Draft: Final

Local Law No. 1 of 2015

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Wind Energy Facilities

Be it hereby enacted by the Town Board of the Town of Catlin as follows:

ARTICLE I INTRODUCTION

§1. **TITLE**

1.1 This Local Law may be cited as the "Wind Energy Facilities Local Law" of the Town of Catlin, New York.

§2. **PURPOSE**

2.1 The Town Board of the Town of Catlin adopts this Wind Energy Facilities Local Law to regulate the effective and efficient use of the town's wind energy resource through wind energy conversion systems (WECS), without harming public health and safety, and to avoid jeopardizing the welfare of the residents.

2.2 This document shall be treated as an addendum to Local Law number 3 of 1999, Town of Catlin Zoning Law, Article 10, section 10.1a

§3. **AUTHORITY**

3.1 The Town Board of the Town of Catlin enacts this Wind Energy Facilities Local Law under the authority granted by:

3.1.1 Article IX of the New York State Constitution, § 2 (c)(6) and (10)

3.1.2 New York Statute of Local Governments, § 10 (1) and (7).

3.1.3 New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and § 10(1)(a)(6), (11), (12), and (14) and 10(2)(d)(3).

3.1.4 New York Town Law Article 16, Section 271, Section 130(1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location of Driveways), (11) (Peace, Good Order and Safety), (15) (Promotion of Public Welfare), (15-a) (Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) (Building Lines).

3.1.5 New York Town Law §64(17-a) (Protection of Aesthetic Interests), (23) (General Powers).

3.1.6 New York Real Property Tax Law § 487.

§4. **DEFINITIONS**

4.1 As used in this Wind Energy Facilities Local Law, the following terms shall have the meanings indicated:

4.1.1 ACCESSORY USE- A use customarily incidental and subordinate to the principal use or building, located on the same lot or premises as the principal use or building.

4.1.2 AGRICULTURAL OR FARM OPERATIONS – Agricultural or Farm Operations are the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation and "timber processing". Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

4.1.3 AHEs – Adverse Health Effects

4.1.4 AMBIENT SOUND -Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent Noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The near-by and transient events are part of the Ambient Sound environment but are not to be considered part of the long term Background Sound.

4.1.5 ANSI – The AMERICAN NATIONAL STANDARDS INSTITUTE.

4.1.6 APPLICANT – An Applicant is the individual or business entity that seeks to secure a license under this section of the Town municipal code.

4.1.7 BACKGROUND SOUND – Background Sound is the "residual sound" heard during lulls in the Ambient Sound environment as defined by ANSI Standard 12.9, Part 2, and represents the quietest 10% of the time, during any given hour.

4.1.8 BUILDABLE LOT –A property which meets the requirements for issuance of a building permit as set forth in the local building code.

4.1.9 CODE ENFORCEMENT OFFICER or CEO – The Code Enforcement Officer appointed by the Town Board of the Town of Catlin

4.1.10 dBA – A-Weighted Sound Pressure Level in Decibels. A measure of over-all Sound Pressure Level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of low frequencies and emphasizes frequencies centered around 1000 Hz. The resultant sound level is said to be "Weighted" and the units are "dBA". Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, 51.43-1997 for Type 1 instruments. In this law dBA means LAeq unless specified otherwise.

4.1.11 dBC – C-Weighted Sound Pressure Level in Decibels. Similar in concept to the A-Weighted sound Level (dBA) but C-weighting emphasizes sound frequencies between 20 and 200 Hz. This does not de-emphasize the frequencies below 200 Hz as A-weighting does. dBC is used for

measurements that must include the contribution of low frequencies in a single number representing the entire Frequency spectrum. Sound level meters have a C-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI SI.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this law dBC means Lceq unless specified otherwise.

4.1.11 DECIBEL – A dimensionless unit describing the amplitude of sound and denoting the ratio between two quantities that are proportional to power, energy, or intensity. One of these quantities is equal to 20 times the logarithm to the base 10 of the ratio of the measured pressure to the reference pressure, which is 20 micro Pascals.

4.1.12 EAF – Full Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

4.1.13 FREQUENCY - The number of oscillations or cycles per unit of time. Acoustical Frequency s usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

4.1.14 GUARANTOR – The Applicant for a WECS facility

4.1.15 HEIGHT -The total distance measured from the grade of the property as existed prior to the construction of the wind energy system, facility, Tower, turbine, or related facility at the base to its highest point. Height shall include the blade extended in a fully vertical position.

4.1.16 HERTZ (Hz) - Frequency of sound expressed by cycles per second.

4.1.17 HISTORICALLY SIGNIFICANT STRUCTURE – A structure is presumed to be historically significant to the Town of Catlin if it is located within the Town limits and was built prior to 1850 or if located outside of the Town of Catlin and was built prior to the Town's founding in 1796. Structures that are associated with important historical figures or events may also be historically significant regardless of when constructed. All structures listed on the New York State or Federal Registers of Historic Places are considered significant.

4.1.18 INFRA -SOUND - Sound with energy in the Frequency range of 0-20 Hz is considered to be infra-sound. It is normally considered to not be audible for most people unless in relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of sound and perception is not limited to stimulus of the auditory senses. The most significant exterior Noise induced vibration in Residences occurs in the Frequency range between 5 Hz and 50 Hz. Levels below the threshold of audibility can cause measurable vibrations within Residence interiors. Conditions that support or magnify such vibrations may also exist in human body cavities and organs under certain conditions. See low-Frequency Noise (LFN) for more information.

4.1.19 ISO – International Standards Organization

4.1.20 LARGE WIND ENERGY CONVERSION SYSTEM or Large WECS - A Wind Energy Conversion System larger than 50kW. A Wind Energy Facility consisting of a wind turbine, a Tower, and

associated control or conversion electronics, which has a Name Plate Rating of more than 50 kW (Fifty Thousand Watts).

4.1.21 LEQ - The equivalent steady-state sound level which contains the same acoustic energy as the time varying sound level during a one-hour period. It is not necessary that the measurements be taken over a full one-hour time interval, but sufficient measurements must be available to allow a valid extrapolation to a one-hour time interval. [taken verbatim from NYSDEC landfill regulations, 6 NYCRR § 260.1.14(p)] LEQ must be reported as an A-weighed or C-weighted sound level, as appropriate, i.e., LAeq or Lceq . For more information, see "Sound Pressure Level," below. Lceq is also considered the average sound level during an hour.

4.1.22 LOCAL LAW – The Wind Energy Facilities Local Law of the Town of Catlin.

4.1.23 LOW FREQUENCY NOISE (LFN) - Sounds with energy in the lower Frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 Decibels at any Measurement Point outside a Residence or other occupied structure.

4.1.23 MEASUREMENT POINT (MP) - The location where sound measurements are taken such that no significant obstruction blocks sound from the Site. The Measurement Point should be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbine(s). Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other intermittent Noise sources.

4.1.24 MEASUREMENT WIND SPEED - For measurements conducted to establish the background Noise levels (LA90 10 min, LC90 10 min, etc.) the maximum wind speed, sampled within 5 meters (m) of the microphone and at its height, shall be less than 2 meters per second (m/s) (4.5 mph) for valid background measurements. The wind speed at the WECS blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WECS blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s (9 mph). For purposes of models used to predict the sound levels and Sound Pressure Levels of the WECS to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case LAeq and LCeq sound levels at the nearest non-participating properties to the WECS. If there may be more than one set of nearby Sensitive Receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

4.1.25 NAME PLATE RATING – The maximum rated electrical output of a WECS.

4.1.26 NOISE -means any unwanted sound. Not all Noise needs to be excessively loud to represent an annoyance or intrusion, thereby becoming unwanted.

4.1.27 NON-PARTICIPATING PROPERTY OWNER- Property owner who does not hold a lease contract with the Applicant.

4.1.28 PROJECT BOUNDARY - The external property boundaries of parcels owned by or leased by the WECS developers. It is represented on a plot plan view by a continuous line encompassing all WECS(s) and related equipment associated with the WECS project.

4.1.29 PROPERTY LINE - The recognized and mapped property parcel boundary line.

4.1.30 PARTICIPATING PROPERTY OWNER – Property owner who holds a lease contract with the Applicant.

4.1.31 PROTECTED HISTORIC STRUCTURE - A Historical Structure is protected under this Local Law if it is listed on the New York State or Federal Registers of Historic Places or if it predates the Town's founding in 1823, whether or not located in the Town of Catlin.

4.1.32 PVG – Property Value Guarantee

4.1.33 RESIDENCE – Any Residence for habitation, either seasonally or permanently occupied by one or more persons. A Residence may be part of a multi-Residence or multipurpose building, and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools, hunting cabins, trailers, campers, RV's or other buildings used for educational purposes, or correctional institutions. In addition to existing Residences, properties with a validly issued building permit for a residential structure shall also be deemed to be Residences for purposes of this Local Law.

4.1.34 ROTOR DIAMETER – The swept diameter of the rotating blades of a WECS.

4.1.35 SENSITIVE RECEPTOR - A place or property intended for human habitation, whether inhabited or not, including but not limited to public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, camp grounds and other nonagricultural state or federal licensed businesses, hunting grounds, whether private or public, schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, non-agricultural businesses and Residences. These areas are more likely to be sensitive to the exposure of the Noise, shadow or flicker, etc. generated by a Wind Energy Facility.

4.1.35 SEQRA - The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

4.1.36 SITE - The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered into an agreement for said Facility or a setback agreement shall be considered a Site.

4.1.37 SMALL WIND ENERGY CONVERSION SYSTEM or Small WECS - A wind energy facility consisting of a wind turbine, a Tower, and associated control or conversion electronics, which has a Name Plate Rating of not more than 50 kW (Fifty Thousand Watts).

4.1.38 SPLs – Sound pressure levels

4.1.39 STRATEGIC VANTAGE POINT – A vantage point is a location from which to assess the visual impact of a Wind Energy Facility. A vantage point is considered strategic if the public can be expected to congregate there for educational or civic purposes; religious observance; enjoyment of historic or cultural resources; or for recreation whereby the enjoyment of the natural environment is a key aspect of the recreational activity. Strategic Vantage Points include both public and private venues. Some examples include: Schools, Golf Courses, Churches, Public buildings, Historically Significant Structures, Parks, Museums and Cemeteries. Additionally, roads and highways are considered Strategic Vantage Points.

4.1.40 SOUND PRESSURE LEVEL - The level, expressed in Decibels, which is equaled or exceeded a stated percentage of time. Sound Pressure Level is spectrally weighted to correspond to a Frequency spectrum of interest. For example, the A-weighted Decibel scale (dBA) represents those frequencies most readily audible to the human ear. The C-weighted Decibel scale (dBC) approximates response of the human ear to low-Frequency sounds. The G-weighted Decibel scale (dBG) is designed to measure infrasound.

4.1.41 TOWER – The structural mast on which a turbine is mounted.

4.1.42 TOWN – The Town of Catlin

4.1.43 TOWN BOARD – The Town Board of the Town of Catlin

4.1.44 TURBINE HEIGHT – The height of the WECS to its furthest vertical extension above ground level.

4.1.45 WIND ENERGY CONVERSION SYSTEM or WECS) - A machine that converts the kinetic energy in the wind into a usable form (commonly known as a "wind turbine" or "windmill"), but excluding Wind Measurement Towers.

4.1.46 Tower including all related infrastructure, electrical lines and equipment, access roads and accessory structures and facilities.

4.1.47 WIND ENERGY PERMIT – A permit issued for a Wind Energy Facility other than a Wind Measurement Tower pursuant to this Local Law

4.1.48 WIND MEASUREMENT TOWER or WMT– A Tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

4.1.49 WIND MEASUREMENT TOWER PERMIT – A permit issued for a Wind Measurement Tower pursuant to this Local Law.

4.1.50 VESTIBULAR SYSTEM – inner ear, brain balance and eye movement. This system contributes to balance in most mammals and to the sense of spatial orientation, is the sensory system that provides the leading contribution about movement and sense of balance. Together with the cochlea, a part of the auditory system, it constitutes the labyrinth of the inner ear in most mammals, situated in the vestibulum in the inner ear. As movements consist of rotations and translations, the vestibular system comprises two components: the semicircular canal system, which indicate rotational movements; and the otoliths, which indicate linear accelerations. The vestibular system sends signals primarily to the neural structures that control eye movements, and to the muscles that keep a creature upright. The projections to the former provide the anatomical basis of the vestibulo-ocular reflex, which is required for clear vision; and the projections to the muscles that control posture are necessary to keep a creature upright. The brain uses information from the vestibular system in the head and from proprioception throughout the body to understand the body's dynamics and kinematics (including its position and acceleration) from moment to moment.
http://en.wikipedia.org/wiki/Vestibular_system

§5. **FINDINGS**

5.1 The Town Board of the Town of Catlin finds and declares that the Town Officials of Catlin have been developing procedures to incorporate WECS into the Town of Catlin since late 2011. Having conducted Public Hearings and Informational meeting and working with a potential applicant, it has become apparent that WECS's are not compatible with the present or future plans of the town. The following are some issues:

5.2 While wind energy is a potential abundant, renewable and energy resource, and its conversion to electricity may reduce dependence on nonrenewable energy sources and may decrease the air and water pollution that results from the use of conventional energy sources. However, there are significant impacts including noise, shadow flicker, aesthetic and physical hazards such that the potential benefits must be balanced against potential impacts.

5.3 The generation of electricity from properly sited small wind turbines can be a cost effective mechanism for reducing on-site electric costs, with a minimum of environmental impacts.

5.4 Regulation of the siting and installation of wind energy facilities is necessary for protecting the health, safety, and welfare of neighboring property owners and the general public.

5.5 Utility-scale wind energy facilities represent significant potential aesthetic impacts and because of their large size, noise, lighting, and shadow flicker effects.

5.6 The State Historic Preservation Office (SHPO) has found that every wind farm in the State it has reviewed has a negative impact on the historical resources of the host community.

5.7 The high elevation of the Town of Catlin and the lack of street lights results in clear, dark night skies as compared to the lower elevation metropolitan areas. The relatively dark skies offer opportunities for astronomy, astrophotography and casual stargazing. The presence of

flashing lights, strobe lights or rotating blades from utility-scale wind energy facilities will impair the enjoyment of this resource.

5.8 Installation of utility-scale wind energy facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands and watersheds through improper construction methods.

5.9 The Town of Catlin does not have the low density of residences typically found in wind farm host communities. The pattern of residentially used land creates a pattern with residential properties intermingled with agricultural properties.

5.10 There are significant historic and recreational resources in the Town of Catlin and in adjoining towns that would be harmed by the construction of utility-scale wind energy facilities, including State parks, private campgrounds, golf courses, hiking trails, hunting grounds and historic properties. There would be a negative impact on these resources by the inclusion of one or more utility-scale wind energy facilities across the landscape of the town and adjoining towns.

5.11 Utility-scale wind energy facilities present risks to the property values of adjoining property owners.

5.12 Utility-scale wind energy facilities are significant sources of noise, which, if not properly and adequately regulated, can negatively impact adjoining properties, particularly in areas of low background noise levels.

5.13 While mechanical sounds of wind turbines have been reduced by modern designs, aerodynamic sounds by air turbulence around the turbine blades have increased with increasing turbine size.

5.14 The closer people live to wind energy facilities the more likely they will experience noise annoyance or develop adverse health effects from noise. However, it is common for those located very close to a wind energy facility or facilities to hear less noise than those farther away, due to the formation of a “shadow zone” upwind of the turbine. This has been demonstrated by the on-going problems reported by residents in the Town of Fairfield in which industrial wind energy facilities have become operational recently. This has also been demonstrated by continuing reports of problems related to noise at other recent wind energy projects throughout the United States. Further, the degree of difficulties resulting from the sound of wind energy facilities seems clearly related to the distance from the turbines, though the literature has studied a variety of turbine sizes in a variety of locations. A setback of 2,460 feet from residences would eliminate most noise complaints. Research conducted by Bajdek (2007) showed that at approximately 0.8 km (½ mile) from wind turbines, 44% of the population would be highly annoyed by wind turbine noise. At a distance of approximately 1.62 km (1 mile) from wind turbines, the percent of highly annoyed people is expected to drop to 4%. Kamperman and James reviewed several studies to determine the impact of wind turbine noise on nearby residents. Their review showed that some residents living as far as two miles from

wind turbines complained of sleep disturbance from turbine noise and many residents living 1,000 feet from wind turbines experienced major sleep disruption and other health problems from night time turbine noise. Van den Berg (2006) studied a wind farm in northwestern Germany and discovered that residents living 500 meters (1,640 feet) from the wind turbines reacted strongly to wind turbine noise and residents up to 1,900 meters (1.18 miles) from the wind turbines expressed annoyance. A survey conducted by Pedersen and Waye (2008) found that less than 10% of the respondents experienced sleep disturbance at distances of 1,984 feet to 3,325 feet and found that the sound from wind turbines was of greater concern in rural environments because of the lower ambient noise. The Town of Catlin notes with approval that wind project developer NorthWind and Power LLC (November 23, 2009) has stated in its marketing literature that the minimum distance between a wind turbine location and a non-participating residence should be at least 2,500 ft. Adverse Health Effects (Section 5.26) The National Wind Coordinating Committee (1998) recommends a setback of 10 rotor diameters to avoid shadow flicker on occupied structures. (See also: Cummings (2008); Burton et al. (2001); UK Noise Association (2006); and Pierpont (2006a and 2006b)).

5.15 Several studies recommend wind turbines be located between ½ mile to over 1 mile from a residence. To avoid adverse noise impacts, the Western Australia Planning Commission Bulletin recommends that wind energy systems include sufficient buffers or setbacks to residences of 1 km (0.62 mile). The National Wind Collaborating Committee states that an appropriate setback distance may be up to ½ mile. The National Research Council states that noise produced by wind turbines generally is not a major concern for humans beyond one mile or so. The Wisconsin Towns of Woodville, Clay Banks, Magnolia, Wilton and Ridgeville recently adopted large wind turbine ordinances with setbacks of ½ mile from residences. The French National Academy of Medicine and the UK Noise Association suggest a 1.5 km (approximately 1 mile) distance between large wind turbines and residences. See Gueniot (2006), Dr. Amanda Harry (2007), Dr. Nina Pierpont (2006), and Frey and Hadden (2007) recommend a setback greater than 1 mile.

5.16 It is noted that the Wind Turbine Handbook (Burton, 2001, January 2008 Printing) notes that a ten rotor diameter setback is likely necessary to protect from the impact of noise, shadow flicker and visual domination. The Department of the Environment, Northern Ireland (2009), establishes a best practice guideline of a separation distance between a WECS and occupied property of 10 times the rotor diameter.

5.17 It is noted that The New York State Department of Environmental Conservation document Assessing and Mitigating Noise Impacts (2001) teaches that sound levels that are 0-5dB above ambient are “unnoticed to tolerable” whereas noise increases over 5dB are considered “intrusive”. This document further states: “Appropriate receptor locations may be either at the property line of the parcel on which the facility is located or at the location of use or inhabitance on adjacent property”. And “The most conservative approach uses the property line”.

5.18 Background sound levels in rural residential areas in New York are commonly in the range of 20 dBA to 30 dBA at night. See Kamperman and James (2008), pg. 2

5.19 A C-weighted sound determination dB(C) is needed to minimize adverse health effects from low frequency noise. A dB(C) requirement will likely result in setbacks between large wind turbines and nearby residences of 1 km, (0.62 miles) or greater for 1.5 to 3 MW wind turbines if wind turbines are located in rural areas where L90A background levels are close to 30 dB(A). (See Kamperman & James; WHO 1999; Bajdek Noise-Con 2007; Pedersen and Waye 2008).

5.20 Wind turbines have been proven to present a risk to bird and bat populations.

5.21 Utility-scale wind energy facilities have a life of approximately 20 years and can potentially operate 24 hours a day. It is expected that over 20 years land use patterns will change with the long term trend being increased in residential use as compared to agricultural use. Thus, prediction of sound impact should consider property lines at locations authorized for residential purposes rather than pre-existing residences.

5.22 Construction of utility-scale wind energy facilities can create traffic problems and damage local roads.

5.23 This area is known s the Soaring Capital of the World. Additionally, there is an airport in Big Flats, one in Painted Post and a privately owned air strip in Catlin which may be negatively impacted by the placement of multiple tall turbines in the area

5.24 According to a National Agricultural Aviation Association article on meteorological (“Met”) Towers, "Met testing Towers are used for gathering wind data during the development and siting of wind energy conversion facilities. The met Towers consist of galvanized tubing that is assembled at the site, and raised and supported using guy wires. Agricultural pilots, emergency medical services (EMS) operations, Fish and Wildlife, animal damage control, aerial fire suppression, and any other low-level flying operation may be affected. The fact that these Towers are narrow, unmarked, and grey in color makes for a structure that is nearly invisible under some atmospheric conditions." This has led to at least one fatality, described in National Transportation Safety Board, Preliminary Report Aviation NTSB ID: WPR11LA094.

5.25 A utility-scale wind energy facility is typically hundreds of feet tall. Decommissioning of such a structure is complex, dangerous work. Material scrap values vary greatly on daily to yearly time scales. Thus, it is inappropriate to accept scrap values as security for decommissioning.

5.26 Adverse health effects from wind turbine noise can be exacerbated by the rotating blades and shadows from the wind turbines. As wind turbine blades rotate in front of a rising or setting sun, they cast a strobe-like flicker that cannot be avoided by occupants. Shadow flicker can cause some people to become dizzy, nauseated or lose their balance when they see the movement of the shadow. Shadow flicker from wind turbines at greater than 3 Hz poses a potential risk of inducing photosensitive seizures. While turbines are generally designed to avoid shadow flicker of this frequency, higher frequencies can be generated if the shadow from two or more turbines are combined. Recent research has indicated that the risk of seizures does not decrease appreciably until the viewing distance exceeds 100 times the height of the hub, a

distance typically more than 4 km. (See Harding, et. al. (2008)). Therefore, wind turbines should be sited such that shadows from wind turbine blades do not fall upon the windows of nearby Residences or within 100 feet of residences for any considerable period, not more than 25 hours a year. The National Wind Coordinating Committee (1998) recommends a setback of 10 rotor diameters to avoid shadow flicker on occupied structures. (See also: Cummings (2008); Burton et al. (2001); UK Noise Association (2006); and Pierpont (2006a and 2006b)).

5.27 If placed too close to a road, the movement of the wind turbine blades and resulting shadow flicker can distract drivers and lead to accidents. (See National Research Council (2007), pg. 161).

5.28 Property Devaluation

It's noted in a 2011 publication: Economics and Financial Studies School of Business Clarkson University by Martin D Heintzelman (Assistant Professor) and Carrie M. Tuttle (PH.D Candidate in Environmental Science and Engineering at Clarkson University). "The siting of wind facilities is extremely controversial. This paper uses data on 11,331 property transactions over 9 years in northern New York State to explore the effects of new wind facilities on property values. We used a fixed-effects framework to control for omitted variables and endogeneity biases. We find that nearby wind facilities significantly reduce property values in two of three counties studied. These results indicate that existing compensation to local homeowners/communities may not be sufficient to prevent a loss of property values."

The three upstate NY counties studied were Lewis County, Clinton County and Franklin County. "Decreasing the distance to the nearest turbine to 1 mile results in a decline in price of between 7.73%-14.87%." The research also goes on to point out that negative property values can range from 10.87%-35% and higher, depending on the distance from the turbines. Some properties were deemed un-sellable**. It also discusses the lack of compensation to non-participating land owners.**

Information sourced from: Realtor.org (Field Guide to Wind Farms)
http://google.realtor.org/search?q=field+guide+to+wind+farms&op=GO&site=new_ro&output=xml_no_dtd&client=new_ro&lr=&proxystylesheet=new_ro&proxyreload=1&oe=UTF-8&CONNECTFORMGET=TRUE&filter=0&getfields=description&tlen=255

(Reference Document #10)

5.29 Home insurance Cost Increases: the Town of Catlin requires the WECs applicant to pay any additional homeowners insurance cost(s) incurred, by non-participating landowners within a one-mile radius due to the establishment of the WECSs

5.30 Medical Hospitalization and/or Rehabilitation Costs: The Town of Catlin requires the WECS applicant to pay all medical (including stress related, psychological and neurological, etc.), hospitalization and/or rehabilitation costs incurred, by non-participating landowners within a two (2) mile radius due to the establishment of the WECS's. Should develop how this gets paid.

5.30.1 The acceptance of medical benefits from the WECS does not preclude the non-participant from seeking other damages (i.e.: loss of job/income, property damage, etc. All legal costs will be covered by the Applicant).

5.31 It's noted in Robert McMurtry's; Diagnostic criteria for adverse health effects in the environs of wind turbines written in the Royal Society of Medicine.

He warns that rural physicians and licensed practitioners in the regions of wind turbines must be aware of people presenting with multi system complaints including Neurological, Cognitive, Cardiovascular, Physiological, Regulatory, and Systemic disorders. He developed guidelines for diagnosis under the categories of: 1) possible 2) probable 3) presumed and 4) confirmed for diagnosis of Adverse Health Effects related to Industrial Wind Turbines; Adverse health Effects /Industrial Wind Turbines; AHE/WECs.

This article lists specific criteria to diagnose the syndrome while considering differential diagnose.

These guidelines are a model for a study to confirm the existence of WECs syndrome.

5.32 DENMARK, WI – At the October 14, 2014 Brown County Board of Health meeting, a motion was unanimously approved declaring the Shirley Wind turbines a "Human Health Hazard". The text of the unanimously approved motion reads:

"To declare the Industrial Wind Turbines at Shirley Wind Project in the Town of Glenmore, Brown County, WI, a Human Health Hazard for all people (residents, workers, visitors, and sensitive passersby) who are exposed to Infrasound/Low Frequency Noise and other emissions potentially harmful to human health."

We applaud the integrity of the Brown County Board of Health in the work they have done to carry out their mission to 'promote individual and community health'. They have been deeply involved in trying to resolve the public health crisis that has existed in the Town of Glenmore since Emerging Energies of Wisconsin built the industrial wind project there in 2010. The project has been sold twice since its construction and is now owned by the renewables arm of Duke Energy, with Wisconsin Public Service purchasing the electricity.
https://www.wind-watch.org/news/2014/10/16/duke-energys-shirley-wind-turbines-declared-a-human-health-hazard/print/ (Reference document #7)

5.33 Natural Resources Impact

5.33.1 Catlin is the site of important wild bird habitat. The NYDEC has recognized a number of wild bird species that are in decline or are threatened mostly due to grassland habitat loss. "Affected species (with annual change) include Henslow's Sparrow (-14.7%), Grasshopper Sparrow(-9.0%), Vesper Sparrow (-8.5%), Savannah Sparrow (-2.4%), Northern Harrier (-2.5%), and Babolink (-0.3%). The net result has been an astounding 80-99% decline in abundance of each species in just four decades. These species, especially Henslow's Sparrow, Upland Sandpiper, Grasshopper Sparrow, Short-eared Owl and Eastern Meadowlark are area –

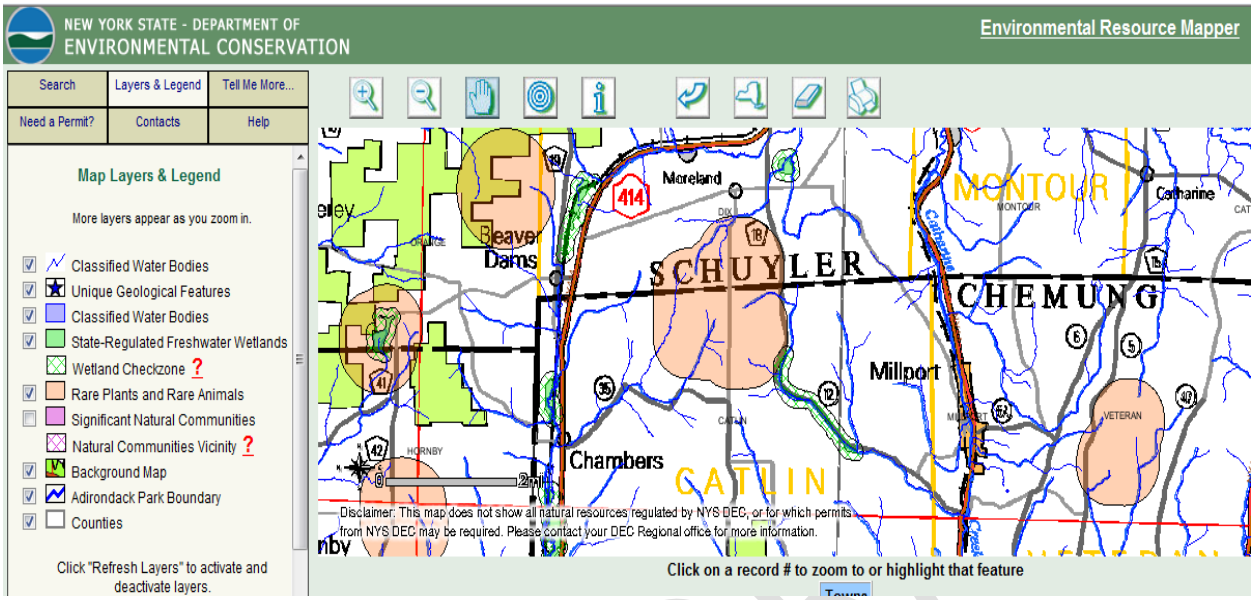
dependent species, meaning that they need large unbroken expanses of grassland to thrive and reproduce." (Quote NYDEC) (1). The DEC in partnership with rural NY landowners is taking action to help bring back needed grassland habitat through the Landowner Incentive Program (LIP). Here in Catlin, participants in the Grassland LIP program are landowners Peter & Martin Smith. The Smiths have approximately 170 acres enrolled in the Program. As landowners they have chosen to place their land into the LIP program with a desire to help build local grassland bird populations. The placement of a large scale wind power facility in proximity to a grassland wild bird habitat would further stress species with already diminished populations. Modes of bird losses and stress are attributed to: Bird death due to direct wind turbine rotor blades impact, Stress due to wind turbine noise, both audible and low frequency, stress due to wind turbine shadow flicker, stress during the construction phase of a wind power project caused by noise and dust produced by heavy construction equipment and heavy trucks being operated in the area, stress due to direct loss of habitat if wind turbine site access roads or underground electrical lines are routed through a habitat area. See attached excerpts from the New York Department of Environmental Conservation website that describes the LIP Program. For more information about Protecting Grassland Birds, please visit the DEC website and click on the active links provided.

Consideration and restrictions to be set forth for properties in the Grassland LIP program to include restriction of Large WECS within a 2 mile radius of the LIP program property to protect and preserve threatened species. (Reference Document #5)

5.33.2 A unique Bio Diverse area is identified in a region of the Town of Catlin. Due to the unique topography that exists in the Johnson Hollow area, NYS DEC has identified an area that has a unique bio diversity footprint. It is only able to exist and continue to thrive because of the unique topography and undisturbed nature of the environment. Bio Diversity areas are threatened by habitat destruction, alteration, fragmentation, the spread of invasive species, pollution, illegal collection and climate change. Therefore, all areas identified for the wind turbine construction and access to a designated site shall first be studied for Bio Diversity consideration, an identification of species of plants, animals, fish, and organisms that are classified as Endangered, Threatened and Special Concern shall be identified, documented and the area shall not be disturbed in order to preserve the natural bio diversification.

The impacts on the eco-systems range from micro-climate, hydrology, soils, nutrient cycling, plant, and animal communities, along with other disciplines that effect the environment. Due to the fact that there are areas of unknowns that need to be further studied, consideration are to conduct a 12 month study, by an individual certified in bio-diverse environments, of the area before any permits are issued. http://www.dec.ny.gov/animals/279.html (Reference Document #3)

Per above, consideration for restrictions to be set forth for the bio diversity area to include restriction of Large WECS within a 1 mile radius of the area is necessary to protect and preserve this area.



http://www.dec.ny.gov/imsmaps/ERM/viewer.htm

5.33.3. The New York State Department of Conservation has designated a large tract of land in the northern portion of the Town of Catlin between Chamber Rd and Johnson Hollow Road, as a region inhabiting rare plants and rare animals.

As well there are NYS designated wet lands along Johnson Hollow, riparian corridors (Bald Eagles and Osprey are sited regularly) and large forest blocks inhabiting much of the proposed wind turbine region.

According to the DEC a layer of of rare plants and rare animals includes generalized locations of species that are rare in NYS as a whole. These species include:

1: all animals listed by NYS as endangered or threatened

2: all plants listed by NYS as endangered or threatened

3: some animals listed by NYS as special concern

4: some plants listed by NYS as rare

5: some species not officially listed by NYS, but which never the less are rare in NY.

Animals and plants listed under NYS regulations as endangered, threatened, special concern, and rare

are protected under NYS **law.**

Unlisted species, while not under the same level of regulatory protection as listed species, are ranked by NY Natural Heritage as rare in NYS and therefore are a vulnerable natural resource of conservation concern. (Reference Document 2)

In addition other areas important for biodiversity include riparian corridors, large forest blocks, concentrations of more common plants and animals and areas of local significances. All of which are included in the Catlin region.

According to Win-Win for Wind and Wildlife: A Vision to Facilitate Sustainable Development, by The Nature Conservancy: Kiesecker, Evans, Fargione, Doherty, Foresman, Kunz, Naugle, Nibbelink, Niemuth. (Reference Document #1)

“When sited on undisturbed land, wind energy has per unit energy, a larger terrestrial footprint than most other forms of energy production and has known and predicted adverse impacts on wildlife".

In this paper, The Conservancy highly recommends siting wind projects that avoid habitats important for biodiversity thus avoiding the potential for significant habitat loss and fragmentation. Habitat loss and fragmentation are listed as the primary cause for endangerment. (Reference Document #1)

5.33.4 It is noted in a 2013 scientific study that reports negative impact findings on geese: “Wind farms produce electricity without causing air pollution and environmental degradation.
Unfortunately, wind turbines are a source of infrasound, which may cause a number of physiological effects, such as an increase in cortisol and catecholamine secretion. The impact of infrasound noise, emitted by wind turbines, on the health of geese and other farm animals has not previously been evaluated. Therefore, the aim of this study was to determine the effect of noise, generated by wind turbines, on the stress parameters (cortisol) and the weight gain of geese kept in surrounding areas. The study consisted of 40 individuals of 5- week- old domestic geese Anser anser f domestica, divided into 2 equal groups. The first experimental gaggle (I) remained within 50 m from turbine and the second one (II) within 500m. During the 12 weeks of the study, noise measurements were also taken. Weight gain and the concentration of cortisol in blood were assessed and significant differences in both cases were found. Geese from gaggle I gained less weight and had a higher concentration of cortisol in blood, compared to individuals from gaggle II. Lower activity and some disturbing changes in behavior of animals from group I were noted. Results of the study suggest a negative effect of the immediate vicinity of a wind turbine on the stress parameters of geese and their productivity”. Polish Journal of Veterinary Sciences Vol. 16, No. 4 (2013), 679–686 (Reference Document #8)

5.34 Historical Considerations and Unique Geography

5.34.1 Historical Considerations: The treaty of Fort Stanwick of 1768 established a boundary which no white man was allowed to cross without the permission of the Indians, specifically the Iroquois. In New York State Catlin Township’s land was included in the newly established "forbidden land".

Through the township runs a deep valley is almost as deep as the Catherine Creek valley. Its floor was mostly wet land and swamp with the Indian trails hugging the ridges of the mountains on either side before it was opened for settlement after the Revolutionary War. Today the creek that flows in the valley is known as Post Creek.

In 1754 the capital of the Andaste Indians was situated at the mouth of Post Creek (known by the Indians and early surveyors as Sing Sing Creek- after the name of the capital at Corning, Achsinessink.) Their traditional summer hunting grounds lay a day’s walk up the valley above Achsinessink into land now part of Catlin.

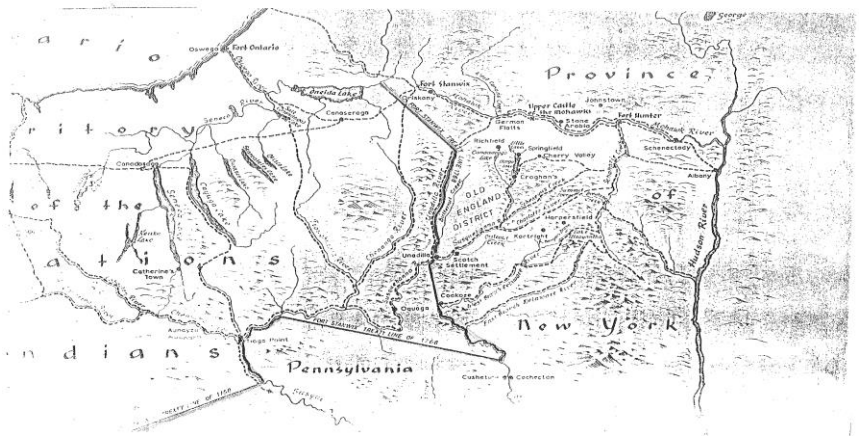
By 1779 the Andaste were no longer residing at Achsinessink but verbal legend reports a "two mile long village at the head waters of Post Creek where Queen Catherine stayed from time to time. Catharine Town being only 6 or 7 miles north.

In 1877, the railroad was built up the Post Creek valley, disturbing the wetlands, swamps and fields formerly farms. The same lands farmed by the Native Americans. Arrowheads were found in large numbers in Catlin near where the village was reported to have been. However no formal research/excavations were performed. The only formal archeological research in the area was done in Beaver Dams. Nothing has been seriously studied in the town of Catlin.

5.34.2 It is worth noting that there is a Historically Significant Structure, associated with the history referenced above, owned by Kaye Durnin Canfield (previously owned by John and Martha Durnin). The property address is 714 State Route 414, Beaver Dams NY 14812 (previously addressed as 5640 State Route 414). (Reference Document # 6)

5.34.3 On page 4 of the History of Chemung County 1890-1975 by Thomas Bryne, “soldiers who served with Sullivan were so impressed with the topography and soil of the Chemung Valley that they came again within a decade, as settlers.”

5.34.4 Due to the historical significance of the area, any industrial ground disturbances shall require oversight by an archeologist for the purposes of identifying, halting the activity and preserving artifacts and significant historical findings. An archeological representative shall be provided for each active wind development site. Funding for the archeologists will be provided by the wind company applicant.



5.35 Tourism and Economics - Because of the uniqueness of this area, the experts recommend that a tourist impact study be conducted and paid for by the WECS applicant. It is our recommendation that

anyone who is surveyed not only sees a visual of the area, but an audio of windmills proposed for the area.

5.36 Catlin State Land. “The first settlers in the town of Catlin arrived around 1800. The town was formed in 1823. As noted in numerous other state forest descriptions, agricultural abandonment occurred relatively early (1910-1929) on the hilltop lands occupied by this state forest. The majority of this property was acquired by the State in 1930-1938 under the terms of the Hewett Amendment and the authority of the Enlarged Reforestation Act. Significant additions were made under the authority of the Parks and Recreation Land Acquisition Bond Act in the 1960's, and through donations in the 1970's. The current size is about 613 acres. Due to the distance from an active camp, the Civilian Conservation Corps (CCC) did not conduct reforestation activities on this forest. Some small scale tree planting was accomplished by DEC crews in the early 1960's. Both the CCC and Works Projects Administration (WPA) were active in other management activities such as fire control, timber stand improvement, road maintenance, etc.” http://www.dec.ny.gov/lands/38806.html (Reference Document #4)

5.36.1Catlin’s position is to preserve the untouched nature of the state land by restricting Large WECS on the state land and restrict them from a 1 mile distance from the State land boundaries.

5.37 Sensitive receptor locations in the town of Catlin include Semplers Caddy Shack Golf course, Glory Hill, Chambers Wesleyan campground, and Catlin state land. and it is recommended that a 1 mile distance be maintained between these locations and large WECS.

5.38 Wind Turbine Infra and Low-frequency Sound: Warning Signs that Were Not Heard: It is noteworthy to acknowledge that this study points out a long history (1970’s – 1990’s) of knowledge regarding infra sound and low frequency adverse health effects (AHEs) originally identified within the heating and air-conditioning companies for large office buildings – the condition became dubbed as sick building syndrome.

Research has taken this sick building syndrome knowledge and has drawn strong parallel conclusions as it relates to industrial wind turbines. The article goes on to state: “If exposure to this type of sound can cause problems after an 8-hour work day, it is not unreasonable to believe that it will cause similar and potentially more serious problems for those who are exposed more than 8 hours a day on a continuing basis to modulated infra and low-frequency noise from wind turbines” (pg 114). “One could refer to this type of AHE as a “wind turbine noise-induced sick building problem” (pg 114). It has been documented that there can be a vestibular system response (pg 109) to modulated infra and low-frequency noise.

“Given the role that modulated infra and low-frequency sound played in sick buildings, the possibility that the presence of modulations in wind turbine infra and low-frequency noise relates to perception of wind turbine infrasound by some people must be considered, even if the SPLs (sound pressure levels) in these frequencies do not exceed the thresholds of perception for pure tones” (pg. 113).

This research also references the results of NASA/Department of Energy Studies by Hubbard and Shepherd (1990) that points out the following: “Wind turbines produce primarily infra and low-frequency sound, Sound propagates from wind turns at a decay rate half that of common point sources, Wind turbine noise travels farther than other sounds, Wind turbine noise will be a significant indoor

noise problem due to room resonance and dominance of infra and low-frequency acoustic energy" (pg. 114). "Given the potential to affect properties at greater distances than mid- and higher frequency sounds, the infra and low-frequency noise emitted by wind turbines can be a significant indoor noise problem as a result of two factors. First, attenuation of the outdoor sounds through the walls selectively blocks more the mid-to high-frequency sound than infra or low-frequency sound. Secondly, the infra and low-frequency noise penetrates the building wall and roof, resulting in the lower frequency noise from wind turbines being more easily heard. Also, room resonance can augment the sounds that penetrate the interior. This process is dependent on the specific geometry of rooms of the home, but when it occurs, it can reinforce the sounds from outside, causing SPLs to be higher inside than those outside" (pg 114). NASA Technical Paper 3057 DOE/NASA/20320-77 Wind Turbine Acoustics by Harvey H. Hubbard and Kevin P Shepherd is provided as (Reference Doc #11).

It is recommended that acoustical models of wind turbine projects measuring noise propagation apply Line Source Measurements, as outlined in the NASA Technical Paper Wind Turbine Acoustics.

"Wind turbine noise at 45 dBA Leq outside a home will not provide the necessary quiet inside a home to protect against sleep disturbance" (pg122). When amplitude modulation from a blade swish is excessive, the rhythmic pulsations at a rate of about one per second are the cause of sleep disturbance." The repetitive swish triggers arousals or awakenings that interfere with normal sleep patterns needed to reach Stage 4 sleep.

James Richard R.: Wind Turbine Infra and Low-Frequency Sound:Warning Signs that were not heard, 2012 Sage Publications Bulletin of Science and Technology & Society 32(2) 108-127 (Reference Doc #11)

§6. PERMITS REQUIRED

6.1 No Large WECS shall be constructed, reconstructed, modified, or operated anywhere in the Town of Catlin.

6.2 No Small WECS or Wind Energy Facility comprising a Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Catlin except pursuant to and in compliance with a Wind Energy Permit issued pursuant to this Local Law.

6.3 No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Catlin except in connection with an application for a Small WECS, and pursuant to and in compliance with a Wind Measurement Tower Permit issued pursuant to this Local Law.

6.4 This Local Law shall apply to all areas of the Town of Catlin.

6.5 Should any Wind Energy Facility be proposed for siting pursuant to Public Service Law Article X, no Town road may be crossed or licensed for use to permit said facility.

6.6 Exemptions. No permit or other approval shall be required under this Local Law for WECS utilized solely for Agricultural or Farm Operations in an agricultural district certified pursuant to Article 25-AA of the Agricultural and Markets Law, as long as the facility does not exceed 80 feet in Height and is set back at least one and a half times its Height from the nearest Property Line. Prior to the construction of a

WECS under this exemption, the Property Owner or a designated agent shall submit a sketch plan and building permit application to the Town Board to demonstrate compliance with the setback and height requirements.

6.7 Transfer. No transfer of any WECS, Wind Energy Facility or Wind Measurement Tower, or Permit there for, nor sale of the entity owning such facility or holding such permit, including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), shall occur without prior approval of the Town Board, which approval shall be granted upon (1) receipt of proof of the ability of the successor to meet all requirements of this Local Law and (2) written acceptance of the transferee of the obligations of the transferor under this Local Law. No transfer shall eliminate the liability of an Applicant or any other party under this Local Law.

6.8 Notwithstanding the requirements of this Section, replacement in kind or modification of a permitted WECS may occur without Town Board approval when (1) there will no increase in Turbine Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in Noise produced by the WECS.

6.9 A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

§7. APPLICABILITY

7.1 The requirements of this Wind Energy Facilities Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed in the Town of Catlin after the effective date of this Wind Energy Facilities Local Law.

7.2 Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that

7.3 Any such pre-existing Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.

7.4 No modification or alteration to an existing Wind Energy Facility shall be allowed except as allowed under §6(J) without full compliance with this Local Law.

7.5 Any Wind Measurement Tower existing on the effective date of this Local Law shall be removed no later than twenty-four (24) months after said effective date, unless a Wind Energy Permit for said Wind Energy Facility is obtained.

7.6 Wind Energy Facilities are allowed as an Accessory Use. Wind Energy Facilities constructed and installed in accordance with this Local Law shall not be deemed expansions, extensions or enlargements of a nonconforming use or structure.

ARTICLE II SMALL WECS

§8. PURPOSE AND INTENT

8.1 The purpose of this Article is to provide standards for Small WECS. The intent of this Article is to regulate the development of Small WECS and to protect the public health, safety, and community welfare.

§ 9. PERMITTED AREAS

9.1 A Small WECS meeting the requirements of this Article may be installed on any parcel or groupings of parcels which either singly or in combination is of sufficient size.

§ 10. APPLICATIONS

10.1 Small WECS applications shall be deemed Type I actions requiring coordinated review under SEQRA.

10.2 Application Contents. Applications for a Wind Energy Permit shall include:

10.2.1 Name, address, telephone number of the Applicant. If the Applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the Applicant authorizing the agent to represent the Applicant is required.

10.2.2 Name, address, telephone number of the Property Owner. If the Property Owner is not the Applicant, the application shall include a letter or other written permission signed by the Property Owner (i) confirming that the Property Owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

10.2.3 Address of each proposed WECS Site, including Tax Map section, block and lot number.

10.2.4 Evidence that the proposed Turbine Height does not exceed the height recommended by the manufacturer or distributor of the WECS.

10.2.5 A line drawing of the electrical components of the WECS in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.

10.2.6 Sufficient information demonstrating compliance with the Standards for Small WECS

10.2.7 Written evidence that the electric utility service provider that serves the proposed Site has been informed of the Applicant's intent to install an interconnected customer-owned electricity generator, unless the Applicant does not plan, and so states so in the application, to connect the system to the electricity grid.

10.2.8 A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby Strategic Vantage Points. The visual analysis shall also indicate the color treatment of the system's components

and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

10.2.9 A completed EAF.

10.2.10 General Municipal Law Section 809 disclosure form.

10.2.11 Such other information as the Town Board may reasonably require.

§11. APPLICATION REVIEW PROCESS

11.1 Pre-application meeting. Applicants may request a pre-application meeting with the Town Board or with any consultants retained by the Town Board for application review at a regularly scheduled meeting.

11.2 Escrow agreement. The Town shall require the Applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's application(s) exceeds the application fees paid by the applicant.

11.3 Application submittal. Six copies of the application shall be submitted to the CEO.

11.4 Application sufficiency review. CEO or Town designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required by 6 NYCRR 617.3 and all financial agreements required under this Article are included in the application.

11.4.1 Unless the Town Board waives any application requirement, no application shall be considered until deemed sufficiently complete.

11.4.2 If the application is deemed insufficient, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information, unless the number of Small WECS proposed is increased.

11.5 Board Receipt of Applications. Upon submission of a sufficient application, which may include a request for waiver by the Town Board, the CEO shall transmit the application to the Town Board.

11.6 Public Hearing. When the application is determined to be complete The Town Board shall hold at least one public hearing on the application.

11.6.1 The applicant shall provide notice of the public hearing by registered mail, return receipt to property owners parcels located wholly or partially within ½ mile radius of the proposed Small WECS Site, and shall publish a notice in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare, publish and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

11.6.2 The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.

11.7 County Planning Board Notice. A full statement of the proposed action for the project shall also be given to the Chemung County Planning Board if applicable per General Municipal law §§239-l and 239-m.

11.8 SEQRA Review. Small WECS applications shall be deemed Type I actions projects requiring coordinated review under SEQRA.

11.9 No Segmentation. The applicant shall disclose the full scope of planned numbers of Wind Energy Conversion Systems and shall not segment the application for purposes of reducing the apparent significance of proposed plans. Where the lead agency has reason to believe that the ultimate scope of the project might exceed that which is actually proposed by an applicant at one time, it shall conduct its review and base its findings on the larger potential scope.

11.10 Application Decision. Upon receipt of the recommendation of the Chemung County Planning Board, if required, the holding of the public hearing, and the completion of the SEQRA process, the Town Board may, within 30 days approve, approve with conditions, or deny the application.

12. DEVELOPMENT STANDARDS

12.1 All Small WECS shall comply with the following standards.

12.1.2 A Small WECS shall be located on a lot a minimum of two acres in size.

12.1.3 Only one Small WECS (plus, where authorized, a temporary Wind Measurement Tower) per legal lot shall be allowed. Where there are multiple Applicants, their joint lots shall be treated as one lot for purposes of this limitation.

12.1.4 Small WECS shall be used primarily to reduce the on-site consumption of utility-provided electricity.

12.1.5 A maximum allowable total height for a wind energy conversion system shall be 80 feet unless otherwise restricted or prohibited by Federal, State or Local Laws, Rules or Regulations.

12.1.6 The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations.

12.1.7 The maximum allowable Name Plate Rating is 50 kW.

12.1.8 The WECS shall be painted a non-reflective, unobtrusive color that blends the WECS and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

12.1.9 The WECS shall be designed and located in such a manner to minimize adverse visual impacts from Strategic Vantage Points.

12.1.10 Exterior lighting on any structure associated with the WECS shall not be allowed except that which is specifically required by the Federal Aviation Administration.

12.1.11 All on-Site electrical wires associated with the Small WECS shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, Towers and lines. This standard may be modified by the Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

12.1.12 The WECS shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a Small WECS is causing harmful interference, the Small WECS operator shall promptly mitigate the harmful interference or cease operation of the Small WECS.

12.1.13 At least one sign shall be posted on the Small WECS at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted anywhere on the Small WECS except that a manufacturer's logo may be in an unobtrusive manner

12.1.14 Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

12.1.14.1 Tower-climbing apparatus located no closer than 12 feet from the ground.

12.1.14.2 A locked anti-climb device installed on the Tower.

12.1.14.3 A locked, protective fence at least six feet in height that encloses the Tower.

12.1.15 Anchor points for any guy wires for a Tower shall be located within the Site that the Small WECS is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

12.1.16 Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

12.1.17 To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the Applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

12.1.18 All Small WECS shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Protection and Building Code and National Electric Code.

12.1.19 All Small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacture.

12.1.20 No Small WECS shall be placed so as to:

12.1.20.1 Restrict solar access on an adjoining property

12.1.20.2 To not be in harmony with the orderly development of the Town

12.1.20.3 Imperil the public health and safety

12.1.20.4 Induce vibrations or Infra-Sound

12.1.20.5 Discourage the development and use of adjacent land and buildings or impair their value.

§13. SOUND and SETBACKS

13.1 A Small WECS shall comply with the following standards:

13.2 Setback requirements. A Small WECS shall not be located closer to a Property Line than one and a half times the Turbine Height of the WECS or ten times the Rotor Diameter, whichever is greater.

13.3 Noise. Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that the Sound Pressure Level (Leq) generated by a Small WECS shall not exceed 45 dBA in daytime hours nor 35 dBA at night as measured at the nearest off-Site Residence existing at the time of approval (including structure under construction at said time), nor more than 6 dBA greater than either the nighttime or daytime pre-application Background Sound level measured in leaf-off conditions for a period of no less than 24 hours. Measurement of Background Sound may also be performed with the turbine turned off and with its blades trimmed to minimize Noise from aerodynamic effects.

§14. PERMIT RENEWALS

14.1 A Wind Energy Permit may be renewed for additional periods of not more than five (5) years each upon satisfaction of the following conditions:

14.1.1 The Applicant submits an application for renewal of a Wind Energy Permit to the CEO prior to expiration of any previous permit. Such application stays the expiration of the previous permit until the Town Board decision.

14.1.2 Payment of a fee

14.1.3 Decommissioning cost estimates are updated to reflect changes in the Producer Price Index and the financial security vehicle is adjusted accordingly.

14.1.4 The Applicant shall provide written notice of intent to renew the Wind Energy Permit via Registered Mail, Return Receipt to the owners of all parcels located wholly or partially within a radius of 1,400 feet of any Small WECS and shall publish notice of intent in the Town's Official Newspaper.

14.1.5 Following receipt of a sufficient application for Wind Energy Permit renewal, the Town Board shall schedule a public hearing. The Applicant shall provide notice of the public hearing by registered mail, return receipt to property owners within ½ mile of the Small WECS Site, and shall publish a notice in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare, publish and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

14.1.6 A public hearing is held.

14.1.7 The Town Board Decision. If after careful consideration of the application and the compliance or non-compliance of the Applicant with the terms of the Wind Energy Permit, the Town Board may elect to renew, not renew or renew with conditions the Wind Energy Permit for a period of not more than 5 years. Should the applicant disagree with the decision of the Town Board, the Applicant may petition the Town Board within 30 days of its decision, and upon request shall be entitled to a Hearing before the Town Board to be heard and present any evidence or witnesses as the Applicant may desire. Following the Hearing, the Town Board may reconsider the application within 30 days and if the Permit is not renewed or renewed with conditions, shall provide a written rationale for its decision. Should the Wind Energy Permit not be renewed, the Wind Energy Facility shall be decommissioned following the requirements of this Local Law.

§15. ABANDONMENT OF USE

15.1 Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property within 12 additional months or in advance of the property sale, at the expense of the Property Owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Catlin.

15.2 All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

§16. ABATEMENT

16.1 Operation. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

16.2 Removal. A Small WECS which is not used for a continuous period of one (1) year shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the Property Owner, within 12 months. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit.

ARTICLE III WIND MEASUREMENT TOWERS

§17. WIND SITE ASSESSMENT

17.1The Town Board acknowledges that prior to construction of a Small WECS, a wind Site assessment may be conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, shall be permitted upon issuance of a Wind Measurement Tower Permit

§18. APPLICATIONS FOR WIND MEASUREMENT TOWER PERMITS

18.1 Applications. An application for a Wind Measurement Tower Permit shall include the following:

18.1.1 Applicant Information. Name, address, telephone number of the Applicant. If the Applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the Applicant authorizing the representation.

18.1.2 Property Owner Information and Authorization. Name, address, telephone number of the Property Owner. If the Property Owner is not the Applicant, the application shall include a letter or other written permission signed by the Property Owner (i) confirming that the Property Owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

18.1.3 Site Information. Address of each proposed WMT location, including tax map section, block and lot number.

18.1.4 Map. A map showing proposed location of the WMT and any roads, parcel boundaries or structures within one times the height of the WMT.

18.1.5 Drawings or specifications for the proposed Wind Measurement Tower.

18.1.6 A completed EAF

18.1.7 General Municipal Law Section 809 disclosure form

18.1.8 Such other information as the Town Board may reasonably require

18.2 Application submittal. Six copies of the application shall be submitted to the CEO.

18.3 Application sufficiency review. CEO shall, within 30 days of receipt, or such longer time if agreed to by the Applicant, determine if all information are included in the application.

18.3.1 Unless the Town Board waives any application requirement, no application shall be considered until deemed sufficiently complete.

18.3.2 If the application is deemed insufficient, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information, unless the number of WMT proposed is increased.

18.4 Board Receipt of Applications. Upon submission of a sufficient application, which may include a request for waiver by the Town Board, the CEO shall transmit the application to the Town Board.

18.5 Public Hearing. When the application is determined to be sufficient, The Town Board shall hold at least one public hearing on the application.

18.5.1 The applicant shall provide notice of the public hearing by registered mail, return receipt to property owners of parcels located wholly or partially within a radius of 500 feet of the proposed WMT Site, and shall publish a notice in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare, publish and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

18.5.2 The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.

18.6 Application Decision. Upon the holding of the public hearing, the Town Board may, within 30 days approve, approve with conditions, or deny the application.

§19. STANDARDS FOR WIND MEASUREMENT TOWERS

19.1 Setback. The distance between a Wind Measurement Tower and the nearest Property Line shall be at least 1.5 times the height of the Wind Measurement Tower. Sites for a Wind Measurement Tower can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those Property Owners.

19.2 Height. The maximum height of a Wind Measurement Tower shall be 50 feet.

19.3 Permit Duration. Wind Energy Permits for Wind Measurement Towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board using the procedures set forth in Section §14 of this local Law.

§20. ABATEMENT

20.1 Operation. All WMT shall be maintained in good condition and in accordance with all requirements of this section.

20.2. Removal. WMT which are is not used for a continuous period of one (1) year shall be deemed abandoned and shall be dismantled and removed from the property, within 12 months, at the expense of the Property Owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit.

ARTICLE IV. LARGE WECS

§21. INTENT & PURPOSE

21.1 No Large WECS shall be constructed, reconstructed, modified, or operated anywhere in the Town of Catlin.

21.2 Since the State of New York has taken the position of promoting a large scale wind development and to this end has enacted Article X which could potentially allow for construction of utility-scale energy facilities, it is necessary to provide for reasonable substantive development standards.

21.3 It is the intent of the Town of Catlin to regulate the construction, reconstruction, modification or operation of Large WECS as defined in this Wind Energy Facilities Local Law. The purpose of this Article is to provide substantive standards for Large WECS in the event an application is made to the Public Service Commission under Article X of the Public Service Law for the construction and operation of Large WECS in the Town of Catlin.

§22. STANDARDS FOR WIND ENERGY FACILITIES

22.1 The following substantive standards shall apply to all Large WECS in the Town of Catlin in the event an application to construct and operate Large WECS in the Town of Catlin is made to the New York Public Service Commission pursuant to Article 10 of the Public Service Law.

22.1.1 Transmission Lines. All power transmission lines from the Tower to any building or other structure shall be located underground to the maximum extent practicable. All transmission lines shall be located a minimum depth of (4) feet underground and identified with appropriate markers. No transmission line or cable shall be located within 150 feet of any Residence or structure.

21.1.2 WECS height. The maximum Turbine Height of any Large WECS shall be 380 feet.

21.1.2.1 Turbine Spacing – Minimum setback distances between turbines shall be 3 times the total height of each WECU, but in no case less than 1200 ft.

21.1.3 Antennae Co-Location. No television, radio or other communications antennas may be affixed or otherwise made part of any WECS.

21.1.4 Advertising. No commercial advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

21.1.5 WECS Lighting. No WECS shall have external lighting except to comply with government agency requirements. All such required lighting should restrict glare visible from ground level to the maximum extent possible and not be lit except to comply with FAA requirements.

21.1.6 Visual Impact Mitigation. Applicants shall use measures to reduce the visual impact of WECS to the extent possible.

21.1.6.1 WECS shall use tubular Towers.

21.1.6.2 WECS shall be finished in a single, non-reflective matte finished color.

21.1.6.3 WECS within a multiple WECS project shall be constructed using WECS whose appearance, with respect to one another, is similar within and throughout the project, to provide reasonable uniformity in overall size, geometry, and rotational speeds.

21.1.6.4 No WECS shall be Sited such that it may appear to rise from or hover over a public highway when viewed by the driver of a vehicle looking in the direction of travel.

21.1.6.5 No WECS shall be placed so as to have a negative impact on a Protected Historic Structure.

21.1.7 Guy Wires. The use of guy wires for WECS is no allowed.

21.1.8 Microwave Links. No WECS shall be installed in any location along the major axis of an existing FCC-licensed microwave communications link where its operation is likely to interfere in the link's operation. If it is determined that a WECS is interfering with a microwave path, the WECS operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy interference with existing microwave links is grounds for revocation of the Wind Energy Permit for the specific WECS causing the interference.

21.1.9 Communication Interference: Any WECU shall be sited and operated so that they do not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems: including relocation or removal of the facility, caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers and other components related thereto. The owner/operator of the WECs shall respond within five business days to any request for a communications interference investigation by a property owner within the project boundary and a three-mile radius beyond the project boundary. Testing shall commence within ten working days of the request. Owner/operator is responsible for mitigating within ten working days from determination of interference cause attributed to the operation of the WECs

21.1.10 Interference with Aviation Navigational Systems: No WECs shall be installed or operated in a manner that causes interference with the operation of any aviation facility.

21.1.10.1All wind energy siting shall comply with Federal Aviation Administration regulations for siting structures near an airport

21.1.10.2 All WECs shall include a locking mechanism that prevents the blades from rotating when not producing power, in order to limit airport radar interference or "clutter". The Planning and Zoning boards may modify or eliminate the requirement for a locking mechanism if sufficient evidence is presented that no significant airport radar interference or "clutter" will be caused by the WECs.

21.1.11 Waste Removal. Solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

21.1.12 Clearing. Wind Energy Facilities shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

21.1.13 Plant and Wildlife. WECS shall be located in a manner that minimizes negative impacts on animal species in the vicinity, particularly bird and bat species.

21.1.14 WECs shall not impact the layer of the region designated by the DEC to contain rare plants and rare animals located in the Northern region of the town.

21.1.15 Wetlands. Wind Energy Facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations. As a result of the scientific negative impact findings on industrial wind turbines and geese, 3280 feet is recommended. (see: Findings, Section 5.33.4)

21.1.16 Storm-water. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.

21.1.17 Construction Times. Construction of the Wind Energy Facilities shall be limited to the hours of 7 a.m. to 7 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.

21.1.18 Water Supply. Construction of Wind Energy Facilities shall be managed in a manner that minimizes the impact upon private and public, if any, water supplies.

21.1.19 No Large WECS shall be placed so as to:

21.1.19.1 Restrict solar access on an adjoining property

21.1.19.2 Not be in harmony with the orderly development of the Town

21.1.19.3 Imperil the public health and safety

21.1.19.4 Induce vibrations or Infra-Sound

21.1.19.5 Discourage the development and use of adjacent land and buildings or impair their value.

21.1.20 The Town of Catlin is characterized by valleys with significant ridge line views that are for the most part unobstructed. It is the Towns intent to minimize potential visual impacts through a limitation on placement of WECs on such ridge lines or other locations where the WECs location may adversely impact on important visual resources. To the maximum extent possible, WECs shall be designed and located to reduce visual impacts from surrounding lots and Roads.

21.1.21 A geotechnical report must be prepared that includes: soils engineering and geologic characteristics of the site using sampling and testing; a bedrock profile within one mile of the site boundary; information on groundwater; depth and average flow rates of wells within two miles of the site; grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.

§23. REQUIRED SAFETY MEASURES

23.1 Controls. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

23.2 Minimum blade height. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.

23.3 Signs. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the Tower warning of electrical shock or high voltage. The Town Board may require additional signs based on safety needs.

23.4 Climbing Pegs. No climbing pegs or Tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the Tower.

23.5 Access Control. WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locket at all times.

23.6 A fire protection and emergency response plan must be created in consultation with the fire department(s) having jurisdiction over the proposed site. If the plan indicates the need for additional fire equipment or training, the applicant will be responsible to fund the equipment purchase and /or training of fire department personnel.

23.7 Proof of continuous liability insurance in the amount of $5,000,000 per occurrence with the total policy minimum of $20,000,000 per year shall be provided. The policy shall be submitted to the Town indicating coverage for potential damages and injury.

23.8 Modifications to roadways shall be done in a manner as to NOT inhibit emergency response vehicles.

23.9 It is recognized that the vast majority of residents who might be affected by the construction and operation of a WECF obtain their water form private wells. Prior to construction, the Applicant shall have the water supply of any Property Owners whose Property Lines are within two miles of any WECF (unless such Property Owner has signed a waiver of this requirement) tested by an independent reputable company approved by the Planning Board at the expense of the Applicant and the written results of such tests shall be disclosed to the Planning Board and each such Property Owner. The Home Owner should be notified in writing that the testing will take place 30 days in advance of the appointment of the testing. This gives the Property Owner time to re-schedule the appointment to a mutually acceptable time if necessary. Should the water quality of any such Property Owner be adversely affected by construction (blasting or digging) or operation of a WECF, the Applicant shall, at the Applicant's expense, restore the water quality to the condition that it was in when initially tested by whatever means necessary, including the drilling of a new well or creating a water district. Denial of access for testing by the Property Owner shall constitute a waiver of this requirement by that Property Owner.

23.9.1 Tests shall be performed in accordance with all applicable laboratory standards and protocols by a NYS approved testing laboratory. Testing shall include, but is no limited to, levels of arsenic, nitrates, phosphorus, calcium, magnesium, iron, lead, atrazine, bacteria, total dissolved solids and documentation of flow rates.

23.9.2 Tests results shall be submitted to the Town of Catlin Planning and Zoning Committees and the well owner.

23.10 Continuous, polymeric protective membrane shall be installed one foot subsurface around each WECU, radially outward from the base of the tower to a distance equal to twice the overall height of the turbine/blade assembly, prior to potential contaminating fluids being added to the WECU.

§24. ROADS AND TRAFFIC

24.1 Nothing in the Local Law shall limit the ability of the Town to enter into Host Community and Road Use agreements with any applicant to compensate the town for expenses of impacts on the community.

24.2 Traffic Routes. Construction and delivery vehicles for WECS and Wind Energy Facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (i) minimizing traffic impacts from construction and delivery vehicles; (ii) minimizing WECS related traffic during times of school bus activity; (iii) minimizing wear and tear on local roads (if use of such roads is permitted under this Local Law); and (iv) minimizing impacts on local business operations. Wind Energy Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

24.3 Road Remediation. If any load exceeds the limits of Section 385 of the New York State Vehicle and Traffic Law or the Average Daily Axle Load, the Applicant shall be responsible for remediation of damaged roads upon completion of the installation of the WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads, if such use is authorized under this

Local Law that is not corrected by the Applicant. An Applicant shall submit an estimate of costs for restoration to the pre-construction quality and character of local roads for the Town's approval prior to construction, and this estimate shall be the basis for the bond.

24.4 Proposed Highway Routes for use in construction and detailed information regarding necessary roadway modifications for delivery of equipment and materials, including, but not limited to, culvert and bridge shoring or replacement, intersection widening, and wire of signal raising. This information shall also include applicable authorizations to the highway routes from applicable Federal, State and local agencies.

24.5 Construction and delivery vehicles for any WECF shall use traffic routes approved by the Catlin Highway Superintendent as a part of the application review process. The Town and the Applicant shall enter into a road use agreement specifying approved routes; times and frequency of use; obligations for remediation, maintenance and repair of roads on approved routes and such other items as, in the discretion of the Planning Board, are designed to ensure the safety and wellbeing of the populace

24.6 The road use agreement shall require the Applicant to post a public improvement bond prior to the issuance of any building permit in an amount, as determined by the Town Board, sufficient to cover the cost of performance of the obligations set forth in the road use agreement. Applicant shall submit its estimate of costs for its remediation, repair, maintenance and restoration obligations to the Town Board, which estimate shall become the basis for negotiation of such agreement and the amount of the bond.

24.6.1 Estimates shall factor in current road load limits and axel loads that will be traveling the roads for the WECS project.

§25. SOUND LEVELS

25.1 The equivalent level (LEQ) generated by a WECS shall not exceed 5 dba over background sound level, when measured at the nearest off-Site Residence property line existing at the time of application, or for which a building permit has been issued, or for parcels with adequate road frontage to be suitable residential building lots.

25.2 In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (based on the A-weighted background). The application shall include certification by an independent acoustical engineer with no association to the Applicant, as to the predicted A- and C-weighted WECS sound levels at nearest impacted residential property lines. The engineer or the firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental Noise, and shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The background shall be measured and predicted in accordance with clause 25.4, below.

25.3 WECS noise limits shall not exceed 5 dB over background noise.

25.4 A-weighted background sound levels shall be based on measured hourly L90 levels gathered continuously for at least 2 weeks. The day shall be divided into three time periods: (1) daytime, the hours from 7 AM to 7 PM, (2) evening, the hours from 7 PM to 10 PM, and (3) nighttime, the hours from 10 PM to 7 AM. All measurements shall be taken during all 4 seasons as follows:

Spring	March 15-May 15,
Summer	June 1-Sept 1,
Fall	September 15-November 15,
Winter	December 1-March 1.

25.4.1 If insect Noise possibly can dominate some of the hourly L90 measurements, then Ai weighted (see: Schomer, Paul D. et al., "Proposed 'Ai' –Weighting: a weighting to remove insect Noise from A-weighted field measurements," InterNoise 2010, Lisbon Portugal, 13-16 June 2010) shall be used in lieu of the Standard A-weighting, or measurements shall not be made when insect Noise possibly can dominate some of the hourly L90 measurements. The background shall be reported by time period, and computed as follows. The minimum hourly L90 shall be tabulated by time period and by day, and the arithmetic average of these measurements by time period over all the days of measurement shall be computed. These three averages of daily minima shall be reported as that Site's daytime, evening, and night time A-weighted background levels, respectively.

25.4.2 Note: In relatively quiet areas insect Noise, especially during summer months, can easily dominate the A-weighted Ambient Sound level. This occurs partly because the primary frequencies or tones of many, if not most, insect Noises are in the range of frequencies where the A-weighting is a maximum, whereas, most mechanical and WECS Noises primarily occur at the lower frequencies where the A-weighting significantly attenuates the sound. Also, insect Noises and bird songs do not mask WECS Noise at all because of the large differences in frequencies or tones between them.

25.5 Monitoring shall be conducted on an ongoing basis. A sound monitoring system shall be installed at all non-participating property lines, to continuously monitor noise levels, provide real time feedback into the WECS system and automatically shut down a unit should the noise levels exceed limits as set forth above. The WECS unit will remain shut down until the situation can be corrected.

25.6 Noise Standard: The noise due to WECU operations shall not be greater than 5 dBA above the established background noise level for more than five (5) minutes out of any one hour time period, and in no case to exceed 35 dBA, as measured at the nearside property line. All noise level measurements shall be actually taken at prescribed times and seasons. Projected computer simulations shall not be acceptable.

25.7 Parcels 3 acres or smaller

25.7.1 The A-weighted background measurements shall be made along the line from the nearest proposed WECS to the Residence property line in question. If the parcel of land has no Residence, then the line shall terminate within 25 ft. of the center of the parcel. The actual

position of the microphone shall be within the property in question and should be within 25 feet to either side of the line, no closer than 50 feet from the property boundary, and no closer than 25 feet from the house or any other structures. If positioning within this “measurement box” is not possible because of unique Site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified.

25.8 Parcels larger than 3 acres

25.8.1 The A-weighted background measurements shall be made along the line from the nearest proposed WECS to the Residence property line in question. If the parcel of land has no Residence then the line shall terminate within 50 feet of the center of the parcel. The actual position of the microphone shall be within the property in question, shall be within 50 to 500 feet of the Residence or within 0-500 feet of the parcel center, as applicable, should be within 50 feet to either side of the line, shall be no closer than 50 feet from the house or any other structure, and shall be no closer than 50 feet from the property boundary. If positioning within this “measurement box” is not possible because of unique Site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified. The microphone shall be no closer than 50 feet from the house or any other structures.

25.9 Measurement requirements

25.9.1 The microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The meter Noise floor shall be 20 dB(A) or lower. The report shall include each hourly measured A-weighted L90 level, the tabulated daily minima by time period, and the three time period averages. The report also shall include a sketch of the Site showing distances to the structure(s), to the Property Line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing also shall include the A-weighted Noise floor and the one third octave band Noise floors, if utilized, for each meter used.

25.10 Background measurements shall be conducted throughout the area using sufficient Sites to generally characterize the background sound levels. The Town shall contract for the background measurements and determination of background levels for general areas of the Town such that every parcel is assigned a background level for daytime, evening, and nighttime (as defined in section 25.4). The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental Noise, and the consultant’s project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The WECS Applicant shall pay for the contract to measure and determine background levels. This payment shall include the cost of the contract, the cost of letting the contract, and the cost of supervising the contractor. The number of measurement

Sites and study plan shall be developed jointly between the Town and the contractor with input from the public and from the Applicant.

25.11 The starting point for predicting WECS A- and C-weighted levels at potentially impacted residential parcels shall be the manufacturer-supplied octave band sound power levels as measured by the manufacturer in accordance with International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11). At a minimum, the octave band data shall include the 10 octave bands with nominal center frequencies ranging from 16 Hz to 8000 Hz (see ANSI S1.6-1984), and the sound power levels for these bands shall be tabulated in the report. Any data not available from the manufacturer shall be estimated from field measurements on like wind turbines already in use. Any such field measurements shall be described fully and documented in the report. In order to model the worst case condition, the Noise level corresponding to the maximum power setting shall be used assuming stable atmospheric conditions.

For Sites at which A-weighted background measurements were performed, the A-and C- weighted WECS sound level predictions shall be made at the same point and for the nearest WECS (if more than one). For all other Sites, a prediction point shall be selected that is as close as possible to the nearest WECS while being within the "measurement box" delineated above. The octave band Sound Pressure Levels shall be predicted at the prediction point for at least each of the four nearest proposed WECS (if more than four are proposed) using sound propagation algorithms given by ISO 9613-2, with G and Gm in Table 3 of ISO 9613-2 set to 0.0. That is, the coefficients for delineating between an acoustically hard and an acoustically soft surface are each set to 0.0 for the source, middle, and receiver regions (see Kaliski, Kenneth and Duncan, Eddie, "Propagation Modeling Parameters for Wind Power Projects", Sound & Vibration, pp. 12-15, December 2008). Calculations for the 16 and 31.5 octave bands shall use the 63 Hz octave band algorithms contained in ISO 9613-2 with no factor for air absorption. No sound barrier shall be included in the calculations. For each such prediction, the A- and C-weighted level shall be calculated by applying the A- and C- weighting values from ANSI S1.4, then by adding the weighted mean square pressures, and finally by converting back to Decibels. The overall predicted A- and C-weighted levels shall be the sum of the individual levels added on the basis of the mean square pressures.

25.12 Any Noise level falling between two whole Decibels shall be rounded to the nearest whole Decibel.

25.13 The Applicant shall provide all calculations, data and assumptions in electronic format to verify compliance with this section; if computer modeling is utilized to predict project sound levels, the raw input data to the model shall be provided and sufficient additional data to allow the model runs on which the Applicant relies to be reproduced.

§26. NOISE STANDARDS ENFORCEMENT FOR LARGE WECS

26.1 Enforcement shall be by measurement. The Town shall be responsible for and shall contract for any enforcement measurements. The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental Noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA.

26.2 The duration of any WECS measurement shall be 30 minutes. During the 30-minute period, the equivalent level (LEQ) generated by the WECS shall be measured. The measurement location shall be at any residential property as given in § 25 (a). , and at any point on this residential property at which the background sound level may be measured per § 25 (c). Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the WECS shall operate continuously during the 30-minute measurement.

26.3 The microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument Noise shall be at least 10 dB below the lowest level measured.

26.4 A certified calibrator shall be used as recommended by the manufacturer of the sound level meter. Calibrations shall be conducted prior to each use.

26.5 The fundamental level of the calibrator and the sensitivity of the sound level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.

26.6 A wind screen shall be used as recommended by the sound level meter manufacturer.

26.7 An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± 2 miles per hour (± 0.9 meters per second).

26.8 A compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW.

26.9 Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.

26.10 For all measurements, the surface wind speed, measured at a 1.5 meter height, shall be less than 5 meters per second.

26.11 All measurements shall be corrected for the background on the basis of mean square pressures. For one-third-octave-band measurements, each one-third-octave band shall be individually corrected for the background in that band. That is, both the sound level of the WECS (which always includes the

background) and the Background Sound level alone shall be measured in each one-third-octave band. For either A-weighted data or one-third-octave-band data, the background shall be measured during a like period when the WECS is not operating, and Table II shall be used to correct for the background, by band in the case of one-third-octave-band data. A like period means the same or like location, like surface wind speed and direction, like time of day and day-of-the-week (e.g., Monday-Thursday night, Friday or Saturday night, or Sunday night), etc.

26.12 After correction, when using data measured in one-third-octave bands, all remaining bands, excluding bands set equal to zero, shall be converted to A-weighted bands and then shall be summed on a mean square pressure basis to establish the WECS background-corrected A-weighted sound level.

Table II Correction in dB that shall be subtracted from the WECS sound level measurement (which always includes the Background Sound level) because of the Background Sound so that the result is just the sound level of the WECS alone (See Note 1 below)

Δ, difference	< 3	3 – 4	5 – 6	7 – 10	> 10
K, correction (dB)	Notes 2, 3	3	2	1	0

Notes:

26.12.1 This table provides a simple correction to measurements of WECS sound in the presence of the background. For example, the sound of a WECS (along with the Background Sound which is always present) is measured as 40 dB(A), and the Background Sound level alone (without the WECS) is measured as 34 dB(A). Then Δ, the difference in Decibels is 6 dB (first row, third column), and the corresponding correction shall be 2 dB (second row, third column). That is, 2 dB shall be subtracted from the measured 40 dB(A) level, and it is adjusted to and reported as 38 dB(A). The same procedure is followed in each band for one-third-octave-band data.

26.12.2 When using directly measured A-weighted levels, if the difference between the WECS sound level (plus Background Sound level) and the Background Sound level alone is less than 3 dB, then it shall not constitute a violation of this chapter.

26.12.3 When using measured one-third-octave-band data, if the difference between the WECS Sound Pressure Level (plus Background Sound pressure level) and the Background Sound pressure level alone, each in the same one-third-octave band, is less than 3 dB, then the WECS

26.13 The report shall include a sketch of the Site showing distance to the structure(s), to the Property Line, etc., and several photographs showing the structure(s), property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing shall include the A-weighted Noise floor and the one third octave band Noise floors, if utilized, for each sound level meter used.

§27. SETBACKS

27.1 Setbacks, each WECS shall be located with the following minimum setbacks, as measured from the center of the WECS:

27.1.1 Ten (10) Rotor Diameters from the property line of off-Site Residences property line or buildable lots.

27.1.2 Four (4) Turbine Heights from the nearest on-Site Residence.

27.1.3 As a result of the scientific negative impact findings on industrial wind turbines and geese, preferred distance of 3280 feet is recommended from state-identified wetlands.

§28. GENERAL REQUIREMENTS

28.1 Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all Noise requirements and other permit conditions.

28.2 Inspection: The Applicant, at the Applicant's expense, shall cause each WECS to be inspected based on the manufactures recommendations for structural and operational integrity by a licensed Professional Engineer acceptable to the Planning Board. The inspection schedules shall be provided as part of the application process and any updates to those schedules shall be submitted to the Planning Board when changes to the original schedule are made. A copy of the inspection report shall be delivered to the Planning Board and the Applicant shall promptly undertake and implement any and all recommendations set forth in the inspection report.

28.3 Violations of Permit Conditions. A WECS is non-compliant and must be shut down immediately if it exceeds any of the limits in Section 25 of this Wind Energy Facilities Local Law.

28.4 Inoperative WECS. If any WECS remains non-functional or inoperative for the continuous period of one (1) year, WECS shall be decommissioned.

28.5 Removal and Site Restoration: The owner/operator shall remove all equipment associated with the WECUs and restore the site to its original condition at the end of the permit or when any WECUs deemed inoperable or unsafe. The restoration shall include removal of all materials above and below ground; road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECs. The restoration shall reflect the site-specific character including topography, vegetation, drainage and any unique environmental features and shall be completed within one year. The owner/operator shall incur all costs associated with implementing the removal and site restoration plan.

28.6 Erosion Control: Owner/operator shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances as pertains to WECs removal and site restoration.

28.7 Decommissioning Fund. The Permitee, or successors, shall continuously maintain a financial assurance mechanism for the costs of decommissioning and removal of all WECSs on Site and the remediation of all disturbed areas of land sufficient to assure no discharge of sediments or other pollutants following decommissioning (decommissioning, removal and remediation) in a form approved by the Town, for the period of the life of the facility. The financial assurance mechanisms must ensure that funds will be available when needed and shall not include the future value, if any, of scrap. All decommissioning, removal and remediation fund requirements shall be fully funded before a building permit is issued.

28.8 Property Value Guarantee

28.8.1 It has been proven that property values decrease proportionate to the distance to an Industrial Wind Turbine.

28.8.2 The Town of Catlin requires the applicant to provide a property value guarantee with the residents in accordance with the Property Value Guarantee Agreement attached. (Reference doc #9)

28.2.3 The Town of Catlin requires the WECS's applicant to post a 5 million dollar bond, indexed and adjusted by the Shiller Housing index inflation yearly, to cover this monetary differential, should it arise.

28.9 Home insurance Cost Increases: the Town of Catlin requires the WECS's applicant to pay any additional homeowners insurance cost(s) incurred, by non-participating landowners within a one-mile radius due to the establishment of the WECSs.

28.10 Medical Hospitalization and/or Rehabilitation Costs: The Town of Catlin requires the WECS applicant to pay all medical (including stress related, psychological and neurological, etc.), hospitalization and/or rehabilitation costs incurred, by non-participating landowners within a two (2) mile radius due to the establishment of the WECS's. The acceptance of medical benefits from the WECS does not preclude the non-participant from seeking other damages.

*For 28.9 & 28.10: there should be consideration given to establishing an escrow account.

28.11 Diagnostic criteria for adverse health effects in the environs of wind turbines educational information, identified in Diagnostic Criteria (Section 5, 30) be provided to the local medical community in the form of reference materials, guest speaker etc. as determined by the Town Board, and will be funded by the Applicant.

28.12 Natural Resources Impact (section 5.33), the following be complied to:

28.12.1 Consideration and restrictions to be set forth for properties in the Grassland LIP program to include restriction of Large WECS within a 2 mile radius of the LIP program property to protect and preserve threatened species. (Reference Document #5)
28.12.2 Consideration for restrictions to be set forth for the bio diversity area to include

restriction of Large WECS within a 2 mile radius of the area is necessary to protect and preserve this area. http://www.dec.ny.gov/animals/279.html (Reference Document #3)

28.13 Historical Considerations and Unique Geography (Section 5.34.1,5.34.2,5.34.4) Due to the historical significance of the area, any industrial ground disturbances shall require oversight by an archeologist for the purposes of identifying, halting the activity and preserving artifacts and significant historical findings. An archeological representative shall be provided for each active wind development site. Funding for the archeologists will be provided by the wind company Applicant.

28.14 State Land: (Section 5.36) The position is to preserve the untouched nature of the state land by restricting Large WECS on the state land and restrict them from a 1 mile distance from the State land boundaries.

28.15 Sensitive Receptor Locations (Section 5.37) in the Town of Catlin include and it is recommended that a 1 mile distance be maintained between these locations and large WECS: Semplers Caddy Shack Golf course, Glory Hill - Sayre Wells Woods (a lifetime bird sanctuary and/or wildlife preserve and as a wooded pioneer campsite – as deed by the property owner) (see Ref document #11), Chambers Wesleyan campground, and Catlin State Land.

28.16 Adverse Health Effects (Section 5.26) The National Wind Coordinating Committee (1998) recommends a setback of 10 rotor diameters to avoid shadow flicker on occupied structures. (See also: Cummings (2008); Burton et al. (2001); UK Noise Association (2006); and Pierpont (2006a and 2006b)).

Therefore, wind turbines should be sited such that shadows from wind turbine blades do not fall upon the windows of nearby Residences or within 100 feet of residences for any considerable period, not more than 25 hours a year. The applicant shall also provide a “hotline” phone number for flicker complaints and all complaints will be tracked and rolled up into a report and provided to the Catlin Town Board and Planning Board on a monthly basis. WECS operating schedules will exclude the times of sunrise and sunset – WECS units will be on an automatic schedule to not run for 40 minutes during the sunrise and sunset events.

28.17 Stray Voltage Assessment and Requirements:

28.17.1 The owner/operator of the WECs shall respond within (5) business days to any request for a stray voltage investigation by a property owner within the project boundary and a one-mile radius beyond the project boundary.

28.17.2The tests shall be performed by a mutually accept able NYS certified, professional stray voltage investigator

28.17.3 The tests shall be performed according to SREC or NYSEG Phase II Stray Voltage Testing Protocol. See also Appendix A

28.17.4 Testing shall commence within (10) ten working says of the request. If testing cannot be initiated within (10) ten days, the WECU (s) in question shall be shut down until the testing can be started.

28.17.5 The investigation shall be provided to the property owner at no cost up to a maximum of two investigations within a 2-month period

28.17.6 At no time shall the operation of a WECs increase the measured cow contact voltage (Vcc) or primary neutral to remote voltage (Vpm) on a livestock facility within the project boundary and a one-mile radius beyond the project boundary, above the maximum pre-construction levels.

28.17.7 The owner/operator agrees to abide by all rules, procedures, standards and reporting established by the SREC or NYSEG for stray voltage and related electrical phenomena.

28.17.8 Owner/operator in responsible for mitigating within five working days from determination any net increase in cow contact voltages (Vcc) or primary neutral to remote voltages (Vpm) attributed to the operation of the WECs. If corrections cannot be initiated within (5) five working days, the WECU (s) in question shall be shut down until the voltages in question are mitigated.

28.17.9 A copy of the test results shall be sent to the property owner SREC/NYSEG staff and the Planning and Development Department within (30) days of test completion.

§29. Abatement

29.1 All equipment associated with the WECUs will be removed and restore the site to its original condition at the end of the permit or when any WECUs deemed inoperable or unsafe. The restoration shall include removal of all materials above and below ground; road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECs. The restoration shall reflect the site-specific character including topography, vegetation, drainage and any unique environmental features and shall be completed within one year. The owner/operator shall incur all costs associated with implementing the removal and site restoration plan.

29.2 Liability Insurance: The Applicant, at the Applicant's expense, shall obtain and keep in force for the duration of the project, including any decommissioning period, commercial general liability insurance, with limits to be agreed upon between the Town and the Applicant, insuring the Town, its officers, elected and appointed officials and Property Owners against all liability for injury to or death of a person or persons or damage to property arising out of the construction, operation, modification or decommissioning of any WECF. The Applicant shall deliver copies of such policies or certificates evidencing such coverage and the payment of the annual premium therefore to the Town as a condition to the issuance of any building permit and shall cause any insurance company to agree to notify the Town at least Thirty (30) days prior to cancellation or a material change of such insurance. All policies shall be written on an "occurrence" basis, rather than a "claims made" basis and shall be subject to commercially reasonable deductible amounts, not to exceed $25,000 per occurrence. Said policies shall

further contain a provision stating that no act or omission of the Applicant will affect or limit the obligation of the insurer to pay on behalf of the Town. Such policies shall be in form and issued by companies reasonably satisfactory to the Town.

29.3 Decommissioning Fund: The Applicant shall provide financial security to ensure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and removal, remediation and site restoration. The Applicant shall remove all equipment associated with the WECUs and restore the site to its original condition at the end of the permit or when any WECUs deemed inoperable or unsafe. The restoration shall include removal of all materials above and below ground; road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECs. The restoration shall reflect the site-specific character including topography, vegetation, drainage and any unique environmental features and shall be completed within one year. The Applicant shall incur all costs associated with implementing the removal and site restoration plan.

29.3.1 The Applicant, or successors, shall continuously maintain a fund payable to the Town, in cash or other acceptable security as part of the decommissioning agreement for the period of the life of the facility. The funds must be capable of being made available. This fund shall be no less than 125% of the cost of full decommissioning, as provided by the Applicant and approved by the Town Board. No credit for salvage value shall be included. All decommissioning funding requirements shall be met prior to commencement of construction. The value of security shall be reviewed and/or updated based on current dollar cost estimates provided by the independent contractor or assessor, chosen by the town of Catlin Town Board, every three (3) years.

29.4 Decommissioning: Any WECF component required to be decommissioned hereunder or for which a permit issued pursuant to this Local Law has been revoked, shall be removed from the Site and the Site restored in compliance with the standards set forth in the Local Law within one hundred eighty (180) days of the date on which the WEF is required to be decommissioned pursuant a plan submitted to and approved by the Planning Board. If the Applicant fails to remove the WEF and restore the Site as aforesaid, the Applicant, by its acceptance of any permit issued pursuant to this Local Law, Authorizes the Town Board to contract for such removal and restoration and to pay for it out of the decommissioning fund described above. If the fund is insufficient, the Applicant shall be liable for all costs in excess of thereof.

ARTICLE V. MISCELLANEOUS

§30. FEES

30.1 Permit fees, host community payments, and escrow payments are in addition to application fees.

30.2 Wind Energy Permits. Non-refundable application fees shall be as follows:

30.2.1 Wind Energy Permit: $5 per kW of Name Plate Rating

30.2.2 Wind Energy Permit renewals: $100 per WECS

30.2.3 Wind Measurement Towers Permit: $200 per Tower

30.2.4 Wind Measurement Tower Permit renewals: $50 per Tower.

30.3. Building Permits. The Town believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be $250 per permit request for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. The Town and the Applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans.

30.4 Host Community Agreements. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into host community agreements with any Applicant to compensate the Town for expenses or impacts on the community. Unless otherwise agreed upon between the Town and the Applicant, the Wind Energy Permit Annual Fee shall be $8 per kilo-Watt of Name Plate Rating.

30.5 Escrow Agreement. The agreement required under Subsection 29(B) of this Article must be executed and funded before any application is deemed complete.

§31. ENFORCEMENT, PENALTIES AND REMEDIES FOR VIOLATIONS

31.1 Staff. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

31.2 Any person owning, controlling or managing any building, structure or land who shall construct or operate a Wind Energy Facility in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the Code Enforcement Officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $35,000 or to imprisonment for a period of not more than six months. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of $35,000 for each violation and each week said violation continues shall be deemed a separate violation.

31.3 In case of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

§32. TAX EXEMPTION

32.1 The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law Section 487, pursuant to the authority granted by paragraph 8 of that law.

§33. SEVERABILITY

33.1 Should any other section of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than that specific part so decided to be unconstitutional or invalid.

§ 35. EFFECTIVE DATE

35.1 This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

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Appendix:

Appendix A - The Phase II Stray Voltage Testing Protocol

Appendix B – Property Value Guarantee

Appendix A

The Phase II Stray Voltage Testing Protocol

Background:

The State of New York first investigated the concept of stray voltage (SV) in the early 1980's. The topic was relatively new to the country at that time, but many farm operators expressed a concern about the as-yet not well-documented effects of stray voltage. Many methods have been used over the intervening years to acquire electrical and other data relevant to the effects of small voltages and currents in animal confinement areas. Through a long and sometimes arduous process, basic scientific techniques of data acquisition were applied to the process of SV investigation. While stray voltage measurements have been taken on dairy farms for many years, the number, types, and interpretation of these measurements can vary greatly.

Depending on the investigator making the measurements, any number of different quantities can be recorded at different times of the day, using a wide variety of data acquisition equipment and using various protocols for the equipment's connection into the barn environment (for instance, the concern with the length of test leads was studied in 1996). As a result of these activities, the output of any specific measurement process may or may not generate the valuable or critical information needed for determining the character of the stray voltage present or its source. If the data is not collected with a minimum protocol that ensures its veracity, it should not be used to make economic decisions.

The following discussion is offered to outline a specific protocol for obtaining a coherent set of measurements which, when used together, should provide SV investigators with a method useful in determining the character, conditions, and source of any stray voltage present on single- or multiple-service dairy farms. This test protocol is routinely performed by investor-owned and other utilities prior to a visit by the SREC/NYSEG team.

As predecessor to the Phase II investigation, the Phase I investigation was developed for first-time visits by utility SV investigative personnel, dairy field-men, veterinarians, and other dairy trade allies to "spot-check" for possible stray voltage at a small number of cow contact areas. It is also used to assess the basic characteristics of the farm's electrical system and the utility distribution system in the vicinity of the farm.

The NYSPUC proposed a battery of tests for SV investigators whose goal is to determine the source of the stray voltage. The test set consists of a load box test, a secondary neutral test, and an equipment

signature test, as well as the basic procedure of setting the cow contact measuring points. One must also determine the source resistance for each such point and determine if any cow contact voltages can be found above the "level of concern”. The "level of concern" is defined as 2.0 milliamps, alternating current (AC), 60 Hertz (Hz), rms (root mean square), steady-state or 1.0 volt, AC, 60 Hz, rms, steady state across a 500-ohm resistor in the cow contact area1. The NYSPUC deems that this level of voltage/current is an amount of electricity where some form of mitigative action is taken on the farmer's behalf, although only some small percentage of cows may actually perceive its presence. The "level of concern" is not a damage level. Instead, it is a very conservative, pre-injury level, below the point where moderate avoidance behavior is likely to occur and well below where a cow's behavior or milk production would be harmed.

The “level of concern” refers only to the exposure of farm animals in a confinement area to electricity from off-farm or on farm electrical supply systems and not to any farm personnel in the same area. The “level of concern” is further broken down into two parts. The first part is a 1-milliamp contribution from the utility, at which level mitigative 1“Steady-state” is defined by the Institute of Electrical and Electronics Engineers (IEEE) as “the value of a current or voltage after all transients have decayed to a negligible value”. Action must be taken by that utility to reduce its contribution to below the 1-milliamp level. The second part is a 1-milliamp contribution from the farm system, at which the farmer should take level mitigative action.

Numerous studies at the University of Wisconsin and other quality research institutions have documented avoidance behaviors in the range of 3 to 6 milliamps of current flowing through the cow. This response assumes that the cow comes into contact with conductive objects that have different voltages and that this voltage difference causes sufficient current to flow through the cow. The exact methodology and the value of the data gathered by the aforementioned tests were not further explained in the docket nor were the techniques for analyzing the data.

Purpose and Form:

The Phase II protocol was developed to provide SV investigators with a tool to collect a reasonable set of data useful in the analysis of the quantity and “quality” of stray voltage that may be present under a variety of conditions, and the source of such stray voltage. The farm customer should expect that a written comprehensive SV investigation report be provided to him/her as the final result of a thorough investigation. It should contain reliable, scientifically derived numbers indicating where any significant levels of stray voltage were found on his/her farmstead and the physical mechanisms whereby those voltages arose. The utilities, in their ongoing mission to assist farm customers to the best of their ability, need to employ consistent testing methods applied by well-trained personnel.

With the Phase II protocol, farms may be inter-compared on a level playing field and test results from the same farm taken a number of times over a period of years may be compared against each other with some statistical confidence. Lastly, regulatory agencies, charged with collecting the utilities' test summaries, need to be assured that the data collection methodology was independent of the specific equipment used or the specific personnel performing the tests. Phase II testing is intended to determine AC, 60 Hz, rms, steady-state animal contact voltages on livestock farms. Unfortunately, some farms have

modified electrical system wiring so that it no longer meets the safe operating provisions of the National Electrical Code (NEC). In these cases, the NYSPUC advises utility personnel to critically assess their risk in beginning a SV investigation on such a farm. If the situation warrants, they may inform the farm customer that SV testing will not continue until the electrical system is brought into compliance with the NEC.

That code specifies the minimum wiring requirements for a safe electrical system. The PUC rules in effect for SV investigations refer strictly to the 60 Hz fundamental voltage or current and not to any harmonic content that may or may not be present in addition to the fundamental frequency.

Other electrical phenomena that are not specifically included in the PUC orders are medium frequency transients (>3 kHz) and RF-source transients (>500 kHz) induced from sources outside the distribution power system including currents in the earth. While these transients can be measured with the proper equipment, there is no defined “level of concern” for these phenomena in the PSCW dockets dealing with stray voltage. A study was conducted that concluded that “no credible scientific evidence supports the claim that currents in the earth or associated electrical parameters such as voltages, magnetic fields and electric fields, are causes of poor health and milk production in dairy herds.” Therefore, utilities have been specifically instructed by the PUC to monitor AC, rms, 60 Hz, steady-state cow contact voltages to properly determine animal exposure.

However, multiple electric service farms may require other specialized tests to be devised as needed. Each electrical service must be tested individually per the Phase II protocol. Load box testing is not affected by multiple service situations as long as each is tested independently. The stray voltage investigator needs an extensive knowledge of multi-service interactions to fully understand and interpret the data and to draw the proper conclusions. There have been rare instances where neighboring farms have influenced testing on the subject farm, both through the power system and other utility systems and through the earth. In some cases, a well-trained and experienced SV investigator can easily determine that a simple and solvable condition exists which obviates the direct need for the more extensive Phase II testing.

Appendix B

PROPERTY VALUE GUARANTEE AGREEMENT

This Property Value Guarantee Agreement (Agreement") made and entered into on this ___ day of _____ , by and between *(Insert Developer Corp. Name)*_____, having its principal offices at _____("Guarantor") and _____, residing at (Insert address)_____, NY (zip)_____, ("Property Owners").

RECITALS

WHEREAS, Property Owners own eligible Property as described herein ("Property"),that Property having the legal description as follows:

_____
_____
_____ .

WHEREAS, Guarantor has been granted approvals by Town of Catlin Ordinance No. _____ for the construction and operation of a Wind Energy Generation Facility consisting of up to #_____ turbines on properties located in Town of Catlin, Chemung County, NY ["Wind Energy Conversion Facility"];

WHEREAS, Guarantor desires to alleviate concerns and guarantee preservation of Property values of all Property located in proximity to the Wind Energy Conversion Facility, specifically within two (2) miles of any wind turbine (measured from furthest reach of turbine blades to the Property); and

WHEREAS, Guarantor desires to provide for either continued occupancy of existing residences by Property Owners or otherwise not financially impacting neighboring Property Owners as a result of the Wind Energy project; and

WHEREAS Property Owners are desirous of preserving equity in the Property, by ensuring that if the Property described herein is either diminished in value or sold at a price less than the ASKING PRICE as a result of proximity to the Wind Energy Conversion Facility, as determined by the procedures contained herein, the Guarantor will guarantee payment to the Property Owners of such difference; or if Property owner is unable to sell the Property following a reasonable marketing period, as defined herein, the Guarantor will guarantee payment to the Property Owners of the full Appraised value and purchase the Property, as defined herein.

WHEREFORE, GUARANTOR AND PROPERTY OWNER(S) HEREBY AGREE AS FOLLOWS:

1. EFFECTIVE DATE OF AGREEMENT.

This Agreement shall become effective and binding upon Guarantor when signed by both parties. Notwithstanding the foregoing, if an administrative agency or court of competent jurisdiction rules or holds that the approvals or permits issued by Town of Catlin for the Wind Energy Conversion Facility has been in excess of or in violation of said governmental body's authority or otherwise unlawful, and Guarantor has not constructed any of the wind turbines, then Guarantor's obligations under this Agreement shall be null and void. However, the construction of any or all of the proposed turbines shall render this agreement in full force and effect, and constitute the requirement of the Guarantor to fulfill all obligations to the Property owner, as defined herein.

2. ELIGIBILITY: EXERCISE OF GUARANTEE.

(a) Property that is within two (2) miles of the tip of a turbine blade that is part of the Wind Energy Conversion Facility is covered by this guarantee, from the date the Town of Catlin voted to approve

the Ordinance No,_____proving the Wind Energy Conversion Facility ("Ordinance Date"). Owners of such Property, who were owners of record as of the Ordinance Date ("Property Owners"), or their legitimate heirs or assigns as described in Paragraph 14, are eligible to exercise this guarantee. In the event that the Property Owners wish to sell their eligible Property, and exercise the guarantee set out in this Agreement, they shall notify Guarantor of same in writing by certified mail and thereafter they shall make a good faith effort to sell said Property by entering into a listing contract with a licensed real estate broker pursuant to the terms herein.

(b) Property Owners shall have a period of ten (10) years to invoke the terms of this agreement from the Ordinance date cited in paragraph 2.

3. QUALIFIED PROFESSIONAL APPRAISER.
For the purposes of this Agreement, a "qualified professional appraiser" shall mean a person who is licensed by the State of New York as a Certified General Appraiser or Licensed Residential Appraiser who:
(a) holds a valid New York license,

(b) has not been subject to any suspension or revocation of license for any prior disciplinary action regarding their New York License by New York licensing authorities or from any professional association to which Appraiser is a member or affiliated with, and

(c) has not been previously retained by the wind energy industry or any citizens or citizens' groups to opine in writing or in testimony as to wind energy projects effects on property values, hereafter deemed a "Qualified Professional Appraiser" (Appraiser),

(d) is not related to the Property Owners, is not an employee or prior contractor of Guarantor or its affiliates and does not otherwise have a business relationship with Guarantor or Property Owners, and

(e) who is a member of at least one national appraisal association that subscribes to the requirements of USPAP,

(f) has at least 5 years' experience in appraising and has worked within Chemung County and/or any surrounding Counties during that period.

(g) All appraisal reports shall conform to the Uniform Standards of Professional Appraisal Practice (USPAP), as required by law.

(h) The appraisal fee shall be paid in advance by the Guarantor to the Town of Catlin, for retention of the Appraiser by the Township Treasurer, who shall include a copy of this agreement to the Appraiser with the required fee, and a retention letter advising the Appraiser that the Township, as a neutral party, is retaining the Appraiser and they are instructed to be independent of any influence from either party to this agreement. Guarantor agrees to reimburse the Township for any services required of the Appraiser subsequent to delivery of the Appraisal Report, including but not limited to time expended responding to subpoena for testimony at deposition or trial.

4. AGREED TO ASKING PRICE.

The ASKING PRICE is the value of the Property at the time the Property Owner decides to sell, with Property Owner discretion to either increase or decrease the asking price by no more than 5% difference with the Appraised Value. The ASKING PRICE of the Property may, however, be mutually agreed to by the Property Owners and the Guarantor. The ASKING PRICE may be mutually amended by agreement of the Property Owners and Guarantor at any time, subject to agreement.

5. DETERMINATION OF ASKING PRICE BY APPRAISAL
If the parties are unable to agree on the ASKING PRICE of the Property prior to the Property Owner listing the Property for sale, then the Guarantor shall hire, at its expense, a second Appraiser and shall notify Property Owner of such Appraiser in writing with a resume or qualification summary for the Appraiser for review by the Property Owner. If the Property Owner objects to the Guarantor's choice of appraisers, it shall state those objections to Guarantor in writing within thirty (30) days of the notification of the choice of Appraiser. In the event Property Owner reasonably objects, the Guarantor shall choose another Appraiser, and proceed as described below. When a qualified professional appraiser is hired pursuant to this Paragraph 5, he or she shall be instructed to determine the market value which will become the ASKING PRICE, subject to Property Owner 5% discretion, of the Property as follows:

a. Assume that no wind energy Generation facility or utility scale wind turbine(s) are located within five (5) miles of the Property;

b. Utilize comparable sale data of property, developed as the Property was developed as of the Ordinance Date and located a minimum of five (5) miles distance away from the Wind Energy Conversion Facility, or further so that in the opinion of the appraiser the selling price of that comparable property was not influenced by the presence of the Wind Energy Conversion Facility or any other wind energy project;

c. Utilize a minimum of three (3) comparable sale property, located approximately the same distance from major population centers so that in the opinion of the appraiser the selling price of the comparable property was not influenced by its closer or more distant proximity to new or existing population or employment centers.

d. Establish the market value which is based upon the Property as developed on the Appraisal inspection date, with consideration of any normal or typical maintenance, repairs or additions made during the effective term of this agreement; or improvements on vacant land.

e. Prepare a written narrative appraisal or residential form report supplemented as needed with written descriptions, analysis or comments, and which conforms to the requirements of USPAP: if vacant land or agriculture, provide a narrative on the effects on the property value.

f. Prepare the appraisal in full compliance with any and all state standards and state regulations which pertain to the preparation of an appraisal of the Property except those standards and regulations which conflict with these instructions; and

g. The appraiser shall note the condition of the premises, both interior and exterior, at the time of the appraisal.

If Property Owner and Guarantor accept the appraised value, then such value shall constitute the ASKING PRICE, and the Property Owners shall offer the above-described Property for sale at no less or more than a 5% difference with that price. If either the Property Owner or the Guarantor does not accept the appraised value, the non-accepting party may retain a second qualified professional Appraiser, of its choice, who shall not be made aware of the first appraised value and who shall determine the market value of the above-described Property on the basis of Paragraph 5(a) through (g) above.
If both parties do not accept the original appraisal, they shall agree to the second qualified professional Appraiser and Guarantor shall pay the costs. In the event a second Appraisal is obtained pursuant to this paragraph and is within ten percent (10%) of the first Appraisal, the ASKING PRICE shall be the arithmetic average of the original appraised value and the second appraised value, unless the Guarantor or the Property Owner is unsatisfied with such Appraisal with specific reason(s) given in writing for disagreement with the Appraised value. In such event, the first two appraisers shall be instructed to agree on a third qualified professional Appraiser, at the sole expense of the Guarantor or the Property Owner, whichever is unsatisfied, unless both parties are unsatisfied in which case the expense shall be equally shared, and who shall not be made aware of either the first or second appraised values, and who shall determine the market value of the Property on the basis of Paragraph 5 (a) through (g) above. The ASKING PRICE will then be the arithmetic average of the three appraised values if the lowest value is no more than fifteen percent (15%) lower than the highest appraised value. If the fifteen percent (15%) range is exceeded, the third Appraisal shall conclusively determine the ASKING PRICE for the purpose of this Agreement.

6. LISTING WITH BROKER.
Property Owners shall utilize the services of a real estate broker/agent who shall be licensed in New York, is not financially affiliated with or related to the Appraiser, shall not be immediately related to the Property Owners or Guarantor as determined by being related no closer than second cousins and/or any history of sharing the same residence, and shall be a member of the Board of Realtors' Multiple Listing Service or Exchange (Broker), unless these requirements are waived by the Guarantor upon the request of a Property Owner.
Property Owners shall give Guarantor notice of the Broker with whom they wish to contract and shall obtain Guarantor's approval of said Broker within five (5) business days of written notice to Guarantor that Broker meets the no-relation requirement. Guarantor will not unreasonably withhold such approval and will confirm no relationship with Broker to the Property Owner. If the Guarantor objects to the Property Owners' choice of Broker, it shall state those objections, in writing to Property Owners. In the event Guarantor reasonably objects, the Property Owners shall choose another Broker, and proceed as described above.
As sellers of the Property, Property Owners shall be responsible for the Brokerage Commission

or fee UNLESS the Property is purchased by Guarantor pursuant to Guarantor purchase of the Property after 180 days as provided for herein. Nothing herein shall prevent the Property Owner from selling the Property at a value higher than the ASKING PRICE as determined herein.

7. TERM OF LISTING.

Property Owners shall list the Property, at the ASKING PRICE as determined in Paragraphs 4, 5 and 6, or at a higher value if agreed by Guarantor. During the listing term, Property Owners shall accept any offer to purchase for the ASKING PRICE that is a bona-fide offer to purchase by a qualified buyer with a valid loan commitment or buyer otherwise acceptable to the Guarantor, provided that normal mortgage contingencies have been met or satisfied by buyer or waived by Property Owner and any home inspection contingency has been satisfied or waived by Property Owner.
Said listing contract shall provide:
(a) that the Broker shall list the Property in the multiple listing exchange;
(b) that the Property will be so listed until the occurrence of either the
(i) closed sale of the Property or
(ii) expiration of a period of 180 days;
(c) that the broker shall not be entitled to any commission after the expiration of the listing contract.
The Property Owners shall cooperate with the Broker in obtaining a purchaser pursuant to the terms set forth in the listing agreement and shall make, in good faith, all reasonable efforts necessary to conclude a sale pursuant to the said terms. However, this shall not be construed as a requirement that Property Owner conceals their own experience with living in the Property, inclusive of any audible or inaudible noise effect emanating from the wind turbines

8. OFFERS TO PURCHASE.
Property Owners shall provide the Guarantor with written notification of every written contract or Offer to Purchase that they receive for the Property and agree, for a period of 180 days, not to accept any offer below the ASKING PRICE without the express and written approval of the Guarantor, provided that Guarantor responds within twenty four (24) hours of Notice from Property Owner. In no event shall the Property Owners entertain anything other than good faith, bona fide offers of purchase.

9. GUARANTOR'S CONSENT TO PURCHASE.
Guarantor shall have the right to make a non-contingent counter offer(s) on any offers of purchase which are more than 5% below the ASKING PRICE, said counter offer to be tendered to the purchaser within twenty four (24) hours of notification by the Property Owner of the offer of purchase. In the event the buyer accepts or meets any such counteroffer made or requested by the Guarantor, or in the event the Guarantor otherwise consents to a sale of the Property more than 5% below the ASKING PRICE, the Guarantor shall pay the Property Owners, at closing, the difference between the ASKING PRICE and the sale price so established.

10. SALE WITHOUT GUARANTOR CONSENT.
If the Property Owners have not received an offer of purchase at the ASKING PRICE within 180 days of listing the Property for sale, or the Guarantor has not consented to the sale of the Property below the ASKING PRICE, the Property Owners may sell the Property at the highest offer of purchase still pending or at the next good faith bona fide offer to purchase. It shall notify the Guarantor, in writing, of its intention to accept such offer.

11. PROPERTY OWNER'S CLAIM.
(a) If the Property has sold for less than the ASKING PRICE, as determined herein, and Property Owner believes that the reason for such lowered value is because of the Wind Energy Conversion Facility's proximity to the Property, Property Owner shall make a claim to the Guarantor, requesting

payment for the difference between the ASKING PRICE and the sales price. Within thirty (30) days of such request, Guarantor shall pay the Property Owner the difference unless Guarantor, within that time, has demonstrated that the sale is not a bona-fide transaction.
(b) If the Property Owner has not received an offer of purchase at the ASKING PRICE after 180 days of listing the Property for sale, Guarantor shall, within thirty (30) days of notification in writing, purchase the Property for the ASKING PRICE, unless Guarantor, within that time, has demonstrated conclusively that Property Owner did not reasonably cooperate with the terms of a bona-fide sale contract.
~~(c) If the Property has not sold within 180 days of the Listing agreement, and Guarantor provides Multiple Listing Service statistics that demonstrate a median Marketing Time for all Chemung County and adjacent jurisdiction residential properties is in excess of 180 days, as of the original Listing date, then Guarantor has the option of notifying the Property Owner that they must extend the Listing or enter into a separate listing agreement with a new Broker for a period of 180 days. If the extended Listing option pursuant to paragraph 11(c) does not result in a bona-fide sale agreement within the second (2nd) 180 day Listing term, then Guarantor must abide by the terms of paragraph 11(b) and buy the Property for an increased price as determined by the Appraised Value plus the most recent Consumer Price Index (CPI) multiplied by 150%.~~

12. AGRICULTURAL LAND.
This agreement requires payment by the Guarantor to any non-participating agricultural land owners with Property located within 2 miles of the Wind Energy Conversion Facility, on the basis of increased costs, if any, resulting from AG property owners loss of aerial spraying services, provided that:
(a) Ag Property owner has utilized aerial spraying services for at least 1 of the last 5 years during crop seasons;
(b) aerial spraying services either decline to continue service to the Ag Property in question as a direct result of pilot safety concerns from wind turbine structures or increase the cost of services to the Ag Property in question;
(c) lower lease rates are agreed between Ag Property owner and tenant farmer as a result of tenant farmers increased costs described in paragraph 12 (a) and/or (b).
Cost increases and Ag Property Owner compensation shall be based on either the actual cost increase for continued use of aerial spraying services active in Chemung County or the actual contracted 3rd party cost of alternative application of AG chemicals minus the last documented cost for aerial application of AG chemicals. Guarantor shall be provided documented cost differences as soon as practical after costs are incurred by the Ag Property Owner, and shall submit payment to Ag Property Owner within 60 days of notice by Ag property Owner. However, Guarantor shall have the right to have cost information reviewed by an independent auditor during the 60 day period, and if payment due the Ag Property Owner is disputed by Guarantor, they shall have the right to submit the payment claims to arbitration in Chemung County, NY.

13. TERMINATION OF GUARANTOR'S OBLIGATIONS.
This Agreement shall terminate and Guarantor shall have no obligation to guarantee the Property value or purchase price once any wind turbines located within two (2) miles of the Property are decommissioned and demolished and operations at the Wind Energy Facility have been permanently terminated as the result of any corporate decision, order, judgment, or decree issued by a federal, state, or local agency, court, or unit of government having jurisdiction under administrative code, statute, law, or ordinances.

14. PROPERTY OWNER OPTION AND ALTERNATIVE TO RELOCATION.
In the event that any Property Owner elects to remain in their home and not relocate pursuant to the preceding terms and conditions of the Property Value Guarantee, Property Owners located in the footprint or within one (1) mile of the perimeter of the footprint shall notify Guarantor within 3 years of commencement of operations of the Wind Energy Project that they are exercising their option under paragraph 14, and shall be compensated by the developer in a cash amount equal to 25% of the Appraised Value, as set forth in paragraph 5 of this agreement.
Property Owners located between one (1) mile and two (2) miles of said footprint perimeter shall have 3 years to exercise the paragraph 14 option, and compensation shall be equal to 15% of the Appraised Value, as set forth in paragraph 5 of this agreement.
Any exercise of the paragraph 14 Property Owner Option and payment to Property Owner by Guarantor shall constitute a full waiver and release of any future property value diminution claim or right to sell to the Guarantor as otherwise provided for in this agreement.

15. ASSIGNMENT OR TRANSFER.
Neither this Agreement nor the rights under it may be assigned, conveyed, or otherwise transferred by Property Owners. The guarantee given by Guarantor to guarantee the Property value and to purchase the Property is personal, and does not run with the land; however, said Agreement shall inure to the benefit of the Property Owners, their personal representatives, trustees, guardians, custodians or their heirs; but, in all events, shall terminate after any closed sale of the Property.

16. APPLICATION OF LAW DISPUTES. This Agreement shall be construed consistent with law in the State of New York. Disputes concerning the application or terms of this Agreement shall be subject to the circuit court jurisdiction of Chemung County.

17. SEVERABILITY
If any term or provision of this agreement is held to be invalid, void or otherwise unenforceable by any court or arbitration panel of competent jurisdiction, then the same shall not affect the validity or enforceability of any other term or provision hereof, the terms and provisions hereof being severable.

GUARANTOR:
By _____
_____
Name Title Date
PROPERTY OWNERS:
By _____
_____
Name Date
Sworn to and subscribed before me, a notary public, this ___ day of _____, 20
Notary Public