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**CORPORATION OF THE TOWNSHIP OF MELANCTHON**

**REPORT TO COUNCIL**

**TO: MAYOR WHITE AND MEMBERS OF COUNCIL**

**FROM: DENISE HOLMES, CAO/CLERK**

**SUBJECT: DUFFERIN WIND POWER - VISUAL ROAD CONDITION SURVEY  
REPORT, POST CONSTRUCTION**

**DATE: MARCH 12, 2015**

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**Recommendation:**

That Township Staff be directed to prepare and send an invoice to Dufferin Wind Power Incorporated in the amount of \$194,000.00 as finalization for road restoration as per the Post Construction Survey Report dated January 2015, letter from RJ Burnside and Associates dated February 24, 2015 and Email from Rebecca Crump dated March 6, 2015.

**Purpose**

The purpose of this Report is to provide information to Council on the Dufferin Wind Power Visual Road Condition Survey, Post Report and the direction to send an invoice to DWPI in the amount of \$194,000.00 for finalization of road restoration.

**Background and Discussion**

On January 13, 2015, Dufferin Wind Power Incorporated provided the Township with the attached Visual Road Condition Survey Report, Post Construction. The Report, prepared by WSP Canada Inc., was forwarded to the Township's Engineer for review and comment.

On February 9, 2015, the Road's Sub-committee held a meeting and the Report was reviewed and there were comments and concerns noted at that meeting. The Township Engineer was asked to send a letter to DWPI noting the concerns and requesting additional

①

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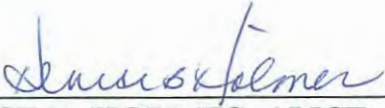
monies to cover the cost of the repairs as the Township was not in agreement with the DWPI's requirement of gravel. A copy of the letter dated February 24, 2015 from RJ Burnside is attached to this Report.

On March 6, 2015, Rebecca Crump, Director of Development sent an email (attached) advising that DWPI is prepared to accept to pay the Township \$194,000 for road restoration finalization and in order for payment to be processed, they require a formal invoice from the Township.

### **Financial**

The amount of \$194,000.00 is acceptable to the Township to finalize the road repairs as a result of the damage done to Township Roads during the Dufferin Wind Project.

**RESPECTFULLY SUBMITTED,**

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**DENISE B. HOLMES, AMCT**  
**CAO/CLERK**

REPORT N° 111-22371

# VISUAL ROAD CONDITION SURVEY REPORT, POST CONSTRUCTION

TOWNSHIP OF MELANCTHON

JANUARY 2015





**VISUAL ROAD CONDITION  
SURVEY REPORT, POST  
CONSTRUCTION**

**DUFFERIN WIND FARM  
TOWNSHIP ROADS**

**Dufferin Wind Power Inc.**

Project No: 111-22371-00  
Date: January 2015

—  
**WSP Canada Inc.**  
600 Cochrane Drive, 5<sup>th</sup> Floor  
Markham, ON L3R 5K3

Phone: 905-475-7270  
Fax: 905-475-5997  
[www.wspgroup.com](http://www.wspgroup.com)





January 12, 2015

Mr. John Craig, Construction Manager  
Longyuan Canada Renewables Ltd.  
TD Canada Trust Tower  
Suite 4550, 161 Bay Street  
Toronto, ON M5J 2S1

**Subject : Visual Road Condition Survey Draft Report, Post Construction  
Dufferin Wind Farm – Township Owned Roads**

Dear Sir,

WSP has completed the re-assessment of the existing condition of the municipal roads utilized as haul roads for the construction of the Dufferin Wind Farm Project.

The roads re-assessed were those identified on the drawings by Dillon Consulting, dated July 5, 2013 and June 28, 2013.

The work undertaken included:

- A Visual Inspection of each road,
- Photo log of each section of roads
- Review of the pre and post construction Geo-immersive videos

The following report compiles our re-assessment of the existing road conditions.

The Road Condition Assessment Report for the Dufferin Wind Farm site is provided for your review in accordance with your requirements, and to assist in resolving issues at the completion of your project. Thank you for providing us with the opportunity to participate in this interesting assignment.

Please contact us with any questions that you may have.

Yours truly,  
WSP Canada Inc.

Carl Woodman, P.Eng.  
Construction Manager

Clark Priolo, P.Eng, CEC,  
Senior Project Manager

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## APPENDICES

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**APPENDIX 3 - ROUTE MAPS**

# 1

## INTRODUCTION

WSP (formerly GENIVAR) were requested by Dufferin Wind Power Inc. (Dufferin) to carry out a pre and post construction review of the condition of all roads that were utilized as access roads for the construction of the wind turbine sites. The roads for the Dufferin Wind Farm Project were indicated on drawings DHR 1000 – 2012 A and DHR 1000 – 2012 B by Dillon Consulting dated July and June 2013 (respectively) and totalled approximately 97 kilometres of roads surveyed, composed of 65 km of roads paved with hot mix asphalt and 32 km of gravel roads.

### 1.1 BACKGROUND

The purpose of the survey was to undertake a pre-construction and post-construction assessment of each road and compare the findings in an effort to determine potential damages resulting from the construction. As this was a visual condition assessment only, a geotechnical investigation was not undertaken to determine the structural capacity of the roads. In addition, a pre-construction and post construction video of the roads were provided for the Dufferin Wind Power project and have been utilized to supplement the assessment carried out by WSP (Appendix 2 – Immersive Video).

This report will summarize the findings of the survey of Township-owned roads.

### 1.2 PROCEDURE

A detailed visual survey of each section was carried out by slowly driving the entire length of each road. Photos were taken periodically to record the actual road conditions of each road section. The physical condition of all hard surfaced roads (asphalt or surface treated) was categorized for the severity and density of distress relating to Surface Defects, Surface Deformation and Cracking. Cracking was further assessed for Longitudinal Wheel Track, Centre Line, Pavement Edge and Transverse, and a Pavement Condition rating for each section of road was recorded. For the gravel roads, site general comments are provided on the condition and maintenance of these roads.

For the purposes of this study, it was assumed that the King's Highways that were used for transportation of construction equipment and materials are properly constructed and capable of handling the required loads, and thus were not included in our observations.

### 1.3 PAVEMENT PERFORMANCE

In the 2013 assessment, it was observed the asphalt paved roads varied in condition from good to poor, depending on many factors. It is normal that the asphalt pavement will deteriorate over time, as the asphalt pavement oxidizes or ages, loses its flexibility and cracks appear, resulting in a lower performance rating as can be seen from a typical asphalt pavement performance curve, Figure 1 below.

An asphalt pavement should normally provide a good riding surface for an average of 20 years, at which stage the life expectancy can be extended with an asphalt resurfacing preventative maintenance program. During the initial years, with regular minor maintenance, such as crack filling,



minor asphalt repairs and shoulder grading to keep water from infiltrating the supporting granular subbase, the asphalt pavement condition can be maintained close to the original Pavement Condition Index (PCI) at a minimal cost. As indicated by the asphalt pavement performance curve, the asphalt pavement will age over time and deteriorate to a point, where the PCI is at or just below 60, where an asphalt overlay or resurfacing can restore the pavement to near original condition. It is essential that an overlay of the pavement be carried out while the asphalt is still classified in the good range, and prior to structural damage having occurred. This overlay will once again result in near original condition, and a new 20 year life cycle will commence.

If the asphalt pavement is ignored, the condition deteriorates such that pavement structural damage occurs, the pavement condition falls within the poor range, maintenance sharply increases, and major reconstruction has to be undertaken at a significantly higher capital cost than an asphalt overlay and at an earlier pavement life cycle.

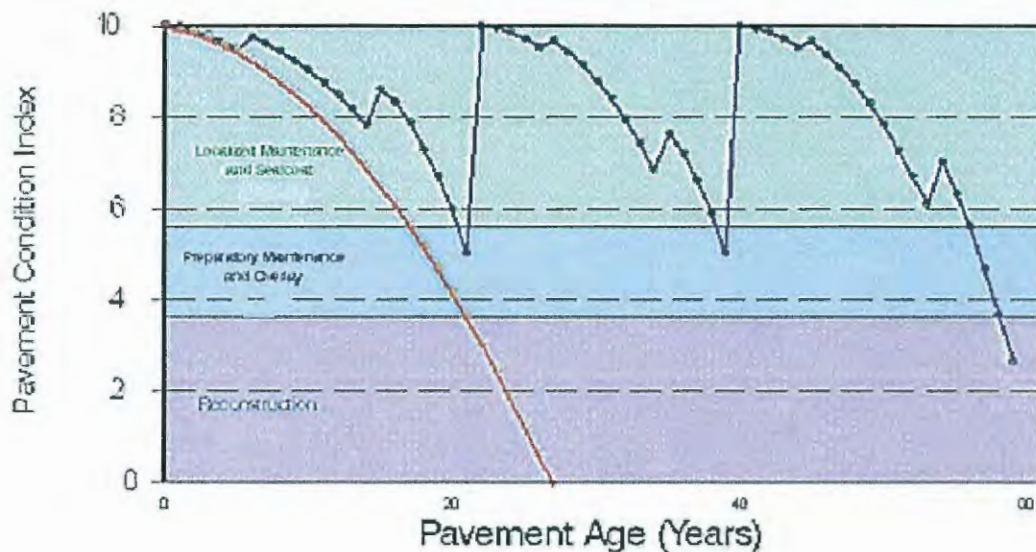


Figure 1 – Pavement Performance Curve

The performance of an asphalt pavement is dependent on many factors:

- The structural capacity of the asphalt pavement and underlying granular base and sub-base;
- Age of the asphalt pavement;
- Frost (freeze / thaw) action;
- The volume of traffic encountered;
- The volume of heavy commercial traffic;
- Water drainage;
- Winter maintenance practices.

This report will present a summary of the condition of the Dufferin Wind Farm access routes, and determine the extent to which this construction activity accelerated the deterioration of the asphalt pavements.

## 2

## SURVEY

The post-construction survey was carried out by WSP's Construction Manager, Carl Woodman and Senior Project Manager, Clark Priolo. This visual condition survey was carried out between October 1, October 22 and October 30, 2014. This section shall summarize the general condition of each road, with comparisons made to the 2013 conditions. This report provides observations of the current road conditions in Section 2, and a discussion of the post construction road conditions, as well as recommendations, in Section 3.

## 2.1

**3RD LINE - FROM COUNTY ROAD 21 TO 20TH SIDEROAD**

**3rd Line** between County Road 21 and 20<sup>th</sup> Sideroad is 3 km in length and consists of two distinct sections:

- From County Road 21, 1.0 km southerly: This section of roadway was resurfaced with asphalt in 2014.



Pre-Construction



Post-Construction

- From 1.0 km S. of CR 21 to 20<sup>th</sup> Sideroad: Asphalt road with gravel shoulders, is generally in poor condition. It appears that a thin lift (approx. 20mm) of sand mix asphalt has been applied over the original asphalt. Pre-construction, frequent slight flushing in the sand mix layer was noted, as well as severe longitudinal and edge alligator cracking throughout. A few severe distortions are present, as well as fairly extensive manual patching. The asphalt pavement in this section has reached the end of its life cycle.

Post-construction, this section of 3<sup>rd</sup> Line has deteriorated significantly, with severe alligator cracking throughout noted.





Pre-Construction



Post-Construction

Additionally, it was noted that a total of four entrances on 3<sup>rd</sup> Line sustained significant damage from crane movements.

## 2.2 4TH LINE

4<sup>th</sup> Line was divided into two sections:

- 15<sup>th</sup> Sideroad to County Road 17: This section of 4<sup>th</sup> Line consists of a 7 m wide asphalt driving surface and 1.5 m gravel shoulders. Pre-construction, the asphalt was noted to be in poor condition; it exhibited extensive severe wheel track rutting, and extensive severe alligator cracking. Some manual patching was evident. It should be noted that this section of roadway services two aggregate sources, and our forces observed several fully loaded trucks travelling the roadway at the time of our inspection.

Post-construction, the road showed no signs of further deterioration, indicating that the granular base is structurally sound, and that the pavement has simply reached the limits of its expected life.



Pre-Construction



Post-Construction

- Highway 10 south to the Transmission Line site: approximately 1 km of asphalt road in good condition. No granular shoulders were noted, with the vegetation meeting the edge of



asphalt. Only a few slight longitudinal and transverse cracks were observed. The post-construction condition was downgraded slightly from pre-construction, with an increased frequency of slight cracking noted.



Pre-Construction



Post-Construction

## 2.3 4TH LINE NW ↗

**4<sup>th</sup> Line NW** is a 6.7 m wide asphalt road extending between Sideroad 250 and County Road 21. Pre-construction, it was noted as being in very poor condition overall, with frequent moderate wheel track rutting, longitudinal cracking, edge cracking, and transverse cracking. Slight to moderate Flushing and shoving was evident, as well as the presence of frequent severe distortions.

Post-construction, this rating was downgraded slightly due to an increased frequency of the distresses noted above.



Pre-Construction



Post-Construction

## 2.4 20TH SIDEROAD

**20th Sideroad** is an asphalt road with gravel shoulders. Pre-construction, it was noted as being generally in good condition, with only a few slight longitudinal cracks present. A 50mm drop off at the edge of the asphalt was noted; more material is required to allow the shoulders to be flush with the asphalt.

Post-construction, the condition of this section of 20<sup>th</sup> Sideroad continues to be excellent, with no further deterioration in the pavement noted.



Pre-Construction



Post-Construction

## 2.5 GRAVEL ROADS

The gravel roads were visually re-assessed and found to be in good condition and appear to be structurally sound. Thus an in-depth condition assessment comparison has not been provided.

In speaking with Dufferin Wind Farms, it was disclosed that several Township roads did sustain some settlement, resulting in the need for the application of additional Granular "A". Specifically, Sideroad 250 between 5<sup>th</sup> Line and Turbine 40 / 1.01 was noted as experiencing a significant amount of damage due to the construction activity. Similarly, 3<sup>rd</sup> Line (north of CR 21), 4<sup>th</sup> Line, 5<sup>th</sup> Line, 6<sup>th</sup> Line, 8<sup>th</sup> Line, and Sideroad 240 were identified as being subject to varying degrees of damage due to the construction activity.



# 3

## DISCUSSION

The re-assessed condition survey was carried out on the sections of roads as identified in the Dufferin Wind Farm Project drawing numbers DHR 1000 – 2012 A and DHR 1000 – 2012 B from Dillon Consulting, which are included in Appendix 3 of the report.

For the hard surface roads, the condition ranged for poor to excellent with the severity of distress varying from very slight to very severe and ranged from few to extensive throughout for the following:

- Transverse cracks;
- Centre line cracks;
- Wheel path and mid lane cracks;
- Edge of lane cracks;
- Rutting/Failure
- Pothole Patching

### 3.1

### OBSERVATIONS

#### 3<sup>RD</sup> LINE – COUNTY ROAD 21 TO 20<sup>TH</sup> SIDEROAD

3<sup>rd</sup> Line between County Road 21 and 20<sup>th</sup> Sideroad is a 3 km section of roadway with an evaluated pre-construction PCR of 5. Pre-construction observations included frequent slight flushing, a few severe distortions, severe longitudinal wheel track alligator cracking throughout, and severe pavement edge alligator cracking throughout. Significant manual patching was evident at several areas, and it was noted that a thin lift of sand mix asphalt had been applied to the entire roadway.

Post construction, it was noted that 1 km of 3<sup>rd</sup> line, from County Road 21 southerly, had been resurfaced with new hot mix asphalt. The remaining 2 km exhibited signs of significant further deterioration, with the PCR being reduced from 5 down to 3. The severe alligator cracking was observed throughout the entire roadway.

Additionally, it was noted that a total of four entrances on 3<sup>rd</sup> Line sustained significant damage from crane movements. These damages are noted as a separate line item in the Cost Table in Appendix 1. When calculating the repair cost for each entrance, it was assumed that a 10m long section of roadway will be sawcut at each end, the existing asphalt removed across the full width of the road, the granulars excavated to a depth of 200mm, new Granular "A" placed and compacted to a depth of 200mm, and asphalt restored in two lifts totalling 100mm in thickness.

#### 4<sup>TH</sup> LINE – 15<sup>TH</sup> SIDEROAD TO HIGHWAY 10

Between 15<sup>th</sup> Sideroad and Highway 10, 4<sup>th</sup> Line has two distinct sections of asphalt roadway: between 15<sup>th</sup> Sideroad and County Road 17, and south of Highway 10.

From 15<sup>th</sup> Sideroad to County Road 17, the pre-construction condition of the asphalt was rated as poor, with an assessed value of 3.0. This section of road exhibited extensive severe wheel track



rutting, severe alligator cracking, and areas of manual patching. It was noted that the wheel track rutting was more severe in the southbound direction, likely as a result of loaded dump trucks travelling from the 4<sup>th</sup> Line aggregate source southerly to County Road 17. Post construction, the rating remained at 3.0, with no further deterioration noted.

South of Highway 10, the pre-construction rating of 4<sup>th</sup> Line was excellent at 9.0. Only a few slight longitudinal wheel track cracks and a few slight transverse cracks were noted in the asphalt pavement. It is worth noting that this section of roadway has virtually no shoulders, and the vegetation is built up to the edge of pavement. Post construction, the rating dropped to 8.0. In general, the road remains in very good to excellent condition, but slight longitudinal wheel track cracking and slight centreline cracking has developed.

#### **4<sup>TH</sup> LINE NW E**

4<sup>th</sup> Line NW between Sideroad 250 and County Road 21 is an asphalt road in poor condition with an evaluated pre-construction PCR of 3.5. Pre-construction observations included frequent moderate wheel track rutting, longitudinal cracking, edge cracking, and transverse cracking. Slight to moderate flushing and shoving was evident, as well as the presence of frequent severe distortions. Post-construction, this rating was reduced to 3.0, due to a slight increase of the distortions noted above.

#### **20<sup>TH</sup> SIDEROAD – 3<sup>RD</sup> LINE TO COUNTY ROAD 124**

The section of 20<sup>th</sup> Sideroad from 3<sup>rd</sup> Line to County Road 124 was found to be in excellent condition in the pre-construction assessment. This section of roadway was recently resurfaced, and displayed only a few slight longitudinal wheel track cracks. Post construction, this road remains in excellent condition, with no deterioration of the pavement noted, and the PCR remaining at 8.5.

### **3.2 DISCUSSION OF RESULTS**

The designed structural support of the asphalt pavement has been severely compromised on the roads exhibiting the severe and extensive pavement rutting/failure condition, namely 3<sup>rd</sup> Line and 4<sup>th</sup> Line north of County Road 17. For these roads, additional structural damage may occur due to additional truck and farm traffic as well as weather conditions. Effectively the asphalt pavements have reached the end of their service life, have failed and are no longer providing the designed structural strength to the pavement structure. These roads will require significant rehabilitation to restore their structural strength. In the Dufferin Wind Farm Road Condition Rating and Construction Cost Summary included in Appendix 1, all asphalt pavement roads have been assessed a Pavement Condition Rating (PCR) in conformance with the MTO Manual for Condition Rating of Flexible Pavements, with 10 being a pavement in excellent condition to 2 being very poor condition.

For the gravel roads a PCR has not been assigned, instead general comments were made on the condition of each section at the time of the initial survey and have been found to be consistent at the time of the re-assessment. As we observed, the general condition of the gravel sections can change as the municipality maintains a regular re-grading operation, which will affect the condition and ride-ability. However, in general most of the gravel roads appeared visually to be in good condition, with good crossfall and parallel drainage ditches to collect runoff from the road surface. It should be noted that some road damage may result from water ponding at the edge of the shoulder due to vegetation build up.

Appendix 1 contains a summary table listing per km construction costs, pre and post construction road condition ratings for each section of roadway, total construction costs, and percentage attributable to the Dufferin Wind Farms construction activities.

Several “tools” were used in establishing the per km price for the two scenarios for pavement rehabilitation. The first scenario was calculated for roads considered to be in poor condition, thus requiring a more in-depth construction program. On these roads, it was assumed that the existing asphalt would be pulverized and mixed with the existing granular base, additional Granular “A” applied as necessary, shaping of the road base for crossfall correction, and asphalt paving with 90mm of asphalt. The second scenario was calculated for roads considered to be in good condition. On these roads, partial depth asphalt removal (50mm deep) and resurfacing with 50mm of new asphalt was calculated.

We researched municipal construction projects we have recently been involved in to obtain the current pricing trends for asphalt paving, partial depth asphalt removal, and Granular “A”. To support this data, the MTO HiCo database was accessed for comparative prices on projects in the GTA with similar quantities. Finally, we obtained a copy of a quotation from a contractor bidding on some work in the area, to account for the location of the project. When all of these factors were combined, we adjusted the price per km up slightly to account for minor construction tasks not typically included in an early stage construction cost estimate. The result was a construction value of \$229,800 per km for the “Poor” roads, and \$141,500 per km for the “good” roads. For the entrances damaged by cranes on 3<sup>rd</sup> Line, we estimated the repair cost at \$5,000 per entrance.

We then undertook the task of comparing the condition of each section of road post construction to its pre-construction value. By using the data taken from the on-site assessments, pictures taken, and by reviewing the contents of the Geo Immersive video (Appendix 2), we established a construction estimate for each road as well as a percentage contribution for Dufferin Wind Farm.

For the gravel roads, we calculated the costs to supply, deliver, and place additional Granular “A” on the identified roads in order to re-establish the crown in the roadways. We evaluated this number, per tonne, to be \$20.00. For each 1 km section of roadway, it is estimated that on an average 200 tonnes of Granular “A” are required to build up the road and allow for proper drainage.

## 4

## CONCLUSION

In considering the extent of pavement distresses that existed prior to the windfarm construction and the volume and type of traffic using the roads, which are in poor condition, further deterioration of these distressed roads has continued, as was expected. With the very extensive cracking and deteriorated asphalt pavement and extensive pavement rutting, water can infiltrate the granular subbase material, weakening it structurally, thereby resulting in further pavement distress and deformation. In addition, the freeze thaw action on the granular sub-base structure can contribute to additional pavement deterioration. As there are local, heavily loaded trucks and farm equipment, as well as the wind farm equipment using these roads, the wind farm construction has contributed a minimal amount to the continued deterioration of the roads.

For the roads that are in good condition, the change in condition rating has been minor.

- The asphalt pavement condition rating for each section of asphalt pavement roads has been tabulated for the years 2013 and 2014 and forms the basis for the estimation of construction costs. This information is included in Appendix 1.
- Based on our visual assessment of these roads, information gathered from the Geo-Immersive pre and post construction videos, and the noted deterioration in performance of the pavements, we have established estimated construction costs to rehabilitate entire sections of the roads. These construction costs are further classified into Pulverize & Pave for the roads in poor condition, and Mill & Resurface for roads in good condition. Using estimation tools as mentioned in Section 3.2, we estimate the construction costs, per km, to be \$229,800 for roads classified as poor, and \$141,500 for roads classified as good. For gravel roads, an average of 200 tonnes of Granular "A" at \$20.00 per tonne was allowed for each km of roadway.
- Asphalt pavements in good condition; with proper crossfall of the asphalt and shoulders and proper drainage were not significantly impacted by the construction activity. Sideroad 20 was noted as being in excellent condition in 2013, and, despite being used during construction, no major defects or pavement condition deterioration were noted post-construction in 2014.
- Taking into consideration the various factors contributing to the deterioration of an asphalt pavement, we have established for each section of road a percentage contribution to compensate the County for damages deemed to be associated with Dufferin Wind Farm construction activity. It should be noted that this contribution of funds is very subjective in nature; our observations indicate many of the Township roads were in poor condition prior to construction, and the pavements had been allowed to remain well past their expected service life.

Based on the observations noted in our assessments in 2013 & 2014, the factors discussed above, the data reviewed from the pre and post construction Immersive Video, and our determination of road construction costs and apportionment to Dufferin Wind Farms, we feel that the summary provided in Appendix A is a reasonable estimation of the dollar value of road restoration attributable to Dufferin Wind Farms. On Township Roads, this amount totals \$126,162, which is a one-time funding contribution to aid the Township in improving the condition of their roadway assets.



# Appendix 1

PAVEMENT EVALUATION & CONSTRUCTION COST TABLE

## Dufferin Wind Farms - Township Roads Summary Sheet

8-Jan-15

Pulverize & Pave (\$ per km):	229,800
Mill & Resurface (\$ per km):	141,500
Gravel Roads (\$ per tonne):	20.00

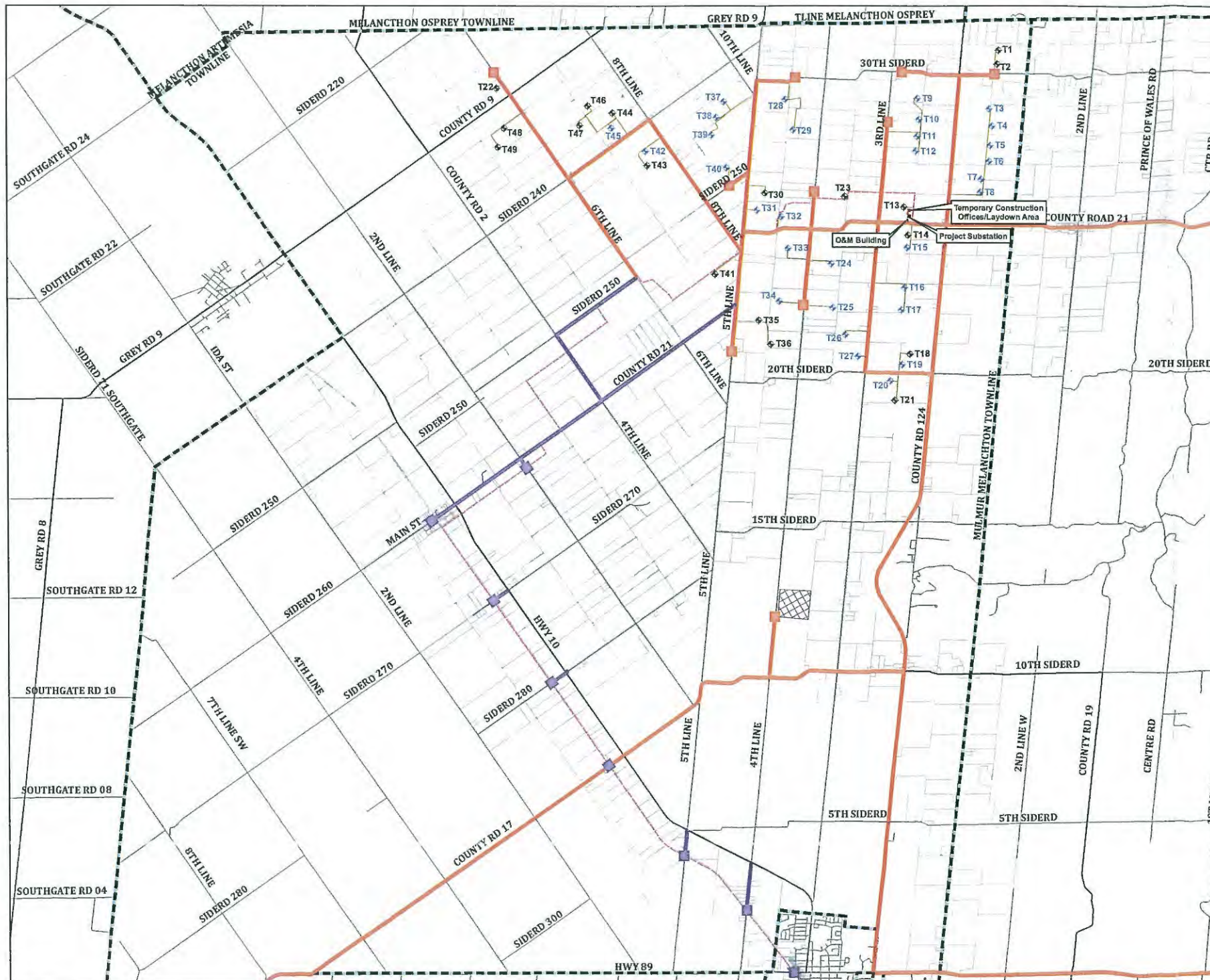
Location	Aug 2013 Rating	Oct 2014 Rating	Length (km)	Estimated Rehab Costs	DWF Share (%)	DWF Share (\$)	Comments
<b><u>3rd Line</u></b>							<b>Pulverize &amp; Pave</b>
CR 21 to 20th SR, Crane Damage				20,000	100.0%	20,000	4 entrances at \$5,000 each
CR 21 to 20th SR	5	3	2.0	459,600	5.0%	22,980	The first 1.0 km has been re-paved.
	<b>Total 3rd Line:</b>			<b>459,600</b>		<b>42,980</b>	
<b><u>4th Line</u></b>							<b>Pulverize &amp; Pave</b>
15th SR to CR 17	3	3	1.5	344,700	0.0%	0	
Hwy. 10 to Transmission Line	9	8	1.0	141,500	10.0%	14,150	<b>Mill &amp; Resurface</b>
	<b>Total 4th Line:</b>			<b>486,200</b>		<b>14,150</b>	
<b><u>20th Sideroad</u></b>							<b>Mill &amp; Resurface</b>
3rd Line to CR 124	8.5	8.5	1.3	183,950	0.0%	0	
<b><u>4th Line NW</u></b>							<b>Pulverize &amp; Pave</b>
CR 21 to SR 250	3.5	3	1.6	367,680	2.5%	9,192	
<b>GRAVEL ROADS:</b>			<b>Length (km)</b>	<b>Tonnes Gr. "A"</b>		<b>DWF Share (\$)</b>	
3rd Line	n/a	n/a	2.0	200		4,000	<b>Apply Granular "A"</b>
4th Line	n/a	n/a	0.9	178		3,560	
5th Line	n/a	n/a	3.0	594		11,880	
6th Line	n/a	n/a	4.5	891		17,820	
8th Line	n/a	n/a	3.2	634		12,680	
Sideroad 240	n/a	n/a	2.0	396		7,920	
Sideroad 250 (5th to Turbine 40 / 1.01)	n/a	n/a	0.5	99		1,980	
	<b>Gravel Roads Total:</b>					<b>59,840</b>	
				<b>Total DWF Share:</b>		<b>\$126,162</b>	
							Total paved roads: 5.8 km



# Appendix 3

ROUTE MAPS





## Dufferin Wind Power Project

### Wind Facility Haul Routes

Drawing Number:  
DHR 1000 - 2012 A

#### Legend

- Mortenson Haul Route
- K-Line Haul Route
- Major Roads
- Local Roads
- Parcels
- Lots/Concessions
- Municipalities

#### Project Components

- GE 1.6 MW Turbine
- GE 2.75 MW Turbine
- MET Tower
- MET Station
- Substation
- Operations and Maintenance Building
- Temporary Construction Offices/Laydown Area
- 230 KV Line Power Line
- Access Roads
- Temporary Storage Area



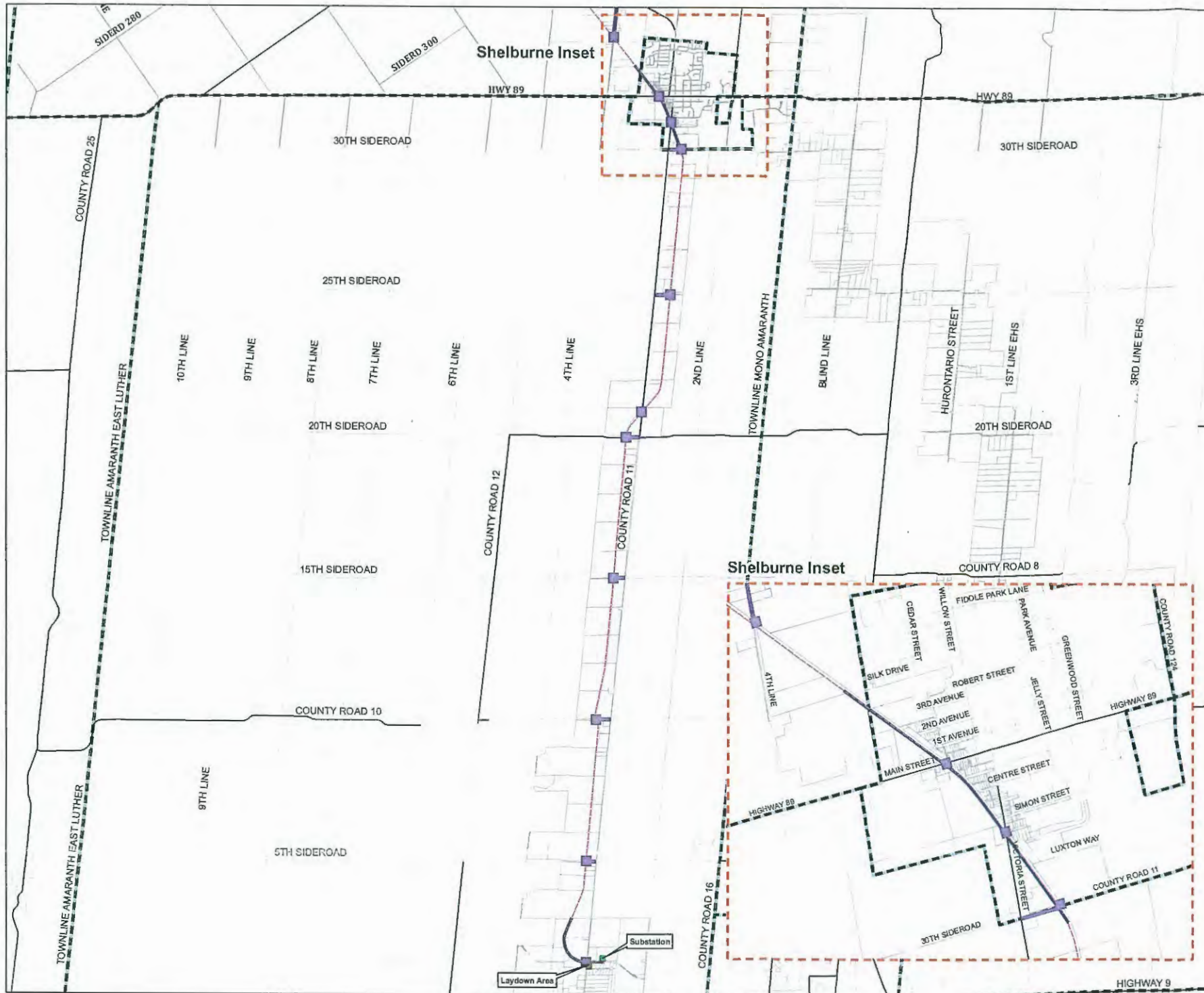
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Date Modified: 07/05/13  
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## Dufferin Wind Power Project

### Wind Facility Haul Routes

Drawing Number:  
DHR 1000 - 2012 B

#### Legend

- K-Line Haul Route
- Major Roads
- Local Roads
- Parcels
- Lots/Concessions
- Municipalities

#### Project Components

- Orangeville Transmission Station
- Switching Station
- Laydown Area
- 230kV Power Line
- Directional Drilling



1:80,000  
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**DILLON**  
CONSULTING

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Checked By: DR  
Date Created: 081011  
Date Modified: 062813  
File Path: I:\GIS\115199 - Dufferin Wind\2013\Mapping  
\Infrastructure\DHR 1000-2012 (230 kV) B.mxd

R.J. Burnside & Associates Limited 15 Townline Orangeville ON L9W 3R4 CANADA  
telephone (519) 941-5331 fax (519) 941-8120 web www.rjburnside.com



February 24, 2015

**Via: Email**

Ms. Rebecca Crump  
Director of Development  
Dufferin Wind Power Inc.  
161 Bay St., Suite 4550  
TD Canada Trust Tower  
Toronto ON M5J 2S1

Dear Ms. Crump:

**Re: Dufferin Wind Power  
Township of Melancthon  
Project No.: 300030497.0000**

On behalf of the Township of Melancthon we are providing comments on the final post-construction roads report that you forwarded to the Township on January 13, 2015. Following our internal review we met with the Township Roads Committee and have now been authorized to provide you with this response.

The inventory of damages appears to be complete and is not materially different than our own assessment. However, the Township is not in agreement with your final conclusion, which offers \$126,162 as a funding contribution. There are three specific areas of disagreement:

1. There appears to be a spreadsheet error in Appendix 1. The 3<sup>rd</sup> Line is correctly shown to have a length of 2.0 km. Using the factors of 200 tonnes per kilometer and \$20 per tonne as assumed in the report, the cost of gravel should be \$8,000 and not \$4,000 as shown.
2. The Township is not in agreement with the assumed requirement for gravel being 200 tonnes per kilometer. Typically, the Township's maintenance program requires 1000 to 1200 tonnes per kilometer. With the weight of equipment being used by Dufferin Wind Power during times when the roads were wet and vulnerable, there were observations of the roads pushing down and out towards the ditches. An estimate of 200 tonnes per kilometer equates to about a half inch of gravel. As a minimum, the Township feels that one inch was required.
3. The calculations that you submitted suggest a cost share with the Township that appears equitable for the damage that was done. But it doesn't consider the position of the Township in having other needs and priorities elsewhere in the municipality. The requirement of the Township to participate in this cost share forces them into spending their budget on the affected roads, as opposed to the roads they would have otherwise



Ms. Crump  
February 24, 2015  
Project No.: 300030497.0000

Page 2 of 2

prioritized in other areas of the Township. They have not requested compensation for this consideration, but ask that you take it into account while finalizing this matter.

In conclusion, the Township is requesting that you correct the spreadsheet error and increase the estimate of gravel from 200 tonnes per kilometer to 400 tonnes. This will have the effect of revising the total compensation from \$126,162 to \$194,000. Please contact me should further discussion or explanation be required.

Yours truly,

**R.J. Burnside & Associates Limited**



Gord Feniak, P.Eng.  
Project Manager  
GF:sd

Enclosure(s)

cc: Ms. Denise Holmes, Township of Melancthon (enc.) (Via: email)  
Mr. Craig Micks, Township of Melancthon (enc.) (Via: email)

150224\_Dufferin Wind Power Letter  
24/02/2015 9:30 AM

## Denise Holmes

---

**From:** Rebecca Crump <rebecca.crump@clypg.ca>  
**Sent:** March-06-15 4:42 PM  
**To:** 'Gord Feniak'  
**Cc:** dholmes@melancthontownship.ca; roads@melancthontownship.ca  
**Subject:** RE: Dufferin Wind Power

Hi Denise/Gord/Craig,

DWP is prepared to accept to pay the Township \$194,000 for road restoration finalization.  
In order to prepare payment, we would request a formal invoice from the Township.  
We would also request that the Township, when paid, sign a simple release form.

If this is acceptable, please forward an invoice and I will get a cheque prepared asap.

**Rebecca Crump**  
Director of Development | Longyuan Canada Renewables Ltd  
TD Canada Trust Tower, Suite 4550 | 161 Bay Street | Toronto, ON M5J 2S1  
M: 647-880-7473 | F: 416-551-3617

**From:** Gord Feniak [mailto:[Gord.Feniak@rjburnside.com](mailto:Gord.Feniak@rjburnside.com)]  
**Sent:** February-25-15 11:42 AM  
**To:** [rebecca.crump@clypg.ca](mailto:rebecca.crump@clypg.ca)  
**Cc:** [dholmes@melancthontownship.ca](mailto:dholmes@melancthontownship.ca); [roads@melancthontownship.ca](mailto:roads@melancthontownship.ca)  
**Subject:** Dufferin Wind Power

Hi Rebecca - I have attached our letter re road restoration costs. Please let me know if you would like to discuss it.....gf



Gord Feniak

R.J. Burnside & Associates Limited  
15 Townline  
Orangeville, Ontario L9W 3R4  
[Gord.Feniak@rjburnside.com](mailto:Gord.Feniak@rjburnside.com)  
Office: 519-941-5331  
Direct Line: 519-938-3076  
[www.rjburnside.com](http://www.rjburnside.com)

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Thank you.

\*\*\*\*\*

## MEMORANDUM

To: The Corporation of the Township of Melancthon  
Attn: Denise Holmes, AMCT

From: Stutz Brown & Self Professional Corporation  
Attn: Steve Christie

Date: March 16, 2015

Re: Dufferin Wind – Acknowledgement and Consent Agreement

I write further to correspondence received from Don Roger, solicitor for Dufferin Wind, dated March 12, 2015. In the said correspondence, you will note that Dufferin Wind is requesting that the Township sign an Acknowledgement and Consent Agreement.

By way of background, you may recall that the Township and Dufferin Wind entered into the Melancthon – Dufferin Wind Agreement dated July 31, 2013. Section 115 of the Melancthon – Dufferin Wind Agreement states as follows:

The Developer shall be entitled to assign this Agreement, and to charge or assign the Development Infrastructure and Works, without the consent of the Municipality and without having to comply with Section 114, to the Developer's lenders as security for the Developer's obligations to such lenders who shall be further entitled to assign this Agreement in connection with an enforcement of their security. No such assignments shall in any way diminish or eliminate the Developer's obligations, nor shall the Municipality be subjected to any new obligations to the Developer or the assignees. The Municipality agrees to execute and deliver an Acknowledgment and Consent Agreement in favour of any applicable lender, collateral agent or security trustee for the lenders or any assignees, substantially in the form attached hereto as Schedule "E".

Accordingly, this section provides that Dufferin Wind is permitted to assign its rights under the Agreement to a lender so as to obtain financing for its project. Insofar as the Township is concerned, this has very little relevance since a lender will attain no further rights to that of the Developer and further it would assume all of the obligations of Dufferin Wind. In short, it does not change the position of Melancthon as far as the agreement is concerned.

As first noted above, at this time, Dufferin Wind is requesting that the Township sign an Acknowledgement and Consent Agreement as per section 115. You will note that a blacklined copy has been presented with a number of changes.



After reviewing the changes, I can advise that the proposed changes do not substantively amend the terms of the Agreement. That is, the agreement presented is substantially in the form of the Acknowledgement and Consent Agreement that Melancthon had agreed to sign as per the terms of the Melancthon – Dufferin Wind Agreement. The most common change is to amend the reference from “Agent” to “Collateral Agent”. Paragraph 127 (sic) has been removed with similar language now forming a part of paragraph 4.

Therefore, it is my opinion that Melancthon has an obligation to sign the Agreement presented as it is substantially in the form as that which was attached to the Melancthon – Dufferin Wind Agreement. Such is not a concession to Dufferin Wind in any way, but rather flows from the agreed upon terms as previously negotiated.

I trust this to be satisfactory and would be pleased to address any further questions or concerns that you may have.

## Denise Holmes

---

**From:** Roger, Don <droger@torys.com>  
**Sent:** March-12-15 3:00 PM  
**To:** Stephen Christie (schristie@wstutzlaw.com)  
**Cc:** Denise B. Holmes (dholmes@melancthontownship.ca); Gibbons, Andy  
**Subject:** Melancthon-Dufferin Wind Agreement - Lender Acknowledgement and Consent Agreement  
**Attachments:** Dufferin Wind - Melancthon TWP RUA FINAL.pdf; #18297599v4\_TorysAtWork\_ - DWPI - Melancthon - Acknowledgement and Conse....docx; Blackline\_13653280v14 - 18297599v4.pdf

Hi Stephen,

*Dufferin Wind Power Inc. is in the process of doing a bond financing with BNY Trust Company of Canada as the Collateral Agent which will be secured by all of its assets, including an assignment of its interest in the Melancthon-Dufferin Wind Agreement as security for its obligations. We expect this financing to close in early April 2015. We have prepared an Acknowledgement and Consent Agreement substantially in the form of the one attached as Schedule "E" to the Melancthon-Dufferin Wind Agreement dated July 31, 2013. This document has been vetted by the lenders' counsel. In section 115 of the Melancthon-Dufferin Wind Agreement, the Township of Melancthon agreed to execute and deliver to an Acknowledgement and Consent Agreement in favour of any applicable lender, collateral agent or security trustee substantially in the form of Schedule "E" to that agreement. In the proposed financing there is a Collateral Agent, but no Agent as well so we have deleted the references to Agent and duplicative covenants where applicable. I attach the following to this e-mail:*

- 1. The executed Melancthon-Dufferin Wind Agreement;*
- 2. The Acknowledgement and Consent Agreement we are proposing be entered into by the Township of Melancthon and BNY Trust Company; and*
- 3. A blackline comparing Acknowledgement and Consent Agreement we are proposing with the one attached as Schedule "E" to the Melancthon-Dufferin Wind Agreement.*

*Dufferin Wind Power Inc. will pay, or reimburse the Township of Melancthon, for your reasonable legal fees and expenses in connection with advising the Township in connection with this matter in accordance with section 83 of the Melancthon-Dufferin Wind Agreement.*

*We would like to settle this form promptly and have three copies executed by the Township. We will then arrange for BNY Trust Company to execute the document, insert the date of the Collateral Agency Agreement at closing, and return one fully executed copy to the Township.*

*Please let me know if you require anything further.*

*Best regards,*

Don Roger

P. 416.865.7347 | F. 416.865.7380 | 1.800.505.8679  
79 Wellington St. W., 30th Floor, Box 270, TD South Tower  
Toronto, Ontario M5K 1N2 Canada | [www.torys.com](http://www.torys.com)

**TORYS**  
L.L.P.

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To: [dholmes@melancthontownship.ca](mailto:dholmes@melancthontownship.ca) [Remove this sender from my allow list](#)  
From: [droger@torys.com](mailto:droger@torys.com)

*You received this message because the sender is on your allow list.*



## ACKNOWLEDGMENT AND CONSENT AGREEMENT

This Acknowledgement and Consent Agreement ("**Acknowledgement**") is made as of the \_\_\_\_\_ day of April, 2015

### BETWEEN:

**THE CORPORATION OF THE TOWNSHIP OF MELANCTHON**  
("**Owner**")

- AND -

**BNY TRUST COMPANY OF CANADA**  
("**Collateral Agent**")

### WHEREAS:

- A. Collateral Agent on its own behalf and in capacity as agent for certain present and future lenders, creditors and bondholders (collectively, the "**Secured Creditors**") under and in accordance with the Agreement made as of April \_\_\_\_, 2015 (as amended, supplemented, restated, extended, renewed or replaced from time to time, the "**Collateral Agency Agreement**") between, *inter alia*, Dufferin Wind Power Inc., the persons who are, and from time to time become, parties thereto as guarantors, and the Collateral Agent, as agent for the Secured Creditors.
- B. The Owner and Dufferin Wind Power Inc. (the "**Developer**") entered into the Melancthon – Dufferin Wind agreement dated July 31, 2013 (as that agreement may be amended, supplemented, restated, extended, renewed or replaced from time to time, the "**Agreement**"), pursuant to which the Owner has granted to the Developer, *inter alia*, certain rights in connection with use of and access to municipal roads (the "**Rights**") and the lands described in Schedule "A" thereto (the "**Lands**") on the terms and conditions set out in the Agreement.
- C. Pursuant to the Collateral Agency Agreement (and documentation delivered in connection therewith), the Collateral Agent has been granted charges, mortgages, assignments and security interests (collectively, the "**Security Interests**") in all of the property, undertaking, assets, interests, rights and benefits of the Developer, including without limitation, all of the Developer's right title, estate, interest and equity in the Agreement, the Rights together with all rights, privileges, benefits, agreements and interests therein, and all improvements, equipment, structures, chattels, personal property and appurtenances thereto in, on, under or appurtenant to the Lands (collectively, the "**Collateral**").
- D. The Owner has agreed to execute and deliver this Acknowledgement to the Collateral Agent pursuant to the provisions of the Agreement.

**NOW THEREFORE** in consideration of the sum of Two Dollars (\$2) paid by the Collateral Agent to the Owner and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby acknowledges, covenants and confirms to the Collateral Agent, as follows:

1. The Owner consents to the creation of the Security Interests and the registration thereof on the title to the Lands in the applicable land registry office.
2. The Owner acknowledges that, following an event of default by the Developer under the Credit Agreement or an event of default as defined in the Collateral Agency Agreement (each, and “**Event of Default**”), the Collateral Agent or the Secured Creditors or any nominee or designee thereof or any receiver or receiver-manager (collectively, an “**Agent Party**”) shall have the right to enforce the Security Interests, including, without limitation, the right to enjoy and enforce the rights of the Developer under the Agreement and, in the course of the enforcement of such rights, shall be entitled to sell, assign, transfer, negotiate or otherwise dispose of the Agreement, provided that in exercising such rights the Agent Party shall assume all of the liabilities and obligations of the Developer under or in connection with the Agreement, subject to Section 4 hereof.
3. The Owner agrees:
  - (a) to give the Collateral Agent written notice (at the addresses below) of any default by the Developer under the Agreement, concurrent with the delivery of such notice to the Developer;
  - (b) that if the Developer fails to cure the breach or default identified in such notice, the Collateral Agent or any other Agent Party may, but in no way shall be obligated to, cure such default and the Owner shall not terminate the Agreement or exercise any other remedy under the Agreement if the Collateral Agent or any other Agent Party, within 90 days of the date of the Collateral Agent’s receipt of the written notice referred to in section 3(a) above, is diligently proceeding to cure such breach or default;
  - (c) that if any default by the Developer the Agreement is not of a curable nature, it will not exercise any right to terminate if the Collateral Agent or any other Agent Party or nominee thereof agrees to assume the rights and obligations of the Developer under the Agreement, including its obligations under the Operation and Maintenance Part, to the extent that it is capable of assuming and correcting the default by the Developer, so long the Collection Infrastructure is still operating and the Collateral Agent, Agent Party or nominee promptly and diligently commences and pursues the curing of all other outstanding defaults under the Agreement;
  - (d) that if the Agreement is terminated or surrendered for any reason prior to the expiry of the term thereof, whether as a result of a default by the Developer thereunder or otherwise, the Owner shall give notice of such termination to the Collateral Agent and shall offer to enter into a new or replacement agreement (the

**“Replacement Agreement”**) with the Collateral Agent or another Agent Party or other person designated by, as applicable, the Collateral Agent or other Agent Party, which Replacement Agreement shall be on substantially the same terms and conditions as the Agreement;

- (e) that if within 30 days of receipt of the notice referred to in item section 3(d) above, the Collateral Agent or other Agent Party requests a Replacement Agreement, the Owner shall enter into such Replacement Agreement with, as applicable, the Collateral Agent or other Agent Party or other person designated by the Collateral Agent or other Agent Party, notwithstanding any of the foregoing, the Agent Party confirms and acknowledges that the Owner shall not be liable to the Agent Party for the non-delivery of any notice pursuant to section 3(a) above;
  - (f) that although the Owner and the Developer may modify the Agreement from time to time between themselves, the Collateral Agent will not be bound by any material adverse modifications made without the Collateral Agent’s prior written consent, but with notice from the Developer to the Collateral Agent as may be required pursuant to the Collateral Agency Agreement and provided that such amendments would not reasonably be expected to impair the Collateral Agent’s security interest in the Collateral; and
  - (g) the Owner will, at any time and from time to time, upon not less than five business days’ prior request by the Collateral Agent and the payment of the Owner’s reasonable fees, deliver to the Collateral Agent a statement in writing certifying that: (i) the Agreement is in full force and full effect unamended (or setting out any such amendments), (ii) all amounts owing and payable under the Agreement have been paid (or setting out any unpaid amounts), and (iii) to the Owner’s knowledge, the Developer is not in default of its obligations under the Agreement in any material respect (or setting out any such defaults).
4. The Collateral Agent covenants and agrees with the Owner that during any period the Collateral Agent exercises its Security Interests and takes possession of the Developer’s interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages the Developer’s interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of the Developer under the Agreement, it will assume all of the obligations of the Developer under or in connection with the Agreement during such period to the extent that they may be performed by the Collateral Agent, and thereafter, but only while the Collateral Agent is in possession or control of the Lands, observe and perform all of the Developer’s obligations under the Agreement to the extent that they may be performed by the Collateral Agent. For greater certainty, the Collateral Agent shall only be liable for the performance of the obligations of the Developer from and after the date (the **“Possession Date”**) which the Collateral Agent is in possession or control of the Lands and only for the period the Collateral Agent remains in possession or control of the Lands. The Collateral Agent shall not be liable for any obligations of the Developer arising prior to the Possession Date.



5. The Owner confirms and acknowledges that in the event that the Collateral Agent or any other Agent Party assigns, transfers or otherwise disposes of its interest in the Agreement pursuant to its Security Interests (a “**Transfer**”), it will not unreasonably withhold, delay or condition its consent to the Transfer, and, upon such assignee or transferee covenanting and agreeing in writing with the Owner to assume and perform all of the covenants and obligations of the Developer pursuant to the Agreement, each of the Collateral Agent and the other Agent Party shall, thereupon and without further agreement, be freed and relieved of all liability with respect to the Agreement from and after the effective date of such Transfer.
6. All notices hereunder shall be in writing, sent by registered mail, return receipt requested or by fax, to the respective parties and the addresses set forth on the signature page or at such other address as the receiving party shall designate in writing.
7. This Acknowledgement may be executed in any number of counterparts and delivered electronically, shall be governed by the laws of the Province of Ontario and binds and inures to the benefit of the Collateral Agent, and its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of the Owner.
8. Each of the parties hereto agrees to do, make and execute all such further documents, agreements, assurances, acts, matters and things and take such further action as may be reasonably required by any other party hereto in order to more effectively carry out the true intent of this Acknowledgement.
9. The provisions of this Acknowledgement shall continue in effect until the Owner shall have received the written notice from the Collateral Agent that all amounts advanced, and obligations arising, under the Credit Agreement and all Obligations (as defined in the Collateral Agency Agreement) have been paid and performed in full.

**[SIGNATURE LINES FOLLOW ON THE NEXT PAGE]**

**IN WITNESS WHEREOF**, this Acknowledgement is executed by the parties as of the date first written above.

Address for Notice:

The Corporation of the Township  
of Melancthon  
157101 Highway 10  
Melancthon, Ontario  
L9V 2E6  
Fax: (519) 925-1110

**THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON**

Per: \_\_\_\_\_  
Darren White, Mayor

Per: \_\_\_\_\_  
Denise B. Holmes, CAO

*We have authority to bind the Corporation*

Address for Notice:

BNY Trust Company of Canada  
320 Bay Street, 11th floor  
Toronto, Ontario M5H 4A6  
Attention: Corporate Trust  
Administration  
Fax.: (416) 360-1711

**BNY TRUST COMPANY OF CANADA**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

*We have authority to bind the above*

T31	34142-0011
T32	34142-0012
T33	34141-0022
T35	34141-0018
T37	34143-0034
T41	34145-0032
T43	34145-0039
T48	34144-0030

Drawings:-

1. DWP, Corporate Logo-DWG-LP-DWP-1000-2012
2. DWP, Permitted Advertising Map (WTGs)

**Schedule "E"**

**ACKNOWLEDGMENT AND CONSENT AGREEMENT ~~FORM~~**

This Acknowledgement and Consent Agreement ("Acknowledgement") is made as of the  
day of April, 2015

**BETWEEN:**

**THE CORPORATION OF THE TOWNSHIP OF MELANCTHON**  
**("Owner")**

~~and~~

~~\*\*\*~~

~~("Agent")~~

~~- AND -~~

**BNY TRUST COMPANY OF CANADA**

~~ACKNOWLEDGEMENT AND CONSENT AGREEMENT~~ ("Collateral Agent")

**WHEREAS:**

- A. ~~This Owner's Acknowledgement and Consent Agreement ("Acknowledgement") made as of the~~ ■ day of ■, 2012 ~~by and between THE CORPORATION OF THE TOWNSHIP OF MELANCTHON (the "Owner") and ■, as agent (the "Agent") pursuant to a credit agreement dated ■, 2012 (as amended, supplemented, restated, extended, renewed or replaced from time to time, the "Credit Agreement") between, Dufferin Wind Power Inc. inter alia,~~ the Agent, ■ and the other financial institutions from time to time party thereto, as lenders Collateral Agent on its



own behalf and in capacity as agent for certain present and future lenders, creditors and bondholders (collectively, the "~~Lenders~~" Secured Creditors") under and ~~■, in its capacity as collateral agent under~~ in accordance with the Agreement made as of ~~■, 2012~~ April, 2015 (as amended, supplemented, restated, extended, renewed or replaced from time to time, the "Collateral Agency Agreement") between, inter alia, Dufferin Wind Power Inc., the persons who are, and from time to time become, parties thereto as guarantors ~~(including ■), and ■ (the "Collateral Agent"), as agent for the Secured Creditors (as defined therein).~~

B.

**WHEREAS:**

- C. ~~A. The Owner and~~ Dufferin Wind Power Inc. (the "**Developer**") entered into ~~an Agreement and Transfer and Grant of Easement dated ■ registered against title to the lands described in the Agreement~~ the Melancthon – Dufferin Wind agreement dated July 31, 2013 (the "Lands") on ■ as Instrument No. ■ (that agreement may be amended, supplemented, restated, extended, renewed or replaced from time to time, the "Agreement"), pursuant to which the Owner has granted to the Developer, *inter alia*, certain rights in connection with use of and access to municipal roads (the "**Rights**") and the lands described in Schedule "A" thereto (the "Lands") on the terms and conditions set out in the Agreement.
- D. ~~B.~~ Pursuant to, ~~respectively, the Credit Agreement and~~ the Collateral Agency Agreement (and documentation delivered in connection therewith), the ~~Agent and Collateral Agent, respectively, have~~ has been granted charges, mortgages, assignments and security interests (collectively, the "**Security Interests**") in all of the property, undertaking, assets, interests, rights and benefits of the Developer, including without limitation, all of the Developer's right title, estate, interest and equity in ~~the Lands~~, the Agreement, the ~~Easement~~ Rights together with all rights, privileges, benefits, agreements and interests therein, and all improvements, equipment, structures, chattels, personal property and ~~appurtenance~~ appurtenances thereto in, on, under or appurtenant to the Lands (collectively, the "**Collateral**").
- E. ~~C.~~ The Owner has agreed to execute and deliver this Acknowledgement to ~~the Agent and~~ the Collateral Agent pursuant to the provisions of the Agreement.

**NOW THEREFORE** in consideration of the sum of Two Dollars (\$2) paid by ~~each of the Agent and~~ the Collateral Agent to the Owner and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby acknowledges, covenants and confirms to ~~each of the Agent and~~ the Collateral Agent, as follows:

1. The Owner consents to the creation of the Security Interests and the registration thereof on the title to the Lands in the applicable land registry office~~(s)~~.
2. ~~+25-~~ The Owner acknowledges that, following an event of default by the Developer under the Credit Agreement or an event of default as defined in the Collateral Agency

Agreement (each, and “Event of Default”), ~~the Collateral Agent, the Lenders,~~ the Collateral Agent or the Secured Creditors or any nominee or designee thereof or any receiver or receiver-manager (collectively, an “Agent Party”) shall have the right to enforce the Security Interests, including, without limitation, the right to enjoy and enforce the rights of the Developer under the Agreement and, in the course of the enforcement of such rights, shall be entitled to sell, assign, transfer, negotiate or otherwise dispose of the Agreement, provided that in exercising such rights the Agent Party shall assume all of the liabilities and obligations of the Developer under or in connection with the Agreement, subject to Section 4 hereof.

3. ~~126.~~ The Owner agrees:

- (a) to give ~~each of the Agent and~~ the Collateral Agent written notice (at the addresses below) of any default by the Developer under the Agreement, concurrent with the delivery of such notice to the Developer;
- (b) that if the Developer fails to cure the breach or default identified in such notice, ~~the Agent,~~ the Collateral Agent or any other Agent Party may, but in no way shall be obligated to, cure such default and the Owner shall not terminate the Agreement or exercise any other remedy under the Agreement if ~~the Agent,~~ the Collateral Agent or any other Agent Party, within 90 days of the date of the Collateral Agent’s receipt of the written notice referred to in section 3(a) above, is diligently proceeding to cure such breach or default;
- (c) that if any default by the Developer the Agreement is not of a curable nature, it will not exercise any right to terminate if ~~the Agent,~~ Collateral Agent or any other Agent Party or nominee thereof agrees to assume the rights and obligations of ~~Plateau~~the Developer under the Agreement, including its obligations under the Operation and Maintenance Part, to the extent that it is ~~capable of~~ capable of assuming and correcting the default by the Developer, so long the Collection Infrastructure is still operating and ~~the Agent,~~ Collateral Agent, Agent Party or nominee promptly and diligently commences and pursues the curing of all other outstanding defaults under the Agreement;
- (d) that if the Agreement is terminated or surrendered for any reason prior to the expiry of the term thereof, whether as a result of a default by the Developer thereunder or otherwise, the Owner shall give notice of such termination to ~~each of the Agent and~~ the Collateral Agent and shall offer to enter into a new or replacement agreement (the “Replacement Agreement”) with ~~the Agent,~~ the Collateral Agent or another Agent Party or other person designated by, as applicable, ~~the Agent,~~ the Collateral Agent or other Agent Party, which Replacement Agreement shall be ~~upon~~ substantially the same terms and conditions as the Agreement;
- (e) that if within 30 days of receipt of the notice referred to in item section 3(d) above, the Collateral Agent or other Agent Party requests a Replacement Agreement, the Owner shall enter into such Replacement Agreement with, as



applicable, the Collateral Agent or other Agent Party or other person designated by the Collateral Agent or other Agent Party. ~~Notwithstanding, notwithstanding~~ any of the foregoing, the Agent Party confirms and acknowledges that the Owner shall not be liable to the Agent Party for the non-delivery of any notice pursuant to section 3(a) above;

- (f) that although the Owner and the Developer may modify the Agreement from time to time between themselves, the Collateral Agent will not be bound by any material adverse modifications made without the Collateral Agent's prior written consent, but with notice from the Developer to the Collateral Agent as may be required pursuant to the Collateral Agency Agreement and provided that such amendments would not reasonably be expected to impair the Collateral Agent's security interest in the Collateral; and
- (g) the Owner will, at any time and from time to time, upon not less than five business days' prior request by the Collateral Agent and the payment of the Owner's reasonable fees, deliver to the Collateral Agent a statement in writing certifying that: (i) the Agreement is in full force and full effect unamended (or setting out any such amendments), (ii) all amounts owing and payable under the Agreement have been paid (or setting out any unpaid amounts), and (iii) to the Owner's knowledge, the Developer is not in default of its obligations under the Agreement in any material respect (or setting out any such defaults).

~~127. The Agent covenants and agrees with the Owner that during any period the Agent exercises its Security Interests and takes possession of the Developer's interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages the Developer's interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of the Developer under the Agreement, it will assume all of the obligations of the Developer under or in connection with the Agreement during such period to the extent that they may be performed by the Collateral Agent, and thereafter observe and perform all of the Developer's obligations under the Agreement to the extent that they may be performed by the Collateral Agent.~~

- 4. ~~128.~~ The Collateral Agent covenants and agrees with the Owner that during any period the Collateral Agent exercises its Security Interests and takes possession of the Developer's interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages the Developer's interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of the Developer under the Agreement, it will assume all of the obligations of the Developer under or in connection with the Agreement during such period to the extent that they may be performed by the Collateral Agent, and thereafter, but only while the Collateral Agent is in possession or control of the Lands, observe and perform all of the Developer's obligations under the Agreement to the extent that they may be performed by the Collateral Agent. For greater certainty, the Collateral Agent shall only be liable for the performance of the obligations of the Developer from and after the date (the "Possession Date") which the Collateral Agent is in possession or control of



the Lands and only for the period the Collateral Agent remains in possession or control of the Lands. The Collateral Agent shall not be liable for any obligations of the Developer arising prior to the Possession Date.

5. ~~129.~~ The Owner confirms and acknowledges that in the event that the Collateral Agent or any other Agent Party assigns, transfers or otherwise disposes of its interest in the Agreement pursuant to its Security Interests (a “Transfer”), it will not unreasonably withhold, delay or condition its consent to the Transfer, and, upon such assignee or transferee covenanting and agreeing in writing with the Owner to assume and perform all of the covenants and obligations of the Developer pursuant to the Agreement, each of the Collateral Agent and the other Agent Party shall, thereupon and without further agreement, be freed and relieved of all liability with respect to the Agreement from and after the effective date of such Transfer.
6. ~~130.~~ All notices hereunder shall be in writing, sent by registered mail, return receipt requested or by fax, to the respective parties and the addresses set forth on the signature page or at such other address as the receiving party shall designate in writing.
7. ~~131.~~ This Acknowledgement may be executed in any number of counterparts and delivered electronically, shall be governed by the laws of the Province of Ontario and binds and inures to the benefit of the Collateral Agent, and its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of the Owner.
8. ~~132.~~ Each of the parties hereto agrees to do, make and execute all such further documents, agreements, assurances, acts, matters and things and take such further action as may be reasonably required by any other party hereto in order to more effectively carry out the true intent of this Acknowledgement.
9. The provisions of this Acknowledgement shall continue in effect until the Owner shall have received the written ~~certification of~~ notice from the Collateral Agent that all amounts advanced, and obligations arising, under the Credit Agreement and all Obligations (as defined in the Collateral Agency Agreement) have been paid and performed in full.

[SIGNATURE LINES FOLLOW ON THE NEXT PAGE]

IN WITNESS WHEREOF, this Acknowledgement is executed by the parties as of the date first written above.

~~THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON~~

~~per:~~

~~\*\*\*, Mayor~~

~~\*\*\*, CAO~~

~~We have authority to bind the Corporation~~

~~Address for Notice:~~

~~\*\*\*~~

~~\*\*\*~~

~~per:~~

~~\*\*\*, Title~~

~~\*\*\*, Title~~

~~We have authority to bind the Corporation~~

~~Address for Notice:~~

~~\*\*\*~~

~~Schedule "G"~~

~~ASSUMPTION AGREEMENT FORM~~

## MELANCTHON – DUFFERIN WIND AGREEMENT

Made as of July 31, 2013

B E T W E E N:

### THE CORPORATION OF THE TOWNSHIP OF MELANCTHON

(Hereinafter referred to as the “Municipality”)

OF THE FIRST PART

- and -

### DUFFERIN WIND POWER INC.

(Hereinafter referred to as the “Developer”)

OF THE SECOND PART

**WHEREAS** the Municipality is the owner of or otherwise exercises jurisdiction over certain public rights-of-way, highways, streets, sidewalks, walkways, driveways, ditches, municipal drains and associated grassy areas and the allowances therefor more particularly identified in Schedule “A” (collectively referred to as the “**Road Allowances**”);

**AND WHEREAS** the Developer is the owner of a electricity-generating wind farm, known as Dufferin Wind Power Project, consisting of 49 turbines in Melancthon, with a total nameplate capacity of 99.1 MW, which are individually and collectively referred to in this Agreement as “**Development**”, with all turbines, collection lines and other infrastructure required for the Development being referred to as the “**Development Infrastructure**”;

**AND WHEREAS** the Developer wishes to construct or install poles, lines, underground conduits, cables and other related structures, equipment and facilities, as described in Schedule “B” (the “**Works**”) for the distribution of electricity on, over, under, within, across and through the Road Allowances;

**AND WHEREAS** the Developer has entered into lease agreements with owners of private lands on which the wind generating towers and other equipment are to be constructed (“**Leases**”), granting access to such private lands for the purposes of the Development, and requiring the owners of such private lands to co-operate with the Developer in obtaining various approvals in connection with the Development;

**AND WHEREAS** in this Agreement the electrical collection system within the Municipality to service the Development is sometimes referred to as the “**Collector System**”;

**AND WHEREAS** both parties acknowledge that no rights are being granted by this Agreement to the Developer to distribute or sell electricity to retail users in the Municipality;

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, the Municipality and the Developer agree as follows:



## PERMITTING PART

1. Prior to commencing construction, the Developer shall provide to the Municipality copies of those permits set out in Schedule "C".
2. The Developer has submitted applications or requests for the following permits and approvals, in proper complete form, and accompanied by all applicable fees:
  - (a) all entrance permits required for the Development;
  - (b) all Municipal drain crossing approvals required for the Development; and
  - (c) permits and approvals for the meteorological tower and temporary trailers.collectively, the "**Permits**".
3. To the best of the knowledge of the Municipality, the Permits are the only permits, approvals, consents, or authority within the jurisdiction of the Municipality required in connection with the Works and the fees to be charged to the Developer for the Permits to be issued by the Municipality in connection with the Works are the only fees payable by the Developer in connection with the Works and do not exceed the usual and customary fees that are generally applicable to the public.
4. The Municipality shall, within three (3) business days following the execution of this Agreement by both parties, deliver written notice to the Chief Building Official for the County of Dufferin (with a copy to the Developer) stating that the Agreement has been entered into.

## CONSTRUCTION PART

### Drawings, Meetings and Construction Work

5. Prior to commencing construction, the Developer shall provide a complete set of engineering drawings and specifications which are identified in Schedule "B" to the Municipality, together with proof of all legally required approvals and permits for the Works.
6. The Developer will obtain all applicable regulatory and other approvals required as required for the Development from the Province of Ontario and all relevant governmental authorities having jurisdiction.
7. As constructed drawings shall meet the following criteria: **All existing utilities, buildings, and other structures** within the project area shall be shown, including utility type and location. The Collection System circuits shall be shown in their assigned corridors with any deviation clearly marked. Municipal drains shall be shown along with specific details for

crossing of watercourses. Restoration details shall be provided where interference occurs with any drainage culvert.

8. The Developer acknowledges that existing municipal works and services (including Municipality Roads, drainage culverts, etc.) may not meet the requirements of the Developer for the installation of the Works and services proposed to be carried out by the Developer, and the Developer agrees that the improvement or upgrading of the existing municipal works and services to meet the Developer's requirements (including, but not limited to, the Temporary Municipal Intersection Improvements set out in Schedule "A") shall be carried out by and be at the sole expense of the Developer. In the event the Developer requires any additional improvements to the existing municipal works and services not included in Schedule "B" of this Agreement, the Developer shall obtain the written approval of the Municipality prior to making such improvements. All driveway entrance culverts shall have a minimum thickness of 2.0mm. The Developer acknowledges that it has not used engineering designs to obtain the proposed diameter for its driveway culverts. All culverts have been specified to have diameters of 500mm. In the event that the Municipality experiences problems with the capacity of any of these culverts, the Municipality shall notify the Developer of the problem in writing and the Developer shall correct the problem in a timely manner. Upon receiving written notification, if the Developer is unable or unwilling to resolve the matter in a timely manner, then the Municipality, acting reasonably, will have sole discretion regarding the remedy and may order the culvert(s) to be replaced with larger sized culverts at the expense of the Developer. In the sole discretion of the Township Engineer the matter may be treated as an emergency pursuant to the provisions of this Agreement. For greater certainty, the Developer shall be permitted to perform the Temporary Municipal Intersection Improvements set out in Schedule "A", subject to approval by the Municipality in accordance with the terms of this Agreement and subject to the Developer agreeing to restore the intersections within a reasonable period of time following completion of the installation of the Works and services proposed to be carried out by the Developer such restoration to be completed, subject to reasonable delays for inclement weather, no later than ninety (90) days following the date of delivery of the last turbine component to the satisfaction of the Municipality, acting reasonably. Notwithstanding the foregoing, the Developer shall not be required to restore any intersections which are identified by the Municipality or the Township Road Supervisor in writing to the Developer as not requiring restoration.
9. All underground crossings of watercourses, ditches and municipal drains shall be a minimum of either 2.0 m. below the centreline of road elevation, or 1.0 m. below the invert of ditches, drains and watercourses, whichever is deeper.
10. As appropriate the Developer shall provide dust control and clean up all construction refuse and debris in order to prevent dust or refuse problems to traffic or home occupants. The Municipality shall notify the Developer of complaints regarding dust or refuse removal and the Developer shall remedy the problem in a timely manner.
11. At least two (2) business days prior to the start of construction, the Developer shall provide to the Municipality pre-construction road condition reports of the Township roads identified

as transportation and haul routes in Schedule "A". The Developer shall appoint a third party professional engineer, such engineer to be approved by the Municipality, acting reasonably, to draft the pre-construction road condition reports. The Municipality grants the Developer permission to perform the pre-construction assessment of all Road Allowances that will be affected by the construction. The Developer will coordinate this pre-construction inspection with the Township Road Supervisor prior to performing the work.

12. The Developer and its engineer shall attend a pre-construction meeting with the Municipality and the Municipality's engineer to review the project design and construction plan of the Development.
13. Construction work shall be carried out between the hours of 7AM and 7PM, Monday through Saturday and excluding official holidays.

#### **Haul Routes**

14. The Developer shall cause its agents and contractors to use only the haul routes within the Municipality that are approved in this Agreement. The approved Municipal haul routes are listed in Schedule "A" or as additionally permitted by the Municipality. The approval of the Municipality shall not be unreasonably withheld, delayed or conditioned, but hauling on roads not included in Schedule "A" shall not be permitted without prior written approval by the Municipality.
15. During construction, traffic control shall be provided in accordance with Provincial and Municipal requirements, and in particular Ontario Traffic Manual - Book 7. In the event that roads have to be temporarily closed, the following provisions shall apply: the Developer shall provide five (5) days' notice to the Municipality and the Municipality shall implement its road closure procedure on or before the 6<sup>th</sup> day following receipt of the notification. The Developer shall minimize disruption of access to private properties and shall allow local access to driveways at all times.
16. The Municipality shall be deemed to have issued its approval of the removal of excess fill by the Developer provided such removal is in compliance with the Municipal Site Alteration By-law, By-law 29-2004. The dumping of excess fill off-site and within the Municipality shall be subject to the provisions of By-law 29-2004.

#### **Private Access Roads**

17. The private access roads shall be constructed, installed and maintained in a manner and in the locations set out in Schedule "A".
18. Except during construction, repair and decommissioning periods, entrances to the private access roads shall be normal and symmetrical in accordance with applicable Provincial standards.



## Tree Replacement and Preservation

19. The Municipality grants the Developer permission to trim or remove trees and vegetation in the Road Allowance in accordance with the Vegetation Plan attached to the Developer's Renewable Energy Approval application and otherwise in accordance with the terms of this Agreement. The trimming or removal of any trees, bushes, or other vegetation not identified in the Vegetation Plan shall be subject to the Municipality's prior written approval, acting reasonably. An inventory shall be kept of all trees that are damaged or removed on municipal property. The inventory shall be provided to the Municipality within one (1) week of commencement of construction, and kept up to date by the Developer. On the conclusion of the construction period, the Developer shall submit for the approval of the Municipality a tree replacement plan. The Developer shall replace those trees having a diameter of more than 50 mm and a height of more than 2.25 m in a ratio of three replacement trees to each two trees to be replaced, 100-200mm trees shall be replaced at a ratio of two replacement trees to each tree to be replaced, 200-400mm shall be replaced at a ratio of three replacement trees to each tree to be replaced, and 400+mm shall be replaced at a ratio of four replacement trees to each tree to be replaced in a location as close as possible to the original tree location, thereby maintaining the general configuration of the original grouping of trees. Replacement trees shall be a minimum of 50 mm in diameter and 2.25m to 4m high. Replacement trees shall be maintained by the Developer for two years.

## Electrical Collection System

20. The Collection System shall be located on municipal property as set out in Schedule "A". The Collection System located on the Road Allowances may be referred to as the **"Collection Infrastructure"**.
21. All Collection Infrastructure lines shall be placed underground with above ground junction boxes in the locations set out in Schedule "A". Except for road crossings and junction boxes, all underground lines shall be in a corridor 1.0m in width, with the center line 1.0m from the edge of the Road Allowance. Where underground crossings are oriented perpendicular to the road, there shall be an above ground marker placed on both sides of the road. Above ground markers shall be placed at intervals not exceeding 500m, and caution tape shall be placed in the trench above the cables. The above ground markers and junction boxes shall be clearly visible from both directions along the Road Allowance and shall be placed in a manner that shall be visible to snowmobilers.
22. Further provisions regarding the Collector System on municipal roads are set out in the Road Use Part of this Agreement.

## Grading

23. All private access roads and construction sites shall be suitably graded and drained. It is the responsibility of the Developer to properly grade all private access roads and construction sites. In cases where access roads disturb underground private or municipal drainage tiles, the underground drainage shall be restored to operate as it did in the predevelopment

condition. There shall be no flooding of adjacent properties, rerouting drainage flows onto adjacent properties, re-grading of slopes on adjacent properties or the creation of any nuisance as a result of grading activities. In the event that the Municipality receives *bona fide* complaints of nuisance, an engineer acting on behalf of the Municipality (the “**Municipality’s Engineer**”) will promptly notify the Developer of the complaints and if the Developer is unable or unwilling to expeditiously resolve the matter, then the Municipality’s Engineer, acting reasonably, will have sole discretion regarding the remedy. In the sole discretion of the Municipality’s Engineer the matter may be treated as an emergency pursuant to the provisions of this Agreement.

## **Lights**

24. The Developer shall not erect, locate, relocate, or otherwise place any sign, light or light standard on any part of the Development unless the sign, light or light standard has been approved in this Agreement. Site illumination shall be designed to minimize the spread of light into adjacent properties, while maintaining the safety and security of the infrastructure and personnel. The requirements of this section do not apply to any navigational lighting or marking requirements that may be imposed by Transport Canada, NAVCanada, or similar federal or provincial agencies, however, such lights and their operation shall, to the extent allowed under the above requirements, be directed skyward so that no light is visible from the ground. In the event that regulatory authorities do not permit light levels to be configured in this fashion, the Developer shall make best efforts to synchronize the turbine lights with each other. The Developer shall also make best efforts to synchronize with lights in Melancthon Phases I and II and the Melancthon Plateau projects in order to minimize the light impact at ground level.

## **Construction Completion**

25. Within one hundred and twenty (120) days following the completion of construction of the Development, the Developer shall provide to the Municipality the following:
  - (a) “As constructed” plans of the Works and services;
  - (b) Certificate of the Developer that all Works have been completed.

## **ROAD USE PART**

26. Pursuant to the provisions of the *Electricity Act*, 1998, the Municipality hereby grants and transfers to the Developer for a period of twenty-five (25) years from the date hereof (the “**Term**”), the right, privilege, interest, benefit and use to enter upon the Road Allowances with such persons, vehicles, equipment and machinery necessary to place, replace, construct, reconstruct, maintain, inspect, remove, operate and repair the Distribution Infrastructure over, along, across, or under such Road Allowances (hereinafter collectively the “**Rights**”) in the locations as specified in Schedule “A”. The work shall be done in accordance with the engineering drawings set out in Schedule “B”.

27. If the Developer is not then in default under this Agreement in any material respect, the Developer shall have the option to extend the Term of this Agreement for two further ten (10) year periods. The extension shall be upon the same terms and conditions of this Agreement except that there shall be no further right of extension. The Developer shall give prior written notice to the Municipality of its intent to renew this Agreement at least six (6) months prior to the end of the then existing Term.
28. The Developer hereby acknowledges that the Rights shall not be exclusive and further acknowledges that the Municipality may have granted or may otherwise grant similar rights and privileges to another person, party, persons, or parties, at any time during the term of this Agreement. The Developer further acknowledges that nothing in this Agreement shall prohibit or restrict the Municipality from entering upon any of the Road Allowances and conducting work thereon for its own municipal purposes, in respect of which the Municipality shall not be required to provide notice to or seek approval from the Developer provided that such work does not adversely affect the Developer's Rights, the Work or the Collection Infrastructure.
29. The Developer agrees that Schedule "B", as may be amended details the Works to which the Municipality has consented and the Developer agrees to undertake any and all such Works in accordance with such plans and specifications. Notwithstanding the foregoing, the Developer agrees that it shall comply with any and all reasonable directions and orders issued in writing by the Municipality in respect of the Works, regardless of whether such directions and orders are issued before, during or after the commencement or completion of such Works, provided that the Municipality acts promptly and reasonably in respect of such directions and orders.
30. The Developer agrees that, in placing, replacing, constructing, reconstructing, maintaining, inspecting, removing, operating, and/or repairing the Collection Infrastructure on municipal property, or in otherwise undertaking any other work under and/or in conjunction with the Rights, it shall use all due care and diligence to ensure no unnecessary or unavoidable interference with the travelled portion of any of the Road Allowances or any pedestrian, vehicular, or other traffic thereon, or any use or operation thereof or any ditch or drain adjacent thereto. The Developer further agrees that all Works undertaken by the Developer shall be at the Developer's sole cost and expense, including any re-instatement, remediation or restoration of the Road Allowances required to be completed by the Developer pursuant to this Agreement.
31. Notwithstanding and without limiting any other term hereof, the Developer agrees and undertakes that it will place, replace, construct, reconstruct, maintain, inspect, remove, operate, and repair the Collection Infrastructure located on any of the Road Allowances in accordance with and in compliance with good engineering practices and all federal, provincial, and municipal laws and by-laws and in compliance with the reasonable directions as issued by the Municipality in writing.
32. Notwithstanding and without limiting the generality of any term hereof, the Developer further agrees that, where practicable, any of the Collection Infrastructure placed, replaced,



- constructed, reconstructed, maintained, removed, or otherwise installed pursuant to the Rights will not be located on, over or under the existing or contemplated travelled portion of any of the Road Allowances except where a road crossing is necessary, but shall be located adjacent to such existing or contemplated travelled portion of such Road Allowances and as far away from the travelled portion as reasonably practicable. In this same regard, the Developer further acknowledges that it shall consult with the Municipality as to the permitted location of any Collection Infrastructure.
33. Except for emergency situations as provided in section 40, the Developer agrees that any access to the Road Allowances and any Works to be undertaken pursuant to the Rights and for which a permit would otherwise be required shall be undertaken and completed at such reasonable time or times as the Municipality may specify in such permit and, without limiting the generality of the foregoing or any other term hereof, all such Work shall be undertaken and completed in such manner as contemplated pursuant to this Agreement so as not to cause unnecessary nuisance or damage to the Municipality or any user of that portion of the Road Allowance where such Works are to be conducted.
  34. The Developer further agrees that it shall notify any other person or body operating any equipment, installations, utilities or other facilities, within the Road Allowances or in the vicinity of the Road Allowances where such Works are to be conducted, of the details of the anticipated Works so as to minimize the potential interference with or damage to such existing equipment, installations, utilities, and other facilities by the Works and so as to maintain the integrity and security thereof.
  35. The Developer agrees that, in the event that it carries out work, it will in all cases repair, reinstate, restore, or remediate the road, including its surface, drainage works, culverts and associated appurtenances to at least the same condition which existed prior to the commencement of such work. In all areas of disturbed trench, including but not limited to direct buried trenches, boring and splice pits, restoration shall be to preconstruction condition but in no case shall it be with less than 100mm topsoil, mulch and seed. In the event that the Developer shall fail to repair, and reinstate as aforesaid, then in such case, the Municipality will promptly notify the Developer in writing of such failure to repair and if the Developer fails to proceed diligently to carry out the required work prior to the expiration of the Developer's Cure Period, the Municipality may undertake the same and charge the reasonable costs thereof to the Developer. The Municipality shall not be liable for any damage of any nature or kind howsoever caused by reason of such work undertaken by the Municipality as aforesaid, and the Developer hereby agrees to indemnify and save harmless the Municipality and all other concerned parties from any such claims or damages, save and except any direct damage arising from the negligence or wilful misconduct of the Municipality or those for whom it is at law responsible.
  36. Notwithstanding the terms of this Agreement, where the Collection Infrastructure interferes with the plans of the Municipality, the Municipality, acting reasonably, shall be entitled to require the Developer, subject to its receipt of any required permitting approvals, to relocate that part of the Collection Infrastructure interfering with such plans, from within any of the Road Allowances to another location within the Road Allowances, within one hundred

eighty (180) days of delivery of written request for such relocation or such longer time as the Developer and the Municipality may determine is appropriate which relocation shall be completed by the Developer, at its sole cost and expense. If the request is made by the Municipality within five (5) years of the date hereof, the Municipality will pay 100% of the costs and expenses of the relocation.

37. In the event the parties secure the required permitting approvals but the Developer fails to remove and/or relocate all or any portion of the Collection Infrastructure in the Road Allowances within one hundred eighty (180) days of the later of (i) receipt of written notice from the Municipality pursuant to the previous section of this Agreement; and (ii) receipt of the required permitting approvals, the Municipality shall have the right to remove and/or relocate such Collection Infrastructure, following completion of which, the Municipality shall deliver an invoice to the Developer detailing the reasonable costs and expenses associated with same and the Developer shall pay the amount of such invoice in accordance with the terms thereof. If the Municipality is required to remove and/or relocate any of the Collection Infrastructure as described above and without limiting the obligation of the Developer to pay the costs and expenses thereof, the Developer further agrees to:
  - (a) release the Municipality from any claims for damage to such Collection Infrastructure and/or other damages flowing from such removal and/or relocation;
  - (b) save harmless and indemnify the Municipality of and from any and all claims or damages by any party as against the Municipality in respect of such work; and/or
  - (c) restore and reinstate the road, including its surface, drainage works, culverts and associated appurtenances to at least the same condition that existed prior to the original installation.

The Municipality shall comply with all applicable legislation, regulations and codes in carrying out the work.

38. In the event that the Developer wishes to relocate any of the Collection Infrastructure within the Road Allowances that have been previously approved, installed, placed, or constructed in accordance with the Rights, it shall notify the Municipality of such request, in writing, and such request will thereafter be considered by the Municipality, acting reasonably, in good faith and with diligence, provided that, in considering such request, the Municipality shall be entitled to take into consideration any specific municipal or engineering interests affected by such relocation, including any additional facilities located within the Road Allowances.
39. Without limiting the generality of any other term of this Agreement, the Developer:
  - (a) in the event the locations have been changed from the specifications set out in the "as constructed" plans delivered to the Municipality, within one hundred

and twenty (120) days following the completion of the change of the Development shall, at its sole expense, properly and accurately identify the location of any Collection Infrastructure within the Road Allowances in new "as constructed" plans, which shall identify the height or depth of the relevant portion of the Collection Infrastructure provided that the Municipality shall not make such request more than four (4) times in any year; and

- (b) at the expiry of the Term of this Agreement, including any renewal thereof, or upon the early termination of this Agreement (as provided herein), and to the satisfaction of the Municipality, acting reasonably, the Developer, at its own expense, and within one hundred and eighty days (180) thereafter (the "**Removal Period**"), shall remove any and all Collection Infrastructure as have been constructed, installed, or placed in the Road Allowances pursuant to the Rights, and thereafter, reinstate, restore, and remediate the Road Allowances or municipal lands so affected to at least the same condition that existed prior to the Work. In the event that the Developer fails to remove any of the Collection Infrastructure or otherwise reinstate, restore, or remediate the Road Allowance or municipal lands affected thereby prior to the expiration of the Removal Period, then the Municipality will be at liberty to remove such Collection Infrastructure and thereafter restore, reinstate, or remediate the road, including its surface, drainage works, culverts and associated appurtenances without claim, recourse, or remedy by the Developer, the reasonable cost of which removal and restoration will be invoiced to the Developer and the Developer agrees to pay such invoice in strict accordance with the terms thereof.

- 40. Notwithstanding the requirement of prior notice to the Municipality to commence any work hereunder, including notice of repair to any Works or to the Collection Infrastructure, and notice to cut, trim, or otherwise interfere with any trees, brush, plants or other vegetation, the Municipality and the Developer agree that, in the event of an emergency in which the Developer requires immediate access to the Collection Infrastructure within the Road Allowances or on municipal lands, and after reasonable efforts to communicate with the Municipality, the Developer may enter upon the Road Allowances and/or municipal lands without prior notice to the Municipality in order to gain access to the Collection Infrastructure in order to effect such repairs, as are required to address such emergency and, in so doing, shall undertake any work to the standards and as are otherwise required by the terms of this Agreement and to thereafter provide written notification and details and specifications of such repair to the Works to the Municipality on the next municipal business day and to thereafter file amended plans and drawings detailing such repairs as is otherwise required by this Agreement. For the purposes of this Agreement, "**emergency**" shall mean a sudden unexpected occasion or combination of events necessitating immediate action.
- 41. The Developer acknowledges and agrees that the Rights and the placement, construction, installation, location, and operation of any Collection Infrastructure are subject to the following:

- (a) the right of free use of the Road Allowance by all persons or parties otherwise entitled to such use;
- (b) other than for temporary periods not exceeding one (1) hour in duration and subject to a right of emergency access which the Developer shall ensure is available on an immediate basis, the rights of the owners of the property adjoining any relevant Road Allowance to access to and egress from their property and any adjacent existing right-of-way, highway, street, or walkway and the consequential right of such persons or parties to construct crossings and approaches from their property to any such right-of-way, highway, street, or walkway; and
- (c) the rights and privileges that the Municipality may have previously or subsequently granted to any other person or party to such Road Allowance or lands.

If the Municipality intends to grant rights and privileges to such Road Allowances or lands in favour of owners of the property adjoining any relevant Road Allowance or any other person or party, the Municipality shall consult with the Developer upon the most appropriate location for such rights and privileges to minimize interference with the Collection Infrastructure.

## **OPERATION AND MAINTENANCE PART**

- 42. This Part shall apply so long as any part of this Agreement is still in force.
- 43. The Developer shall maintain the Development in good working order and shall carry out such repairs and maintenance as may be reasonably required by the Municipality. Maintenance shall include keeping the towers and equipment painted.
- 44. All towers and equipment constructed in the Development after the date of this Agreement shall be painted in a colour consistent with the prevailing colour of the other wind farm developments in the Municipality. There shall be no advertising or display, other than manufacturer and safety data, affixed to such towers and equipment, except as set out in Schedule "D" or as otherwise approved by the Municipality.
- 45. The Developer shall supply the Municipality with a copy of the plans of the Works and shall periodically update the Municipality's copies if there have been any material changes.
- 46. In the event that the entrances to the private access roads used by the Developer are secured, the Developer shall at all times provide access keys to the Municipality and emergency service providers.
- 47. Without limiting the generality of the foregoing the Developer shall construct and maintain the private access roads in a condition meeting the requirements of the Municipality, The Corporation of the County of Dufferin and other authorities for emergency access to the Development.



48. Upon the failure of the Developer to maintain the Development in good working order and in accordance with the terms of this Agreement, the Municipality may make an order in writing to the Developer to carry out such maintenance and repairs as may be reasonably required to bring the Works and services in good working order. The Municipality's order shall provide the Developer with a reasonable period of time to carry out the maintenance or repairs, such period to be no less than the expiration of the Developer's Cure Period. Notice shall be given in accordance with the notice provisions of this Agreement.
49. Upon the failure of the Developer to comply with the Municipality's order in accordance with the previous section, the Municipality may cause the order to be carried out and the default provisions of this Agreement shall apply.
50. The Developer shall comply with all applicable governmental regulatory requirements in maintaining the Development. The Developer shall further comply with the recommendations and reports submitted as part of Renewable Energy Application pursuant to the *Environmental Protection Act*, R.S.O. 1990, regulation 395/09 thereunder.
51. Following completion of the installation of the Works and prior to COD (as defined in Section 69) commencing construction of the Development, the Developer shall deliver to the Municipality copies of the following plans with respect to the Development:
  - (a) Spills action plan; and
  - (b) Emergency response plan (which shall include fire safety, fire response and injury response plans).

However, the Developer will provide an emergency response plan for the Developers proposed construction activities prior to construction of the Development.

52. The Developer shall promptly notify the Municipality in writing within two (2) business days of any order or written notice of non-compliance from any regulatory authority received by the Developer in respect of the Development.
53. The Developer shall notify the Municipality in writing forthwith after the Development has been out of commission for a period in excess of 90 days.
54. The Developer shall implement the monitoring programs for the construction and operational phases of the Development in accordance with the requirements of all federal or provincial agencies having jurisdiction. The results of all the Developer monitoring programs, particularly those relating to noise levels at off-site sensitive uses, shall be provided to the Municipality along with any related comments or requirements from all federal or provincial agencies having jurisdiction. These results shall be provided to the Municipality on an annual basis or more frequently as the circumstances warrant. The Developer and the Municipality shall consult with each other every two (2) years to determine if any additional mitigation measures would be appropriate for the Development. The mitigation requirements may be internal or external to the Development. Nothing in this Agreement shall limit the Municipality's authority to implement its own monitoring programs.

55. The Developer shall be solely responsible for Municipality's share of the per-call cost of providing emergency services provided to the Development, including all specialized services.
56. At all times the Developer shall provide the Municipality with the names and contact information (including emergency contact) for all persons designated by the Developer to be responsible for the Development.
57. Nothing in this Agreement requires the Municipality to provide winter maintenance on the Road Allowances. Nothing in this Agreement requires the Municipality to provide any maintenance on any private access roads.
58. Nothing in this Agreement requires the Municipality to provide tree or brush removal, or maintenance of any kind on Road Allowances that are not opened or not maintained year round.
59. Where the power lines are underground, the Developer shall maintain the aboveground markers on Road Allowances that are opened or not opened or not maintained year round and shall be liable for any claims in regard to them.
60. The Developer shall participate in joint emergency response training sessions with the Municipality and appropriate agencies every other year, and the Developer shall contribute \$1,000 towards the Municipality's costs of each such training session.

#### DECOMMISSIONING PART

61. Decommissioning of the Development Infrastructure shall take place in accordance with the decommissioning plan forming part of the Developer's Renewable Energy Approval issued by the Ministry of Environment for the Development as that plan may be amended, supplemented or replaced from time to time (the "**REA Decommissioning Plan**") at the Developer's sole cost.
62. If the Development has been Abandoned and the Developer has not decommissioned or commenced the decommissioning of the Development in accordance with the REA Decommissioning Plan, the Municipality may cause the decommissioning to be carried out in accordance with the REA Decommissioning Plan. For the purposes of this Agreement, "**Abandonment**" shall mean either:
  - (a) a failure by the Developer to pay to the Municipality the Community Development Contribution payment; and
  - (b) a failure by the Developer to operate or generate electricity from the Development for a period of not less than 365 consecutive days (unless such failure is due to repairs or maintenance of the Development or events of *force majeure*).

63. Notwithstanding the foregoing and prior to any decommissioning of the Development by the Municipality, the Municipality shall first provide the Developer with written notice which shall provide the Developer with not less than:
  - (a) thirty (30) days to cure the failure by the Developer to pay to the Municipality the Community Development Contribution payment; and
  - (b) one hundred and eighty days (180) following receipt of such written notice to cure the failure to operate or generate electricity from the Development, or such longer period as is reasonable in the circumstances as determined by the Municipality provided that the Developer is proceeding diligently to remedy its failure to operate or generate electricity from the Development or decommission the Development.
64. Entire or partial abandonment of the Distribution Infrastructure shall be in accordance with good engineering practice and applicable standards in force at the time of abandonment. Abandonment shall be at the Developer's sole cost.
65. In addition to the preceding provisions, upon prior written notification to the Municipality, the Developer may decommission the Development or any parts thereof.
66. For greater certainty, nothing in this Agreement obliges the Municipality to decommission the Development.
67. This part shall survive the expiration or earlier termination of this Agreement.

#### **COMMUNITY DEVELOPMENT CONTRIBUTION PART**

68. The Municipality hereby acknowledges receipt of payment by the Developer on July 5, 2013 of the Municipality Development Charges pursuant to the Municipality's By-law No. 22-2009 in the amount of \$101,264.38. In addition, the Developer will be responsible to pay the Municipality the required permit fees for, *inter alia*, the entrance permits required by the Developer as part of the Development.
69. Within thirty (30) days of the first anniversary of the Development's commercial operations date ("COD") when electrical power is sold in the electrical grid pursuant to its agreement with the Ontario Power Authority, the Developer shall pay the Municipality the sum of \$2,666.00 per year per wind turbine nameplate capacity in MW. For example, (1) for a wind turbine with a name plate capacity of 1.6MW, the Developer would pay the annual amount of  $\$2,666.00 \times 1.6 = \$4,266.00$ ; (2) for a wind turbine with a name plate capacity of 2.75MW, the Developer would pay the annual amount of  $\$2,666.00 \times 2.75 = \$7,333.00$ . and thereafter within thirty (30) days of each subsequent anniversary of COD. Following the first anniversary of the COD and upon each subsequent anniversary thereafter,) the Developer shall pay the Municipality the aforesaid sums, increased by two percent (2%), so long as this Agreement is in force. In no event, however, shall these amounts be adjusted below the amounts set out herein.

70. The Municipality shall use the moneys paid pursuant to this Part ("**Community Development Contribution**") for community betterment projects and/or services. The Municipality shall use reasonable efforts to publicly recognize the economic benefits provided by the Developer's Community Development Contributions.

## **GENERAL PROVISIONS**

71. The Developer hereby irrevocably grants to the Municipality a licence to provide access to the Development, over, along and upon those private access roads constructed by the Developer on private lands:
- (a) for the purposes of emergency access;
  - (b) for the purposes of decommissioning the Development in accordance with the REA Decommissioning Plan and otherwise in accordance with the terms of this Agreement;
  - (c) otherwise in accordance with the terms of this Agreement; or
  - (d) from and after the date of completion of all decommissioning milestones,
- in each case, subject to the same limitations and restrictions as the Developer is bound pursuant to the terms of the Leases.
72. The Developer shall not be liable for any breaches of the Leases by the Municipality and access to the private lands shall at all times be at sole risk of the Municipality. The Municipality has no right of action for any loss or injury sustained by the Municipality, its servants and agents in exercising its rights of access as aforesaid and the Municipality shall indemnify and save the Developer harmless from any claims, losses, damages and costs suffered by the Developer or any landowner arising from such access.

## **Insurance**

73. The Developer shall insure against legal liability arising, directly or indirectly, out of the design, installation or construction of the Development and the operations of the Developer, with a policy or policies from an insurance company satisfactory to the Treasurer of the Municipality, acting reasonably. Such policy or policies shall be comprised of primary and/or umbrella coverage and shall include the Municipality, its servants and agents and the Municipality's engineers as additional insureds and shall remain in the custody of the Developer and shall be retained in full effect during the life of this Agreement, including any decommissioning period. Annually, the Developer shall provide a certificate of insurance, certified by the insurer, to the Municipality.
74. The insurance policies required to be maintained by the Developer shall comply with the following conditions:



- (a) The minimum limits shall be \$5,000,000 all inclusive for each incident;
- (b) The minimum period of insurance policy coverage shall be one year or as otherwise approved;
- (c) The policy shall specify that the policy shall not be cancelled or allowed to expire unless prior notice by registered letter has been received by the Municipality from the Insurance Company, or its agent, thirty (30) days in advance of the expiry date.

On the fifth anniversary of the date of this Agreement and every five (5) years thereafter, the figures referred to in subsection 74(a) shall be increased by an amount equal to the difference between the December 31, 2013 Ontario – All Items Consumer Price Index (or its equivalent) and the then most recent December 31 Ontario – All Items Consumer Price Index (or its equivalent). In no event, however, shall these amounts be adjusted below the amounts set out herein.

- 75. The Developer shall be responsible for all adjustment service costs and shall maintain on deposit with the Municipality throughout the term of this Agreement after the first loss claim on the policy the amount of the deductible in excess of \$25,000.
- 76. The insurance policies may contain an exclusion for blasting. If they do, and blasting is found to be necessary, the Developer shall not do any blasting until a blasting insurance endorsement is added.
- 77. The issuance of such policies of insurance shall not be construed as relieving the Developer from such responsibility for claims which exceed the policy limits, for which they may be held responsible.
- 78. Should the Developer fail to maintain the proper insurance coverage for the Term of this Agreement, the Municipality shall, after providing adequate notice subject to the Developer's Cure Period, have the authority to draw on the Security to pay any and all costs related to maintaining insurance coverage.
- 79. Upon the request of the Municipality, the Developer shall provide to the satisfaction of the Municipality proof that all premiums on such policy or policies of insurance have been paid and that the insurance is in full force and effect.

### **Liability**

- 80. The Developer shall indemnify and save harmless the Municipality and its representatives from all actions, causes of action, suits, claims, costs, interest and demands whatsoever which may arise either directly or indirectly by reason of this Agreement, save and except for any loss or injury resulting from the gross negligence or intentional acts of the Municipality, its servants and agents.
- 81. The Municipality shall have no liability to the Developer for any damage or loss as a result of the disrepair of the Road Allowances or municipal drains, nor for damages caused by

falling trees, nor for any action or inaction, except direct intentional damage, or inaction amounting to gross negligence.

82. The Municipality shall have no liability to the Developer arising from the actions or inactions of other users of the Road Allowances. The Municipality shall have no liability to the Developer for any damage or interruption in service arising from repairs or other work to the Road Allowances, performed in accordance with applicable laws.

### **Municipal Expenses**

83. The Developer shall pay and reimburse (as the case may be) the Municipality for all reasonable charges and expenses incurred by the Municipality in connection with the negotiation, preparation, approval, maintenance and enforcement of this Agreement (the "**Municipality's Expenses**") and without restricting the generality of the foregoing shall also be responsible for the reasonable engineering, planning, legal, internal administrative and related expenses incurred by the Municipality in relation to this Agreement both before and after its execution.
84. The Developer shall pay to the Municipality the accounts invoiced to the Developer for payment or reimbursement within thirty (30) days.
85. All of the Municipality's Expenses shall be a charge against the Security. In the event that the Municipality, acting reasonably draws upon the Security in accordance with its rights under this Agreement, the Municipality shall deliver written notice to the Developer within three (3) business days of such draw (the "**Draw Notice**") and the amount of the Security shall be restored by the Developer to the amount required pursuant to this Agreement within thirty (30) days following receipt of the Draw Notice.

### **Security**

86. Security shall be in the form of cash or letters of credit. Letters of credit shall be irrevocable letters of credit issued on reasonably accepted terms from a Canadian Chartered Bank or other institution approved by or otherwise satisfactory to the Municipality, and they shall provide that, if in the sole reasonable opinion of the Municipality an event of default under the terms of this Agreement has taken place which is continuing unremedied, the letters of credit thereupon may be drawn in whole or in part. The letters of credit shall be in force for not less than a period of one year and shall provide for automatic renewals, unless three (3) months' prior written notice is given to the Municipality.
87. Interest generated by cash deposits, less the Municipality's charges to administer the accounts, shall be added to the Security and be dealt with as provided elsewhere in this Agreement.
88. The Security may be reduced from time to time at the sole reasonable discretion of the Municipality. Prior to the Developer commencing construction of the Works the Developer shall deposit a letter of credit or cash in the sum of \$1,000,000.00 (the "**Construction and Maintenance Security**") with the Municipality to guarantee compliance with the terms of

this Agreement relating to the construction, installation and maintenance of the Development Infrastructure or to otherwise permit the Municipality to enforce the terms of this Agreement.

89. The Construction and Maintenance Security shall be released to the Developer forthwith and in any event no later than thirty (30) days of the date of receipt by the Municipality of the Construction Completion Certificate in accordance with section 25(b).
90. At least thirty (30) days prior to COD, the Developer shall deposit letters of credit or cash in the sum of \$750,000.00 (the “**Decommissioning Security**”, individually and collectively with the Construction Security, the “**Security**”) with the Municipality to guarantee compliance with the decommissioning terms of this Agreement or to otherwise permit the Municipality to enforce the decommissioning terms of this Agreement until the termination of this Agreement. Upon the fifth anniversary of COD, and upon every fifth anniversary thereafter, the Developer shall increase the Decommissioning Security by an amount equal to \$416,666.66. Notwithstanding anything in this Agreement to the contrary, the maximum Decommissioning Security to be deposited with the Municipality shall be \$2,000,000.
91. The Decommissioning Security shall be released to the Developer forthwith after the complete decommissioning of the Development and in any event no later than thirty (30) days following the date of receipt by the Municipality of a certificate from the Developer that all decommissioning works have been completed.
92. Sections 87 to 922 inclusive shall survive the expiration or earlier termination of this Agreement.

#### **Alterations and Amending Agreements**

93. The Municipality may require and may permit minor alterations to the Works and any work done in conformity with any such alterations, as approved by the Municipality, shall be deemed to be in compliance with the Agreement.
94. The parties acknowledge that regardless of their efforts to reasonably foresee the requirements of the parties for the expected lifetime of this Agreement, it is expected that changes in technology, governmental regulations, general area development and other factors may reasonably necessitate amendments to this Agreement, which may increase the burden on the Developer and or the Municipality. The parties acknowledge that their intent is to make the Works successful and operational and in full compliance with the prevailing requirements and municipal objectives at all times, and to that end the parties agree to review the impact of this Agreement in 2018 and every five years thereafter where they shall use their best efforts to enter into such amending or supplementary agreements as may be reasonably necessary. The parties will act in good faith and insofar as is reasonable without impairing (more than minimally) the feasibility or economic performance of the Development and to maintain the compatibility of the Development with general development of the area.

95. The parties agree, however, that no amending or supplementary agreement shall impose any additional responsibility or burden on the Municipality.

### Termination of Agreement

96. In any event if the Works and the buildings are not completed within three (3) years, subject to extension by any events of *force majeure*, this Agreement may be terminated by the Municipality. No termination shall affect the Developer's liability to the Municipality to the date of termination.
97. The Developer may, by notice in writing, terminate this Agreement at any time prior to commencement of construction of the Works, and this Agreement shall be at an end and the Developer shall have no further obligation hereunder, but the termination shall not affect the Developer's liability to the Municipality to the date of termination. After payment of the Municipality's expenses and such other items as are appropriately charged against the Security by the terms of this Agreement, the balance of the Security shall be returned to the Developer forthwith.
98. If this Agreement is terminated, the Municipality is deemed to have withdrawn its consent to the proposed development. No liability or other duty of any kind shall be imposed on the Municipality requiring it to carry out any part of this Agreement that the Municipality is required to carry out herein that has not been completed at the time of termination. With the exception of the reimbursement of the Security in accordance with the previous section the Municipality is under no obligation to return any money paid under this Agreement. All money owing to the Municipality by the Developer and the Owners to the date of termination shall be paid forthwith on demand.
99. Notwithstanding anything contained herein to the contrary, if the Developer is delayed in substantially completing the construction of any Works or facility required by this Agreement, or in the operation, repair or maintenance of such work or facility by an act beyond the Developer's reasonable control and without limiting the generality of the foregoing ("**events of *force majeure***") including unavailability of a building permit, adverse weather conditions, unavailability of parts and supplies, material or labour shortages, labour disputes, strikes and lockouts, national shortages, acts of God or the Queen's enemies, riots, insurrection, civil commotion or damage by fire, lightning, flood earthquake, tempest, or other casualty, a curtailment order from the Independent Electricity System Operator, the Ontario Power Authority or Hydro One Networks Inc., or an appeal which may be filed as part of the Developer's Renewable Energy Approval application process or similar litigation or other delays due to regulatory requirements, so long as such impediment exists, the Developer will be relieved from the fulfillment of the obligation and the time for completion shall be extended by a period of time equal to such delay.
100. Unless earlier terminated under other provisions of this Agreement, this Agreement shall be terminated upon the completion of the decommissioning of the Development.



## **Repair Obligation**

101. The Developer shall repair, or at its option, be responsible to pay for the repair of, all damage caused by or on behalf of the Developer to the existing Road Allowances, other municipal roads, works and services of the Municipality, whether during construction, hauling, operation and maintenance or decommissioning. This covenant extends to damage caused by hauling fill for dumping. In all cases the obligation to repair shall be to repair to the condition existing prior to the damage occurring.
102. Nothing herein shall constitute an assumption by the Developer of the obligation and responsibility of the Municipality to maintain public highways, Road Allowances or municipal roads. Where the Developer has performed repair work on municipal roads at the request or direction of the Municipality, then upon such work being inspected and approved by the Municipality, the Municipality shall, in the event of any claims, costs or damages arising from such work, indemnify and save harmless the Developer from any claims, costs or damages arising from such work on the public highways, Road Allowances or municipal roads.

## **Notice**

103. All notices which may or are required to be given under this Agreement shall be in writing and shall be delivered personally or sent by registered mail or couriered or faxed to the parties at their respective addresses as set out as follows:

The Corporation of the Township of Melancthon  
157101 Highway 10  
Melancthon, Ontario  
L9V 2E6  
Fax: (519) 925-1110

Dufferin Wind Power Inc.  
161 Bay Street, Suite 4550  
TD Canada Trust Tower  
Toronto, Ontario M5J 2S1  
Fax: 416-551-3617

104. Notices which are delivered or sent in the manner set out shall conclusively be deemed to be received for all purposes hereof, in the case of those faxed or delivered personally or by courier on the date of such faxing or delivery, and in the case of those given by registered mail, on the fourth business day following that upon which the notice was mailed. If at the time of mailing and there is an actual or threatened postal disruption, the notice shall not be mailed, but faxed, delivered personally or by courier.

## Default and Enforcement

105. In the event of default by the Developer in respect of any material obligation created hereunder, and provided that the Developer: (i) has received prior written notice of such default from the Municipality and, (ii) has been given a reasonable period of time thereafter to cure such default (such period of time to be not less than (a) thirty (30) days for a monetary default; and (b) sixty (60) days for a non-monetary default or if such non-monetary default is not curable within sixty (60) days, such longer period as is reasonable provided that the Developer is proceeding diligently to remedy same (the “**Developer’s Cure Period**”)) and has failed to cure such default, or, in the event such default is not curable within a reasonable time, the Developer has ceased proceeding diligently to remedy same, the Municipality at all times maintains the discretion, acting reasonably, to terminate this Agreement and require the Developer to comply with the provisions of section 39(b). For the purposes of this section, “default” shall be the following,
- (a) any material breach of any covenant or obligation of the Developer pursuant to this Agreement;
  - (b) Abandonment of the Development or the Distribution Infrastructure installed, constructed, or maintained within any of the Road Allowances save and except where such cessation arises as a result of *force majeure* (as defined in section 100), or the performance by the Developer of its obligations pursuant to this Agreement, including in respect of any repair and maintenance obligations pursuant hereto;
  - (c) any assignment of rights and obligations hereunder without the prior written consent of the Municipality except as otherwise permitted pursuant to this Agreement;
  - (d) the Developer becoming insolvent, bankrupt, or making an authorized assignment or compromise with its creditors; and/or
  - (e) the Developer ceasing to be a “transmitter” or “distributor” within the meaning of the Electricity Act, 1998.
106. Notwithstanding any agreement between the Developer and any other party, or any rule of law, in the event of default by the Developer, the Municipality may deal with and dispose of the assets of Development located on municipal lands as the unencumbered owner of the same, accounting only for the surplus to the Developer and any encumbrancers.
107. Upon default, the Municipality shall have all of the powers of the Developer pursuant to the provisions of the Leases to enter the private lands and carry out such works at the Developer's expense as the Municipality deems appropriate for the safety of the Municipality, property and residents.
108. If the Developer fails to complete any requirements set out in this Agreement or fails to maintain the Development in accordance with the terms of this Agreement, then the Municipality may upon seven business days’ notice to the Developer or in an emergency situation, being one which the Municipality considers to pose an imminent risk to the safety

of any persons or property, may upon 24 hours' notice (if practicable, or without notice if the emergency so dictates) undertake the completion of the requirements of this Agreement including such maintenance works as the Municipality deems necessary. The total cost of such work including all engineering, planning, legal and administrative fees shall be borne by the Developer. The Municipality shall, from time to time, render accounts to the Developer and the accounts shall bear interest in the same manner and at the same interest as municipal tax instalments at the time of the rendering of the account. If the Developer fails to pay the Municipality any such amounts within thirty (30) days of the date of billing, then the money owing may be collected pursuant to the security provided therein and/or be added to the tax bill of the Lands whereupon such amount shall be conclusively deemed as tax arrears and may be collected in the same manner as tax arrears.

109. In the event of default by the Developer of any obligations, the provisions of the *Municipal Act*, 2001, ss. 442 and 446, as amended from time to time, shall apply in addition to any other rights of enforcement that may be available to the Municipality against the Developer.
110. In all matters of opinion, the reasonable determination by the Municipality, its officials, professionals engineers, planners, lawyers and agents shall be final and conclusive, unless submitted to arbitration in accordance with this Agreement. The Developer shall have no right to dispute any of the accounts in any respect until the amount in dispute shall have been fully paid or the Developer has posted security satisfactory to the Municipality in the amount of such account in cash or by way of a letter of credit. If the Developer shall have first either paid the amount in dispute or posted security as aforesaid, the Owners and the Developer may refer the matter to arbitration. All other matters may be referred by any party to arbitration.

### Arbitration

111. For the purpose of this part of the Agreement, the Developer and the Municipality are collectively called the "Parties". Each of them is called the "Party" as the context requires.
112. Any and all disputes, claims or controversies arising out of or in any way connected with or arising from this Agreement, its negotiation, performance, breach, enforcement, existence of validity, any failure of the Parties to reach agreement with respect to matters provided for in this Agreement and all matters in dispute relating to the rights and obligations of the Parties, which cannot be amicably resolved, even if only one of the Parties declares that there is a difference ("**Dispute**"), will be referred to and finally settled by the Ontario Energy Board, pursuant to the *Electricity Act*, 1998, s. 41(9), to the extent applicable, or to the extent not within the jurisdiction of the Ontario Energy Board, or where both parties agree in writing, private and confidential binding arbitration. The arbitration shall be governed by the *Arbitration Act*, 1991 (Ontario) as amended and supplemented by the arbitration sections of this Agreement, and shall constitute a submission for the purposes of the *Arbitration Act*, 1991. The arbitration shall be held in Ontario in English and governed by Ontario law.
113. Any arbitration shall be resolved in the following manner:

- (a) If the Parties can agree upon a single arbitrator, such arbitrator shall conduct the arbitration alone. If they cannot agree on a single arbitrator, then each shall appoint an arbitrator and the two so appointed shall appoint a third arbitrator who shall be chairman. If either Party appoints an arbitrator and gives notice of the appointment to the other, the other shall appoint an arbitrator within five business days. If such appointment is not made within such period, the arbitrator appointed by the first Party shall be deemed to be a single arbitrator approved by the both of them. The two arbitrators shall appoint a third arbitrator within five business days of the appointment of the second arbitrator.
- (b) Depending on the nature of the dispute, the arbitrator or arbitrators shall, to the extent appropriate, be practicing professional engineers, planners, lawyers, or the holders of other appropriate qualifications for the subject matter of the Dispute.
- (c) The arbitrator or arbitrators shall set a date for the hearing of the matters in dispute (“**Hearing**”) not later than six weeks from the date of appointment of the last arbitrator to be appointed.
- (d) The Party seeking the arbitration (“**Claimant**”) shall deliver to the other Party (“**Respondent**”) and the arbitrators, at least four weeks before the hearing, a written statement (“**Complaint**”), including the allegations of fact and statements of legal principles it admits and which it denies. Within ten days of the receipt of the Complaint, the Respondent shall send to the Claimant and the arbitrators a response (“**Response**”) stating, in detail, which of the Claimant’s allegations of fact and statements of legal principles it admits and which it denies, on what grounds and on what other facts and principles of law it relies.
- (e) At the time of the delivery of the Complaint the Claimant shall provide to the Respondent copies of all documents on which it intends to rely. At the time of the delivery of the Response, the Respondent shall deliver to the Claimant copies of all documents on which it intends to rely.
- (f) If the Respondent fails to deliver a Response within the time limit referred to above, the Respondent shall be deemed to have admitted the Complaint.
- (g) Within ten days of receipt of the Response the Complainant may deliver to the Respondent and the arbitrators a written reply to the Response.
- (h) Any Party may at any time at least two weeks in advance of the Hearing make a motion to the arbitrator in the event there is a single arbitrator, or the chairman in the event of multiple arbitrators for an order for directions regarding the further conduct of the arbitration and the Hearing, including orders respecting the production of records and documents that are in their possession and power.
- (i) The time limits referred to above may be waived by the Parties on consent, or the arbitrator or arbitrators on motion by one of the Parties, should consent not be given.



- (j) At the Hearing each Party may adduce whatever evidence it deems advisable. In addition the arbitrator or arbitrators may view the site in his or their consideration of the matters complained about.
- (k) The arbitrator or arbitrators shall make their decision as soon as possible after completion of the Hearing and viewing the site. The decision (or the majority decision as the case may be) is final and binding upon the Claimant and the Respondent, and is not to be subject to review or appeal by any Court or other body.
- (l) If the result of the arbitration is in favour, or largely in favour of one Party, the cost of the arbitration, including the expenses of that Party, shall be paid by the other. If the result is mixed, each Party shall pay its own expenses and the fees of the arbitrators shall be divided equally between them. The arbitrator or arbitrators shall make the decision as to whether the result is in favour or largely in favour of one Party, or if the result is mixed.
- (m) The arbitration shall be kept confidential and its existence and any element of it (including submissions and any evidence or documents presented or exchanged) shall not be disclosed beyond the arbitrators, the Parties (including their shareholders, auditors and insurers), their counsel and any person necessary to the conduct of the arbitration, except as required by law or the rules or requirements of any stock exchange. No individual shall be appointed as an arbitrator unless he or she agrees in writing to be bound by this confidentiality provision.

## General

- 114. The Developer shall be entitled to assign this Agreement, with the consent of the Municipality, which shall not be unreasonably delayed, withheld or conditioned, provided that the Municipality is reasonably satisfied as to the financial responsibility of the assignee, the assignee posts replacement securities provided for in this Agreement and the assignee enters into an assumption agreement with the Municipality substantially in the form attached hereto as Schedule "G". Upon all of the foregoing taking place, the Developer shall be released from its obligations under this Agreement, and the balance of any securities posted by the Developer with the Municipality shall be promptly returned. In the event the Developer assigns its interest in the Development Infrastructure or the Works it shall require the assignee to enter into an assumption agreement with the Municipality substantially in the form attached hereto as Schedule "G", whereby the assignee agrees to assume all the obligations of the Developer under this Agreement.
- 115. The Developer shall be entitled to assign this Agreement, and to charge the Development Infrastructure and Works, without the consent of the Municipality and without having to comply with Section 114, to the Developer's lenders as security for the Developer's obligations to such lenders who shall be further entitled to assign this Agreement in connection with an enforcement of their security. No such assignments shall in any way diminish or eliminate the Developer's obligations, nor shall the Municipality be subjected to any new obligations to the Developer or the assignees. The Municipality agrees to execute

and deliver an Acknowledgment and Consent Agreement in favour of any applicable lender, collateral agent or security trustee for the lenders or any assignees, substantially in the form attached hereto as Schedule "E".

116. The Developer covenants that it shall not contest the authority of the Municipality to enter into this Agreement and enforce it. The parties conclusively stipulate that the Municipality has the authority to enter into this Agreement and to enforce it. The parties covenant not to contest the legality of this Agreement.
117. Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" and "to the Municipality's reasonable satisfaction in its sole reasonable discretion" unless specifically stated otherwise. Whenever the provisions of this Agreement require an approval or consent to be given, unless this Agreement expressly states to the contrary, the following rules shall apply:
  - (a) such approval or consent shall be in writing;
  - (b) such approval or consent shall not be unreasonably withheld, delayed or conditioned;
  - (c) the party whose approval or consent is required shall, within 10 days after the request for approval or consent is received, advise the party requesting such approval or consent in writing that it consents or approves, or that it wishes to withhold its consent or approval in which case such party shall set forth, in reasonable detail, its reasons for withholding its consent or approval; and
  - (d) any dispute as to whether or not such consent or approval has been unreasonably withheld shall be resolved by arbitration.
118. The parties hereto agree that this Agreement may be registered against the title of the lands and premises of the Developer at the cost of the Developer. The execution of this Agreement by a party is conclusive Acknowledgement and Direction by that party to the Solicitors for the Municipality and the Developer to register this Agreement on behalf of the party. The registration of this Agreement shall be deleted upon the sole application of the Municipality upon the termination of this Agreement.
119. The invalidity or unenforceability of any provision or covenant contained in this Agreement shall affect the validity and enforceability of such provision or covenant only and any such invalid provision or covenant shall be severed from the balance of this Agreement, which shall be enforced to the greatest extent permitted by law.
120. No supplement, modification, amendment or waiver of this Agreement shall be binding unless executed in writing by the parties.
121. Each of the parties covenants and agrees with the other that it will at all times hereafter execute and deliver, at the request of the other, all such further documents, deeds and instruments and will do and perform all such acts as may be necessary to give full effect to the intent and meaning of this Agreement.

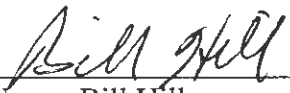
122. In this Agreement, words importing the singular number include the plural and vice versa and words importing one gender include the other two genders as well.
123. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
124. The following Schedules attached hereto form part of this Agreement. For registration purposes the Schedules may be omitted. This Agreement and all the Schedules are available for viewing at the offices of the Municipality during regular office hours.

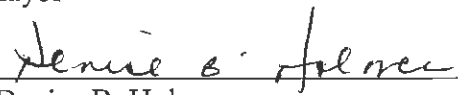
Schedule "A"	Description of Road Allowances, Transport and Haul Routes, Collector System Crossings, and Temporary Municipal Intersection Improvements
Schedule "B"	Dufferin Wind Power Site Plans and Technical Drawings
Schedule "C"	Permits
Schedule "D"	Permitted Advertising
Schedule "E"	Form of Acknowledgement and Consent Agreement
<b>Error! Reference source not found.</b>	Form of Lease
<u>Schedule "G"</u>	Form of Assumption Agreement

*[Signature page to follow]*

IN WITNESS WHEREOF the parties hereto affix their hands and seal or corporate seals, attested to by the hand of their authorized officers, as the case may be, as of the effective date first above noted

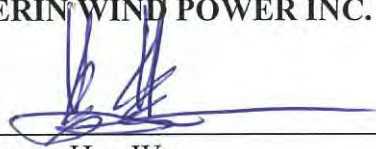
**THE CORPORATION OF THE TOWNSHIP  
OF MELANCTHON**

Per:   
Name: Bill Hill  
Title: Mayor

Per:   
Name: Denise B. Holmes  
Title: CAO

We have the authority to bind the Corporation.

**DUFFERIN WIND POWER INC.**

Per:   
Name: Hao Wu  
Title: President

Per:   
Name: Jeff Hammond  
Title: Senior Vice-President

We have the authority to bind the Corporation.



## Schedule "A"

### DESCRIPTION OF ROAD ALLOWANCES, COLLECTOR SYSTEM CROSSINGS, AND TEMPORARY MUNICIPAL INTERSECTION IMPROVEMENTS

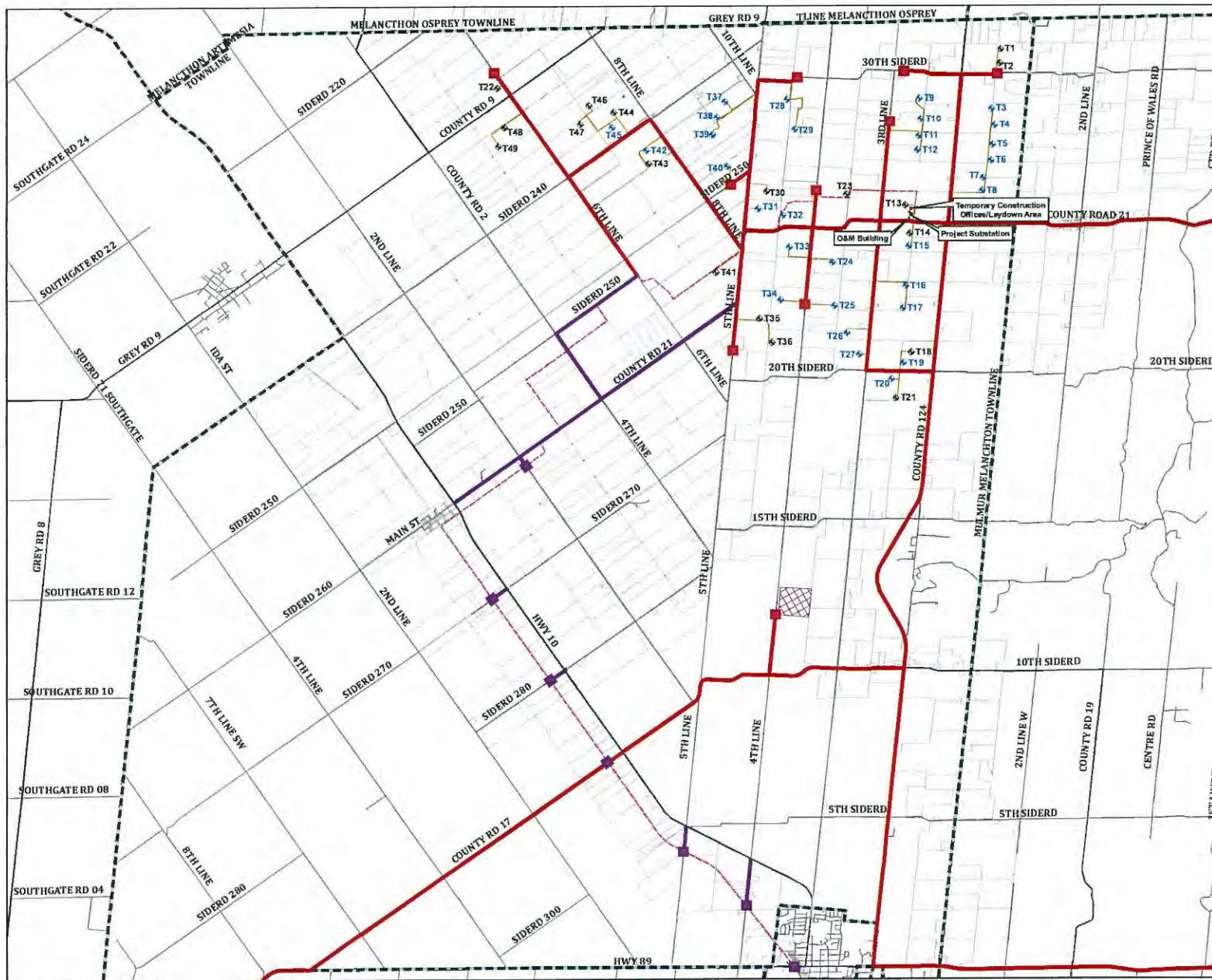
Collector System Lines Within Municipal Road Allowance		
Municipal ROW Use Map Identifier	Infrastructure	Location
R-1	Collector Line	East Side of County Road 124 being part of PIN 341420005 between PINs 341420089 and 341420084
R-2	Collector Line	East Side of 3rd Line being part of PIN 341420004 between PINs 341420064 and 341420056
R-3	Collector Line	West side of 3rd Line being part of PIN 341420004 and PIN 341410005 between PINs 341420039 and 341410080
R-4	Collector Line	East side of 3 <sup>rd</sup> Line being part of PIN 341410005 between PINs 341410050 and 341410046
R-5	Collector Line	South East side of Sideroad 240 being part of PINs 341430004 and 341430054 between PINs 341430056 and 341430037
R-6	Collector Line	East side of 3 <sup>rd</sup> Line being part of PIN 341410005 between PINs 341410046 and 341410045
R-7	Collector Line	West side of 3 <sup>rd</sup> Line being part of PIN 341410005 between 341400002 and 341400141
R-8	Collector Line	East side of 4th Line being part of PIN 341420003 between PINs 341420040 and 341420038
R-9	Collector Line	South side of 30 <sup>th</sup> Sideroad between PINs 341420097 and 341420130

Municipal ROW Crossings		
Municipal ROW Crossing Map Identifier	Infrastructure	Location
F-1	Collector Line	30th Sideroad being part of PIN 341420009 and 341420118 between PINs 341420119 and 341420130
F-2	Collector Line	County Road 124 being part of PIN 341420005 between PINs 341420084 and 341420057
F-3	Collector Line	3rd Line being part of PIN 341420004 between PINs 341420064 and 341420045
F-4	Collector Line	3rd Line being part of PIN 341420004 between PINs 341420056 and 341420039
F-5	Collector Line	3rd Line being part of PIN 341420004 between PINs 341420056 and 341420039
F-6	Collector Line	County Road 21 being part of PIN 341420002 between PINs 341420056 and 341410050

F-7	Collector Line	3rd Line being part of PIN 341410005 between PINs 341410045 and 341410029
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<b>Municipal ROW Crossings (Continued)</b>		
<b>Municipal ROW Crossing Map Identifier</b>	<b>Infrastructure</b>	<b>Location</b>
F-8a	Collector Line	20 <sup>th</sup> Sideroad being part of PIN 341410112 between PIN 341410080 and 341400141
F-8b	Collector Line	3rd Line being part of PIN 341410005 between PINs 341400056 and 341400141
F-9	Collector Line	20th Sideroad being part of PIN 341420112 between PINs 341410044 and 341400056
F-10	Collector Line	4th Line being part of PIN 341420003 between PINs 341420040 and 341420017
F-11	Collector Line	4th Line being part of PIN 341420003 between PINs 341420038 and 341420013
F-12	Collector Line	4th Line being part of PIN 341410004 between PINs 341410020 and 341410089
F-13	Collector Line	4th Line being part of PIN 341410004 between PINs 341410014 and 341410031
F-14	Collector Line	County Road 21 being part of PIN 341420002 between PINs 341420011 and 341410086
F-15	Collector Line	5th Line being part of PIN 341420001 between PINs 341420011 and 341430008
F-16	Collector Line	8th Line being part of PIN 341430001 between PINs 341430008 and 341450034
F-17	Collector Line	5th Line being part of PIN 341420001 between PINs 341420014 and 341430051
F-18	Collector Line	5th Line being part of PIN 341420001 between PINs 341430011 and 341420014
F-19	Collector Line	250 Sideroad being part of PIN 341430005 between PINs 341430011 and 341430051
F-20	Collector Line	5th Line being part of PIN 341420001 between PINs 341420025 and 341430019
F-21	Collector Line	10 <sup>th</sup> Line NE being part of PIN 341430007 between PINs 341430042 and 341430034
F-22	Collector Line	10 <sup>th</sup> Line NE being part of PIN 341430007 between PINs 341430042 and 341430037
F-23	Collector Line	8 <sup>th</sup> Line NE being part of PINs 341430001 and 341430054 between PINs 341430056 and 341450039
F-24	Collector Line	Sideroad 240 as being part of PIN 341440002 between PINs 341440051 and 341450039
F-25	Collector Line	6th Line NE being part of PIN 341440008 between PINs 341440041 and 341440030
F-26	Collector Line	County Road 9 being part of PIN 341440006 between PINs 341440033

		and 341440032
F-27	Collector Line	6th Line NE being part of PIN 341440008 between PINs 341440033 and 341440045
<b>Temporary Municipal Intersection Improvements</b>		
<b>Intersection Improvement Map Identifier</b>	<b>Infrastructure</b>	<b>Location</b>
DWP-CIN-001	Fill & Grade	CR 124 & SR 20
DWP-CIN-002	Fill & Grade	CR 124 & CR 21
DWP-CIN-003	Fill & Grade	CR 124 & SR 30
DWP-CIN-004	Fill & Grade	SR 30 & 5 <sup>th</sup> Line
DWP-CIN-005	Fill & Grade	CR 21 & 3rd Line
DWP-CIN-006	Fill & Grade	CR 21 & 4th Line
DWP-CIN-007	Fill & Grade	CR 21 & 5th Line
DWP-CIN-008	Fill & Grade	5th Line & SR 250
DWP-CIN-009	Fill & Grade	5 <sup>th</sup> Line (CR 21) & 8 <sup>th</sup> Line NE
DWP-CIN-010	Fill & Grade	8th Line NE & SR 240
DWP-CIN-011	Fill & Grade	SR 240 & 6th Line NE
DWP-CIN-017	Fill & Grade	CR 17 & 4 <sup>th</sup> Line
DWPP-T-HR-1 R1	Fill & Grade	3 <sup>rd</sup> Line
DWPP-T-HR-2 R1	Fill & Grade	CR 21 & 3rd Line
DWPP-T-HR-3 R1	Fill & Grade	CR 21 & 4 <sup>th</sup> Line
DWPP-T-HR-4A R1	Fill & Grade	4 <sup>th</sup> Line
DWPP-T-HR-4B R1	Fill & Grade	CR 21 & 5 <sup>th</sup> Line
DWPP-T-HR-5 R1	Fill & Grade	CR 21
DWPP-T-HR-6 R1	Fill & Grade	SR 250 & 6 <sup>th</sup> Line
DWPP-T-HR-7 R1	Fill & Grade	SR 250
DWPP-T-HR-7A R1	Fill & Grade	SR 250 & 4 <sup>th</sup> Line
DWPP-T-HR-8 R1	Fill & Grade	4 <sup>th</sup> Line
DWPP-T-HR-9A R1	Fill & Grade	CR 21 East
DWPP-T-HR-10 R1	Fill & Grade	2 <sup>nd</sup> Line
DWPP-T-HR-12 R1	Fill & Grade	SR 270
DWPP-T-HR-13 R1	Fill & Grade	SR 280
DWPP-T-HR-14 R1	Fill & Grade	CR 17
DWPP-T-HR-15 R1	Fill & Grade	5 <sup>th</sup> Line
DWPP-T-HR-16 R1	Fill, Grade & Culvert	4 <sup>th</sup> Line



## Dufferin Wind Power Project

### Wind Facility Haul Routes

Drawing Number:  
DHR 1000 - 2012 A

#### Legend

- Mortenson Haul Route
- K-Line Haul Route
- Major Roads
- Local Roads
- Parcels
- Lots/Concessions
- Municipalities

#### Project Components

- + GE 1.6 MW Turbine
- x GE 2.75 MW Turbine
- ▲ MET Tower
- ▲ MET Station
- Substation
- ▲ Operations and Maintenance Building
- Temporary Construction Offices/Laydown Area
- 230 KV Line Power Line
- Access Roads
- Temporary Storage Area



1 2 3 km



Created By: SFG  
Checked By: DR  
Date Created: 081011  
Date Modified: 070513  
File Path: I:\GIS\115199 - Dufferin Wind\2013\Mapping  
Infrastructure\DHR 1000 - 2012 (230 KV) A.mxd







## **Schedule “B”**

### **SITE PLANS AND TECHNICAL DRAWINGS**

- DWP, Project Site Plan, Dwg. DSP 1000 - 2012 A - 12 July 2013
- DWP, Project Site Plan, Dwg. DSP 1000 - 2012 B - 12 July 2013
- DWP, Municipal Crossing Plans (Collector System) - 25 July 2013
- DWP, Haul Route Map, Dwg. DHR 1000 - 2012 A - 25 July 2013
- DWP, Haul Route Map, Dwg. DHR 1000 - 2012 B - 25 July 2013
- DWP, Cross Section of 34.5 kV Underground Segment
- DWP, Cross Section of Typical Entrance Plan
- DWP, Temporary Municipal Intersection Improvements, DWG. DWP-CIN-HR - 25 July 2013

## **Schedule “C”**

### **PERMITS TO BE DELIVERED TO MUNICIPALITY**

1. Renewable Energy Approval (REA), Ministry of Environment
2. Notice to Proceed (NTP), Ontario Power Authority
3. Leave to Construct (LTC), Ontario Energy Board

## **Schedule “D”**

### **PERMITTED ADVERTISING**

The Municipality and Developer agree to limit advertising within the project area to the following approved advertising:

1. A lighted, outdoor, landmark, project sign located adjacent to the entrance of, or on, the Dufferin Wind Operations & Maintenance Facility located on County Rd 21, PIN 34142-0065.
2. Corporate name and logo (DWG LP-DWP 1000-2012) located on project vehicles
3. Corporate name and logo (DWG LP-DWP 1000-2012) located on staff uniforms
4. Corporate name and logo (DWG LP-DWP 1000-2012) on access/security signs at the entrance to maintenance yards, electrical substations, primary and secondary access roads, wind turbines, and each meteorological tower site
5. The corporate name and logo (DWG LP-DWP 1000-2012) mounted on each side of the nacelle on the following wind turbines:

<b>Wind Turbine</b>	<b>Location (PIN)</b>
T1	34142-0119
T4	34142-0096
T8	34142-0089
T11	34142-0065
T13	34142-0065
T14	34141-0050
T15	34141-0050
T17	34141-0046
T21	34140-0056
T31	34142-0011
T32	34142-0012
T33	34141-0022
T35	34141-0018
T37	34143-0034
T41	34145-0032
T43	34145-0039
T48	34144-0030

Drawings:

1. DWP, Corporate Logo DWG LP-DWP 1000-2012
2. DWP, Permitted Advertising Map (WTGs)

## Schedule "E"

### ACKNOWLEDGMENT AND CONSENT AGREEMENT FORM

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF MELANCTHON  
(“Owner”)

and

\*\*\*

(“Agent”)

### ACKNOWLEDGEMENT AND CONSENT AGREEMENT

This Owner’s Acknowledgement and Consent Agreement (“**Acknowledgement**”) made as of the ■ day of ■, 2012 by and between THE CORPORATION OF THE TOWNSHIP OF MELANCTHON (the “**Owner**”) and ■, as agent (the “**Agent**”) pursuant to a credit agreement dated ■, 2012 (as amended, supplemented, restated, extended, renewed or replaced from time to time, the “**Credit Agreement**”) between, **Dufferin Wind Power Inc.** *inter alia*, \_\_\_\_\_ the Agent, ■ and the other financial institutions from time to time party thereto, as lenders (collectively, the “**Lenders**”) and ■, in its capacity as collateral agent under the Agreement made as of ■, 2012 (as amended, supplemented, restated, extended, renewed or replaced from time to time, the “**Collateral Agency Agreement**”) between **Dufferin Wind Power Inc.**, the persons who are, and from time to time become, parties thereto as guarantors (including ■) and ■ (the “**Collateral Agent**”), as agent for the Secured Creditors (as defined therein).

### WHEREAS:

A. **Dufferin Wind Power Inc.** (the “**Developer**”) entered into an Agreement and Transfer and Grant of Easement dated ■ registered against title to the lands described in the Agreement (the “**Lands**”) on ■ as Instrument No. ■ (the “**Agreement**”), pursuant to which the Owner has granted to the Developer, *inter alia*, certain rights in connection with access to municipal roads (the “**Rights**”) on the terms and conditions set out in the Agreement.

B. Pursuant to, respectively, the Credit Agreement and the Collateral Agency Agreement (and documentation delivered in connection therewith), the Agent and Collateral Agent, respectively, have been granted charges, mortgages, assignments and security interests (collectively, the “**Security Interests**”) in all of the property, undertaking, assets, interests, rights and benefits of the Developer, including without limitation, all of the Developer’s right title, estate, interest and equity in the Lands, the Agreement, the Easement, all rights, privileges, benefits, agreements and interests therein, and all improvements, equipment, structures, chattels,



personal property and appurtenance thereto in, on, under or appurtenant to the Lands (collectively, the “**Collateral**”).

C. The Owner has agreed to execute and deliver this Acknowledgement to the Agent and the Collateral Agent pursuant to the provisions of the Agreement.

**NOW THEREFORE** in consideration of the sum of Two Dollars (\$2) paid by each of the Agent and the Collateral Agent to the Owner and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby acknowledges, covenants and confirms to each of the Agent and the Collateral Agent, as follows:

1. The Owner consents to the creation of the Security Interests and the registration thereof on the title to the Lands in the applicable land registry office(s).
125. The Owner acknowledges that, following an event of default by the Developer under the Credit Agreement or an event of default as defined in the Collateral Agency Agreement (each, and “**Event of Default**”), the Collateral Agent, the Lenders, the Collateral Agent or the Secured Creditors or any nominee or designee thereof or any receiver or receiver-manager (collectively, an “**Agent Party**”) shall have the right to enforce the Security Interests, including, without limitation, the right to enjoy and enforce the rights of the Developer under the Agreement and, in the course of the enforcement of such rights, shall be entitled to sell, assign, transfer, negotiate or otherwise dispose of the Agreement, provided that in exercising such rights the Agent Party shall assume all of the liabilities and obligations of the Developer under or in connection with the Agreement.
126. The Owner agrees:
  - (a) to give each of the Agent and the Collateral Agent written notice (at the addresses below) of any default by the Developer under the Agreement, concurrent with the delivery of such notice to the Developer;
  - (b) that if the Developer fails to cure the breach or default identified in such notice, the Agent, the Collateral Agent or any other Agent Party may, but in no way shall be obligated to, cure such default and the Owner shall not terminate the Agreement or exercise any other remedy under the Agreement if the Agent, the Collateral Agent or any other Agent Party, within 90 days of the date of the Collateral Agent’s receipt of the written notice referred to in section 126(a) above, is diligently proceeding to cure such breach or default;
  - (c) that if any default by the Developer the Agreement is not of a curable nature, it will not exercise any right to terminate if the Agent, Collateral Agent or any other Agent Party or nominee thereof agrees to assume the rights and obligations of Plateau under the Agreement, including its obligations under the Operation and Maintenance Part, to the extent that it is capable of capable of assuming and correcting the default by the Developer, so long the Collection Infrastructure is still operating and the Agent, Collateral Agent, Agent Party or nominee promptly

and diligently commences and pursues the curing of all other outstanding defaults under the Agreement;

- (d) that if the Agreement is terminated or surrendered for any reason prior to the expiry of the term thereof, whether as a result of a default by the Developer thereunder or otherwise, the Owner shall give notice of such termination to each of the Agent and the Collateral Agent and shall offer to enter into a new or replacement agreement (the “**Replacement Agreement**”) with the Agent, the Collateral Agent or another Agent Party or other person designated by, as applicable, the Agent, the Collateral Agent or other Agent Party, which Replacement Agreement shall be upon the same terms and conditions as the Agreement;
  - (e) that if within 30 days of receipt of the notice referred to in item section 126(d) above, the Collateral Agent or other Agent Party requests a Replacement Agreement, the Owner shall enter into such Replacement Agreement with, as applicable, the Collateral Agent or other Agent Party or other person designated by the Collateral Agent or other Agent Party. Notwithstanding any of the foregoing, the Agent Party confirms and acknowledges that the Owner shall not be liable to the Agent Party for the non-delivery of any notice pursuant to section 126(a) above;
  - (f) that although the Owner and the Developer may modify the Agreement from time to time between themselves, the Collateral Agent will not be bound by any material adverse modifications made without the Collateral Agent’s prior written consent; and
  - (g) the Owner will, at any time and from time to time, upon not less than five business days’ prior request by the Collateral Agent and the payment of the Owner’s reasonable fees, deliver to the Collateral Agent a statement in writing certifying that: (i) the Agreement is in full force and full effect unamended (or setting out any such amendments), (ii) all amounts owing and payable under the Agreement have been paid (or setting out any unpaid amounts), and (iii) to the Owner’s knowledge, the Developer is not in default of its obligations under the Agreement in any material respect (or setting out any such defaults).
127. The Agent covenants and agrees with the Owner that during any period the Agent exercises its Security Interests and takes possession of the Developer’s interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages the Developer’s interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of the Developer under the Agreement, it will assume all of the obligations of the Developer under or in connection with the Agreement during such period to the extent that they may be performed by the Collateral Agent, and thereafter observe and perform all of the Developer’s obligations under the Agreement to the extent that they may be performed by the Collateral Agent.

128. The Collateral Agent covenants and agrees with the Owner that during any period the Collateral Agent exercises its Security Interests and takes possession of the Developer's interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages the Developer's interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of the Developer under the Agreement, it will assume all of the obligations of the Developer under or in connection with the Agreement during such period to the extent that they may be performed by the Collateral Agent, and thereafter observe and perform all of the Developer's obligations under the Agreement.
129. The Owner confirms and acknowledges that in the event that the Collateral Agent or any other Agent Party assigns, transfers or otherwise disposes of its interest in the Agreement pursuant to its Security Interests (a "**Transfer**"), it will not unreasonably withhold, delay or condition its consent to the Transfer, and, upon such assignee or transferee covenanting and agreeing in writing with the Owner to assume and perform all of the covenants and obligations of the Developer pursuant to the Agreement, each of the Collateral Agent and the other Agent Party shall, thereupon and without further agreement, be freed and relieved of all liability with respect to the Agreement from and after the effective date of such Transfer.
130. All notices hereunder shall be in writing, sent by registered mail, return receipt requested or by fax, to the respective parties and the addresses set forth on the signature page or at such other address as the receiving party shall designate in writing.
131. This Acknowledgement may be executed in any number of counterparts, shall be governed by the laws of the Province of Ontario and binds and inures to the benefit of the Collateral Agent, and its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of the Owner.
132. Each of the parties hereto agrees to do, make and execute all such further documents, agreements, assurances, acts, matters and things and take such further action as may be reasonably required by any other party hereto in order to more effectively carry out the true intent of this Acknowledgement.

The provisions of this Acknowledgement shall continue in effect until the Owner shall have received the written certification of the Collateral Agent that all amounts advanced, and obligations arising, under the Credit Agreement and all Obligations (as defined in the Collateral Agency Agreement) have been paid and performed in full.

IN WITNESS WHEREOF, this Acknowledgement is executed by the parties.

**THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON**

per:

\*\*\*, Mayor

\*\*\*, CAO

We have authority to bind the Corporation

Address for Notice:

\*\*\*

\*\*\*

per:

\*\*\*, Title

\*\*\*, Title

We have authority to bind the Corporation

Address for Notice:

\*\*\*

**Schedule "G"**

**ASSUMPTION AGREEMENT FORM**

**ASSUMPTION AGREEMENT**

**THIS AGREEMENT** (the "Assumption Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 201█.

**BETWEEN:**

**THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON**

(**"Melancthon"**)

- and -

**DUFFERIN WIND POWER INC.**

(the **"Assignor"**)

- and -

█

(the **"Assignee"**)

**RECITALS:**

- A.** The Assignor and Melancthon are parties to the Melancthon-Dufferin Wind Agreement dated as of the █ day of July, 2013 (as the same may be amended, supplemented or restated from time to time, the **"Agreement"**).
- B.** The Assignor proposes to assign to the Assignee its interest in the Agreement, Development Infrastructure and Works (as those terms are defined in the Agreement) (the **"Proposed Transfer"**).

**NOW THEREFORE THIS ASSUMPTION AGREEMENT WITNESSES** that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto covenant and agree as follows:



**1. Consent**

Melancthon hereby consents to the Proposed Transfer.

**2. Assumption of Obligations**

The Assignee hereby assumes responsibility for the performance of all of the Assignor's obligations pursuant to the Agreement with effect from completion of the Proposed Transfer.

**3. Release**

Upon posting the replacement securities provided for in the Agreement, the Assignor shall be released from its duties, obligations and liabilities to Melancthon under the Agreement from and after completion of the Proposed Transfer.

**4. Further Assurance**

Melancthon agrees to do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents as may reasonably be requested in order to carry out the intent and accomplish the purposes of this Assumption Agreement and the consummation of the Proposed Transfer.

**5. Execution and Delivery**

This Assumption Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be an original but all of which taken together shall constitute one and the same document. A party's transmission by facsimile or electronic mail of this Assumption Agreement duly executed by that party shall constitute effective delivery by that party of an executed copy of this Assumption Agreement.

**6. Governing Law**

This Assumption Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF the parties hereto have executed this agreement on the date first above written.

**THE CORPORATION OF THE TOWNSHIP OF  
MELANCTHON**

by: \_\_\_\_\_  
Name:  
Title:

by: \_\_\_\_\_  
Name:  
Title:

**DUFFERIN WIND POWER INC.**

by: \_\_\_\_\_  
Name:  
Title:

by: \_\_\_\_\_  
Name:  
Title:

**[ASSIGNEE]**

by: \_\_\_\_\_  
Name:  
Title:



*The Corporation of*

**THE TOWNSHIP OF MELANCTHON**

*R.R. # 6, Shelburne, Ontario, L0N 1S9*

*Denise B. Holmes, AMCT  
CAO/Clerk-Treasurer*

*Telephone - (519) 925-5525*

*Fax No. - (519) 925-1110*

*Website: [www.melancthontownship.ca](http://www.melancthontownship.ca)*

*Email: [info@melancthontownship.ca](mailto:info@melancthontownship.ca)*

**TOWNSHIP OF MELANCTHON**  
**SERVICE DELIVERY POLICY**

It is the goal of the Administration of the Township of Melancthon to accommodate as many requests as possible for information from the Public and /or Members of Council.

As a result of the limited Human Resources in the Administration Department, scheduled jobs that have timelines, holiday schedules, etc. it is not always possible to respond immediately to requests. As a result, the following will be the timelines and procedure for handling requests.

1. Simple requests, at the discretion of the CAO, i.e. a photocopy of an item that is readily available, tax bill, tax inquiry, roll number, zoning information, etc. will be handled as requested.
2. More detailed time consuming requests, as determined by the CAO, will be responded to within two working days.
3. A request for information that, in the opinion of the CAO, will take more than an hour or require extraordinary research or retrieval from files must be submitted in writing and approved by Council.
4. Individuals have the right to request information under the provisions of the Freedom of Information and Privacy Act and those requests will be handled by the Committee established and will be responded to as outlined in the Act.

*Effective - July 22/10*

*(1)*

**MAR 19 2015**