting with a steel drum roller shall be provided without delay after the tilling operation. Tilling, grading and compaction will be paid for at the unit cost per SQUARE YARD for BASE PREPARATION SPECIAL.

EXHIBIT L

NOTICE OF ACCEPTANCE

Minonk Stewardship Wind LLC
INSERT NAME
INSERT STREET ADDRESS
INSERT CITY, STATE ZIP

**RE: *Bennington Wind– [Road Authority Name] Road Agreement
Dated [insert date], 2020***

Dear Reader:

Please be advised that the [INSERT ROAD AUTHORITY NAME] accepts the post-construction road repair work performed on behalf of Bennington Wind as required by the Road Agreement. Pursuant to the Road Agreement, the Date of Acceptance of the post-construction road repair work is deemed to be the date of this letter.

Sincerely,

Name, Title

EXHIBIT M

LETTER OF CREDIT FORM

BENEFICIARY
INSERT ROAD AUTHORITY
ATTN: INSERT TITLE OR NAME
ADDRESS
CITY, STATE ZIP

APPLICANT
Minonk Stewardship Wind LLC
INSERT STREET ADDRESS
INSERT CITY, STATE ZIP

INSERT MONTH DAY, YEAR

Irrevocable Letter of Credit No. _____
Stated Amount: US\$ _____
Effective Date: _____
Expiration Date: _____
Issuer: _____
STREET ADDRESS
CITY, STATE ZIP

Ladies and Gentlemen,

We irrevocably authorize you to draw on us from time to time for the account of the INSERT ROAD AUTHORITY, Marshall County, Illinois (the "Beneficiary") amounts, which, when aggregated with prior draws, do not exceed the Stated Amount (as shown above). The Stated Amount may be increased or reduced or reinstated from time to time as forth in this Letter of Credit. We shall make funds available to you against presentation of a dated and appropriately completed draw request in substantially the form of Attachment 1 hereto manually purportedly signed by the Beneficiary. This Letter of Credit is effective immediately.

Each draw request and all communications with respect to this Letter of Credit shall (i) be in writing and addressed to INSERT ADDRESS INFORMATION, (ii) refer to this Letter of Credit, and (iii) be delivered in person or by certified mail or by facsimile (____) _____, or by overnight delivery service. If a draw request is presented in strict compliance with the terms of this Letter of Credit by 11:00 A.M. Central Time on any Business Day, payment will be made not later than 3:00 P.M. Central Time on the following Business Day and if a draw request is so presented to us after 11:00 A.M. Central Time on any Business Day, payment will be made on the second succeeding Business Day not later than 1:00 P.M. Central Time. Payment under this Letter of Credit

shall be made in immediately available funds by wire transfer to such account as may be designated by a Beneficiary in the applicable draw request.

As used in this Letter of Credit, "Business Day" means any day other than a Saturday, Sunday, national or state holiday or other day on which commercial banks are authorized or required to close under the laws of the State of Illinois.

This Letter of Credit shall expire on the Expiration Date stated on the preceding page.

It is a condition of this Letter of Credit that the expiration date shall be automatically extended without amendment for one (1) year from the expiration date hereof and for successive one (1) year periods thereafter unless at least sixty (60) days prior to any such expiration date we send notice to you by certified mail or hand delivered courier, at the address stated above, that we elect not to extend this Letter of Credit for any additional period.

In the event that a draw request fails to comply with the terms of this Letter of Credit, we shall, not later than the next Business Day, notify the Beneficiary in writing, specifying with particularity the reasons therefore. Such notice shall be delivered in person or sent by overnight delivery or sent by facsimile transmission to the Beneficiary and to the Marshall County State's Attorney, 122 North Prairie Street, P.O. Box 328, Lacon, IL 61540 and Sheryl H. Churney, Klein, Thorpe & Jenkins, Ltd., 7 Northpoint Drive, Streator, Illinois 61364, 815-672-0738 (facsimile). Upon being notified that a draw request was not effected in compliance with this Letter of Credit, the Beneficiary may attempt to correct such non-complying draw request in accordance with the terms of this Letter of Credit.

All issuing bank charges are for the account of the Applicant.

This Letter of Credit sets forth in full the terms of our undertaking and this undertaking shall not in any way be modified, amended, limited or amplified by reference to any other document, instrument or agreement, whether or not referred to herein.

This Letter of Credit contemplates multiple draws. Each draw shall reduce the amount available for subsequent draws under this Letter of Credit. The Stated Amount may be increased or reduced or reinstated by subsequent amendments hereto. No amendment to this Letter of Credit shall be effective without the written concurrence of the Letter of Credit Issuer, the Applicant, and the Beneficiary.

We hereby agree with you that documents presented under and in conformity with the terms and conditions of this Letter of Credit will be duly honored on presentation if presented on or before the expiration date of this Letter of Credit. If, within three (3) business days of the date any demand is made in conformity with this Letter of Credit is presented, we fail to honor the same, we agree to pay all attorneys' fees, court costs and other expenses incurred by the Beneficiary in enforcing the terms of this Letter of Credit.

This Letter of Credit is governed by the provisions of the Uniforms Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 ("UCP600") and matters not addressed by UCP600 shall be governed and construed in accordance with the laws of the State of Illinois.

We irrevocably agree with you that any legal action or proceeding with respect to this Letter of Credit shall be brought in the Circuit Court of the Tenth Judicial Circuit, Marshall County, Illinois.

BANK NAME

DRAW REQUEST

BANK NAME
STREET ADDRESS
CITY, STATE ZIP

Copy to:
Minonk Stewardship Wind LLC
STREET ADDRESS
CITY, STATE ZIP

Ladies and Gentlemen,

The undersigned INSERT TITLE on behalf of the INSERT ROAD AUTHORITY, Marshall County, Illinois (the "Beneficiary" hereunder) hereby requests a draw in the amount of \$ _____ (this "Draw") against the Irrevocable Letter of Credit _____ dated _____, 202__, (the "Letter of Credit"), issued by BANK NAME in favor of the Beneficiary. Any capitalized term used but not defined herein shall have the meaning given to such term in the Letter of Credit.

In connection with this Draw, the Beneficiary hereby certifies, represents and warrants that:

- A) This Draw is authorized by the INSERT ROAD AUTHORITY – Minonk Stewardship Wind LLC doing business as and referred to herein as "Bennington Wind") Road Use Agreement dated June __, 2020 entered into by and between Bennington Wind and the Beneficiary (the "Road Agreement").
- B) The Beneficiary has determined that there has been a default under the Road Agreement and that by reason thereof the Beneficiary is entitled to the amount demanded.
- C) The Beneficiary has given written notice of such default to Bennington Wind in accordance with the terms of the Road Agreement and Bennington Wind has failed to cure the default within ten (10) days after receipt of the written notice.

OR

) Beneficiary has received notice from the Letter of Credit Issuer of its intention not to extend the Letter of Credit beyond the current expiration date and Applicant has failed, prior to the close of business on [insert date which is not more than thirty (30) days before the present expiration date], to deliver to Beneficiary a replacement Letter of Credit satisfying the requirements of the Agreement.]

D) This Draw request, when aggregated with all prior draws under the Letter of Credit, does not exceed the Stated Amount.

E) You are directed to make payment of this Draw to _____.

IN WITNESS WHEREOF, the undersigned has executed and delivered this request on this _____ day of _____, 20____.

Insert Road Authority
as Beneficiary

By: _____
Name: _____
Title: _____

EXHIBIT N

MEMORANDUM OF AGREEMENT FORM

(attached)

Prepared by:

Minonk Stewardship Wind LLC

INSERT NAME

INSERT STREET ADDRESS

INSERT CITY, STATE ZIP

Return to:

Sheryl H. Churney

Klein, Thorpe & Jenkins, Ltd.

7 Northpoint Drive

Streator, Illinois 61364

Telephone: 815-672-3116

MEMORANDUM OF AGREEMENT

NOTICE IS HEREBY GIVEN that a Road Use Agreement was entered into by and between the INSERT NAME OF THE ROAD AUTHORITY (the "Road Authority") and Minonk Stewardship Wind LLC (d/b/a "Bennington Wind") concerning use of Local Roads ("Agreement") under the jurisdiction of the Road Authority and affecting real estate in the following sections of Bennington Township:

Township, ____ – Range, ____ – Sections ____

The Agreement imposed obligations upon Bennington Wind related to use of local roads for the construction of the Bennington Wind Project. Under the Agreement, the Road Authority grants Bennington Wind the right to use the rights-of-way of the local roads for installation of transmission, communication, and collection system cable, subject to the terms and conditions of the Agreement.

[signatures and acknowledgments on next page]

Minonk Stewardship Wind LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

County of _____)

) ss

State of _____)

)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that _____ personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me and acknowledged that in his/her capacity as _____ of Minonk Stewardship Wind LLC, he/she signed and delivered said instrument as the free and voluntary act of said company and in accordance with authority granted to him/her by its managing member(s).

Given under my hand and notarial seal DATE,
2020.

Notary Public



County Clerk <coclerk@marshallcountyillinois.com>

Wind Farm Road Use Agreement

2 messages

Pat Sloan <Psloan@marshallcountyillinois.com>

Fri, Jun 5, 2020 at 5:13 PM

To: Gary Kroeschen <62mcbc@gmail.com>, Travis McGlasson <travis@travismcglasson.com>, Brad Lindstrom <lindstrombrad@gmail.com>, Bob Bakewell <bakewell64@yahoo.com>, Marty McLaughlin <Martin@mclaughlininsurance.net>, Debbie Daykin <debbiedaykin@hotmail.com>, Hank Gauwitz <hgauwitz@hotmail.com>, David Minnick <davebev97@frontier.com>, Rebecca Donna <rdonna303@gmail.com>, Jack Johnson <jj727518@gmail.com>, Andy Stash <andy@stashstash.com>, Charlotte Balensiefen <cbalensiefen@mchsi.com>, Paul Bauer <62mcsa@gmail.com>, County Clerk <coclerk@marshallcountyillinois.com>

All, here is the final draft of the road use agreement. Where highlighted, the final we sign will be Marshall County. There will be another agreement exactly the same except that it will be with Bennington Road District and have slightly different fees and terms.

Here are some highlights:

- The initial fee to the County will be \$330,000.
- We will be employing a consultant to take most of the load for fulfilling our part of the project and making sure the agreement is followed. The wind farm pays the consultant, same as what they've done for our lawyer to get to this point.
- The wind farm will have to update the roads prior to construction. The scope of that will be determined later by the Transportation Impact Analysis, which we approve.
- During construction, there are enforcement provisions and mechanisms for everyone to know what is going on, including the school.
- At the end of construction, the roads will be repaired, again at the wind farm's expense, prior to our accepting them.
- The wind farm will make a final payment that covers the final surfacing, to occur one year after construction. For example, a road that is seal coat now will be seal coated to at least the level it is now. This payment will pay for one more seal coat, performed by us the next year. We only have one mile of road, Toluca Road and its current estimate is \$132,156. The cost will be updated prior to acceptance and if the bid amount the next year is higher, the wind farm will need to cover it.

Most of the value that we are receiving under this agreement is the performance. This agreement is different from what we did with the Camp Grove Wind Farm. It was a lump sum of \$690K for 60 turbines. They basically had unfettered use of the roads during construction, so that fee to us had to cover all administration, engineering, repairs during construction and final repairs.

You are welcome to contact me individually if you have questions before the meeting.

Pat

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Patrick G. Sloan, PE
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County Clerk <coclerk@marshallcountyillinois.com>

Mon, Jun 8, 2020 at 10:08 AM

To: Andy Stash <andy@stashstash.com>, Bob Bakewell <bakewell64@yahoo.com>, Brad Lindstrom <lindstrombrad@gmail.com>, Charlotte Balensiefen <cbalensiefen@mchsi.com>, David Minnick <davebev97@frontier.com>, Debbie Daykin <debbiedaykin@hotmail.com>, Gary Kroeschen <62mcbc@gmail.com>, Hank Gauwitz <hgauwitz@hotmail.com>, Jack Johnson <jj727518@gmail.com>, Marty McLaughlin <Marty@mclaughlininsurance.net>, Rebecca Donna <rdonna303@gmail.com>, Travis McGlasson <Travis@travismcglasson.com>

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