

ACCESS AND STAGING LICENSE AGREEMENT

This ACCESS AND STAGING LICENSE AGREEMENT (the “**Agreement**”) is made this 3 day of May, 2022 (the “**Effective Date**”), by and between TOWN OF EAST HAMPTON, a municipal corporation with offices at 159 Pantigo Road, East Hampton, New York 11937 (“**Licensor**”) and SOUTH FORK WIND, LLC, a Delaware limited liability company having an address of 107 Selden Street, Berlin, CT 06037 (“**Licensee**” and collectively with the Licensor the “**Parties**”).

WITNESSETH:

WHEREAS, Licensor owns that certain parcel of real property located on Stephen Hands Path, in the Town of East Hampton, County of Suffolk and State of New York, as depicted on the map attached hereto as Exhibit A that is used by the New York State Department of Transportation (the “**NYSDOT**”) (the “**Premises**”) under a longstanding oral agreement; and

WHEREAS, Licensee is constructing offshore wind farm and in order to facilitate the development activities, Licensee needs to utilize a portion of the Premises for construction related activities; and

WHEREAS, Licensee desires to obtain a license for Licensee, its employees, agents, representatives, consultants, contractors, successors, assigns and sub-licensees (collectively, the “**Licensee Parties**”) to enter and have access to a portion of the Premises, within the area outlined in Exhibit A (the “**Licensed Area**”), for the purposes of performing certain construction related activities including, but not limited to: (i) removal of existing vegetation and improvements to create a construction laydown; (ii) staging equipment, materials and vehicles; and (iii) the installation of a temporary access roads/driveways, in connection with the development activities; and

WHEREAS, Licensor is willing to grant such license subject to the terms, provisions and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of One and 00/100 Dollar (\$1.00) and for other good and valuable consideration paid by Licensee to Licensor, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants and conditions set forth herein, the parties hereto covenant and agree as follows:

1. Subject to and in accordance with the terms and conditions of this Agreement, Licensor hereby grants to Licensee and the Licensee Parties a non-exclusive license (“**License**”) for: (a) clearing of vegetation and impediments in the Licensed Area for the location of the construction laydown area; (b) the removal of the asphalt millings from the Licensed Area; (c) the installation of temporary access roads/driveways throughout the Licensed Area leading to Stephen Hands Path for vehicular and pedestrian ingress and egress, as well as the repaving and apron repair to the area outlined in blue on Exhibit A; (d) installation of temporary construction staging fencing around the perimeter of Licensed Area, which fencing shall be and will be removed upon the expiration of the License Period (as hereinafter defined); and (c) storage of equipment, materials and vehicles on the Licensed Area. Licensee shall place erosion control measures along

the southern and western boundaries of the License Area to prevent disturbance of adjacent freshwater wetlands either by machinery or storm water run-off. Licensor and Licensee acknowledge and agree that Licensor shall not interfere with the access and use by Licensor or NYSDOT of the tower located on the Premises, and shall not interfere with the Licensor's installation of a new tower to be located in proximity to the existing tower.

2. The term of the License granted herein (the "**License Period**") shall be for a period commencing on the Effective Date and expiring on December 31, 2023. Provided however that Licensee shall be permitted, upon prior written notice to Licensor, to extend the term for one (1) additional six (6) month period expiring on June 30, 2024. At the conclusion of the License Period, Licensee shall restore those areas of the License Area that were modified or disturbed as part of the License to as close to the same condition that existed as of the Effective Date as is reasonably practical and feasible except that Licensee shall not have any obligation to restore or relocate the asphalt millings described in section 1(b) above to their original location.

3. Within ten (10) days of the Effective Date, Licensee hereby agrees to pay Licensor the sum of Ninety-Five Thousand Eight Hundred Thirty-Three and 40/100 Dollars (\$95,833.40) for the rights granted under this License Agreement.

4. This Agreement and the rights and obligations associated herewith shall be freely and fully assignable by Licensee to a sub-licensee, which sub-licensee shall be bound by the terms and conditions set forth herein.

5. The Licensee shall be responsible for the costs of maintaining, repairing and operating the License Area in good repair and condition in accordance with, and shall be responsible for ensuring that Licensee's use of the License Area complies with, all applicable laws, permits, regulations and codes.

6. Except for the construction related activities set forth herein, Licensee and the Licensee Parties shall take commercially reasonable measures to prevent any material damage to the Premises during the License Period. All damage or injury to the License Area or Premises, caused by or resulting from Licensee Parties' performance of the rights granted under the License shall be repaired promptly by Licensee Parties, at its sole cost and expense, to as close to the condition existing immediately prior to such injury or damage as is reasonably practical and feasible.

7. Licensee agrees to indemnify and save harmless Licensor from and against any and all liability (statutory or otherwise), claims, suits, demands, actual damages (excluding consequential and punitive damages), judgments, costs, fines, penalties, interest and expense (including, without limitation, reasonable attorneys' fees and disbursements) to which the Licensor may be subject to, directly arising from, or solely in connection with the Licensee Parties' use and occupancy of the License Area.

8. During the term of this Agreement, Licensee and the Licensee Parties shall keep in effect comprehensive general liability insurance with limits of no less than \$1,000,000.00 per occurrence, \$2,000,000.00 annual aggregate, with an umbrella policy of no less than \$5,000,000.00, which insurance shall be written with financially responsible carriers and naming Licensor as an additional insured loss payee.

9. Licensor represents and warrants to Licensee and Licensee Parties that Licensor has good and marketable title of the Premises and that no lien or encumbrance exists as of the Effective Date which would prevent or restrict the Licensee's interest in the Premises as contemplated by this Agreement. Licensor covenants and agrees that it shall not allow any lien encumbrance against the Premises which would prevent or restrict the Licensee's interest in the Premises as contemplated by this Agreement.

10. Licensor covenants and agrees to cooperate with Licensee and Licensee Parties to obtain any governmental permits required for Licensee to complete the work contemplated under the License, at no cost or expense to Licensor.

11. Licensor acknowledges and agrees that any machinery, equipment or other personal property stored or installed on the Premises by the Licensee or Licensee Parties' is, and shall always remain, the property of the Licensee and Licensee Parties ("Licensee Property"). Licensor shall have no right or interest in Licensee Property by virtue of its storage or installation on the Premises and shall take no actions to move, touch, remove, or otherwise manipulate the Licensee Property. Licensee and Licensee Parties retain all rights in the Licensee Property and will pursue all options under the law should Licensor take any actions against the Licensee Property.

12. All notices shall be in writing and shall be delivered: (i) by hand, (ii) by nationally-recognized overnight express delivery, or (iii) by U.S. registered or certified mail, return receipt requested, postage prepaid, to the addresses set forth below or at such other addresses as are specified by written notice delivered in accordance herewith. Delivery shall be deemed given upon deposit with nationally recognized overnight express delivery service for next day delivery, deposit with the US Postal Service for registered or certified mail delivery.

If to Licensee: South Fork Wind, LLC
107 Selden Street
Berlin, CT 06037
Attention: General Counsel

If to Licensor: Town of East Hampton
Town Attorney
159 Pantigo Road
East Hampton, NY 11937

13. Miscellaneous Provisions.

(a) This Agreement constitutes the entire understanding between the Parties regarding the subject matter hereof and shall bind the Parties hereto and their respective successors, assigns or other legal representatives. This Agreement supersedes any prior verbal understanding or written agreement between the parties relative to the subject matter hereof, and may not be amended, supplemented or discharged except by an instrument in writing signed by both parties.

(b) Nothing contained in this Agreement shall be construed to create an agency, partnership or joint venture arrangement between the parties. The parties' relationship shall at all times be and remain licensor-licensee.

(c) Licensor and Licensee agree and acknowledge that all provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, heirs, distributees, legal representatives and assigns of the respective parties hereto.

(d) This Agreement and all matters pertaining hereto shall be governed by and construed in accordance with the laws of the State of New York, without reference to its choice of law provisions. **LICENSOR AND LICENSEE EACH HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY LICENSOR AND LICENSEE, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LICENSOR AND LICENSEE, AS APPLICABLE, ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY LICENSOR OR LICENSEE, AS APPLICABLE. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.**

(e) No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

(f) All personal pronouns used in this Agreement shall include the other genders, and the singular shall include the plural, whenever and as often as may be appropriate.

(g) In the event that any one or more of the provisions of this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction or by law, such determination will not render this Agreement invalid or unenforceable, and the remaining provisions hereof shall remain in full force and effect.

(h) This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument. Photostatic, electronic or facsimile signatures of the original signatures of this Agreement, and photostatic, electronic or facsimile copies of this Agreement fully executed, shall be deemed originals for all purposes, and the parties hereto and/or beneficiaries hereof waive the "best evidence" rule or any similar law or rule in any proceeding in which this Agreement shall be presented as evidence or for enforcement.

[Signatures and acknowledgments contained on following pages hereof.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.


LICENSOR:

TOWN OF EAST HAMPTON

By: 
Name:
Title:

LICENSEE:

SOUTH FORK WIND, LLC

By: 
Name: Salvatore Giuliano
Title: Manager of Real Estate

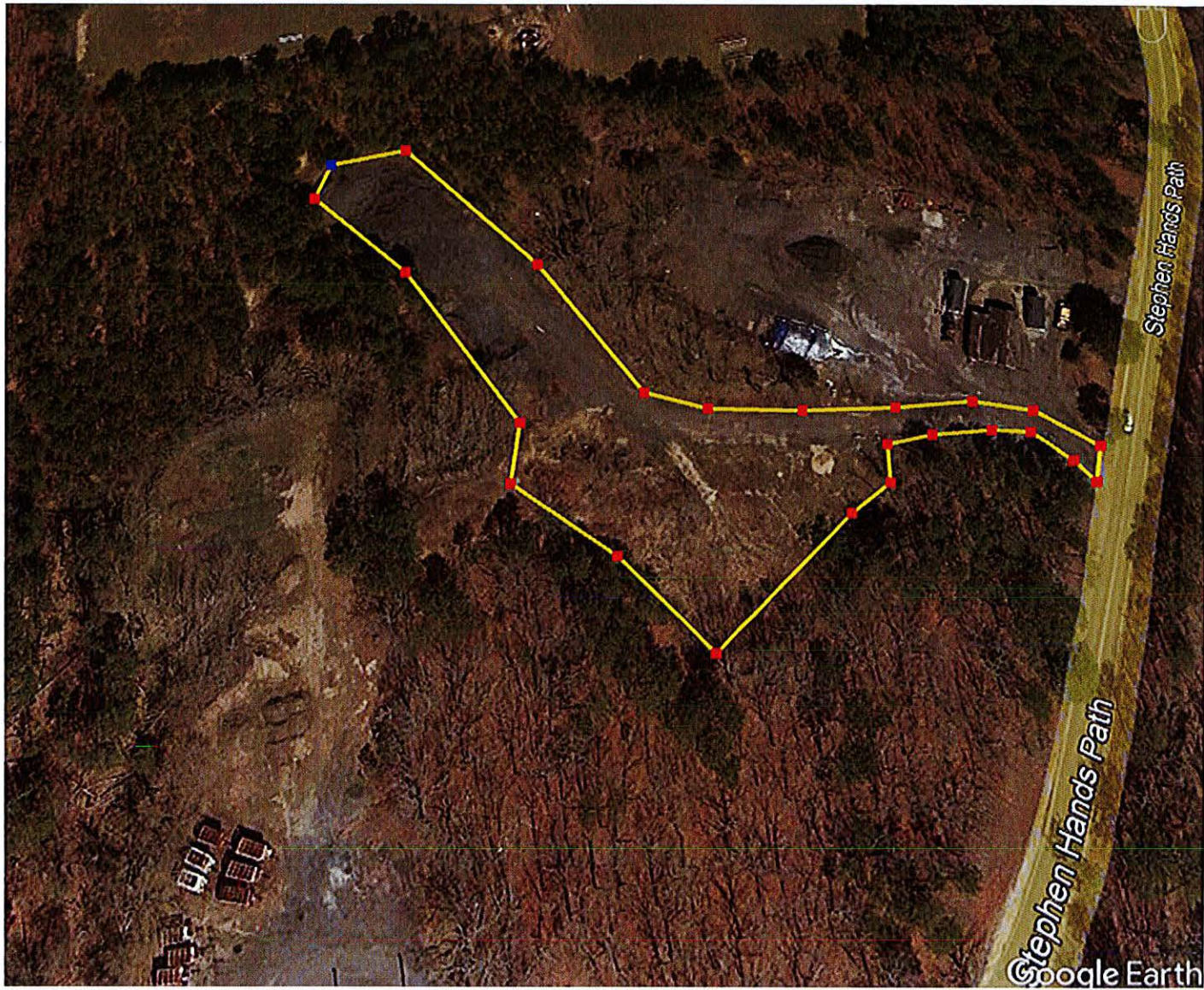
ACKNOWLEDGEMENT AND CONSENT OF NYDOT

The undersigned, hereby acknowledges, agrees and consents to the foregoing terms and conditions of this License Agreement.

**NEW YORK STATE DEPARTMENT OF
TRANSPORTATION**

By: _____
Name:
Title:

EXHIBIT A
Map depicting License Area





RESOLUTION 2022-551

**License Agreement - Staging and Storage for Installation of
the Transmission Cable By Deepwater Wind South Fork, LLC
(South Fork Wind LLC)**

WHEREAS, the Town Board previously authorized an easement and a Host Community Agreement with Deepwater Wind South Fork, LLC (Deepwater), now known as South Fork Wind, LLC (South Fork Wind), for their project to connect an offshore wind farm to the Long Island Power Authority (LIPA) sub-station at Cove Hollow Road, East Hampton, hereinafter, the "Project"; and

WHEREAS, South Fork Wind is in the process of obtaining sites for staging and storage in locations within the Town, and is in the process of amending their Environmental Management and Construction Plan to provide for the same; and

WHEREAS, South Fork Wind has requested the use of a portion of property at Stephen Hands Path which is already disturbed and cleared, and has been, and continues to be utilized by the New York State Department of Transportation (NYS DOT) as a highway yard, including salt storage; and

WHEREAS, the DOT has expressed a willingness to allow the temporary use of a portion of the property, and the Town Board is willing to enter into a license agreement with South Fork Wind to allow the use of portions of the property, subject to the approval of the NYS DOT, for purposes of storage of vehicles, construction materials and related equipment, together with the parking of employee vehicles, but not including the storage of any soils or water removed from the cable route; and

WHEREAS, the proposed license is an unlisted action under the State Environmental Quality Review Act (SEQRA) and an environmental assessment has been prepared for the Town Board with regard to the proposed license; now, therefore, be it

RESOLVED, that the Town Board hereby adopts a Negative Declaration pursuant to SEQRA with regard to the proposed license; and be it further

RESOLVED, that the Town Board hereby authorizes the license for use of a portion of Town property located at Stephen Hands Path, Wainscott (0300-193-02-004), subject to the approval of the NYS DOT, for purposes of storage of vehicles, construction materials and related equipment utilized for or in relation to the installation of the transmission cable for the South Fork Wind project, but not including the storage of any water or soil removed from the cable route; and be it further

RESOLVED, that such license shall commence upon full execution of the license, and continue until December 31, 2023 with an option to extend for an additional six (6) month period upon the same terms; and be it further

RESOLVED, that South Fork Wind shall pay the sum of \$1.00 per sq. ft., per annum for such license, commencing upon execution of the license, and continuing until such use ceases and all materials and equipment are removed from the site; and be it further

RESOLVED, that the Town Board hereby authorizes the Town Supervisor to execute a License Agreement, subject to the approval of the Town Attorney, to allow South Fork Wind to utilize the portions of the above property, subject to the approval of the NYS DOT, as indicated by a representative of the same.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Cate Rogers, Councilwoman
SECONDER:	Kathee Burke-Gonzalez, Councilwoman
AYES:	Kathee Burke-Gonzalez, Sylvia Overby, Cate Rogers, Peter Van Scoyoc
ABSENT:	David Lys