

SCHEDULE 21 – Survey Protocol

## **Without Prejudice**

### **Forced Road Boundary Identification and Pre-Construction Preparatory Work Protocol**

Windlelectric Inc. recognizes that certain of the construction activities associated with the Amherst Island Wind Project ("AIWP") will occur in close proximity to the boundary of the Township road allowances and privately-owned properties. Windlectric understands that it must ensure that such activities do not cross any such boundary and onto the lands owned by a private landowner unless Windlectric has an agreement with such private landowner allowing construction on the landowner's property. Windlectric further understands that the nature of a forced road is such that a legal plan of survey can assist in confirming the limits of the road allowance. For purposes of the Operations Plan, a legal plan of survey is defined as a survey prepared by an Ontario Lands Surveyor having a maximum tolerance of +/- .03 m.

To ensure that no work is conducted outside the limits of the municipal road allowance without the applicable landowner's consent, Windlectric will undertake the following process in advance of permitting Collection System Work, Heavy Load deliveries, Project deliveries and Major Turbine Component deliveries to travel on any Township road allowance:

1. For all properties identified as requiring a legal survey, Windlectric shall provide a draft survey to the Township for its review and approval pursuant to this protocol.
  - a. in order to identify all properties where a survey is required, Windlectric shall prepare a map showing all proposed road allowances to be utilized for the Project with annotations listing the following:
    - i. sections of the road fronting properties owned by participating owners whose written permission has been given to do Project related work on their properties;
    - ii. sections of the road fronting properties owned by non-participating owners where the traveled (gravel surface) surface of the road is 6 m or greater and where all work shall be contained within the limits of the traveled (gravel surface) surface of the road; and
    - iii. sections of the road fronting properties owned by non-participating owners where the traveled (gravel surface) surface of the road is less than 6 m or where work is proposed outside the 6m traveled (gravel surface) surface of the road.

- b. Only those properties identified in s. 1(a)(iii) above shall require a legal survey;
2. The Township shall engage an Ontario Lands Surveyor to review the draft survey and undertake such necessary work to have prepared, in conjunction with the surveyor retained by Windlectric, a final legal survey. The Township's Ontario Lands Surveyor shall complete its review of the draft surveys that have been provided on or before July 12, 2017, by August 8, 2017, any draft surveys that are provided after July 12, 2017 shall be reviewed no later than August 18, 2017, provided that they are received at least ten business days prior to that date, and any draft surveys received on or after August 4, 2017 shall be reviewed within ten business days;
3. The final approved legal survey shall form the boundaries and limits of the road allowance for purposes of all Project related works;
4. Windlectric shall mark the boundaries of the road allowances as necessary to ensure all Project related work is confined within the limits of the road allowance;
5. Notwithstanding the foregoing, in the event that the Ontario Lands Surveyor retained by the Township disagrees with the road allowance boundary identified in the survey prepared by the Ontario Lands Surveyor retained by Windlectric then where either: (i) the disagreement relates to a situation where the Township's Ontario Lands Surveyor believes that the road allowance is wider than the road allowance identified by Windlectric's Ontario Lands Surveyor or (ii) the disagreement relates to a situation where the Township's Ontario Lands Surveyor believes that that the road allowance is narrower than the road allowance identified by Windlectric's Ontario Land Surveyor but all proposed work will be within the narrower road allowance, then in either such case Windlectric shall be permitted to commence its work;
6. In the event of a disagreement between the Ontario Lands Surveyors retained by Windlectric and the Township that they are unable to resolve within 3 business days of the receipt of the Township's surveyor's position, either Windlectric or the Township shall have the ability, upon providing written notice to the other, to retain a third Ontario Lands Surveyor to review the work of both parties and make a conclusive determination that will be binding on both parties. Such third surveyor shall be chosen from the following list; Hopkins Chitty Land Surveyors Inc., Jordan & Wiseman Surveying or J.D. Barnes Limited., with the parties working through the list in chronological order until they are able to identify a surveyor from such list that has the ability to review the matter and provide their decision within five business days of being retained. The third surveyor shall have the ability to set forth the process by which it reviews the matter and both the Township and

Windlelectric and the respective surveyors retained by each will provide such information and assistance as the third surveyor requires in order to complete its review and render its decision within the five business day period.

7. Windlectric shall prepare, as part of the Pre-construction Study, plan and profile drawings illustrating all Pre-construction Preparatory Work to be performed within the road allowances;
8. Windlectric may undertake Pre-construction Preparatory Work in a staged fashion to enable Collection System Work and deliveries to occur on those portions of the road allowance that have been upgraded by having Pre-construction Preparatory Work conducted. It is understood that no deliveries or Collection System Work shall occur until Pre-construction Preparatory Work has been completed on any portion of the road where such work is proposed;
9. Windlectric will provide to the Township a detailed staging schedule identifying how the staged Pre-construction Preparatory Work will be performed;
10. Notwithstanding the foregoing above, Windlectric may undertake Collection System Work within the road allowance in advance of undertaking Pre-construction Preparatory Work, provided that the traveled portion of the road adjacent to where Collection System Work is being performed can be used safely;
11. Where Windlectric elects to conduct Collection System Work in accordance with paragraph 8 above, Windlectric agrees that upon completion of the Collection System Work within the road allowance, the entire width of the road allowance must be upgraded in accordance with the Pre-construction Study prior to allowing any Project deliveries on that portion of the road allowance;
12. Where Windlectric elects to conduct Collection System Work in accordance with paragraph 8 above, that portion of the road allowance where work is conducted shall be restored to its preconstruction stage, or better, as soon as reasonably possible after the Collection System Work is completed and before the road is re-opened for use by the public;
13. Windlectric agrees that any breach of the foregoing conditions will be corrected forthwith to the reasonable satisfaction of the Township before continuation of Collection System Work, Pre-construction Preparatory Work or deliveries along the portion of the road allowance where these conditions are breached. All costs incurred by the Township to identify and/or correct the deficiency shall be the responsibility of Windlectric.