

**AGREEMENT AMONG  
THE DEPARTMENT OF DEFENSE,  
THE DEPARTMENT OF THE AIR FORCE, THE  
DEPARTMENT OF THE NAVY, AND  
SOUTH FORK WIND, LLC,  
ADDRESSING THE SOUTH FORK OFFSHORE WIND  
ENERGY PROJECT NEAR LONG ISLAND, NEW YORK**

This is an agreement among the Department of Defense (DoD), acting through the Military Aviation and Installation Assurance Siting Clearinghouse, the Department of the Air Force (DAF), acting through the Deputy Assistant Secretary of the Air Force for Installations (SAF/IEI), the Department of the Navy (DON), acting through the Assistant Secretary of the Navy for Energy, Installations and Environment (collectively, the “DoD parties”), and South Fork Wind, LLC (Project Owner). Together, these four entities are referred to as “parties” and individually as a “party.” Any reference to “DoD parties” means DoD, DON, and DAF, and does not indicate that one party acts for or on behalf of the other. In this agreement, DoD does not include the United States Army Corps of Engineers when engaged in its civil works program, including any permitting actions.

This agreement is entered into pursuant to section 183a of title 10, United States Code (U.S.C.), and part 211 of title 32, Code of Federal Regulations (CFR).

The parties acknowledge that the Secretary of the Interior is responsible for administration of energy development, including identification of locations for leasing and development, on the outer continental shelf (OCS) as designated by the Outer Continental Shelf Lands Act (43 U.S.C. section 1331 et. seq.). The Secretary of Interior, through the Bureau of Ocean Energy Management (BOEM), has issued the Project Owner a lease, OCS-A 0517, for the construction and operation of the South Fork Offshore Wind Energy Project offshore New York.

Attachments A, *South Fork Offshore Wind Energy Project Structures in Lease Area OCS-A 0517*; B, *South Fork Offshore Wind Energy Project Area and Wind Turbine Locations*; and C, *Curtailment Communications Protocol*, are attached to this agreement and made a part hereof.

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. PURPOSE.**

**A. Objective.** The objective of this agreement is to mitigate any potential adverse impacts on military operations and readiness and to minimize risks to national security while allowing the South Fork Offshore Wind Energy Project (Project), within the Bureau of Ocean Energy Management (BOEM) lease area OCS-A-0517, to proceed with development.

**B. De-confliction.** As the Project was originally proposed, its spinning turbine blades would conflict with North American Aerospace Defense Command’s (NORAD) operation of the Falmouth, Massachusetts Airport Surveillance Radar (ASR-8). The parties have focused on

de-conflicting these activities and agree that the terms below will allow the mutual goals of the parties to be met, including the protection of the ASR-8, which promotes national security, and protection of the National Airspace System, while supporting military readiness.

## SECTION 2. DEFINITIONS.

**A. Access.** “Access” means either to enter a physical space or to remotely read, copy, edit, divert, release, alter the state of, or otherwise affect information technology systems (e.g., network, data, security, software, hardware).

**B. Actual Curtailment Hours.** [RESERVED]

**C. ASN.** [RESERVED]

**D. Banked Hours.** [RESERVED]

**E. BOEM.** Bureau of Ocean Energy Management, a technical bureau of the Department of Interior.

**F. CFIUS.** Committee on Foreign Investment in the United States.

**G. CFR.** Code of Federal Regulations.

**H. Curtailment.** The cessation of wind turbine operations when the wind turbine blades are not spinning and are either fully feathered with brakes applied (0 RPM) or fully feathered (typically less than 1 RPM), with the chosen method depending on both the reason for the Curtailment request and the wind speeds at the time of Curtailment. Specifically, according to information from the manufacturer, the wind turbines can be held at 0 RPM through full feathering of blades and application of brakes in wind speeds up to 18 meters per second (m/s) (approximately 40 miles per hour). In wind speeds above 18 m/s, the wind turbine blades will be fully feathered without the application of brakes.

**I. DAF.** The Department of the Air Force, a military department of the United States.

**J. Day.** A calendar day, unless indicated otherwise.

**K. DoD.** The Department of Defense, an executive department of the United States.

**L. DON.** The Department of the Navy, a military department of the United States.

**M. FAA.** [RESERVED]

**N. Fiscal Year.** [RESERVED]

**O. Hour.** [RESERVED]

**P. Lease.** The commercial lease issued by BOEM to the Project Owner for the construction and operation of the South Fork Offshore Wind Energy Project, OCS-A 0517.

**Q. National Security or Defense Purpose.** An emergency circumstance where the President of the United States, the Secretary of Defense, or a combatant commander under 10 U.S.C. section 164 directs a change to the mission of NORAD in support of emergency circumstances. An emergency circumstance does not include routine changes to the mission of NORAD. A NORAD air defense event is an emergency circumstance under this definition.

**R. Project.** The South Fork Offshore Wind Energy Project, which will consist of no more than one offshore substation and 15 of the 17 proposed wind turbines identified on Attachment A by turbine ID or by substitute turbine ID submitted in accordance with Section 10.A of this agreement.

**S. Project Area.** The location where the Project Owner plans to construct and operate its turbines and offshore substation within BOEM lease area OCS-A 0517, as shown in Attachment B.

**T. Project Owner.** South Fork Wind, LLC, and its successors and assigns.

**U. Radar Adverse-impact Management (RAM).** The technical process designed to minimize the adverse impact of obstruction interference on a radar system. Involves a visit to the radar site by technicians to adjust applicable radar parameters.

**V. Siting Clearinghouse.** The Military Aviation and Installation Assurance Siting Clearinghouse established pursuant to 10 U.S.C. section 183a.

**W. U.S.C.** United States Code.

### **SECTION 3. MITIGATION AND VOLUNTARY CONTRIBUTION.**

**A. In General.** This agreement is structured to ensure Project Owner may construct and operate the Project without adversely impacting DoD military operations and readiness. Project Owner agrees to limit the total number of Project wind turbines to 15 of 17 proposed wind turbines with a maximum height of 840 feet above sea level (ASL). Project Owner agrees to build no more than one (1) offshore substation with a maximum height of 200 feet ASL. Project Owner agrees to restrict the construction of the Project wind turbines and the offshore substation to the specific geographic coordinates listed in Attachment A and the BOEM lease area as depicted in Attachment B. Wind turbine locations and the offshore substation location adjusted within 500 feet of the geographic coordinates provided in Attachment A shall not require additional review by the DAF or an amendment to this agreement, as provided by Section 10. A. of this agreement. Project Owner shall notify NORAD via email (n-nc.peterson.nj3.mbx.norad-j36r-omb@mail.mil) when the Project is within 30-60 days of completion of construction (for RAM scheduling purposes) and again when the Project is complete and has commenced commercial operations such that the RAM can actually be accomplished.

## **B. Distributed Optical Fiber Sensing Equipment**

1. Protection of Defense Capabilities. The following measures are intended to ensure that submarine data and power cables utilized in the Project not be used for distributed optical fiber sensing (DOFS) detecting sensitive data from Department of the Navy (DON) warships or other types of surveillance. To enable the Project to proceed pending DOFS technical evaluation results, the DON retains the right to require the Project Owner to implement mitigation measures necessary to safeguard against potential threats to national security and military operations, as determined at the DoD Parties' sole discretion.

2. Reporting and Implementation. Project Owner will provide the DON (Contact Information listed in Section 8) with all information necessary for evaluating the potential for submarine power and data cables to be utilized in the Project, to include cable siting route(s), cable landing location(s), DOFS capabilities, make and model of integrated, or planned integration of, scientific sensors, manufacturers, vendors, and associated physical and cybersecurity protocols, at least sixty (60) days prior to fabrication or purchase of such equipment. If the DON requests additional information, Project Owner shall provide it within fifteen (15) days, or such other time period as may be agreed to by the DON and Project Owner. Notice of the intent to change this information must be provided to the DON at least thirty (30) calendar days prior to any change. The DON will have one hundred and eighty (180) days from completion of the DOFS technical evaluation to determine whether Project Owner's Project poses a threat to national security or military operations and accordingly, whether mitigation measures are required. Upon such determination, the DON will notify the Project Owner and Project Owner must implement the required mitigation measures within thirty (30) days of DON's notification, or such other time period as may be agreed to by the DON and Project Owner.

Notwithstanding anything in the foregoing to the contrary, the DoD Parties recognize the power cable, which includes a distributed temperature sensing capability, was purchased and began fabrication prior to execution of this agreement. The requirement in this section for information to be provided sixty (60) days prior to fabrication or purchase will be waived for the power cable. Additional information requests or notices of intent to change information related to the power cable will revert to the established time periods.

The Project Owner will provide information related to the power cable no later than 60 days following execution of this agreement, to enable a complete technical evaluation of the DOFS capabilities.

Within sixty (60) days of the commercial operations date of the Project, the Project Owner shall provide as built schematics and diagrams showing exact makes and models of all DOFS equipment used, which shall be updated within ten business days of any change.

3. Mitigation Measures. Mitigation measures will be tailored to the potential adverse impact and risk to national security or military operations presented by the Project, if any. Any mitigation measures required will be further detailed separately as an attachment to this agreement, and may include, but are not limited to, the following:

- a. Project Owner appointment of a DoD Parties-approved Security Officer, subject to citizenry and other requirements, to monitor compliance with mitigation measures.
- b. Restrictions on DOFS equipment operating modes, parameters, and/or capabilities. These may include programmed modes to avoid distributed sensing on specified portions of a cable when required by the DON.
- c. Equipment and component restrictions and requirements, to include prohibitions on utilization, installation, or connection of equipment or components manufactured in specified foreign countries. No equipment may be used on the Project if banned by any agency of the United States.
- d. Physical and cybersecurity protections at, and Government inspections of, location(s) where Project Owner's DOFS equipment and components are installed and monitored.
- e. Temporary or permanent shutdown or data diversion of cable distributed sensing in sensitive locations, as determined and required by the DON.
- f. Project Owner and subcontractors reporting requirements concerning business and ownership relationships with foreign entities and use of non-citizens for installation and maintenance work, in addition to those requirements outlined in Section 5.

**C. Impact Analysis during Test Energy Phase. [RESERVED]**

**D. Voluntary Contribution.** Subject to the terms and conditions of this agreement, Project Owner shall pay to DoD, within 10 days of the commercial operations date of the Project, the amount of eighty thousand dollars (\$80,000.00). DoD will use these funds to offset the cost of measures undertaken by DoD to mitigate adverse impacts of this Project or other energy projects within the meaning of 10 U.S.C. section 183a on military operations and readiness or to conduct studies of potential measures to mitigate such impacts. DoD will accept such payment as a voluntary contribution of funds pursuant to 10 U.S.C. section 183a. Such voluntary contribution may be in addition to voluntary contributions made by other Project Owners, and such other contributions may be in amounts different from that made by Project Owner. DoD will accept the voluntary contribution on behalf of the DoD parties and will transfer the funds to appropriate accounts. All voluntary contributions are to be paid electronically through Pay.gov.

Project Owner shall use one of the following two methods of making payment:

- a. ACH Debit (preferred). ACH debit authorizes Pay.gov to request a payment immediately upon processing. Many institutions use ACH debit blocks as a precaution to prevent accidental withdrawals from unauthorized sources. In order to ensure the transaction is not blocked, Project Owner will use DoD's specified ID number as an exception for the debits authorized on the Pay.gov site. The ID for this specific collection is 00008522Z4.
- b. ACH Credit. ACH Credit is a promise to arrange a payment from the promisor's bank account to the agency being paid.

2. To complete a voluntary contribution transaction:
  - a. Visit the Pay.gov website: <https://www.pay.gov/public/form/start/579188704>.
  - b. Fill out the form provided on the site.
  - c. Once submitted, print a copy of the confirmation for your records.
3. Data to include on submittal:
  - a. Collection Number: 2021SouthForkWind
  - b. Description: \$80,000.00
  - c. For further assistance, visit Pay.gov Web Help section:  
<https://www.pay.gov/WebHelp/HTML/about.html>

DoD Primary POC for voluntary contribution settlement:  
Krishna Nekkhalapudi  
WHS Financial Management Directorate  
4800 Mark Center Drive  
Alexandria, VA 22350  
Office: 703-545-0048  
Email: [krishnachaitanya.nekkhalapudi.civ@mail.mil](mailto:krishnachaitanya.nekkhalapudi.civ@mail.mil)

DoD Alternate POC for voluntary contribution settlement:  
Antonio King  
WHS Financial Management Directorate  
4800 Mark Center Drive  
Alexandria, VA 22350  
Office: 703-545-0028  
Email: [antonio.d.king10.civ@mail.mil](mailto:antonio.d.king10.civ@mail.mil)

The DoD Parties agree to provide any information reasonably required by Project Owner to process the payment such that external auditors may verify the payment. Project Owners will notify the Siting Clearinghouse when the contribution has been transmitted.

**E. Amendment of Applications. [RESERVED]**

**F. Withdrawal of Objections.**

1. Within 10 calendar days of the execution of this agreement, the DoD parties shall deliver to BOEM written concurrence for the structures corresponding to the wind turbine and offshore substation locations listed on Attachment A.

2. If the Project Owner submits any substitute structures to BOEM within 36 months of the execution of this agreement, the DoD parties agree to deliver to BOEM written

concurrence provided that the affected structures are listed on Attachment A, do not exceed the maximum height specified in Section 3.A., that the substitute structures are located within the siting parameters of the Project area specified in Attachment B of this agreement or any amendments to this agreement, and that after substitution, the total number of Project wind turbines does not exceed fifteen (15) and Project wind turbine height does not exceed 840 feet ASL and total number of offshore substations does not exceed one (1) and the maximum offshore substation height does not exceed 200 feet ASL.

3. The DoD parties agree not to object to the construction and operation of the Project before any other federal, state, or local regulatory entity with jurisdiction over the Project (except as provided in sections 6.B and 10.H of this agreement), provided that Project Owner is in material compliance with the terms of this agreement and that, as of the effective date of the agreement, Project Owner has disclosed to the DoD parties in writing all relevant facts necessary for the DoD parties to be able to fully assess the Project's potential adverse impacts on military operations and readiness and risks to national security.

**G. Other Regulatory Actions.** This agreement shall not prevent or limit the DoD parties from communicating in any form with any regulatory body or agency with jurisdiction or possible jurisdiction over matters affecting NORAD or the Falmouth, Massachusetts ASR-8 beyond the Project.

#### SECTION 4. CURTAILMENT.

**A. Curtailment for Test Purposes.** [RESERVED]

**B. Curtailment for Training Purposes.** [RESERVED]

**C. Curtailment for a National Security or Defense Purpose.** Upon request by NORAD, Project Owner agrees to immediately curtail wind turbine operations for a National Security or Defense Purpose utilizing the communication protocol set out in Attachment C. Such Curtailment may not be requested except for a National Security or Defense Purpose. Curtailment for a National Security or Defense Purpose will be temporary in nature and extend only so long as is absolutely necessary to meet the discrete, temporary, and stated national security or defense purpose. This agreement in no way precludes Project Owner from seeking any available legal remedies for any Curtailment associated with a national security emergency other than challenging the Curtailment itself. Any request for Curtailment under this subsection will be communicated by either DoD party or applicable NORAD Air Defense Sector (ADS) to Project Owner and will include the releasable portions of the President's, the Secretary's, or the combatant commander's mission order.

**D. Curtailment for Establishing Baselines.** [RESERVED]

**E. Wear and Tear.** It is a fundamental premise of this agreement that the limited Curtailment expected to be required from this agreement will not cause excess wear and tear on the Project. Project Owner agrees that it is responsible for any damage or wear and tear to the turbines as a result of Curtailment pursuant to this agreement.

**F. Disclosure of Curtailment Request.** Project Owner acknowledges that there may be national security considerations associated with any request by NORAD for Curtailment in accordance with the terms of this agreement and any Curtailment resulting therefrom. Project Owner therefore agrees not to disclose any such request or any Curtailment resulting therefrom, except for disclosure as specified in Section 10. O., without the prior consent of the DAF, and the DAF agrees that consent to disclose to a business entity with which a non-disclosure agreement is in place will not be unreasonably withheld.

## **SECTION 5. REVIEW OF BUSINESS ENTITIES.**

**A. Protection of Defense Capabilities.** It is a priority for the DAF to protect national defense capabilities and military operations, including military installations, research, development, test and evaluation activities, and military readiness activities, from compromise and exploitation that may occur due to an activity under foreign control operating in the vicinity of those national defense capabilities and military operations.

### **B. Advance Notice.**

1. Project Owner shall provide advance written notice to the DAF of the following:
  - a. Changes to the names of business entities and persons having a direct ownership interest in the Project, and any changes thereto.
  - b. The names of the material vendors, entities and persons with which Project Owner will execute contracts to perform construction, supply turbines, or conduct operations activities at the location of the Project.
  - c. The names of any foreign entities and persons being allowed to access the wind turbine structures and Project Area data systems.
2. For those entities and persons identified under paragraph 5.B.1.a and 5.B.1.b, the DAF agrees to identify to Project Owner, no later than 30 days after the submission of Project Owner's written notice, any entity and person posing a security concern. For those entities and persons identified under paragraph 5.B.1.c, the DAF agrees to identify to Project Owner, no later than 30 days after the receipt of the name of any foreign entity and person being allowed to access the wind turbines and associated data systems, any entity and person posing a security concern. Project Owner agrees to enter into negotiations with the DoD parties in order to mitigate any such concern. Any such security concern must be resolved prior to allowing access to the site by such persons or representatives of such entities or the use of wind turbines or other permanent on-site equipment manufactured by such a business entity.
3. Project Owner agrees to provide written notice to the DAF at least 30 days in advance of Project Owner's intended use of any material vendor not previously screened pursuant to this section. The term "material" used in this subsection means "significant, influential, or relevant." Project Owner shall allow the DAF 30 days following such a notice to conduct a



security review and assess any security concern. Notwithstanding the foregoing, Project Owner need not wait 30 days if an unexpected situation arises for which employing services or vendors immediately is prudent for the safe operation of the Project.

## SECTION 6. ASSIGNMENT.

**A. Right to Assign.** This agreement shall be binding upon the Project Owner and its successors and assigns. If Project Owner and its successors or assigns (assignors) elect to sell, convey, mortgage, assign, or otherwise transfer all or any part of its interests and obligations in the assets comprising the Project (assignment) to any third party (assignee), assignor shall cause such assignee to expressly acknowledge the existence of this agreement. The assignor shall provide a copy of this agreement to the assignee. The assignee shall provide new point of contact information (as in Section 8) to the DoD parties.

**B. Notice of Assignment to CFIUS.** If the prospective assignee is a foreign national or foreign-owned or -controlled business entity, assignor and the proposed assignee shall jointly provide notice of the proposed transaction to CFIUS to the extent required by applicable regulations (subpart D of 31 CFR part 800) and provide a copy of the notice to the DAF. Nothing in this agreement shall prohibit or limit DoD from objecting to the transaction before CFIUS, nor limit communications with CFIUS during national security reviews and investigations, and, should mitigation result, during mitigation, tracking, and post-consummation monitoring and enforcement, pursuant to applicable statutes and regulations.

**C. Effect of Assignment.** Upon an assignment, assignor shall be relieved of any obligations or liabilities under this agreement to the extent that the assignee has assumed in writing such obligations or liabilities and provided that Project Owner has provided a copy of the assignment, including the assumption of obligations and liabilities, to the DoD parties.

## SECTION 7. EFFECTIVE DATE AND EXPIRATION.

**A. Effective Date.** This agreement becomes effective on the date when all parties have signed it.

**B. Expiration.** This agreement shall expire and have no further force and effect upon the occurrence of the earlier of the following:

1. Termination of the BOEM lease agreement.
2. The Project is decommissioned.
3. Falmouth, Massachusetts ASR-8 permanently ceases operations. However, if the current radar is replaced with a radar system that has similar needs for mitigation, then this agreement shall not expire.
4. Termination of the agreement by written mutual agreement of the parties.

**C. Actions Prior to Expiration.** Any activities engaged in by the parties (including the expenditure of part or all of any voluntary contribution) that occurred prior to expiration of this agreement shall remain valid and continue in effect, notwithstanding the expiration of the agreement.

## **SECTION 8. POINTS OF CONTACT AND NOTIFICATION.**

**A. Points of Contact (POCs).** The following persons shall be the primary POCs for the parties for purposes of this agreement. Any notice, request, or other communication to be provided pursuant to this agreement shall be delivered to the POCs. Any party may change its POC by providing written notification of the change to the other parties at least 30 days in advance of the change taking effect.

1. DoD.

a. Executive Director, Military Aviation and Installation Assurance Siting Clearinghouse, 3400 Defense Pentagon, Room 5C646, Washington, DC 20301-3400, [osd.dod-siting-clearinghouse@mail.mil](mailto:osd.dod-siting-clearinghouse@mail.mil)

b. Headquarters NORAD Radar Analysis Branch, 250 Vandenberg Street, Ste B016, Peterson AFB, CO, 80914, [n-nc.peterson.nj3.mbx.norad-j36r-omb@mail.mil](mailto:n-nc.peterson.nj3.mbx.norad-j36r-omb@mail.mil)

2. DAF. Director, Air Force Mission Sustainment, Office of the Assistant Secretary of the Air Force for Installations, Environment, and Energy, 1665 Air Force Pentagon, Room 4B941, Washington, DC 20330-1665, [SAF.IEI.Encroachment@us.af.mil](mailto:SAF.IEI.Encroachment@us.af.mil)

3. DON. OPNAV Mission Compatibility, 1000 Navy Pentagon, Room 4A674, Washington, DC 20330-1000, [opnavn4imissioncompatibility@us.navy.mil](mailto:opnavn4imissioncompatibility@us.navy.mil)

4. Project Owner. South Fork Wind, LLC, c/o Asset Manager, 56 Exchange Terrace, Suite 300, Providence, RI 02903, with a copy to: Orsted North America Inc., 399 Boylston Street, 12th Floor, Boston, MA 02116, Attention: Group Legal; [us\\_legal\\_notices@orsted.com](mailto:us_legal_notices@orsted.com)

**B. Notification.** Any written notice required by or provided for in this agreement shall be sent by registered or certified mail, postage prepaid, sent by a nationally recognized overnight delivery service that provides a receipt for delivery, or hand delivered. A notice shall be deemed to be received when delivered to the recipient's address.

## **SECTION 9. BREACH AND DISPUTE RESOLUTION.**

If a party believes that another party has breached this agreement, it shall provide written notice of the breach within 30 days of discovery of the breach to all other parties and provide the breaching party a reasonable opportunity (but in all cases at least 60 days from the delivery date of such notice) to cure the breach. Failure to provide notice within such 60-day period only waives the rights with

respect to the periods from after the expiration of such 60-day period and until the date when the notice was given. If there is a dispute between the involved parties as to whether a breach occurred, the involved parties agree to attempt to resolve the dispute beginning with Project Owner and representatives of the DON, DAF, and NORAD. Disputes may be elevated, on the part of the DoD parties, to the DAF headquarters and then to the Executive Director of the Siting Clearinghouse. If the breach is not cured or resolved after this initial dispute resolution process, any party may seek to enforce this agreement. Each party specifically reserves any and all rights or causes of action it may have both at law and in equity to require compliance with any provision of this agreement. Each party reserves the right to enforce or refrain from enforcing against another party the terms of this agreement as it sees fit and failure to enforce does not act to excuse future breaches.

## SECTION 10. GENERAL PROVISIONS.

**A. Amendments.** Any party to this agreement may request that it be amended, whereupon the parties agree to consult to consider such amendments. Any amendment to this agreement shall become effective when signed by all of the parties unless its terms provide for a different effective date. Wind turbine locations and the offshore substation location adjusted within 500 feet of the geographic coordinates provided in Attachment A shall not require additional review by the DAF or an amendment to this agreement. However, wind turbine locations adjusted greater than 500 feet of the geographic coordinates provided in Attachment A shall require DAF review, and if approved, will be included in an amendment to this agreement. Amendments only providing substitute structures within the Project boundary, with no change to height or total number of Project structures, need only be signed by the DON, DAF and Project Owner's designated Project officers if filed with BOEM, as applicable, within 36 months of the effective date of this agreement.

**B. Integration.** This agreement contains the entire agreement and understanding between the parties with respect to all of the subject matter contained herein, thereby merging and superseding all prior agreements and representations by the parties with respect to such subject matter.

**C. Governing Law.** This agreement shall be governed by and construed in accordance with the laws of the United States and the State of New York, as may be applicable.

**D. Interpretation.** In the event an ambiguity or question of intent or interpretation arises, this agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this agreement. Any reference to any Federal, state, interstate, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, as they may have been amended from time to time, unless the context requires otherwise.

**E. Headings and Titles.** The headings or section titles contained in this agreement are inserted solely for convenience and do not constitute a part of this agreement between the parties, nor should they be used to aid in any manner in the construction of this agreement.

**F. Severability.** If any term, provision, or condition of this agreement is held to be invalid, void, or unenforceable by a governmental authority and such holding is not or cannot be appealed further, then such invalid, void, or unenforceable term, provision, or condition shall be deemed

severed from this agreement and all remaining terms, provisions, and conditions of this agreement shall continue in full force and effect. The parties shall endeavor in good faith to replace such invalid, void, or unenforceable term, provision, or condition with valid and enforceable terms, provisions, or conditions which achieve the purpose intended by the parties to the greatest extent permitted by law.

**G. Waivers; Remedies Cumulative.** There is no implied waiver of rights under this agreement. No failure or delay on the part of a party in exercising any of its rights under this agreement or in insisting upon strict performance of provisions of this agreement, no partial exercise by either party of any of its rights under this agreement, and no course of dealing between the parties shall constitute a waiver of the rights of any party under this agreement, other than the requirement to raise a matter of breach within 30 days of discovery. Any waiver shall be effective only by a written instrument signed by the party granting such waiver, and such waiver shall not operate as a waiver of, or estoppel with respect to, any subsequent failure to comply with this agreement. The remedies provided in this agreement are cumulative and not exclusive of any remedies provided by law.

**H. CFIUS.** Nothing in this agreement shall relieve Project Owner or its successors or assigns from complying with 31 CFR part 800 (Mergers, Acquisitions, and Takeovers by Foreign Persons) nor prevent or limit the parties from communicating in any form with CFIUS.

**I. Anti-Deficiency.** For the DoD parties, this agreement is subject to the availability of appropriated funds and sufficient resources. No provision in this agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. section 1341.

**J. Disclosure.** The parties may freely disclose this agreement with any person or entity, and DoD will post the agreement on the Siting Clearinghouse website. Project Owner may mark any part of any document it believes to be proprietary or competition sensitive that it wants DoD or the DAF to exempt from disclosure. The DoD parties will only disclose any such marked information in accordance with the provisions of 5 U.S.C. section 552 (the Freedom of Information Act).

**K. No Third Party Beneficiaries.** Nothing in this agreement, express or implied, is intended to give to, or shall be construed to confer upon, any person not a party any remedy or claim under or by reason of this agreement. This agreement shall be for the sole and exclusive benefit of the parties and their respective successors and assigns.

**L. Full and Complete Satisfaction.** The completion of the obligations of each of the parties under this agreement constitute the full and complete satisfaction of those obligations.

**M. Other Federal Agencies.** This agreement does not bind any Federal agency, other than the DoD parties, nor waive required compliance with any law or regulation.

**N. Completion of Construction.** Within 60 days of the completion of construction of the Project, Project Owner shall deliver to DoD the final coordinates for each turbine erected.

**O. Grid Operator Protocols.** Project Owner shall disclose this Curtailment requirement to

the grid operator and shall comply with the mitigation agreement's Curtailment provisions, including requesting waivers from the grid operator if grid protocols would interfere with this mitigation agreement. If Curtailment for a National Security or Defense Purpose is requested by NORAD, the Project Owner shall notify the following of the request: the New York Independent System Operator, Inc.; the Long Island Power Authority; and Long Island Electric Utility Service LLC.

*[Continued on following page]*

**P. Signature/Counterparts.** The parties represent and warrant that the signatories below have authority to sign on behalf of and bind each respective party, and that no other signature is required to bind that party. This agreement may be executed in several counterparts, each of which shall be deemed an original, all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed and delivered this agreement.

**FOR THE DEPARTMENT OF DEFENSE**

\_\_\_\_\_  
Paul D. Cramer  
Performing the Duties of the Assistant Secretary  
of Defense for Energy, Installations, and  
Environment

\_\_\_\_\_  
Date

**FOR THE DEPARTMENT OF THE AIR FORCE**

\_\_\_\_\_  
ROBERT E. MORIARTY, P.E.  
Deputy Assistant Secretary of the Air Force  
(Installations)

\_\_\_\_\_  
Date

**FOR THE DEPARTMENT OF THE NAVY**

\_\_\_\_\_  
MEREDITH E. BERGER  
Assistant Secretary of the Navy  
(Energy, Installations and Environment)

\_\_\_\_\_  
Date

**FOR SOUTH FORK WIND, LLC**



\_\_\_\_\_  
Robert Mastria  
Authorized Person

\_\_\_\_\_  
April 1, 2022

\_\_\_\_\_  
Date

**ATTACHMENT A**

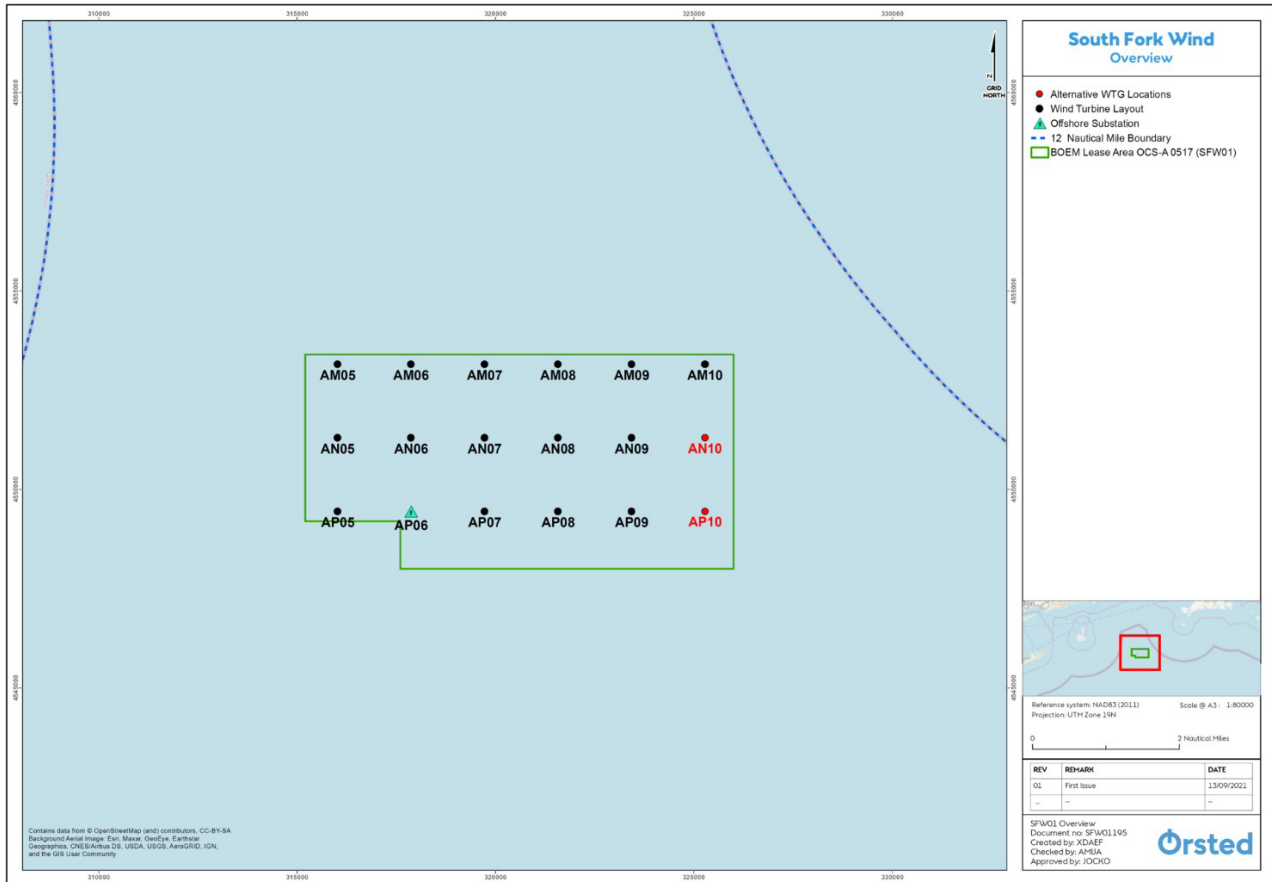
South Fork Offshore Wind Energy Project Structures in Lease Area  
OCS-A 0517

Coordinate Reference System NAD83 (2011)

<b>SFW Turbine ID</b>	<b>US Coast Guard Turbine ID</b>	<b>Str. Type</b>	<b>Maximum Height (ASL)</b>	<b>Latitude</b>	<b>Longitude</b>
A01	AM05	Wind Turbine	840'	41.1088	-71.1911
A02	AM06	Wind Turbine	840'	41.1092	-71.1691
A03	AM07	Wind Turbine	840'	41.1096	-71.1470
A04	AM08	Wind Turbine	840'	41.1100	-71.1250
A05	AM09	Wind Turbine	840'	41.1104	-71.1029
A06	AM10	Wind Turbine	840'	41.1108	-71.0809
A07	AN05	Wind Turbine	840'	41.0921	-71.1905
A08	AN06	Wind Turbine	840'	41.0925	-71.1685
A09	AN07	Wind Turbine	840'	41.0930	-71.1465
A10	AN08	Wind Turbine	840'	41.0934	-71.1244
A11	AN09	Wind Turbine	840'	41.0938	-71.1024
A12	AP05	Wind Turbine	840'	41.0755	-71.1900
A13	AP07	Wind Turbine	840'	41.0763	-71.1459
A14	AP08	Wind Turbine	840'	41.0767	-71.1239
A15	AP09	Wind Turbine	840'	41.0771	-71.1019
A16	AN10	Wind Turbine - Alternate	840'	41.0942	-71.0804
A17	AP10	Wind Turbine - Alternate	840'	41.0775	-71.0798
OSS	AP06	Offshore Substation	200'	41.0759	-71.1680

# ATTACHMENT B

## South Fork Offshore Wind Energy Project Area and Wind Turbine Locations





## ATTACHMENT C

### Curtailment Communications Protocol

**Section 1. Notices.** The following persons shall be the primary points of contact (“POCs”) for the parties for purposes of administering this agreement. Any party may change its POC by providing written notification of the change to the other parties at least 30 days in advance of the change taking effect.

A. DoD.

1. Executive Director, Military Aviation and Installation Assurance Siting Clearinghouse, 3400 Defense Pentagon, Room 5C646, Washington, DC 20301-3400, [osd.dod-siting-clearinghouse@mail.mil](mailto:osd.dod-siting-clearinghouse@mail.mil)

2. Headquarters NORAD Radar Analysis Branch, 250 Vandenberg Street, Ste B016, Peterson AFB, CO, 80914, [n-nc.peterson.nj3.mbx.norad-j36r-omb@mail.mil](mailto:n-nc.peterson.nj3.mbx.norad-j36r-omb@mail.mil)

B. DAF. Director, Air Force Mission Sustainment, Office of the Assistant Secretary of the Air Force for Installations, Environment, and Energy, 1665 Air Force Pentagon, Room 4B941, Washington, DC 20330-1665, email: [SAF.IEI.Encroachment@us.af.mil](mailto:SAF.IEI.Encroachment@us.af.mil)

C. Project Owner. South Fork Wind, LLC, c/o Asset Manager, 399 Boylston Street, 12th Floor, Boston, MA 02116

**Section 2. Criteria for Curtailment.** The parties agree that the following protocol will be used for communication between Project Owner and NORAD in the event Curtailment of wind turbine operations will occur under circumstances delineated in Section 4 of the main agreement.

**Section 3. Communications Protocol for a National Security or Defense Purpose.**

Under circumstances described in Section 4.C of the main agreement, the applicable NORAD Air Defense Sector (ADS) will call the Project operations center at 1-857-354-1002 (Orsted Boston HQ), contact Mikkel Maehlsen, Head of North America Operations and request immediate Curtailment. Advance notification is unlikely due to the unpredictable and dynamic nature of NORAD air defense events. The applicable NORAD ADS will call the Project operations center as soon as possible after the air defense event is terminated and Curtailment is no longer required. If the Project operations center has not been notified by NORAD after 1 hour of fully feathered with brakes applied (0 RPM) Curtailment, the operations center is authorized to transition to fully feathered (less than 1 RPM) Curtailment until contacted by NORAD to confirm Curtailment is no longer required.