



**Memorandum of Understanding  
(Property/Real Estate Taxes)**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into as this 31<sup>st</sup> day of July, 2018 (the "Effective Date");

BETWEEN:

**CANASTOTA WINDPOWER LLC**, a Delaware limited liability company ("Canastota Wind"), having offices at c/o Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810;

- and -

**Madison County** an existing county under the laws of New York, United States, having an office at 138 N. Court Street, Wampsville, NY 13163;

- and -

**Town of Fenner** an existing town under the laws of New York, United States, having an office at 3151 Fenner East Road, Cazenovia, NY 13035;

- and -

**Morrisville Eaton Central School** an existing institute under the laws of New York, United States, located at P.O. Box 990, 5061 Fearon Road, Morrisville, NY 13408;

- and -

**Canastota Central School District** an existing institute under the laws of New York, United States, located at 120 Roberts Street, Canastota, NY 13032;

- and -

**Cazenovia Central School District** an existing institute under the laws of New York, United States, located at 31 Emory Avenue, Cazenovia, NY 13035;

Canastota Wind, Madison County, Town of Fenner, Morrisville Eaton Central School, Canastota Central School District, and Cazenovia Central School District are sometimes referred to herein as a "Party" and collectively as the "Parties", and Madison County, Town of Fenner, Morrisville Eaton Central School, Canastota Central School District, and Cazenovia Central School District are sometimes referred to herein collectively as the "Taxing Jurisdictions", and each a "Taxing Jurisdiction".

RECITALS:

- A. WHEREAS, Canastota Wind owns and operates the approximately [30] MW Canastota Wind Project located in Fenner, NY (the "Project")
- a. For clarity purposes, the tax parcels involved with the Canastota Wind Project are as follows:

- i. 69.-1-16.-1;
- ii. 69.-1-36.-1;
- iii. 69.-1-37.-1
- iv. 69.-1-42.-1;
- v. 70.-1-1.-1;
- vi. 70.-1-21.-1;
- vii. 70.-1-22.-1;
- viii. 70.-1-23.11-1
- ix. 70.-1-24.211-1
- x. 70.-1-3.-1
- xi. 70.-1-35.2-1
- xii. 78.-1-27.-1
- xiii. 78.-1-37.1-1
- xiv. 78.-1-38.1-1
- xv. 79.-1-12.1-1;

- B. WHEREAS, the previous PILOT Agreement(s) to which Canastota Wind, the Town of Fenner, and the Canastota Central School District were parties have expired;
- C. WHEREAS, rather than decommission the Project, Canastota Wind intends to extend the life of the Project by investing approximately \$27 Million in new wind turbine technology for the Project;
- D. WHEREAS, in connection with the extension of the Project's operational life, the intention of the Parties is to resolve past disputes and set forth a payment structure to continue Canastota Wind's financial and other commitments to the community;
- E. WHEREAS, the execution of one or more new PILOT agreement(s) is a material condition for Canastota Wind's ability to invest in the extended life of the Project.
- F. WHEREAS, Canastota Windpower LLC, the Town of Fenner and the school districts have negotiated this Memorandum of Understanding, setting forth a non-binding framework for going forward to resolve all the issues including Canastota Windpower LLC's various court actions.
- G. WHEREAS, the parties, including the County of Madison, agree going forward that they will negotiate a final settlement to all the proceedings and a new PILOT agreement.

NOW, THEREFORE, in consideration of the foregoing premises, and the mutual covenants contained herein, the Parties agree as follows:

1. All Parties are interested in executing a PILOT agreement(s) that provides for fixed annual payments by Canastota Wind to the Taxing Jurisdictions.
2. The Parties have negotiated a "universal agreement" wherein Canastota Wind agrees to discontinue and forego its claims for refund payments resulting from the ongoing litigation between the Parties in consideration of the agreement of the Taxing Jurisdictions to accept annual PILOT agreement payments by Canastota Wind over the twenty (20) years of the PILOT agreement, to be split among the Taxing Jurisdictions in such proportions as the Taxing Jurisdictions may agree among them, with no preference expressed by Canastota Wind.

3. Past Year Assessed Valuation Settlement Amounts

1. 2016 – (a) Canastota Wind will discontinue its Real Property Tax Law Article 5 application to correct the tax rolls with respect to the tax parcels in which there is a dispute regarding the timing of the PILOT subject to section 3(b) below.  
(b) To the extent there is a documented double or second payment of 2016-17 school taxes to Canastota School District, such second payment will be refunded to Canastota Wind by the Canastota School District. The analysis to confirm the second payment will be completed by Canastota School District by August 10, 2018 at the latest. The credit to be applied against the PILOT payments with respect to the Canastota School District specific payment will be paid in installments over a 3-year interest free period.
2. 2017 – Upon execution and finalization of the PILOT agreement, Canastota Wind will discontinue the 2017 Article 7 tax certiorari proceeding;
3. 2018 – The Parties agree to settle the 2018 tax certiorari proceeding by setting the total Project assessment at \$11 million and the County will promptly correct the tax assessment roll for the 2018 tax year to reflect that amount upon court order.

4. PILOT Agreement

- a. The Parties will enter into a PILOT Agreement with a term of PILOT payments for a period of 20 years.
  - b. The first year of the PILOT payments to the jurisdictions shall take effect for the 2019 assessment year (2019-20 school tax year and 2020 Town and County tax year).
  - c. The PILOT agreement will provide for fixed annual payments by Canastota Wind totaling \$8,583.33 per rated MW (\$257,500 based on 30MW facility) for a period of 20 years.
  - d. In the event that Canastota Wind is unable to move forward with a repowering effort at the Project, then the project shall be assessed at fair market value until such time as the project is fully decommissioned.
5. Town Road Use Payment. As part of the universal settlement, within thirty (30) days of the commencement of construction of the improvements for the new wind turbine technology or the finalization of the amendment to the road use and repair security agreement, whichever is later, Canastota Wind will make a payment of \$7,000 to the Town of Fenner pursuant to a town road use agreement to be entered into by and between Canastota Wind and the Town of Fenner.

6. Final Negotiations and Agreements

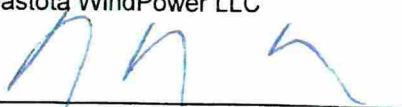
This MOU is intended to be a good faith expression of the essential terms of the universal agreement that has been negotiated by the representatives of the Parties, all of whom intend to work in good faith to prepare final settlement and PILOT agreements and recommend approval of such final agreements to their respective officers and governing boards. All Parties understand that the provisions of this MOU are nonbinding until such time as the final settlement agreement and PILOT agreements have been duly approved by the governing boards of each of the Taxing Jurisdictions.

7. This Memorandum of Understanding may be executed in any number of counterparts, each of which shall constitute a duplicate original hereof.

*The remainder of this page is intentionally blank; signature page follows.*

IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

Canastota WindPower LLC

By: 

Name: Stephen Pike

Title: Vice President

Madison County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Town of Fenner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Morrisville Eaton Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Canastota Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Cazenovia Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

Canastota WindPower LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Madison County

By: 

Name: John M. Becker

Title: Chairman, Board of Supervisors

Town of Fenner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Morrisville Eaton Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Canastota Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Cazenovia Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



RESOLUTION NO. 18-365

**AUTHORIZING THE CHAIRMAN TO ENTER INTO A MEMORANDUM OF UNDERSTANDING  
WITH CANASTOTA WINDPOWER LLC, TOWN OF FENNER, MORRISVILLE EATON  
CENTRAL SCHOOL, CANASTOTA CENTRAL SCHOOL DISTRICT AND CAZENOVIA  
CENTRAL SCHOOL DISTRICT**

**WHEREAS**, Canastota Windpower LLC, owns and operates the approximately 30 megawatt Canastota Wind Project in the Town of Fenner, New York; and

**WHEREAS**, the previous PILOT agreement entered into between Canastota Windpower LLC, the Town of Fenner and the Canastota Central School District has expired; and

**WHEREAS**, rather than decommission the project, Canastota Windpower LLC intends to extend the life of the project by investing approximately \$27 million in new wind turbine technology for the project; and

**WHEREAS**, Canastota Windpower LLC has filed applications under Real Property Tax Law Article 5 to correct the tax rolls with respect to the affected property and has also filed an Article 7 tax certiorari proceeding; and

**WHEREAS**, Canastota Windpower LLC, the Town of Fenner and the school districts have negotiated this Memorandum of Understanding, setting forth a non-binding framework for going forward to resolve all the issues including Canastota Windpower LLC's various court actions; and

**WHEREAS**, the parties, including the County of Madison, agree going forward that they will negotiate a final settlement to all the proceedings and a new PILOT agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the Chairman of the Board is authorized to sign the Memorandum of Understanding between the parties in the form that is on file with the Clerk of the Board of Supervisors.

Dated: August 14, 2018

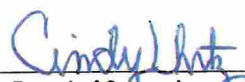


MADISON COUNTY  
BOARD OF SUPERVISORS  
WAMPSVILLE, N.Y.

*This is to certify that I, Cindy Urtz, Clerk to the Board of Supervisors of the County of Madison, have compared the foregoing copy of this resolution with the original resolution now on file in this office, and which was duly adopted by the Board of Supervisors of said County on August 14, 2018 and that same is a true and correct transcript of said resolution and of the whole thereof.*

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*In Witness Whereof, I have hereunto set my hand and the official seal of the Board of Supervisors of the County of Madison.*

  
Clerk, Board of Supervisors

IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

Canastota WindPower LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Madison County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Town of Fenner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Morrisville Eaton Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Canastota Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Cazenovia Central School District

By:  \_\_\_\_\_

Name: Matthew Reilly

Title: Superintendent

IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

**Canastota WindPower LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Madison County**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Town of Fenner**

By: David R Jones  
Name: David R Jones  
Title: Supervisor

**Morrisville Eaton Central School District**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Canastota Central School District**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Cazenovia Central School District**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

Canastota WindPower LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Madison County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Town of Fenner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Morrisville Eaton Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Canastota Central School District

By: June C. Clarke

Name: June C. Clarke

Title: Superintendent

Cazenovia Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS THEREOF, the representatives of the Parties have duly executed this MOU as of the Effective Date.

Canastota WindPower LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Madison County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Town of Fenner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Morrisville Eaton Central School District

By: Gregory Mowbray

Name: GREGORY MOWBRAY

Title: Superintendent of Schools

Canastota Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Cazenovia Central School District

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_