

Bluestone Wind Project

Case No. 16-F-0559

1001.31 Exhibit 31

Local Laws and Ordinances

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EXHIBIT 31 LOCAL LAWS AND ORDINANCES

Throughout the pre-application development phase of the Facility, the Applicant has been in consultation with the municipalities whose requirements are the subject of this Exhibit to determine whether all such requirements have been correctly identified. The Facility is in the Towns of Windsor and Sanford in Broome County. When the Applicant submitted the Preliminary Scoping Statement (PSS) the Applicant identified a list of local ordinances, laws, resolutions, regulations, standards or other requirements applicable to the construction or operation of the Facility. The Towns subsequently submitted comments on the Applicant's PSS identifying additional local laws that they believed could apply to the construction or operation of the Facility. Following receipt of the Town's comments on the PSS, the Applicant met with the Towns in December 2017, February 2017 and again in May 2018 to review the local laws and determine which laws were indeed applicable to the construction or operation of the Facility. As outlined below, some laws identified by the Towns in their PSS comments were determined to not be applicable while others were added to the list. As a result of these consultations, the Applicant and the Towns of Sanford and Windsor entered into stipulations identifying the applicable requirements of the local laws and the Applicant has taken the applicable laws identified in the stipulations into consideration in the design of the Facility. The Applicant has designed the proposed Facility to obviate the need for any waivers of substantive local requirements.

The Town of Sanford has adopted a wind energy law as part of its local land use law. In addition, the Towns of Windsor and Sanford have adopted various local laws relating to flood protection, driveway design, zoning and other matters. These laws would apply to the Facility but for the passage of Article 10 of the New York Public Service Law (PSL), which supplants the procedural requirements of these local laws. It is the intent of the Applicant to comply with the substantive provisions of the local wind energy law and other applicable laws. In addition, the stipulations executed between the Applicant and the Towns further clarify applicable local laws and the Towns' intent to apply those laws to the Facility. For example, the stipulations recognize that the Town of Sanford's wind energy law supersedes its other general local zoning law, for example, bulk restrictions and height limitations, as it applies to the Facility. (See Appendix NNN for copies of local laws.) In addition, both Towns have adopted laws/standards regulating highway use. These road-related requirements/standards will be incorporated into RUAs, as appropriate.

The only Facility component requiring water/wastewater service is the operation and maintenance (O&M) building. However, it is not anticipated that any off-site interconnections will be needed because the O&M building will utilize on-site water sources (e.g., drinking water well) and wastewater treatment facilities (i.e., an individual septic system). Thus, at this time, no permits or approvals related to drinking water or wastewater interconnection are required from the Town of Sanford, where the O&M building will be located.

In Broome County, as in much of New York State, zoning authority is held by towns, villages and cities. Broome County does not have any applicable laws, ordinances, regulations, standards or other requirements directly applicable to the construction or operation of the Facility other than a law requiring a special hauling permit for certain overweight/oversized vehicles, and general provisions governing solid waste disposal. As discussed in section (b) below, to the extent that Broome County requires highway work permits and/or road use agreements (RUAs), the Applicant is requesting that the Siting Board expressly authorize the County to issue such permits.

(a) List of Applicable Local Ordinances and Laws of a Procedural Nature

Article 10 requires major electric generating facilities in New York State to be reviewed in a unified state-siting proceeding instead of requiring a developer to apply for numerous State and local permits. The Applicant, with the assistance and input of the local communities in which the proposed Facility is located, compiled a list of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature that would otherwise be required for the construction or operation of the proposed Facility and interconnection and stipulated to the applicable laws with the Towns. The local procedural requirements listed below are supplanted by PSL Article 10 unless the Siting Board expressly authorizes the exercise of the procedural requirement by the local municipality or agency. Copies of these local laws are included as Appendix NNN.

Town of Windsor (Windsor Town Code)

- Chapter 43, Prohibiting the Deposit and/or Tracking of Certain Material onto Town Highways and Streets
 - § 43-4 Enforcement and Penalties
- Chapter 49, Property Maintenance Code
 - Procedural only. Addresses enforcement of Property Maintenance Code. Contains no substantive provision
- Chapter 50, Fire Prevention
 - Per version on Town website, Chapter 50 was replaced by Local Law #3-2006, which enacted Chapter 53, Uniform Fire Prevention and Building Codes
- Chapter 51, Flood Damage Prevention

Note: In their PSS comments, the Town of Windsor identified Chapter 51 as potentially applicable. However, the size of the Facility Site has been reduced since the PSS and no Federal Emergency Management Agency (FEMA) designated Special Flood Hazard Areas (SFHAs) are now located within it (as per FEMA's Flood Insurance Rate Map [FIRM] for Broome County, dated February 5, 2010, see Figure 4-7). Therefore, according to § 51-5 and § 51-6 of this chapter, Chapter 51 does not apply to this Facility.

- Chapter 53, NYS Uniform Fire Prevention and Building Codes
- Chapter 68, Noise Control

Note: As agreed in discussions with the Town of Windsor, Chapter 68 does not apply to Article 10 facilities like the Bluestone Wind Project per § 68-9. Therefore, although this chapter was identified in the PSS, this Facility is exempt.

- Chapter 93, Zoning
 - § 92-21, -21.1 and -21.2 Commercial Site Plan Review
 - § 92-29, -29.1 and -29.2 Industrial Site Plan Review
 - § 93-44 Building Permits
 - § 93-45 Certificate of Occupancy/Compliance
 - § 93-47(B) and (C) Variances and Special Permits
 - § 93-48 Procedures
 - Article XI Special Use Permits
 - § 93-56 Development Plan
 - § 93-61 Penalties

Note: In their PSS comments, the Town of Windsor identified § 93-53, § 93-54, and § 93-55 of this chapter as potentially applicable. These sections are specific to Flood Hazard Districts within the Town of Windsor. Section 93-4 of this Chapter defines a Flood Hazard District as “[a]ll that land adjacent to a body of water which has been or may be hereafter covered by a flood having an average frequency of occurrence in the order of once in one hundred (100) years...” This definition is synonymous with FEMA’s definition of a SFHA. It follows that, as no SFHAs are found within the Facility Site (see notes on Chapter 51 above), these sections of the Town Code do not apply to this Facility.

Town of Sanford

Sanford Local Laws 1 and 2 of 2017 on renewable energy systems, including wind energy conversion systems (WECS)

- Article XIV, Section 1402.2(B) Site Plan Approval and Special Use Permit Required
- Article XIV, Section 1402.3 Special Permits
- Article XIV, Section 1402.4 Application Requirements
- Article XIV, Section 1402.5(F)(1) Viewshed Studies
- Article XIX, Section 1402.5(F)(4) Bird/Bat Migration Studies
- Article XIV, Section 1402.5(G)(2) Ownership Changes
- Article XIV, Section 1402.5(G)(3) Modifications

- Article XIV, Section 1402.5(H) Certifications
- Article XIV, Section 1402.5(I) Public Hearing
- Article XIV, Section 1402.6 Abandonment of Use
- Article XIV, Section 1402.7 Wind Measurement Towers [post-Certification]
- Article XIV, Section 1406 Additional Requirements for Special Permits

Local Law No. 1 of the year 2012 A Local Law of the Town of Sanford Regulating Driveway Design Standards

- Section 6 Application for Driveway Building Permits
- Section 8 Certificates of Insurance
- Section 9 Maintenance Bond and Letter of Credit
- Section 10 Indemnity and Save Harmless
- Section 14 Penalties

Note: This local law was not identified in the PSS but was added to the Application based on consultations with the Town of Sanford.

Local Law No. 2 of the year 2008 A Local Law of the Town of Sanford Regulating Excavations in Streets and Highways Within the Town and Prohibiting Certain Types of Vehicles

- Section 2 Obstructions
- Section 3 Excavations
- Section 7 Certificates of Insurance
- Section 8 Maintenance Bond and Letter of Credit
- Section 9 Indemnity and Save Harmless
- Section 10 Exceptions
- Section 15 Penalties

Note: This local law was not identified in the PSS but was added to the Application based on consultations with the Town of Sanford.

Local Law No. 2 of the year 2011 A Local Law entitled Town of Sanford Road Preservation Law

- Section 5 Permanent Weight Restriction and Truck Route
- Section 6 Requirement that a Vehicle Permit be Obtained by High Frequency Truck Traffic
- Section 7 Permit Issuing Authority and Enforcement Authority
- Section 8 Application and Permit Form
- Section 9 Alternative to Permit: Road Use Agreement

- Section 11 Insurance
- Section 12 Maintenance Bond and Letter of Credit
- Section 13 Indemnity and Save Harmless
- Section 15 Stop Work Orders
- Section 16 Revocation of Permit
- Section 17 Special Conditions and Exclusions
- Section 18 Violation of Local Law; Penalties
- Section 20 Escrow
- Section 21 Request for a Waiver

Note: This local law was not identified in the PSS but was added to the Application based on consultations with the Town of Sanford.

Local Law #5 of the year 2006 A Local Law of the Town of Sanford Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code

- Procedural requirements only. No substantive provisions.

The Town of Sanford also identified Local #1 of 1992 as amended and Local Law # 1 of 2016 as potentially applicable to the construction and operation of the Facility. Local Law #1 of 2016 is the Town of Sanford's local law to opt-out of Section 487 and is not applicable to the construction or operation of the Facility. Local Law #1 of 1992 as amended is the Town of Sanford's Land Use Management Law which was amended in 2017 by the Town's "Renewable Energy Systems" law, which is identified as applicable.

Broome County

Local Law No. 4 of 2010 A Local Law Creating Chapter 100 of the Broome County Charter and Code Providing that a Special Hauling Permit Shall Be Required for Use of County Roads by Certain Vehicles that Exceed the Weight or Dimensional Limits in Section 385 of the Vehicle and Traffic Law of the State of New York

- Chapter 100-2. Permit Requirement
- Chapter 100-3. Application Form
- Chapter 100-4. Permit Form
- Chapter 100-5. Insurance
- Chapter 100-7. Indemnity and Save Harmless
- Chapter 100-8. Stop Work Orders
- Chapter 100-9. Revocation of Permit

- Chapter 100-10. Special Conditions and Exclusions.
- Chapter 100-11. Violation of Local Law; Penalties

Broome County Sanitary Code Article IV Sewage Disposal and Water Supply

- Section 305-15 Sewage disposal systems; prohibited discharged
- Section 305-16 Approval required for sewage disposal system
- Section 305-17 Approval required for private water supply

(b) Local Procedural Requirements Requiring Board Authorization

The Applicant requests the Board expressly authorize the County of Broome to exercise their procedural requirements under Article IV of the Sanitary Code. The Applicant requests that the County retain this authority because the timing of the submittal of this Application and the timing of the design and construction of the sewage and well system for the O&M Building is such that the Applicant will not have the permit information needed to provide to the Board in this Application. This information will be prepared once the final location for the O&M building is identified prior to commencement of construction. The Applicant will work with the County to follow all of their procedural and substantive requirements for the permitting of sewage and water. The Applicant is not proposing large interconnections and does not anticipate the need for new municipal systems for the number of employees anticipated to work at the O&M building. Regulation of sewage and well systems is primarily an issue of local concern, are routine matters and ministerial in nature provided the Applicant meets the applicable standards. Therefore, rather than have the Siting Board reach a decision on this matter, it is more appropriate for the County to issue local sewer and water permits as needed.

In the Stipulations executed in connection with the proposed Facility, the Applicant agreed to request from the Siting Board that Broome County and the Towns of Sanford and Windsor be expressly authorized to apply existing local regulations related to highway work permits, special haul permits for oversized/overweight vehicles, maintenance and road preservation laws, local road construction standards, and other local laws applicable to use of, and construction in or near, county-owned/town-owned roadways during construction and/or operation of the Facility. This authorization would allow the Towns and/or the County to either impose existing permitting requirements and local ordinances or enter into RUAs, which would apply to the Facility in lieu of highway work permit applications and the application of substantive road use and maintenance laws. Therefore, to the extent that Broome County and the Towns of Windsor and Sanford have such road-use related local laws, the Applicant hereby requests the Siting Board authorization for local oversight of those ministerial approvals, which are matters of primarily local concern, to the extent they are applicable to this Project.

Exhibit 25 outlines the different types of permitting that may be required for work performed on local roads and provides more specific information on these issues. However, for purposes of providing information on applicable local laws and ordinances, the Applicant has identified the following provisions which would fall under this category of authorized local laws pertaining to work in/on, or use of Town or County roadways:

Town of Windsor

- Chapter 43, Prohibiting the Deposit and/or Tracking of Certain Materials onto Town Highways and Streets

Town of Sanford

- Local Law No. 2 of the year 2008 A Local Law of the Town of Sanford Regulating Excavations in Streets and Highways within the Town and Prohibiting Certain Types of Vehicles.
- Local Law No. 2 of the year 2011 A Local Law entitled Town of Sanford Road Preservation Law

Broome County

- Local Law No. 4 of 2010 A Local Law Creating Chapter 100 of the Broome County Charter and Code Providing that a Special Hauling Permit Shall Be Required for Use of County Roads by Certain Vehicles that Exceed the Weight or Dimensional Limits in Section 385 of the Vehicle and Traffic Law of the State of New York

As noted in Exhibit 25, the timing of the issuance of these highway work and special haul permits is such that the Applicant will not have the information needed to provide to the Board in this Application. These permits are often obtained by the Balance of Plant (BOP) contractor immediately prior to construction of the facility. The Applicant will work with the County and Towns to follow all their procedural and substantive requirements for the permitting of highway work permits and special haul permits. Highway work and similar road permits are primarily an issue of local concern and ministerial in nature provided the Applicant meets the applicable standards. In addition, the Applicant, the County, and the Towns have discussed terms for a RUA regarding the Applicant's obligations with respect to road use and repair.

There are no other procedural requirements that the Applicant requests that the Board expressly authorize.

(c) Identification of Municipal Agency Qualified to Review and Approve Building Permits

The Towns of Windsor and Sanford are qualified by the New York State Secretary of State to review and approve building plans, inspect construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, and the Energy Conservation Code of New York State.

Due to the complex nature of the Facility, the Applicant will arrange with the Towns to pay for consultant services for the review, approval, inspection and compliance certification of work required to comply with the New York State Uniform Fire Prevention and Building Codes and the Energy Conservation Code of New York State.¹ For a wind powered electric generating facility, typically, this work is limited to turbine foundations and the O&M building.

Based on consultations with the Towns and discussions regarding a potential agreement, the Towns will engage the services of a qualified independent engineer or engineering firm (the "On-Site Monitor") who will be responsible for: (a) reviewing the building plans for the Facility, (b) recommending approval of building plans to the Applicant, (c) assisting the Town codes enforcement officer or any of the representatives of the Town with inspecting the Applicant's compliance with the New York State Uniform Fire Prevention and Building Code, and (d) certifying such compliance, which will be evidenced by the issuance of Certificates of Completion and Temporary Certificates of Completion.

The names and addresses of the Town Code Enforcement Officer for Windsor and Sanford are set forth below:

Town of Windsor

David Brown

124 Main Street

Windsor, NY 13865

Tel. (607) 655-3118

Fax (607) 655-2027

windsorcode@echoes.net

Town of Sanford

Walter Ottens

2447 Old Route 17

Windsor, NY 13865

Tel. (607) 467-5093

¹ The New York State Department of State (NYSDOS) has stated that the Building Code of New York State does not regulate wind generators or free-standing communication towers. See NYSDOS, Division of Code Enforcement and Administration, Technical Bulletin January 1, 2003, Communication Towers, Cellular Towers and Wind Generators.

(d) List of Applicable Local Ordinances and Laws of a Substantive Nature

In consultation with the Towns, the Applicant has compiled the following list of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed Facility and interconnection. The location of the proposed Facility will conform to all such local substantive requirements. See Appendix NNN for copies of potentially applicable local laws. Floodplain and similar maps, tables and/or similar documents can be found in Figure 4-7.

Standard turbine setbacks that comply with the Town of Sanford's wind energy law will be applied to both municipalities in which the Facility will be located. Further discussion of the proposed turbine setbacks is included in Exhibit 6 of the Application.

The local laws containing substantive provisions which have been applied to the design of the Facility or are otherwise applicable are set forth below for each Town.

Town of Windsor (Windsor Town Code)

- Chapter 43, Prohibiting the Deposit and/or Tracking of Certain Material Onto Town Highways and Streets
 - § 43-3 Activities Prohibited
- Chapter 51, Flood Damage Prevention

Note: As discussed in Section (a) above, Chapter 51 does not apply to the proposed Facility.

- Chapter 68, Noise Control (as amended in 2016)

Note: As discussed in Section (a) above, the Town of Windsor agrees that Chapter 68-9 exempts the Facility from the Town's Noise Code.

- Chapter 93, Zoning
 - § 93-5 (A) Application of Regulations

Permitted Principal and Accessory Uses in Zoning Districts: 93-17 and -18 (A Agricultural) Note: The Town of Windsor agrees that because Facility components are only proposed in the A Agricultural District that the Facility is a permitted use and the height limitations for other zoning districts do not apply in the A Agricultural District. See Appendix OOO for a letter from the Windsor Code Enforcement Officer.
 - Lot Size and Area Restrictions in Zoning Districts: 93-19 through 93-20 (A)
 - As discussed in Section (a) above, Sections 93-52, 93-54 and 93-55 do not apply to the proposed Facility.

Town of Sanford

Sanford Laws 1 and 2 of 2017 on renewable energy systems

- Article IV Use Schedules
- Article XIV, Section 1402.2(B) Commercial WECS permitted as indicated in Schedule of Regulations in Section 403
- Article XIV, Section 1402.5(A)(1)-(5), (B)-(F)(3), (G) Standards for Design
- Article XIV, Section 1402.7(C)(1)-(4) Standards for Wind Measurement Towers

Local Law No. 1 of the year 2012 A Local Law of the Town of Sanford Regulating Driveway Design Standards

- Section 3 Design Standards
- Section 4 Construction Specifications (excluding Section 4.3)
- Section 5 Maintenance
- Section 6(6) Debris

Local Law No. 2 of the year 2008 A Local Law of the Town of Sanford Regulating Excavations in Streets and Highways Within the Town and Prohibiting Certain Types of Vehicles

- Section 4 Damages
- Section 5 Restoration
- Section 6 Guarding of Excavations
- Section 11 Uses Prohibited

Local Law No. 2 of the year 2011 A Local Law entitled Town of Sanford Road Preservation Law

- Section 10 Damage to Town Roads

Broome County

Local Law No. 4 of 2010 A Local Law Creating Chapter 100 of the Broome County Charter and Code Providing that a Special Hauling Permit Shall Be Required for Use of County Roads by Certain Vehicles that Exceed the Weight or Dimensional Limits in Section 385 of the Vehicle and Traffic Law of the State of New York

- Chapter 100-5. Damage to County Roads

In addition, Broome County has enacted extensive laws governing management and disposal of solid waste, some of which may be applicable to the Facility during construction and operation. Broome County Administration Legislation, Chapter 317 Solid Waste.

Maps of existing and proposed zoning districts, specially designated areas, and recreational and other sensitive land uses within a 5-mile radius of the Facility can be found in Exhibit 4 (Figures 4-1, 4-5, 4-7, and 4-8).

(e) List of Substantive Local Ordinances/Laws that the Applicant Requests the Board Not Apply

At this time, the Applicant intends to comply with all the substantive requirements listed above. Therefore, the Applicant is not requesting that the Siting Board rule any provisions of local law are unreasonably burdensome in view of the existing technology, practicable implementation of the Facility, or the needs of or costs to ratepayers whether located inside or outside of such municipality.

(f) List of Procedural Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

The Facility will not be connecting to any water, sewer, telecommunication or steam lines in public rights of ways. As previously noted, the Facility's O&M building will be served by individual water and septic systems. No new off-site telecommunications lines or steam lines will be required for the Facility. Therefore, the Applicant has not identified any local ordinances, laws, resolutions, regulations, standards or other requirements of a procedural nature applicable to interconnection-related use of water, sewer, telecommunication and steam lines in public rights of way associated with the Facility.

(g) List of Substantive Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

As discussed in Section (f) above, the Facility will not be connecting to any water, sewer, telecommunication or steam lines in public rights of ways. Therefore, the Applicant has not identified any local ordinances, laws, resolutions, regulations, standards or other requirements of a substantive nature applicable to the interconnection-related use of water, sewer, telecommunication and steam lines in public rights of way associated with the Facility.

(h) Local Ordinances/Laws Related to Use of Water/Sewer that the Applicant Requests the Board Not Apply

The Applicant does not request that the Siting Board elect not to apply any of the procedural or substantive requirements under subdivision (f) and (g) because there are no applicable provisions.

(i) Summary Table of Substantive Local Requirements

The below table provides a list of all applicable substantive requirements to the Facility as well as a description of how the Applicant plans to meet compliance.

Table 31-1: List of Applicable Substantive Requirements to the Facility and Anticipated Degree of Compliance

Substantive Provision	Degree of Compliance
Town of Windsor	
Windsor Town Code	
<u>Chapter 43, Prohibiting the Deposit and/or Tracking of Certain Material Onto Town Highways and Streets</u>	
<u>§ 43-3 Activities Prohibited</u>	
<p>No person, firm or corporation shall deposit or track debris as defined herein onto any Town street or highway. Where such debris is tracked or deposited onto any Town street or highway adjoining or adjacent to any site or location where,</p> <ul style="list-style-type: none"> a. building or construction operations; b. the laying of water or sewer lines or other utility installations; c. logging or foresting operations; d. oil and/or gas operations; e. the transportation or excavation of soil, stones, building materials or debris; f. the transportation of manure, garbage, waste, junk, and/or like materials/substances; and/or g. or other similar activity; <p>are being conducted, or adjacent to a driveway, easement or right-of-way directly connecting to any such site or location where any of the above operations or activities are being conducted, it shall be presumed that the person, firm or corporation engaged in said activities or operations is the person, firm or corporation who deposited or tracked said debris onto such Town street or highway.</p>	<p>Provision noted. The Applicant will enter into a Road Use Agreement with the Town of Windsor and will comply with all local substantive provisions related to road use.</p>
<u>Chapter 93, Zoning</u>	
<u>§ 93-5 (A) Application of Regulations</u>	
<p>Accept (sic) as herein provided:</p> <p>A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered externally except in conformity with the regulations set forth for the district in which it is located.</p>	<p>Provision noted. Facility components in the Town of Windsor are located wholly within the Agricultural (A) District.</p>
<p>B. Any parcel of land with an area or a width less than</p>	<p>Provision noted.</p>

that prescribed for a lot in the district in which such lot is located, which at the time of the adoption of this chapter was under one (1) ownership, and when the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the district without obtaining a variance from the Zoning Board of Appeals, provided that all other regulations prescribed for the district by this chapter shall be complied with.	
Permitted Principal and Accessory Uses in A Zoning Districts:	
93-17 Permitted Principal Uses. The following are permitted principal uses in the A Agriculture Districts: R. Electrical distribution substations and other public utility structures.	Provision noted.
93-18 Permitted Accessory Uses B. No advertising signs shall be erected or maintained in any "A" Agriculture District.	The Facility has been designed to comply with this requirement.
Lot Size and Area Restrictions in A Zoning Districts:	
§ 93-19. Lot area and width. No principal building shall be erected on a lot of an area less than fourteen thousand (14,000) square feet and having a width of less than ninety (90) feet.	The Facility has been designed to comply with this requirement. Note that there are no limits on the height of structures in A Districts.
§ 93-20. Yard requirements. A. Yards and other open spaces shall be provided and maintained not less than prescribed below: (1) Front yard: thirty-five (35) feet. (2) Side yard: ten (10) feet, each of two (2) required. (3) Rear yard: thirty (30) feet. B. Accessory buildings shall not be permitted in front of a principal building or closer than three (3) feet to any property line.	The Facility has been designed to comply with this requirement.
Town of Sanford	
Sanford Land Use Management Laws, Local Law Number 1 of 1992, as amended, up to and including Local Laws 1 and 2 of 2017 on renewable energy systems	
<u>Article IV Use Schedules</u>	
WECS are permitted uses in Agricultural "A" zones and may be a secondary principal use on a lot in Agricultural (A)	Provision noted. Facility components within the Town of Sanford are located wholly within the Agricultural (A) zone.
<u>Article XIV, Section 1402.2(B)</u>	
A Commercial WECS is permitted where indicated in the Schedule of Regulations	Provision noted.
<u>Article XIV, Section 1402.5 Standards for Design</u> <u>Every Commercial WECS shall be subject to the following requirements.</u>	

A. Location - Applicants for a WECS special permit shall locate, erect, and site wind energy deriving towers in accordance with the following requirements:	
(1) WECS shall be located in a manner that minimizes significant negative impacts on existing microwave communications links. No WECS shall be installed in any location along the major axis of an existing microwave communications link where, when considering any mitigation strategies of Applicant, its operation is still likely to produce significant electromagnetic interference in the links operation.	The Facility has been designed to comply with this requirement. See Exhibit 26 for details.
(2) WECS shall be located in a manner that minimizes significant negative impacts on existing fixed broadcast, or reception antenna (including reception antenna) for radio, television, or wireless phone or other personal communications systems. No individual tower facility shall be installed in any location where, when considering any mitigation strategies of Applicant, its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems is still likely to produce significant electromagnetic interference with signal transmission or reception.	The Facility has been designed to comply with this requirement. See Exhibit 26 for details.
(3) WECS shall be located in a manner that minimizes significant negative impacts on bird and bat species. No individual tower facility shall be installed in any location where, when considering any mitigation strategies of Applicant, there are still likely to be significant, negative impacts on birds or bats. The Applicant shall present and implement a plan for such mitigation.	The Facility has been designed to comply with this requirement. See Exhibit 22 for details.
(4) All WECS shall be set back from adjacent Non-Participant property lines, right of ways, easements, public ways, power lines (not-to include individual residential feed lines and not otherwise directly connected to the WECS), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty-five percent (25%) of its fall zone.	The Facility has been designed to comply with this requirement. See Exhibit 6 for details.
(5) The level of noise produced during WECS operation shall not exceed 50 (dBA) measured from the exterior wall of the nearest Non-Participant residence.	The Facility has been designed to comply with this requirement. See Exhibit 19 for details.
B. Construction, Notice and Safety Considerations	
(1) An emergency telephone number shall be provided to the [Planning] Board and posted at the	The Facility has been designed to comply with this requirement.

operations and maintenance building so that the appropriate people may be contacted should any WECS need immediate attention.	
(2) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.	The Facility has been designed to comply with this requirement.
(3) A caution sign shall be placed at the primary entrance of each parcel where a Tower Facility is located. Signs shall be four (4) to six (6) feet high, i.e., at eye level. Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words "CAUTION: WIND TURBINES IN USE" printed thereon. In addition, the owner's name, address, and telephone number shall be printed thereon.	The Facility has been designed to comply with this requirement.
(4) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.	The Facility has been designed to comply with this requirement. See Exhibit 18 for details.
(5) Each wind energy-deriving tower shall conform to the following specifications: (a) WECS shall use tubular towers	The Facility has been designed to comply with this requirement.
(b) The color of all WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.	The Facility has been designed to comply with this requirement.
(c) Each wind turbine within a WECS shall be generally uniform in size and geometry.	The Facility has been designed to comply with this requirement.
(6) All WECS shall be equipped with manual and automatic overspeed controls, whose design and fabrication, together with the design and fabrication of its rotors, shall conform to good engineering practices as certified by its manufacturer. Such controls shall be designed to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.	The Facility has been designed to comply with this requirement.
(7) No communication antennae's [sic] may be affixed to or made part of any commercial WECSs. No advertising shall be depicted on any part of any commercial WECSs.	The Facility has been designed to comply with this requirement.
C. Lighting.	
Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be reviewed with specific	The Facility has been designed to comply with this requirement. See Exhibit 18 for details.

respect to Section 1402.5, subsection (F)l of this Article.	
D. Utility Service.	
All collection lines from the wind generation electricity generation facilities to on-site collection substations shall be underground to the maximum extent practicable given topography and other constraints.	The Facility has been designed to comply with this requirement.
E. Height.	
(1) The minimum distance between the ground and any part of the rotor blade shall be no less than thirty (30) feet.	The Facility has been designed to comply with this requirement.
(2) Any WECS (commercial and non-commercial) or Met Tower which is otherwise compliant with this Local Law shall be excluded from the requirements and restrictions of Section 520 of the Land Use Management Local Law.	Provision noted.
F. Environmental Impact.	
(1) Scenic / View Impact - Appropriate viewshed studies assessing potential impacts on scenic views within the Town shall be submitted for consideration by the Board. The wind turbines at a tower facility shall each be of substantially the same design, construction material, finishing and color.	The Facility has been designed to comply with this requirement. While the mandate to submit appropriate viewshed studies is procedural, the Applicant will be preparing such studies as part of its Article 10 application. See Exhibit 24 for details.
(2) Access Roads - Whenever possible, existing roadways shall be used for access to the WECS site. In the case of constructing roadways, they shall be constructed in a manner so that they are not conspicuous to the surrounding environment and mitigate any increased runoff.	The Facility has been designed to comply with this requirement. See Exhibits 11 and 25 for details.
(3) Accessory Structures / Facilities - Transmission facilities or buildings shall be located behind ridges or vegetation, where feasible, to screen from visibility.	The Facility has been designed to comply with this requirement.
G. Operating Considerations.	
(1) Building and Grounds Maintenance - Upon completion of installation the site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-site storage facility.	The Facility has been designed to comply with this requirement.
Section 1402.7 Wind Measurement Towers. C. Standards for Wind Measurement Towers.	
1. All met towers shall be set back from adjacent property lines, right of ways, easements, public ways, power lines (not to include individual	The Facility has been designed to comply with this requirement. See Exhibit 6 for details.

residential feed lines), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty-five percent (25%) of its fall zone.	
2. All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.	The Facility has been designed to comply with this requirement.
3. Wind Measurement Towers shall be sufficiently secure so as to prevent access by unauthorized individuals.	The Facility has been designed to comply with this requirement.
4. Wind Measurement Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be subject to Board on-site review to determine visual impact on adjacent parcels.	The Facility has been designed to comply with this requirement. See Exhibits 18 (site security) and 25 (transportation) for a discussion of security lighting. While the mandate to obtain Planning Board review of wind measurement towers lighting is procedural not substantive and therefore preempted, the Applicant will be assessing the visual impact of wind measurement towers as part of the larger visual impact assessment required for the Article 10 Application. See Exhibit 24 for details.
Local Law No. 1 of the year 2012 A Local Law of the Town of Sanford Regulating Driveway Design Standards	
Section 3 Design Standards	
1 Access	
a. The angle of all driveways Town roads [sic] shall be between eighty (80) and ninety (90) degrees for a distance of twenty (20) feet from the edge of the Town roads driving surface.	The Facility has been designed to comply with this requirement.
b. The return radius between the edge of the driveway and the edge of the existing town road's driving surface shall be a minimum of fifteen (15) feet on each side of the driveway.	The Facility has been designed to comply with this requirement.
c. Driveways shall have an adequate sight distance in each direction meeting the requirements of the Manual of Uniform Traffic Control devices measured twenty (20) feet back from the edge of the town road's pavement at a forty-two (42) -inch eye height.	The Facility has been designed to comply with this requirement.
d. Sight easements shall be provided across all driveway corners. No obstructions to vision such as shrubbery, brush, trees, earth, fencing or structure shall be permitted at the road intersections within the triangle formed by the intersection of the road center lines and a line drawn between points along such lines thirty (30) feet distance from their point of intersection and ten (10) feet back from the edge	The Facility has been designed to comply with this requirement.

of the pavement of the road. This restriction does not apply to U.S. Postal Service mailboxes.	
2 Finished Grade a. All access grades within twenty (20) feet of the town road's driving surface shall be no more than 1 ½%. Any grade beyond this twenty (20)-foot point shall not exceed 20 per cent.	The Facility has been designed to comply with this requirement.
b. Access grades shall be constructed to slope downward from the edge of the highway pavement to the existing drainage ditch line at a rate of three-quarter (¾) inch per foot.	The Facility has been designed to comply with this requirement.
c. Ditching will be adequate along driveway to accommodate runoff and not affect adjoining properties or highways.	The Facility has been designed to comply with this requirement.
Section 4 Construction Specifications	
1. Culvert pipe(s) shall be new and supplied by the property owner. Prior to construction, applicants shall contact the Town Highway Superintendent for specifications of the size of pipe and materials. The Highway Department shall be responsible for the proper installation of all culvert pipes for residences only (except for stream crossings).	The Facility has been designed to comply with this requirement. The Applicant (or its designee) will reach out to the Town Highway Superintendent prior to selecting culvert pipes for any driveways constructed as part of the Facility.
2. Minimum length of culvert pipe shall be thirty (30) feet with a maximum length of forty (40) feet. All culvert pipe shall have a minimum diameter of fifteen (15) inches.	The Facility has been designed to comply with this requirement.
3. For any driveway, the Town Highway Superintendent reserves the right to review the site and advise BMPs that shall be set in place before and during construction.	The provision authorizing the Town Highway Superintendent to review the site and revise regarding BMPs is procedural not substantive and is therefore preempted by Article 10. However, the Applicant will reach out to the Town Highway Superintendent prior to construction of the driveways to obtain their input concerning BMPs.
Section 5 Maintenance	
1. Driveways must be kept in good driving condition.	The Facility has been designed to comply with this requirement.
2. Privately owned ditches must be maintained in a manner that prevents storm runoff from private drives from entering onto a Town Road. The Town will hold individual property owner(s) +financially responsible for any damage to Town roads relating from private drive runoff (i.e. washouts, debris, failure of proper ditch maintenance, etc.).	The Facility has been designed to comply with this requirement.
Section 6	
No debris shall be left in the Town Road at the end of each workday.	The Facility has been designed to comply with this requirement.
Local Law No. 2 of the year 2008 A Local Law of the Town of Sanford Regulating Excavations in Streets and Highways Within the Town and Prohibiting Certain Types of Vehicles	
Section 4 Damages	Provision noted. The Application will enter into an RUA with the Town of Sanford and will comply with all

<p>The person to whom such permit is issued shall be responsible for all damages caused to public utilities in the street, and any cracked or damaged sewer and water pipe shall be replaced with new pipe, under the supervision of the Sewer and Water Inspector. Damaged ditches, curbs, sidewalks, or other improvements shall be repaired or replaced in as good condition as before the excavation.</p>	<p>applicable local substantive provisions relating to road use.</p> <p>The requirement to obtain a permit is a procedural not substantive and is therefore preempted by Article 10. However, the Facility will comply with the substantive requirements of this provision.</p>
<p>Section 5 Restoration</p> <p>Any such excavation in any public street or highway shall be restored within the time granted in the permit, with approved bank run gravel and shall be kept and maintained level with the unexcavated portion thereof, for a period of one year from the date of the permit, so that said excavated portion shall be left in as good, substantial and permanent condition as before the excavation; and if not so restored and maintained, the work shall be done under the direction of the Superintendent of Highways and the cost thereof shall be a lawful charge against the person to whom the permit was issued and it shall be the duty of the Superintendent of Highways to sue for and recover such costs.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>Section 6 Guarding of Excavations</p> <p>No person, persons, firm or corporation making or having made any such excavation in or upon any street or highway aforesaid, shall permit such excavation to remain open or uncovered either day or night, without having or causing the same to be properly barricaded by day and night and in addition thereto, shall place at such location, flares, red lanterns or other warning devices, by night, so as to properly warn all persons of the danger of such hole or excavation.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>Section 11 Uses Prohibited</p> <p>No vehicle shall be operated, driven, pushed, or towed upon any such street or highway, having lugs or other metal treads, which will destroy, break, dig, injure, cut, mark or mar the surface thereof.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>Local Law No. 2 of the year 2011 A Local Law entitled Town of Sanford Road Preservation Law</p>	
<p>Section 10 Damage to Town Roads</p> <p>With the exception of normal wear and tear, the Permittee is responsible for all damages, injuries, discharges or spills that occur on or to the Town roads, other Town property, ditches, curbs, culverts, sidewalks or other improvements and to public utilities of the Town in the roadway.</p>	<p>Provision noted. The Application will enter into an RUA with the Town of Sanford and will comply with all applicable local substantive provisions relating to road use.</p> <p>The Facility has been designed to comply with this requirement.</p>

<p>It is the Permittee's responsibility to obtain the permission of any railroad companies operating within the Town to schedule traffic across any railroad crossings located on Town roads so as to avoid or minimize delays to rail traffic, and to maintain and repair said railroad crossings, as necessary.</p> <p>Upon due notice being given to the Permittee and at the Town's option, the Town may allow the Permittee to repair all damages or the Town may arrange the necessary repairs and charge the Permittee for all labor and materials at the prevailing wage rates established pursuant to the New York State Labor Law. The highway shall be restored and the integrity of the repair maintained for a period of one year from the date of any repairs. Particular attention is called to the necessity of thoroughly compacting the back fill, which will be required by the Town. If the Town requests the Permittee to repair the damages, such repair will be done to the specifications, time line and any and all other requirements of the Town.</p>	
Broome County	
Local Law No. 4 of 2010 A Local Law Creating Chapter 100	
<p>Chapter 100-5. Damage to County Roads</p> <p>With the exception of normal wear and tear, the permit holder is responsible for all damages done to the roadways, ditches, curbs, sidewalks, or other improvements and the public utilities in the roadway. Upon due notice being given to the permit holder and at County option, the County may request the permit holder repair all damages or the County may arrange for the necessary repairs and charge the permit holder for all labor and materials at the prevailing rates.</p>	<p>Provision noted. The Application will comply with all applicable local substantive provisions relating to road use.</p>
Broome County Administration Legislation, Chapter 317	
<p>Chapter 317 governs the management and disposal of solid waste</p>	<p>Provision noted. To the extent applicable during the construction and operation of the Facility the Facility will comply with all applicable local substantive provisions relating to solid waste disposal.</p>

(j) Zoning Designation

The Town of Windsor will be the site of four wind turbines and their related access roads and buried electrical collection lines. Zoning regulations within the Facility Site are described within the Zoning Laws of the Towns of

Windsor and Sanford attached hereto as Appendix NNN. Figure 4-5 in Exhibit 4 shows the location of each Town's zoning districts in relation to the proposed Facility.

The Zoning Law of the Town of Windsor establishes five zoning districts within the Town—Residential (R-14); Agriculture (A), Commercial (C), Industrial (I) and Flood Hazard District (FHD). All four wind turbines and the associated connection lines in the Town of Windsor will be in the “A” Agriculture District. The permitted principal uses in the A District include “[e]lectrical distribution substations and other public utility structures.” Town of Windsor Zoning Code § 93-17(R). The turbines are thus a permitted use under the Windsor Zoning Code.

The Town of Sanford will be the site of 28 wind turbines, as well as temporary and permanent meteorological (met) tower(s), access roads, buried electrical collection lines, an operation and maintenance (O&M) building, construction staging and laydown areas, a point of interconnection (POI) substation, a collection substation with battery storage, a short distance (non-Article VII) of overhead transmission line, and a temporary concrete batch plant.

The Town of Sanford Land Use Management Local Law #1 1992 as amended by various provisions, including Local Laws No. 1 and 2 of 2017, consists of eight districts Residential (R), Residential Multiple (RM), Agricultural (A), Mobile Home District (R-MH), Commercial (C), Special (S), Limited Industrial (L-I) and Lake Protection Overlay (LPO). The wind turbines and ancillary equipment proposed to be constructed in the Town of Sanford will be in the Agricultural (A) District. Special uses permitted upon issuance of a special permit include public utility substations. Sanford Land Use Management Law § 405. In addition, pursuant to Local Law No. 1 of 2017, a special use permit is required to construct a commercial WECS, such as the Facility. Sanford Land Use Law § 1402.3. The Town of Sanford has agreed that the provisions of Local Law No. 1 of 2017 replace the requirements of the Zoning Law as related to this Facility.