

## HOST COMMUNITY AGREEMENT

This agreement (“Agreement”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, (“Effective Date”), by the Town of Portsmouth, a Rhode Island Municipal Corporation (“Portsmouth” or “Town” or “Host Community”) and SouthCoast Wind Energy LLC, a Delaware limited liability company (“SouthCoast” or “SouthCoast Wind”). The Town and SouthCoast may be referred to individually as a “Party” and collectively as the “Parties.”

### RECITALS:

WHEREAS, SouthCoast proposes to construct an offshore wind energy generating facility in federal waters approximately 30 miles south of Martha’s Vineyard and 23 miles south of Nantucket within federal lease area OCS-A 0521, and to connect that facility via export cables through federal and state waters and eventually to an electrical substation at Brayton Point, in order to connect to the regional electric grid (collectively, the “Project”).

WHEREAS, the Project is being developed in response to Massachusetts Section 83C of Chapter 169 of the Acts of 2008, as amended by Chapter 188 of the Acts of 2016, An Act to Promote Energy Diversity, which mandated the development of 5,600 megawatts of offshore wind energy generation, and the Affordable Clean Energy Security Act, R.I. Gen. Laws Ch. 39-31, signed into law by Governor McKee on June 29, 2022.

WHEREAS, the Project will be built in two separate construction phases of transmission connector facilities beginning at either different or simultaneous times of approximately 1200MW each (indicated on Exhibit B as “Project 1 and Project 2”), with each phase requiring two offshore power cables and a single communication cable (these cables will typically be bundled). The proposed offshore cables will come ashore in and traverse Portsmouth before continuing to Brayton Point (collectively, the “Onshore Export Cables”).

WHEREAS, SouthCoast is evaluating several potential cable landing and crossing locations for the Onshore Export Cables in Portsmouth as shown in Exhibit A and further described below. From these candidate landfall locations (“Landing Sites”), the routing would consist of a shoreline landing and shoreline departure conducted via horizontal directional drilling (HDD) with approximately two miles of underground transmission line between as further described below. SouthCoast has identified its preferred routes in its application filed with the Rhode Island Energy Facility Siting Board.

WHEREAS, the Onshore Export Cables will be underground, with no above ground facilities, buildings, nor interconnections within the Town of Portsmouth. The Onshore Export Cables do not typically require maintenance, nor scheduled servicing.

WHEREAS, to construct the Project and/ or Onshore Export Cables, SouthCoast will seek various local, state and federal permits and approvals, including, but not limited to, the Rhode Island Energy Facility Siting Board and the Massachusetts Facilities Siting Board (each a “Siting Board” and collectively “Siting Boards”), the Rhode Island Public Utilities Commission (“PUC”), as well as other applicable local and state agencies in Rhode Island and

Massachusetts and federal agencies with jurisdiction over the Project. SouthCoast also intends to seek the approval and/or required advisory opinions of applicable boards and committees of the Town.

WHEREAS, the Town desires, through this Agreement, and through all legal powers and remedies available to it, to protect the best interests of its residents, businesses and corporate organization at all times to ensure that the Project is constructed, operated, and maintained in a safe, efficient and beneficial manner.

WHEREAS, the Town is intended to be a Host Community for the Landing Sites and Onshore Export Cables.

WHEREAS, SouthCoast desires to provide the Town with certain payments and economic investments, in consideration of the obligations contained in this Agreement and the Town's willingness to be a Host Community for the Project and Onshore Export Cables. The payments and economic investments provided under this Agreement shall be allocated and committed to initiatives in the Town's sole discretion.

WHEREAS, SouthCoast and the Town wish to collaborate to ensure the successful and safe construction and implementation of the Project, which will bring significant environmental, economic and reliability benefits to Rhode Island and the region and bring significant revenues to the Town.

WHEREAS, SouthCoast and the Town desire to enter into this Agreement to memorialize the Parties' commitments in connection with the development of the Project and/or Onshore Export Cables.

WHEREAS, pursuant to Title 44, Chapter 3, Section 9.10 of the Rhode Island General Laws, SouthCoast and the Town are entitled to negotiate and agree upon payments in lieu of real property and personal property taxes.

WHEREAS, evidenced through this existence of this Agreement, the Town will not oppose SouthCoast in development of its Project and the Onshore Export Cables.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the benefits to the Town resulting from the Project, including the payments to be made by SouthCoast to the Town as detailed in this Agreement ("HCA Payments"), the Town and SouthCoast hereby agree as follows:

## **I. ROUTE SELECTION: ONSHORE EXPORT CABLES**

### **a. ONSHORE EXPORT CABLES**

1.1 The Town and SouthCoast shall work cooperatively on finalizing the route(s) for the Onshore Export Cables, including minor modifications to the proposed routes that have been submitted to the Siting Boards. The Town agrees to not oppose the Project and/or Onshore

Export Cables before the Rhode Island Energy Facilities Siting Board.

1.2 The Rhode Island Siting Board's review of the Project will include an analysis of routes as included in SouthCoast's petition to the Siting Board for the Project. The two alternative (but largely overlapping) preferred routes described in Exhibit A, for the Onshore Export Cables sited in Portsmouth, consist of one associated with proposed landfall departure at the Montauk Country Club property, and the other associated with the proposed landfall departure utilizing the Roger Williams University property.

1.3 In addition, the Siting Boards may analyze alternative overland routes, for example, running south to north on Aquidneck Island and in neighboring Massachusetts, or other routes that have been, or may be, presented to the Siting Boards as part of SouthCoast's petition for a Siting Board license to construct and operate the Project and/or Onshore Export Cables. To the extent that the Siting Boards approve an alternative route different than the two proposed routes for the Onshore Export Cables set forth in Exhibit A, or to the extent that SouthCoast proposes to utilize, expand or modify the use of the Onshore Export Cables for any additional projects or entities, the Parties agree to negotiate in good faith to amend this Agreement to account for a different route or for any different use for the Onshore Export Cables.

## **II. EASEMENTS AND GRANTS OF LOCATION**

2.1 As a condition to SouthCoast's payments to the Town as further described in Section VI, the Town agrees to grant to SouthCoast, the following:

- a. As to public ways within the Town, grants of location (or, upon mutual agreement between SouthCoast and the Town, easements) in, through, under and across said public ways (or properties which the Town has the right to use for all purposes for which streets and ways are commonly used within the Town) along the considered route(s) as shown in Exhibit A (or other such locations as otherwise mutually agreed by the Parties) sufficient for purposes of constructing, installing, operating and if necessary inspecting, repairing, replacing, maintaining and decommissioning the Onshore Export Cables.
- b. As to Town property that is not a public way (or property which the town has the right to use for all purposes for which streets and ways are commonly used within the Town), including but not limited to beaches and parks, easements in, through, under and across said Town property along the considered route(s) as shown in Exhibit A (or other such locations as otherwise mutually agreed by the Parties) sufficient for purposes of constructing, installing, inspecting, repairing, replacing, operating, maintaining, and decommissioning the Onshore Export Cables.

2.2 All easements or property access agreements granted under this Section shall be in form and substance reasonably acceptable to both SouthCoast and the Town and shall be promptly recorded (or noticed in a memorandum thereof) in the Portsmouth Registry of Deeds by the Town at SouthCoast's cost and expense. In the event of any inconsistency between the

form of easement or property access agreement and this Agreement, the terms of the final agreed upon easement and/or any property access agreement shall control. No easement or grant of location granted under this Section shall be revoked or relocated without written agreement by both the Town and SouthCoast.

2.3 Notwithstanding any other provision in this Agreement to the contrary, SouthCoast expressly acknowledges and agrees that any easement(s) or grant(s) of location are not and shall not be construed or treated as a consent of the Town to an eminent domain taking of the same or an exercise of powers under any other statute or regulation of similar import.

### **III. CONSTRUCTION AUTHORIZATION**

3.1 To minimize the construction impact on the Town, the scope of all easements and grants of location for the Onshore Export Cables shall authorize SouthCoast to install, construct, operate, maintain, repair, and replace the Onshore Export Cables, from time to time, in accordance with all applicable federal, state, and local rules, regulations, laws and approvals.

### **IV. PERMITTING OBLIGATIONS**

4.1 As to any SouthCoast construction activities for the Project, or future projects under Town- owned property or municipal roadways, SouthCoast agrees to procure all required permits and approvals, and to coordinate construction schedules and construction plans with the requisite Town departments in accordance with applicable Town policies, practices, and procedures.

### **V. TOWN COOPERATION**

#### **a. REGULATORY AND OTHER APPROVALS**

5.1 If SouthCoast seeks approvals, permits, waivers and/or requests relief from the Siting Board for the Onshore Export Cables the Town agrees not to oppose such approvals, permits, waivers and/or request for relief.

5.2 To the extent that approvals, permits, advisory opinions and/or requests for relief from Town boards and departments are required for the Project and/or Onshore Export Cables, including, without limitation, the Zoning Board of Review, the Town Council, the Planning Board, and the Building Department, the Town will similarly not oppose SouthCoast's requests for approvals, permits, advisory opinions and/or requests for relief before those boards and departments.

5.3 To the extent that approvals and permits from other state and federal agencies are required for the Project and/or Onshore Export Cables, the Town will not similarly oppose SouthCoast's request for the same.

#### **b. COOPERATION**

5.4 The Town agrees to not oppose the Project and/or the Onshore Export Cables and will work cooperatively with SouthCoast (i) to provide requested information from the Town as may be needed for SouthCoast's permitting efforts at federal, state, regional and local levels; (ii) to provide information and guidance to SouthCoast to facilitate an efficient planning and construction process and to minimize disruption to the Town and its residents; (iii) to coordinate with SouthCoast on construction scheduling, including granting licenses where necessary to facilitate construction access, and (iv) to consider promptly and in good faith all requests from SouthCoast, in addition to those identified in Section II, for a) additional easements or property access agreements with respect to Town property identified by SouthCoast as necessary to the Project and/or Onshore Export Cables and lying on one or more of the proposed Project routes as shown in Exhibit A, or other such Town property as mutually agreed by the Parties, and b) sufficient authorizations acceptable to SouthCoast pursuant to Section II with respect to any easement or property access granted; and (v) to ensure the successful and safe construction and implementation of the Project and/or Onshore Export Cables, which the Parties agree will contribute to the region's renewable energy supply, create construction jobs, stimulate the local economy, and bring significant revenues to the Town.

5.5 The Town states that its Town Council is authorized by state and local law to grant grants-of-location, and the Town agrees, by and through its Town Council, to grant grants-of-location in all Town public ways (or properties which the Town has the right to use for all purposes for which streets and ways are commonly used within the Town), identified by SouthCoast as necessary to the Project and/or Onshore Export Cables and lying on one or more of the proposed Onshore Export Cable routes as shown in Exhibit A (or other such locations as otherwise mutually agreed by the Parties).

5.6 The Town agrees to not file or submit any briefs, motions, filings or comments opposing the Project and/or the Onshore Export Cables with or to any local, state and/or Federal agencies, or oppose the project in any appeal of any Final Order of the Siting Board regarding this Project.

## **VI. FINANCIAL AGREEMENTS AND MITIGATION**

### a. HOST COMMUNITY AGREEMENT PAYMENTS

6.1 To compensate the Town for impacts and potential disruptions during construction and for any long term easements and real estate rights necessary to route the Onshore Export Cables through the Town, and to provide compensation and community benefits to the Town in connection with the Project, SouthCoast shall provide the Town annual HCA Payments, inclusive of certain amounts designated as payment in lieu of real and personal property taxes attributable to SouthCoast's real and personal property in connection with the Project located in the Town for the duration of this Agreement. For the purposes of this Agreement, the Parties define "Start of Construction" to mean the date of the start of onshore construction of each approximately 1200MW phase (or such other megawatt capacities as may be approved by the Siting Boards and/or other relevant agencies) of the Onshore Export Cables for the

Project within the Town. HCA Payments shall be applied and spent in the Town's sole discretion. The total amount of HCA Payments, in the amount of twenty- three million two hundred twenty-four thousand six hundred seventy-three dollars (\$23,224,673) for both construction phases, are set forth in Exhibit B (Schedule of Payments) and are further explained as follows:

6.2 Pre-Operation Payments. SouthCoast agrees to make an initial non-refundable payment to the Town of five hundred thousand dollars (\$500,000) within thirty (30) days of the Effective Date of this Agreement in consideration of the Town's commitment to cooperate with SouthCoast as a Host Community ("Pre-Operation Payment").

6.3 Contingency of Payments. Any HCA Payments besides the Pre-Operation Payment shall be contingent upon SouthCoast Wind's decision to proceed with the construction of each 1,200MW phase of the Onshore Export Cables within the Town for its Project, and on SouthCoast Wind's ongoing construction and/or operation of each 1,200MW phase of the Onshore Export Cables within the Town for its Project.

6.4 Pre-Construction Payments. Within thirty (30) days of the Start of Construction for each phase, SouthCoast shall make payments to the Town as follows: payment to the Town of two hundred fifty thousand dollars (\$250,000) at the Start of Construction for the first phase of the Project; and a payment to the Town of another two hundred fifty thousand dollars (\$250,000) at the Start of Construction for the second phase of the Project in consideration of the Town's continued commitment to cooperate with SouthCoast.

6.5 Portsmouth Resilience Fund or Public Benefit Project Payment. To assist with the Town's efforts to fund projects to address the impacts of climate change through long-term climate resiliency projects, or to fund other beneficial projects to be determined in the Town's sole discretion, SouthCoast shall pay to the Town a payment of three million two hundred fifty thousand dollars (\$3,250,000), to be paid to the Town within thirty (30) days of the Start of Construction for the first phase of the Project.

6.6 Annual Payments. Within thirty (30) days following the Start of Construction and continuing each anniversary thereafter (as calculated pursuant to Exhibit B), SouthCoast shall pay to the Town the amount of two hundred and fifty thousand dollars (\$250,000) as the first of twenty (20) year annual payments ("Annual Payments") for each phase of the Project, and shall thereafter pay to the Town such annual amount, plus a 2.5% per year escalation factor, for each phase of the Project, as set forth in the HCA Summary in Exhibit B. In the event that each phase of the Onshore Export Cables for the Project is still operating in subsequent years twenty-one (21) through thirty- three (33), SouthCoast shall pay to the Town the annual amount of one hundred twenty-five thousand dollars (\$125,000) for each phase of the Project, plus a 2.5% per year escalation factor, as set forth in the HCA Summary in Exhibit B. In the event that SouthCoast intends to utilize the Onshore Export Cables for either phase of the Project, or for any future project, beyond year thirty- three (33), the Parties agree to negotiate in good faith by either amending this Agreement or entering into a new Host Community Agreement on mutually agreeable terms. The Annual Payments are intended to compensate the Town as a Host Community and are to be allocated and expended within the Town's sole

discretion.

6.7 Contingency of HCA Payments. In the event that SouthCoast fails to commence construction within the Town, fails to commence commercial operation of the Project, or ceases operation of the Project, any Annual Payments that remain due to the Town shall be null and void and SouthCoast Wind shall have no further HCA Payment obligations.

6.8 Projected HCA Payments. The total projected annual HCA Payments considered are set forth in Exhibit B. SouthCoast shall notify the Town in writing once it has selected the definitive locations and routes for the Landing Site and Onshore Export Cables; provided, however, said selection shall occur on or before the Start of Construction.

6.9 Taxation. From the respective Starts of Construction for each phase of approximately 1200MW interconnected to the Project through year 10 following each Start of Construction as detailed in Exhibit B of this Agreement for each phase , a fixed portion of each of the Annual Payments set forth in paragraph 6.6 and the HCA Summary in Exhibit B, in the amount of one hundred twenty five thousand (\$125,000) of the total Annual Payment in each year, shall be allocated and deemed to be a payment in lieu of taxes (PILOT) and a stabilized amount of taxes to be paid on account of the Onshore Export Cables located in the Town. In this regard, the Town Council has determined pursuant to R.I. Gen. Laws § 44-3-9.10, after a duly noticed public hearing, that the granting of an exemption or stabilization of taxes will inure to the benefit of the Town by reason of: (a) the willingness of SouthCoast as a manufacturing and commercial concern to locate its facility in the Town; and (b) an improvement of the physical plant of the Town that will result in long-term economic benefits to the Town and the State.

For purposes of calculating the taxes due and owing for SouthCoast's real and personal property in the Town for the remainder of the Agreement beyond year 10, SouthCoast shall pay such taxes pursuant to applicable laws with respect to the valuation, assessment or abatement of taxes due and owing to the Town. SouthCoast Wind's tax payments shall be an offset against the Annual Payment that would otherwise be due, such that the total amount paid by SouthCoast Wind to the Town beyond year 10 does not exceed the amount on Exhibit B.

## **VII. ROADWAYS AND PUBLIC LANDS**

7.1 SouthCoast has not made a final route selection for the Onshore Export Cables and therefore site-specific conditions cannot be identified at this time. SouthCoast and the Town will review such plans when available and the Town agrees that its approval of these plans shall not be unreasonably withheld, conditioned, restrictive in hours of operation or delayed.

7.2 Notwithstanding the above, the Parties agree that all work will conform to Rhode Island Department of Transportation and Town specifications for new road construction. SouthCoast agrees to restore roadways to similar condition or a mutually acceptable alternative consistent with then-existing Town policies and procedures.

## **VIII. DECOMMISSIONING**

8.1 In the event the Project is decommissioned, SouthCoast shall comply with the decommissioning requirements set forth in the Siting Board's Final Decision or, if applicable, a "Certificate of Environmental Impact and Public Interest" to be issued by the Siting Board regarding this Project.

8.2 For the avoidance of doubt and in the event of any conflicts, said certificate shall control over any local regulations. Without in any way limiting SouthCoast's decommissioning compliance obligations under this Section VIII, the Parties acknowledge the possibility that leaving the Onshore Export Cables in place may result in reduced environmental and public interest impacts, from a decommissioning perspective.

## **IX. OTHER TOWN AGENCIES**

9.1 SouthCoast acknowledges and agrees that to the extent that it is required to appear before the Portsmouth Town Council, Zoning Board, and Planning Board in order to show the Project will be in compliance with all requirements of the laws, rules regulations and ordinances under the Energy Facility Siting Act (R.I. Gen. Laws Chapter 42-98), it agrees to provide full and complete information pursuant to applicable statute or regulation in support of its application(s).

9.2 The Town acknowledges that the license granted by the Siting Board constitutes a granting of all permits, licenses, variances, or assents subject to the jurisdiction of the Siting Board, which under any law, rule, regulation or ordinance of the State or of a political subdivision thereof would, absent the Energy Facility Siting Act, be required for the construction of the Project. The Town agrees not to oppose SouthCoast through the siting and permitting process, including SouthCoast's applications and any public hearings. Furthermore, the Town shall not appeal any permits and/or approvals granted by other Town agencies regarding this Project and/or Onshore Export Cables.

## **X. CONTINUING REVIEW AND PROMPT DISCLOSURE**

10.1 The Parties agree to meet annually starting in 2024, and more often, if necessary, to review in good faith the parameters of the Project, its equipment, its effect on the environment, and any other matters of material importance to its performance.

10.2 Each Party agrees to provide copies of all required public filings and correspondence with public agencies to the other Party promptly upon filing. Each Party further agrees to notify the other of any facts, circumstances, information, or developments that a reasonable observer would deem material to the Town's or SouthCoast's interests, including, without limitation, environmental considerations.

## **XI. DEFAULT; REMEDIES**

11.1 Any Party that fails to satisfy any obligation under this Agreement in a material and timely manner may be declared to be in default by the other Party upon receipt of written

notice stating the basis for the same (the "Notice of Default"). The defaulting Party shall have thirty (30) days from receipt of the Notice of Default to cure the default, unless such time is further extended by agreement with the other Party. All obligations of the Parties under this Agreement, including but not limited to payment obligations, shall continue during any initial or extended cure period.

11.2 Limitation on Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS OR OPPORTUNITIES OR OTHER BUSINESS INTERRUPTION DAMAGES, HOWEVER CAUSED AND UNDER ANY LEGAL THEORY INCLUDING WITHOUT LIMITATION BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE, AND REGARDLESS OF THE EXISTENCE OF INSURANCE THAT MAY COVER LIABILITY FOR SUCH DAMAGES.

## **XII. INCORPORATION OF CONDITIONS**

12.1 SouthCoast agrees to support any motion or request made by the Town to the Rhode Island Siting Board to incorporate the conditions contained in this Agreement as conditions of any Final Order of the Siting Board in the proceedings.

## **XIII. DISPUTE RESOLUTION**

- a. Generally: The Parties agree to use reasonable efforts to resolve any dispute arising under this Agreement informally.
- b. Mediation: In the event the Parties cannot resolve a dispute arising under this Agreement informally, either Party to the dispute may request mediation upon written notice to the other Party. The notice shall identify the nature of the dispute, and a proposed mediator(s).
  - i. Within thirty (30) days of the notice of the request for mediation, the Parties shall agree upon a mediator and enter into a mediation agreement with the mediator. If the Parties cannot agree upon a mediator and mediation agreement within that time, they shall be deemed to have selected the American Arbitration Association ("AAA") mediation services which shall appoint a qualified mediator to hear the dispute.
  - ii. The Parties shall engage in and conclude the mediation within ninety (90) days of notice of the request for mediation unless they agree to extend that time.
  - iii. If mediation is unsuccessful, the Parties shall be free to exercise any rights or remedies they may have pursuant to this Agreement or otherwise.

- c. Exception: In the event of exigent circumstances, either Party may pursue judicial relief regarding events of default without first resorting to mediation.

#### **XIV. VENUE AND JURISDICTION**

14.1 Unless the Parties otherwise agree in writing, all actions within the Courts of Rhode Island shall be filed in the Superior Court.

14.2 Unless the Parties otherwise agree in writing, any Federal actions shall be filed in the United States District Court for the District of Rhode Island.

14.3 The Parties hereby consent to the sole and exclusive jurisdiction of the above stated state and/or Federal courts sitting in Rhode Island. Each Party agrees not to raise any objection at any time to the laying or maintaining of the venue in any such courts, irrevocably waives any claim that an action has been brought in an inconvenient forum and further irrevocably waives the right to object that such court does not have personal jurisdiction over such Party.

#### **XV. INDEPENDENT RHODE ISLAND CONTRACT**

15.1 This Agreement shall be governed by and construed as a Rhode Island contract in accordance with Rhode Island laws, exclusive of its conflicts of law rules. It shall have independent legal significance and, in the event of a conflict with the terms of any administrative order, or otherwise, the terms of this Agreement shall prevail.

15.2 If any portion of this Agreement shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of this Agreement shall be deemed to remain in full force and effect, except as necessary to accommodate such finding of invalidity in order that both Parties shall be provided with the benefits and burdens of the obligations set forth herein.

#### **XVI. NOTICE**

All notices or correspondence with the Town shall be addressed to:

Town Administrator  
Richard A. Rainer Jr.  
Town of Portsmouth  
2200 E. Main Road  
Portsmouth, RI 02871

With a copy to:

Town Solicitor  
2200 East Main Road

Portsmouth, RI 02871  
Attention: Kevin Gavin

And

Adler Pollock & Sheehan  
P.C. One Citizens Plaza  
Providence, RI 02903  
Attention: Alan Shoer

All notices or correspondence with SouthCoast shall be addressed to:

SouthCoast Wind Energy, LLC  
101 Federal St, 16<sup>th</sup> Floor  
Boston, MA 02110  
Attn: General Counsel

With a copy to:

Partridge Snow & Hahn LLP  
40 Westminster Street, Suite 1100  
Providence, RI 02903 Attention:  
Christian Capizzo

Notice shall be considered delivered if sent via U.S. Postal Service or a commercial delivery service such as FedEx or UPS if, in each instance, a tracking protocol is utilized to record date, time, and place of delivery. Notice shall be effective upon the day following such delivery.

The addresses above shall be utilized unless and until a Party desiring to change such address notifies the other of such change in the manner described above.

## **XVII. RELATIONSHIP OF THE PARTIES**

### a. INDEPENDENT ADVICE

17.1 Neither Party, nor any representative or counsel for such Party, has acted as counsel for the other Party with respect to such Party entering into this Agreement, unless expressly engaged by such Party with respect to this Agreement, and each Party represents that it has sought and obtained such legal advice as it deems necessary prior to entering into this Agreement. Neither Party shall act or be deemed to act as legal counsel or a representative of the other Party unless expressly retained by such Party for such purpose, and, except for such express retention, no attorney/client relationship is intended to be created between the Parties.

### b. NO PARTNERSHIP

17.2 Nothing herein shall be deemed to create a partnership or joint venture and/or principal and agent relationship between the Parties.

## **XVIII. GENERAL TERMS AND CONDITIONS**

### a. MODIFICATION

18.1 No provision of this Agreement may be modified except by a subsequent writing signed by the Parties.

### b. AFFILIATES, SUCCESSORS, AND ASSIGNS

18.2 This Agreement is binding upon and shall inure to the benefit of each of the Parties as well as their respective affiliates, successors, and assigns.

18.3 SouthCoast shall have the right, subject to the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed, to assign this Agreement to another entity, upon and subject to SouthCoast first providing the Town documentation reasonably demonstrating that any proposed assignee has the operational and financial capability to perform SouthCoast's obligations under this Agreement.

18.4 SouthCoast may assign this Agreement to either an affiliate of SouthCoast, or to collaterally assign this Agreement to a project financing entity or lender, as the case may be, without the consent of the Town.

### c. INDEMNIFICATION

18.5 SouthCoast acknowledges that the Town, through no fault of its own, may become a party to litigation or may be threatened with litigation relating to or stemming from SouthCoast's Project or this Agreement. SouthCoast agrees to defend, indemnify, and hold the Town harmless from any cause of action asserted against the Town, its agents, servants, employees, or contractors resulting from or related to the Project or this Agreement, other than those caused by the Town's negligence (provided, however, that this provision shall not excuse SouthCoast for liability to the Town in proportion to any comparative negligence), willful misconduct, or by breach of this Agreement. Such indemnification shall include, without limitation, the costs of investigation, negotiation, or settlement of such claims whether or not such a claim has been placed in litigation. The Town shall give reasonably prompt notice to SouthCoast of any claim which may be covered by this provision and shall cooperate with SouthCoast to mitigate any damages, costs and expenses incurred by the Town. Notwithstanding anything to the contrary contained in this Agreement, in no event shall either Party be liable to the other Party for damages on account of lost profits or opportunities or business interruption.

### d. INSURANCE

18.6 SouthCoast agrees to provide policies of commercial liability insurance from insurance

companies domiciled in the United States, acceptable to the Town of Portsmouth in its reasonable discretion, naming the Town of Portsmouth individually and/or as an additionally-named insured for such coverage. If requested, all such required policies of insurance shall be delivered to the Town before any construction of the Onshore Export Cables shall be commenced. If any such coverage is cancelled or becomes unavailable, it shall be a material breach of this Agreement and entitle the Town to equitable and legal relief before any agency or court of competent jurisdiction.

e.        **LEGAL COSTS**

18.7 SouthCoast agrees that it will not seek attorney's fees from the Town in any matter relating to this Agreement or the Project and/or the Onshore Export Cables.

f.        **ENFORCEMENT AUTHORITY NOT WAIVED**

18.8 Unless otherwise agreed herein, including but not limited to Section V, this Agreement does not preclude Town boards or officials from i) taking any action within the scope of their legal authority on petitions submitted to them by SouthCoast, or ii) taking enforcement positions within the scope of their official duties with regard to the Project. Nor does this Agreement preclude legal counsel for the Town from i) defending decisions of Town boards or officials on petitions submitted to them by SouthCoast, or ii) defending enforcement decisions of or commencing enforcement actions on behalf of Town boards or officials within the scope of their official duties with regard to the Project.

g.        **FORCE MAJEURE**

18.9 It is understood and agreed that the Parties hereto shall make a reasonable and good faith effort to perform their obligations under this Agreement. If and to the extent, but only to the extent, that either Party is prevented from performing its obligations hereunder by an event of force majeure, such Party shall be excused from performing hereunder for said period, and shall not be liable in damages or otherwise, and the Parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term force majeure shall mean any i) storm, flood, earthquake, hurricane, cyclone, typhoon, lightning, landslide, drought, tornado, tidal wave, blizzard, ice storm, or other natural disaster; (ii) explosion, structural collapse, evacuation, fire, sonic boom, pressure waves, bombing, hostage taking, kidnapping, physical criminal acts, accidents involving any aviation, nautical, or automotive vehicle or other means of conveyance, whether manned or unmanned, motorized or unmotorized, iii) plague, epidemics, or nuclear, chemical, or biological incidents or contamination, iv) civil disturbance, invasion, riot, coup, revolution, war (whether declared or not), civil war or any other armed conflict, military or non-military interference by any third party state or states, acts of terrorism or serious threats of terrorist attacks, v) sabotage, piracy, blockade, siege, embargo, strikes, boycotts, labor disputes, vi) interruptions, loss, or malfunctions of utilities, communications, or computer services; and vii) states of emergency declared by a local, state, or federal official or agency, acts of God, or acts of the public enemy. Notwithstanding the foregoing, the parties acknowledge the existence of the COVID-19 pandemic and agree that the existence of the COVID-19 pandemic does not

preclude the right to claim an event of force majeure if such impacts from COVID-19 arise after the effective date of this agreement, could not be mitigated by exercise of reasonable diligence and evidence of such unanticipated impacts can be proven. In development of this Agreement, each Party warrants that as of the date this Agreement is executed, no event of force majeure exists which would prevent its performance hereunder.

h. COUNTERPARTS

18.10 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

i. GENERAL AUTHORITY; REPRESENTATIONS; ORGANIZATION

18.11 Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and authorized and in good standing under the laws of the state of its organization, and in each jurisdiction where it is required to be qualified as a foreign organization or entity; (b) as applicable to each Party, it has all requisite power to own, operate, grant easements in, and lease its properties and to carry on its business as now conducted; (c) it has or will endeavor to obtain all regulatory and other authorizations and approvals necessary for it to legally perform its obligations under this Agreement; (d) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents, any contract or other agreement to which it is a party, or any law or regulation applicable to it; (e) this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with the terms thereof (except as otherwise provided by law); (f) there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it; and (g) there are no legal proceedings that would be reasonably likely to materially adversely affect its ability to perform this Agreement.

j. ANTI-BRIBERY

18.12 Each Party, and any of their respective officers, directors, members, partners, shareholders, employees, agents or Affiliates (or any officer, director, member, partner, shareholder, employee or agent of such Affiliates) shall comply with all applicable anti-bribery and anti-corruption laws and regulations (collectively, the "Anti-Bribery Laws"). The Parties shall comply with such Anti-Bribery Laws, and shall be liable, as determined by law, to the other Party for any breach. For the avoidance of doubt, neither Party shall make, directly or indirectly, in connection with any other business transaction, a payment or gift of, or an offer, promise or authorization to give money or anything of value to any governmental official, instrumentality of a government, or person(s) and/or entity(ies) indicated by a governmental official in order to secure an improper advantage or to influence any action (or failure to act) by an official in his or official capacity or any violation of an official's lawful duty.

k. NOTICE TO REGULATORS

18.13 The Parties agree that SouthCoast Wind may present this agreement in final form to the Rhode Island Energy Facilities Siting Board.

Witness our hands and seals,  
For the Town of Portsmouth Rhode Island,

---

Name: Kevin M. Aguiar, Town Council President  
Dated:

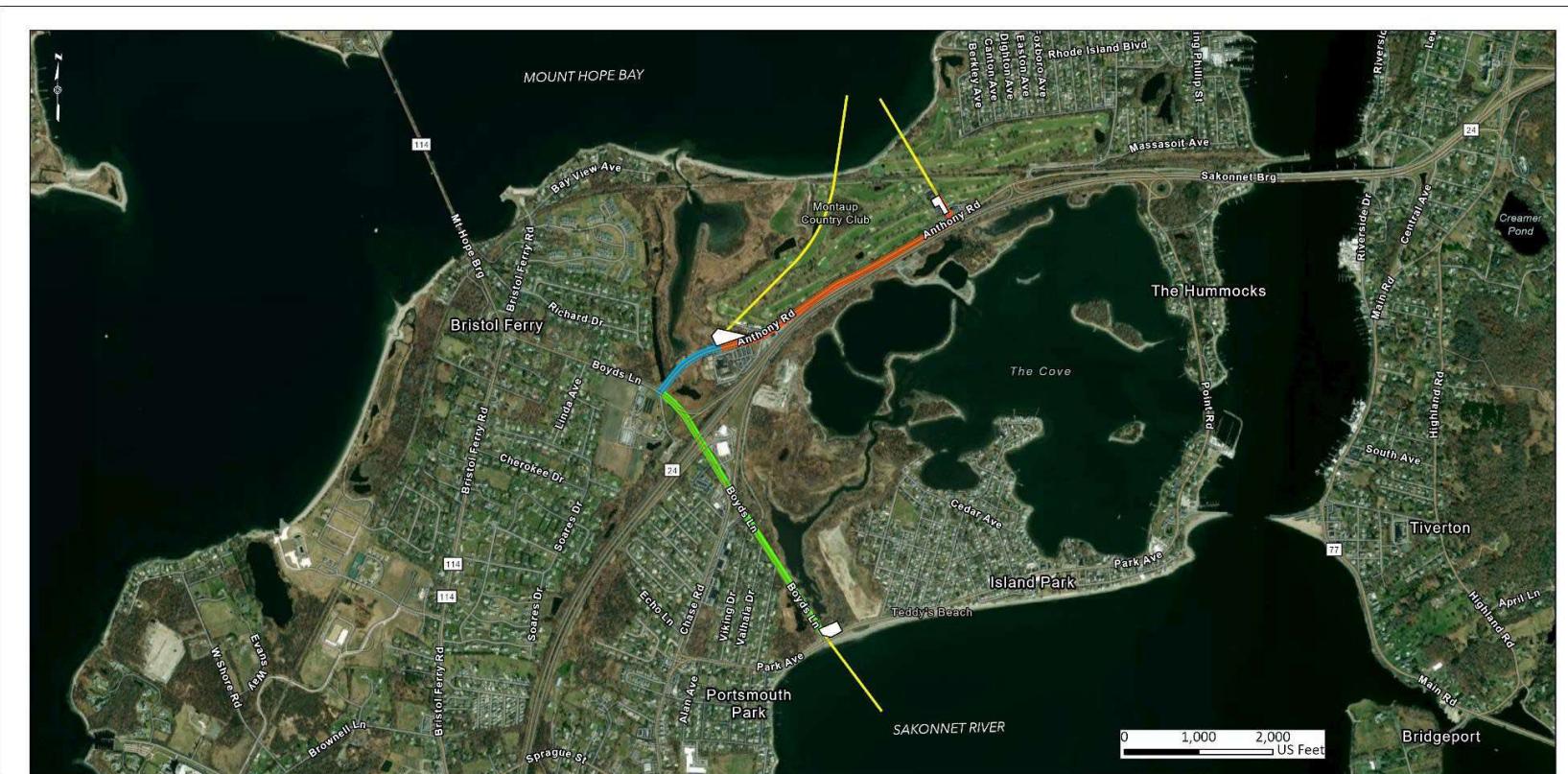
For SouthCoast Wind Energy LLC

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Name: Francis Slingsby, CEO  
Dated:

[END OF DOCUMENT]

**Exhibit A**  
SouthCoast Routes Under Consideration



 **MAYFLOWER WIND**  
PORTSMOUTH, RHODE ISLAND  
Onshore Project Location

Date: October 28, 2022.  
Projection: NAD83, Rhode Island State Plane (US Feet)  
EPSG: 3438

Scale: 1:15,000

- LEGEND**
- Yellow line: HDD Indicative Alignment
  - Blue line: Route Variant 1
  - Orange line: Route Variant 2
  - Green line: Common Underground Route
  - White box: HDD Staging Areas



## EXHIBIT B SCHEDULE OF HCA PAYMENTS

		<b>Total</b>						
<i>Payable with Project 1</i>		<b>\$ 13,487,337</b>						
<i>Payable with Project 2</i>		<b>\$ 9,737,337</b>						
<b>Total investment in Town:</b>		<b>\$ 23,224,673</b>						
Pre-Operation		Operating Years						
Upon HCA Signature		Upon Start of Construction						
\$ 500,000			3,500,000	\$ 250,000	\$ 256,250	\$ 262,656		
Included in above			250,000	\$ 250,000	\$ 256,250	\$ 262,656		
<b>\$ 500,000</b>			<b>\$ 3,750,000</b>	<b>\$ 500,000</b>	<b>\$ 512,500</b>	<b>\$ 525,313</b>		
		4 5 6 7 8 9 10						
\$ 269,223	\$ 275,953	\$ 282,852	\$ 289,923	\$ 297,171	\$ 304,601	\$ 312,216		
\$ 269,223	\$ 275,953	\$ 282,852	\$ 289,923	\$ 297,171	\$ 304,601	\$ 312,216		
<b>\$ 538,445</b>	<b>\$ 551,906</b>	<b>\$ 565,704</b>	<b>\$ 579,847</b>	<b>\$ 594,343</b>	<b>\$ 609,201</b>	<b>\$ 624,431</b>		
		11 12 13 14 15 16 17						
\$ 320,021	\$ 328,022	\$ 336,222	\$ 344,628	\$ 353,243	\$ 362,075	\$ 371,126		
\$ 320,021	\$ 328,022	\$ 336,222	\$ 344,628	\$ 353,243	\$ 362,075	\$ 371,126		
<b>\$ 640,042</b>	<b>\$ 656,043</b>	<b>\$ 672,444</b>	<b>\$ 689,256</b>	<b>\$ 706,487</b>	<b>\$ 724,149</b>	<b>\$ 742,253</b>		
		18 19 20 21 22 23 24						
\$ 380,405	\$ 389,915	\$ 399,663	\$ 204,827	\$ 209,948	\$ 215,196	\$ 220,576		
\$ 380,405	\$ 389,915	\$ 399,663	\$ 204,827	\$ 209,948	\$ 215,196	\$ 220,576		
<b>\$ 760,809</b>	<b>\$ 779,829</b>	<b>\$ 799,325</b>	<b>\$ 409,654</b>	<b>\$ 419,895</b>	<b>\$ 430,393</b>	<b>\$ 441,153</b>		
		25 26 27 28 29 30 31						
\$ 226,091	\$ 231,743	\$ 237,537	\$ 243,475	\$ 249,562	\$ 255,801	\$ 262,196		
\$ 226,091	\$ 231,743	\$ 237,537	\$ 243,475	\$ 249,562	\$ 255,801	\$ 262,196		
<b>\$ 452,181</b>	<b>\$ 463,486</b>	<b>\$ 475,073</b>	<b>\$ 486,950</b>	<b>\$ 499,124</b>	<b>\$ 511,602</b>	<b>\$ 524,392</b>		
		32 33						
\$ 268,751	\$ 275,470							
\$ 268,751	\$ 275,470							
<b>\$ 537,502</b>	<b>\$ 550,939</b>							