

AGREEMENT FOR USE AND RESTORATION OF HAUL ROADS

THIS AGREEMENT FOR USE AND RESTORATION OF HAUL ROADS (this "Agreement") is made and entered into as of October 1st, 2019 (the "Effective Date") by and between the **COUNTY OF DEUEL, SOUTH DAKOTA**, ("Deuel County"), and **TATANKA RIDGE WIND, LLC**, a Delaware limited liability company ("Tatanka").

RECITALS

WHEREAS, Tatanka is constructing a wind power project in Deuel County, South Dakota and finds it necessary or desirable to utilize a portion of public roads in Deuel County as further set forth on the attached and incorporated Exhibit A ("Haul Route") for the conveyance of construction equipment and project materials; and

WHEREAS, Tatanka intends to restore all roads used for Tatanka's construction purposes to their preconstruction condition; and

WHEREAS, Deuel County consents to Tatanka's planned use of the Haul Route to convey construction equipment and project materials subject to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual and independent covenants and any and all other requirements, agreements and covenants, all as set forth above and below, the parties hereto agree to the foregoing Recitals and as follows:

1. Purpose. This Agreement is intended to address the traffic and the potential for the expected accelerated deterioration and/or damage to County Roads caused by Tatanka's vehicles and equipment on specific roads. The parties understand Tatanka will utilize a Contractor to perform the transportation of materials, restoration and other associated work.

2. Definitions.

A. Maintenance/Maintain. "Maintenance" and "Maintain" means subgrade repair, grading, graveling, reshaping of cross section, and other general repair on Haul Roads as part of Tatanka's use of County Roads.

B. County Road. "County Road" means a street, road, or other public way, including shoulders and right-of-way designated for the purpose of vehicular traffic and under the jurisdiction of the County.

C. Haul Road. "Haul Road" means a County Road which is a part of the Haul Route.

D. Improvements. "Improvements" mean changes to County Roads consisting of, but not limited to, roadway widening, changes in longitudinal profile, changes to ditches, changes to drainage or drainage structures, changes in access to private property or other roadway improvements deemed material by the Highway Superintendent because of Tatanka's use of the County Roads. Improvements may be made by Tatanka before use, during use or after use of the

Haul Roads to provide a safely maintained road for the mutual benefit of Tatanka's contractor and the traveling public.

3. Term. The term of this Agreement and the rights granted and obligations incurred herein begin as of the effective date and end on December 1, 2020, unless extended by a mutual written agreement.

4. Pre-construction Inspection. Within thirty (30) days after the Effective Date, authorized representatives of Tatanka and the Deuel County Highway Department will inspect the Haul Route to determine and record the existing condition of the Haul Route, including the width of sub grade, type, thickness and width of surfacing material in place and type, size location and condition of drainage structures as well as other highway appurtenance prior to start of construction. After making said inspection and recording the existing condition of the Haul Roads, the parties shall sign the inspection report, agreeing to the conditions stated therein. The record of this inspection shall be set forth on Appendix E – Deuel County Haul Route Inspection Report, and the form will document the signatures.

5. Road Construction and Maintenance. After both parties have signed Appendix E – Deuel County Haul Route Inspection Report and no earlier than thirty (30) days after Tatanka's pre-construction inspection, Tatanka will promptly begin construction on the Haul Route to upgrade and widen the roads as needed for Tatanka's purposes and uses. Tatanka will construct and maintain the Haul Route in good condition and repair during the term of this Agreement so the Haul Route is passable in all weather conditions (with the exception of heavy rain events).

6. Restoration of Roads. After Tatanka has finished using the Haul Route, Tatanka will restore said Haul Route to the same condition, or better, as that set forth on Appendix E – Deuel County Haul Route Inspection Report. Restoration includes, but is not limited to, subgrade condition, thickness and gradation of gravel, roadway profile, shoulders, culverts, bridges, ditches, and other structures affected as a result of the use of County Roads as a Haul Route. So long as Tatanka receives written notice from the Deuel County Highway Department by September 1, 2020 of any of Tatanka's changes to the Haul Route that Highway Department wants left intact (for example, if a road was widened by Tatanka and the Deuel County Highway Department wants the road to be kept in its widened state past November 1, 2020), Tatanka will honor Deuel County Highway Department's request. The Deuel County Highway Department will send any such notice to Tatanka at: Jebby Varughese, Manager – Project Engineering, Two Radnor Corporate Center, Suite 200, 100 Matsonford Rd, Radnor, PA 19087.

7. Additional Provisions. Tatanka hereby agrees to utilize the roads as set forth in Exhibit A to this Agreement as the designated and approved Haul Route pursuant to the terms and conditions set forth herein.

No deviation from the routes designated and approved is authorized without prior written approval of the County. Failure to comply is a basis for revocation of the County's authorization for use of the County Roads. New or expanded hauling operations requiring an extension of time or new haul roads must be approved in writing by the County prior to any use by Tatanka.

Tatanka must not make improvements to approved Haul Roads without the prior approval of the Deuel County Highway Superintendent. Improvements which promote public safety of

the travelling public and are deemed reasonable by the County will be permitted. The County reserves the right to require Tatanka to remove improvements at the end of this agreement if the County determines the improvements may compromise public safety or do not fit with future plans of the County.

During Haul Road use, Tatanka agrees to maintain the approved Haul Route in a condition necessary to provide safe travel and in at least the same condition which existed prior to Tatanka's use of the roads. Maintenance shall be done on a continual basis. Soft subgrades, gravelling, reshaping, etc., shall be performed within seventy-two (72) hours after the need for the same is discovered or brought to the attention of Tatanka.

Tatanka shall provide dust suppression for the Haul Route, as deemed reasonably necessary by Tatanka or its contractor. At a minimum, Tatanka shall provide a water truck for the purposes of dust suppression during all times Tatanka is using the Haul Roads. The required water application rate shall be adequate to keep dust down but shall not be such that muddy conditions and/or ruts form. Tatanka may use other dust suppression chemicals instead of water on a schedule commensurate with the chemical used.

The Highway Superintendent reserves the right to also perform maintenance on any County Road, including Haul Roads, as part of the County's regular maintenance, including maintenance that may impact Tatanka's use of Haul Roads. The Highway Superintendent will give Tatanka reasonable advance notice prior to performing maintenance on any Haul Roads during the term of this Agreement.

County roads, subject to maintenance pursuant to this Agreement shall be maintained in accordance with best practices, applicable SDDOT standards of gravel road maintenance, and the "Gravel Roads Construction & Maintenance Guide" published by the South Dakota Local Transportation Assistance Program (LTAP).

Recycled or reclaimed materials may not be used to maintain, improve or restore Haul Roads.

Tatanka shall be responsible for obtaining any other permits or licenses which the County or any other governmental entity may require to operate or move its equipment or vehicles on County roads.

This Agreement shall not serve to relieve Tatanka's Contractor from complying with applicable speed limits.

Any improvements to County Roads, including but not limited to modifications of all repairs and restoration, shall be completed within thirty (30) calendar days after the end of use of the Haul Route, or after the end date specified above, whichever occurs first. Adverse weather conditions shall be considered an appropriate cause for an extension of this requirement.

In the event the repairs are not made as required by this Agreement, then in that event the County shall obtain a bid to complete the work necessary to restore the road(s) to their previous condition, and Tatanka shall be responsible for the cost of said repairs. The County shall contact Tatanka at the telephone numbers and email addresses listed below hereinafter. Tatanka shall have seven (7) days, exclusive of weekends, to complete any repairs required by this Agreement

unless the necessary repairs cannot be reasonably completed in such time period, in which case the repairs will be completed as quickly as practicable. In the event the repair work is not done, the County has the right to authorize the work to be done at the expense of Tatanka. Upon completion of the repair work, Tatanka shall be billed the direct costs of the repair and the invoice shall be paid in full within thirty (30) days of receipt of the bill. In the event the bill is not paid, interest shall commence at the rate of ten (10%) percent per annum.

If Tatanka fails to perform any provision in this Agreement, County reserves the right to revoke this Agreement at any time, after giving Tatanka written notice of non-compliance and upon the expiration of seven (7) days thereafter for Tatanka to remedy the alleged noncompliance.

8. Township Roads Not Subject to this Agreement. This Agreement does not govern the use or restoration of Township Roads, which will be addressed by separate Agreement.

9. Liability. In consideration of the County consenting to and allowing the roads described herein to be used as the Haul Route during the time specified herein, Tatanka hereby covenants and agrees to hold harmless and indemnify the County, its officials, officers, employees and agents from any and all losses, expenses, damages, demands and claims in connection with or arising out of any injury or alleged injury to any person(s) including death, and damage or alleged damages to personal or real property, sustained or alleged to have been sustained in connection with, or arising out of Tatanka's negligent use of the County roads herein designated as Haul Roads in the Haul Route. Tatanka agrees to defend any suit or action brought against the County, its officials, officers, employees and agents, or any of them, based upon such alleged injury or damage to pay any and all damages, costs or expenses, including the County's attorney's fees in connection with or resulting therefrom.

10. Post-Construction Survey. Before November 1, 2020, the parties will perform a post-construction survey and identify any damage done to the Haul Route that is the responsibility of Tatanka to repair. Tatanka shall complete all repairs to such damage by December 1, 2020, unless this date is extended by mutual agreement.

11. Final Inspection. A final inspection will be held by representatives of Tatanka and Deuel County in June, 2021 to determine that no further restoration is required due to settling or other factors, and if further restoration is required, Tatanka will complete the additional restoration within sixty (60) days.

12. General Terms.

A. Compliance with Laws and Regulations: Tatanka shall comply with all Federal, State, and local laws and regulations.

B. Severability: If any portion of this Agreement is held to be invalid it shall have no effect upon the validity of the remaining portions of this Agreement.

C. Scope and Construction of Terms: The definitions in this Agreement shall control the meaning of the terms used herein. Where no definition is expressly stated herein, a term shall have that meaning clearly indicated by, or reasonably implied from, the context in which such term is used.

D. Notification: All notices and oral or written communications relating to this Agreement, unless stated otherwise in this Agreement, shall be sent to:

Tatanka Ridge Wind, LLC
930 Pheasant Lane
North Liberty, IA 52317
(319) 626-2512
Email: jbermel@avangrid.com
Attn: Jesse Bermel

Tatanka Ridge Wind, LLC
Attn: Contracts Administration
1125 NW Couch, Suite 700
Portland, OR 97209
(503) 241-3222
Email: contract.admin@avangrid.com

Deuel County Highway Department
18028 SD Hwy 15
Clear Lake, SD 57226
(605) 874-2751
Attn: Jamie Hintz

E. Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Dakota.

F. Counterparts: This Agreement may be executed by different parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall constitute one and the same instrument.

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

IN WITNESS WHEREOF, County and Tatanka have caused this Agreement to be executed and delivered by their duly authorize representatives.

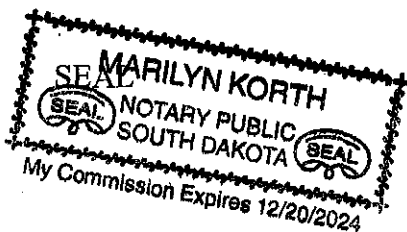
DEUEL COUNTY, SOUTH DAKOTA

Steven Rhody
BY:
Its: Chairperson

STATE OF SOUTH DAKOTA)
): ss
COUNTY OF DEUEL)

On this the 1st day of October, 2019, before me, the undersigned officer personally appeared who acknowledged herself to be Chairperson of Deuel County, South Dakota, a political subdivision of the State of South Dakota, and that she, as such Chairperson, being so authorized to do, executed the foregoing instrument by signing the name of Deuel County, South Dakota by herself as Chairperson thereof.

In witness whereof I hereunto set my hand and official seal.



Marilyn Korth
Notary Public, SD
My commission expires:

IN WITNESS WHEREOF, County and Tatanka have caused this Agreement to be executed and delivered by their duly authorize representatives.

TATANKA RIDGE WIND, LLC,
a Delaware limited liability company

Name: _____
Title: Authorized Representative

Name: _____
Title: Authorized Representative

STATE OF OREGON)
): ss
COUNTY OF MULTNOMAH)

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared _____ and _____ as the Authorized Representatives of Tatanka Ridge Wind, LLC, a Delaware limited liability company.

In witness whereof I hereunto set my hand and official seal.

SEAL

Notary Public for the State of Oregon
My commission expires:

Exhibit A - List of Roads and Visual Depiction of Haul Route

Tatanka Ridge Wind, LLC will be using the following haul roads in Deuel County, South Dakota:

Streets

Avenues

County

479th Ave from 190th Street to 191st Street

479th Ave from 192nd Street south approximately 2700ft

Appendix E -- Deuel County Haul Route Inspection Report

NO. _____

HIGHWAY PROJECT NO. _____

An inspection of the roads to be used for a haul route as set forth in the Agreement between Deuel County and Tatanka Ridge Wind, LLC, Dated _____, was conducted on the _____ day of _____, 2019, by duly authorized representatives of the parties thereto and was found in the condition detailed as follows:

RECORD WIDTH OF SUBGRADE AND TYPE, THICKNESS AND WIDTH OF SURFACING IN PLACE AT APPROXIMATELY UNIFORM INTERVALS ALONG THE ROUTE. CONDITION OF BRIDGES, BOX CULVERTS, PIPE CULVERTS, CATTLE GUARDS AND OTHER HIGHWAY APPURTENANCES SHOULD BE RECORDED IF PERTINENT.

County

479th Ave from 190th Street to 191st Street

479th Ave from 192nd Street south approximately 2700ft

CONTRACTOR _____

By: _____ Title: _____

DEUEL COUNTY HIGHWAY DEPARTMENT

By: _____ Title: _____