

**The Corporation of the Municipality of West Grey**

**By-law Number 30 - 2015**

Being, a By-law to authorize the Mayor and CAO/Deputy Clerk to sign a Licence Agreement between the Municipality of West Grey and East Durham Wind, LP, to permit East Durham Wind, LP, to install and/or affix infrastructure on the municipal bridge known as the "Glenelg Centre Bridge";

**Now Therefore the Council of the Corporation of the Municipality of West Grey hereby enacts as follows:**

1. That the Mayor and CAO/Deputy Clerk are hereby authorized to sign a Licence Agreement between the Municipality of West Grey and East Durham Wind, LP, attached as Schedule "A" to this by-law, upon receipt of signed agreements, required security, and insurance certificate, from East Durham Wind, LP.
2. That By-law Number 26-2015 is hereby repealed.
3. That this By-law shall be deemed to come into full force and effect on the date of its passing thereof.

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**Read** a first and second time this 19<sup>th</sup> day of May, 2015.

**Read** a third time and finally passed this 19<sup>th</sup> day of May, 2015.

\_\_\_\_\_  
(Signed)  
Mayor – Kevin Eccles

\_\_\_\_\_  
(Signed)  
CAO/Deputy Clerk – Larry C. Adams

**Schedule "A" to By-law Number 30 - 2015**

**Municipality of**



**Licence Agreement**

THIS AGREEMENT MADE BETWEEN:

**THE CORPORATION OF THE MUNICIPALITY OF WEST GREY**

(hereinafter called the "Municipality")  
OF THE FIRST PART

- and -

**EAST DURHAM WIND, LP**

(hereinafter jointly called the "Licensee")  
OF THE SECOND PART

WHEREAS the Licensee is the holder of a Renewable Energy Approval (REA) for the East Durham Wind Project the "Wind Project";

AND WHEREAS the Ontario Energy Board issued an Order identifying a corridor within which the Licensee is permitted to install its collection and distribution lines pursuant to section 41 of the *Electricity Act, 1998* (hereinafter "the Corridor");

AND WHEREAS a portion of the corridor crosses the Saugeen River and such Corridor is identified in the Order as being located 1 metre away (south of) from a bridge located on Concession Road 4 and under the jurisdiction of the Municipality (hereinafter "the Glenelg Centre Bridge");

AND WHEREAS the Licensee wishes to install and/or affix infrastructure on the Glenelg Centre Bridge to facilitate the placement of its collection and distribution lines within the identified corridor;

AND WHEREAS the Municipality has agreed to such request upon the condition of the execution of this license agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION OF THE PREMISES AND THE COVENANTS HEREINAFTER SET FORTH, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO COVENANT AND AGREE WITH EACH OTHER AS FOLLOWS:

1. LICENCE

The Municipality hereby permits and consents to the Licensee to install and/or affix such infrastructure (the "Infrastructure") on the Glenelg Centre Bridge which is necessary to support the spanning of the Saugeen River by the Licensee's electrical collection and distribution lines within the Corridor, which Infrastructure will be installed in accordance with the plans attached hereto as Schedule A (the "Approved Plans").

2. TERM

- (a) This Licence Agreement shall be effective upon the date of execution by the Municipality and shall continue during the currency of the 20 year term of the REA held by the Licensee for the Wind Project.
- (b) This Licence Agreement may be renewed by the Municipality for a further 20 year term provided that the Licensee continues to hold a valid REA for the Wind Project, has complied with all terms of this agreement and meets such other requirements as Council at that time may reasonably impose.

3. TERMINATION OF AGREEMENT

- (a) This Agreement may be terminated by the Municipality upon default of the Licensee of the terms of this agreement; as a condition precedent to giving such notice of termination the Municipality shall provide written notice of default and the Licensee shall have thirty (30) days from the date of the notice to remedy the identified default(s) to the satisfaction of the Municipality; where such default has not been remedied the Municipality may terminate the agreement as of a date specified in writing and the Licensee will remove the Infrastructure within a reasonable time.
- (b) This Agreement will automatically terminate upon the removal of the Infrastructure from the Glenelg Centre Bridge, by the Licensee.

4. NO INTEREST IN LAND AND NON-EXCLUSIVE LICENSE

- (a) The Licensee acknowledges that this Agreement shall in no way create any interest in land or easement rights.
- (b) The Licensee acknowledges and agrees that the Glenelg Centre Bridge remains a component of a public highway. Accordingly the license granted herein is non-exclusive and the Licensee may not prohibit or interfere with the public travel or use of the Glenelg Centre Bridge or such other licensed use of the Glenelg Centre Bridge.

5. CONSTRUCT, REPAIR AND REMOVAL

- (a) In consideration of the permission and consent hereby given, the Licensee:
  - (1) shall, at its own expense, install the Infrastructure in accordance with the Approved Plans;
  - (2) shall, at its own expense, obtain and maintain all required governmental approvals for the installation of the Infrastructure, including but not limited to any permits or clearances from the Saugeen Valley Conservation Authority;
  - (3) shall, at its own expense, keep and maintain the Infrastructure in a safe, good and proper repair and condition;
  - (4) shall, upon termination of this Agreement, forthwith remove the Infrastructure and repair any damage caused thereby at the sole expense of the Licensee without being entitled to any compensation whatsoever.
- (b) The Licensee acknowledges that the authorization hereunder applies only to the area of the Glenelg Centre Bridge where the Infrastructure is to be located as set out in the Approved Plans.

6. ERECTION OF SIGNS

- (a) The Licensee shall erect any warning signs required under the Electrical Safety Act or its regulations and shall include details concerning such signs in the Approved Plans.

7. INDEMNIFICATION FROM LIABILITY AND RELEASE

The Licensee covenants and agrees with the Municipality that the Licensee will indemnify and save harmless the Municipality, its officers, servants, officials and agents from any claim or demand, loss, cost, charge or expense which the Municipality may incur or be liable for in consequence of the permission hereinbefore granted and/or the exercise by the Licensee of such permission and/or the presence of the Infrastructure or in any matter related thereto.

The Licensee hereby releases and forever discharges the Municipality, its officers, servants, officials and agents from any claim, demand, loss, cost, charge or expense which may arise as a result of the Municipality performing any municipal work in or upon the Licensed Area which may damage or interfere with the infrastructure.

8. CASH DEPOSITS AND SECURITY - SCHEDULE "B"

- (a) The Licensee shall lodge with the Municipality, those cash deposits and security more particularly described in Schedule "B", and at the dates specified therein.
- (b) In the event that the expenses of the Municipality exceed the amount of the cash deposits, and security set out in Schedule "B" attached, the Licensee shall pay such excess charges within 30 days after demand by the Municipality, or if less, such excess deposit or security shall be refunded.

9. DEFAULT, WARRANTY, SECURITY AND REALIZATION

- (a) Default - Where the Licensee is in default under any of the provisions of this Agreement, the Municipality, if it so elects shall have the right and privilege at all times to complete any work or services required to be completed by the Licensee under this Agreement, or to arrange for such works to be completed on behalf of the Licensee. In furtherance of such work the Municipality is authorized to use and realize upon the security held under this Agreement.
- (b) Any security filed with the Municipality is based upon the potential cost of completing the various matters prescribed by this Agreement. However, all security received by the Municipality may be used as security for any item or any other matter which under the terms of this Agreement is the responsibility of the Licensee.
- (c) Exceeding Cost Estimates - If the costs of completing remedial work on behalf of the Licensee, exceeds the amount of security held by the Municipality, such excess shall be paid by the Licensee to the Municipality 30 days after invoicing by the Municipality. All overdue accounts shall bear interest at the rate of 15% per annum (1.25%/month).
- (d) Save Harmless - The Licensee on behalf of itself, its successors and assigns agrees to indemnify and save harmless the Municipality from and against any and all claims, suits, actions and demands whatsoever which may arise either directly or indirectly by reason of any work or service performed by the Municipality, its servants or sub-contractors in order to complete the work or services required to be completed under this Agreement, provided the subject matter of such action, suits, claims or demands was not caused intentionally or through gross negligence on the part of the Municipality, its servants or agents or sub-contractors.
- (e) The Construction Lien Act - If the Municipality becomes obligated to make any payments, or pay any costs, under the provisions of Section 17(4) of the Construction Lien Act, R.S.O. 1990, c.C.30, this will constitute a default and entitle the Municipality to realize upon its security.
- (f) Surplus - In the event that the Municipality realizes upon security to complete municipal services, any surplus monies that remain after this work is completed shall be returned to the Licensee or in the case of a Letter of Credit (if applicable), the issuing financial institution for transmission to that party that took out the original Letters of Credit.

- (g) Warranty - During the Term of this agreement the Applicant shall maintain the infrastructure in a good and proper state of repair for the intended purposes and in such a condition that does not contribute to the deterioration of the Glenelg Centre Bridge. The Applicant shall during the term keep lodged with the Municipality the amount set out in Schedule B, section 3.

10. INSURANCE CERTIFICATE AND POLICY

- (a) Policy of Insurance - The Licensee shall lodge with the Municipality, on or prior to the execution of the Agreement, an insurance certificate with an Insurance Company satisfactory to the Municipality, and insuring for the joint benefit of the Licensee and the Municipality against any liability that may arise out of authorization granted hereunder or any use of the Licensed Area.
- (b) Comprehensive General Liability - Such policy shall carry limits of liability in the amount to be specified by the Municipality, but in no event shall it be less than \$5,000,000.00 inclusive comprehensive general liability and such policy shall contain:
- (1) a cross-liability clause;
  - (2) product/completed operation coverage;
  - (3) shall not have an exclusion pertaining to blasting, provided that any blasting required to be done shall be done by an independent contractor duly qualified to do such work or where no blasting will occur, such clause may be included where the Municipality has received to its satisfaction, a Statutory Declaration from the Licensee that no blasting will occur on the lands subject to this agreement;
  - (4) shall include the following as an additional insured:
    - i) The Corporation of the Municipality of West Grey;
  - (5) Notice of Cancellation - a provision that the insurance company agrees to notify the Municipality 15 days in advance of any material change or cancellation of the said insurance policy.
- (c) Certificate of Coverage - Any certificate of coverage filed with the Municipal solicitor shall specifically contain confirmation that the coverage as specified herein is in effect.
- (d) Confirmation of Premium Payment - The Licensee shall, from time to time as required by the Municipality, provide confirmation that all premiums on such policy or policies of insurance have been paid, and that the insurance is in full force and effect. The Licensee shall file a copy of the policy with the Municipality.
- (e) Claim in Excess of Policy Limits - The issuance of such Policy of Insurance shall not be construed as relieving the Licensee from responsibility for other or larger claims, if any, and for which it may be held responsible.

11. EXPENSES TO BE PAID BY THE LICENSEE

- (a) Every provision of this Agreement by which the Licensee is obligated in

any way shall be deemed to include the words "at the expense of the Licensee" unless the context otherwise requires.

- (b) The Licensee shall pay such reasonable fees as may be invoiced to the Municipality by its Solicitor, its Planner, and its Municipal Engineer in connection with all work to be performed as a result of the provisions of this Agreement.
- (c) The Licensee shall be responsible for the Municipality's cost of conducting a bi-annual inspection of the infrastructure. The Municipality agrees that it will co-ordinate such inspection of the infrastructure with its regular bi-annual bridge inspection program. The initial bi-annual inspection of the infrastructure will occur on the first regularly scheduled biannual bridge inspection on this Glenelg Centre Bridge after such infrastructure has been installed (the next biannual inspection is tentatively scheduled to occur in the summer of 2016). The Licensee shall be entitled to receive copies of the inspection reports and any recommendations of the Municipality's engineer concerning required repair, maintenance, etc.
- (d) The Licensee shall be responsible for the cost of repairing or preventing any damage to the Glenelg Centre Bridge arising from the Licensee's installation, maintenance and use of the infrastructure. The Municipality shall notify the Licensee of any work require to repair or prevent damage for which the Licensee is responsible along with the cost of the work. The Licensee shall pay such amounts within the time period set out in the notice given by the Municipality.
- (e) All expenses for which demand for payment has been made by the Municipality, shall bear interest at the rate of 15% per annum (1.25%/month) commencing 30 days after demand is made.
- (f) In the event that the Municipality finds it is necessary to engage the services of an engineer or technical personnel not permanently employed by the Municipality to review the plans of the Licensee and/or carry out on-site inspections of the work performed, the Municipality will advise the Licensee accordingly of this need, and the costs of such outside engineers so engaged shall be the responsibility of the Licensee. The Municipality may require a deposit for this purpose.

12. LICENCE NON-TRANSFERABLE

The licence hereby granted may not be transferred by the Licensee without the prior consent in writing of the Municipality subject to the following. No consent shall be required for the Licensee to assign this Agreement to an affiliate, lender or mortgagee (including for purposes of securing indebtedness or other obligations) provided that the Licensee gives the Municipality 20 days' written notice of such assignment.

13. NOTICE

Any Notice to be given by any party under this Agreement may be given by:

- (1) personal service on the parties hereto, or
- (2) prepaid first class mail addressed to the other party at their last known address and which shall be deemed to have been received 72 hours after mailing.

For the purposes of the foregoing, the addresses for the parties to this Agreement are as follows:

Licensee: East Durham Wind LP.  
Attention: Business Management  
390 Bay Street, Suite 1720  
Toronto, ON, M5H 2Y2, Canada  
Phone: (416) 364-9714

Municipality: The Corporation of the Municipality of West Grey  
402813 Grey Rd. 4, RR2  
Durham, ON, N0G 1R0  
Attention: CAO and Clerk  
Fax: (519) 369-5962  
Phone: (519) 369-2200

14. ESTOPPEL OF LICENSEE

The Licensee agrees to not call into question directly or indirectly in any proceeding whatsoever, in law or in equity, or before any administrative tribunal, the right of the Municipality to enter into This Agreement and to enforce each and every term, covenant and condition herein contained and This Agreement may be plead as an estoppel against the Licensee in any such proceedings.

This AGREEMENT SHALL enure to the benefit of and be binding upon the parties hereto and their permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed and set their hands and seals on This Agreement:

By the Municipality on the *1st* day of *June*, 2015.

THE CORPORATION OF THE  
MUNICIPALITY OF WEST GREY

Per: *Kevin Eccles*  
Kevin Eccles, Mayor

Per: *Larry Adams*  
Larry Adams, CAO/Deputy Clerk

By the Licensee on the *8th* day of *May*, 2015.

*F. Allen Wiley*  
F. Allen Wiley  
Vice President



THIS IS SCHEDULE A TO THE LICENSE AGREEMENT BETWEEN THE  
CORPORATION OF THE MUNICIPALITY OF WEST GREY AND EAST DURHAM  
WIND, LP.

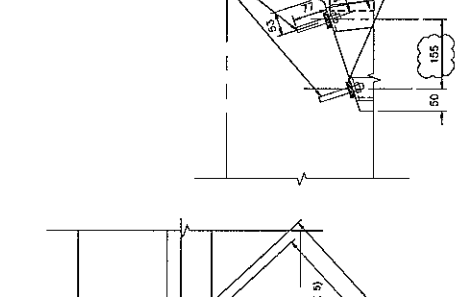
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SCHEDULE "A"

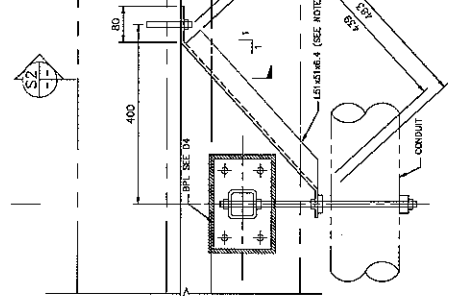
APPROVED PLANS



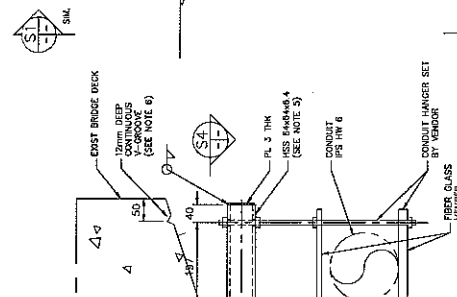
- NOTES:**
1. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS NOTED OTHERWISE.
  2. DO NOT SCALE DIMENSIONS FROM DRAWING.
  3. FOR NOTES REFER TO DRAWING 129163100-DWG-53000
  4. DRAWINGS BASED ON TIEBATCH DRAWING 129163100-DWG-53000 REV. 0
  5. ALL STRUCTURE STEEL MEMBERS SHALL BE APPROVED OTHERWISE IN WRITING BY THE AUTHORITY OF WEST GUY.
  6. SHIP GROUNDING SHALL BE ASSURED PER IEC 60364-5-54 BEFORE CONSTRUCTION. ANCHOR TO SHIP DUMP CRIBBLE AS SHOWN IN SECTION S1.
  7. RESISTANT COATING SHALL BE APPLIED ALONG ALL EDGES.



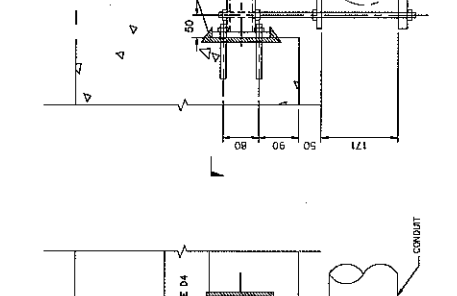
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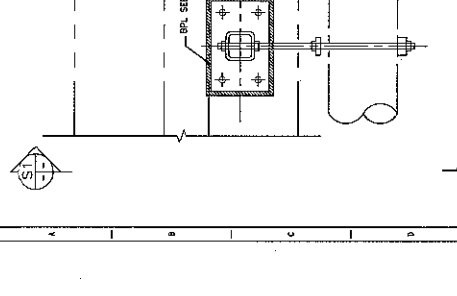
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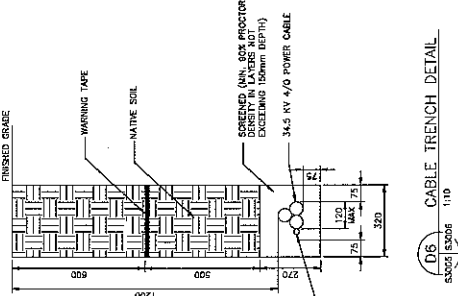
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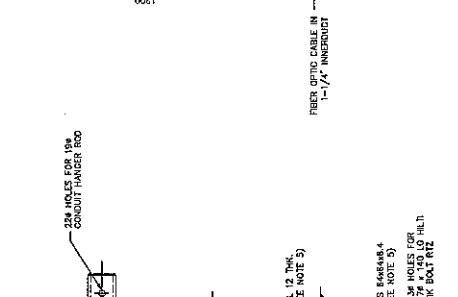
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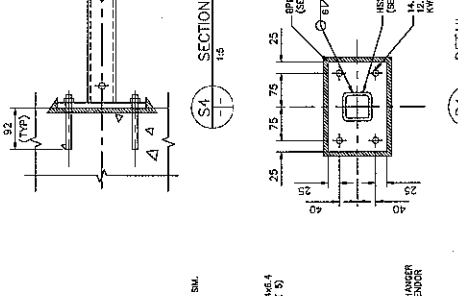
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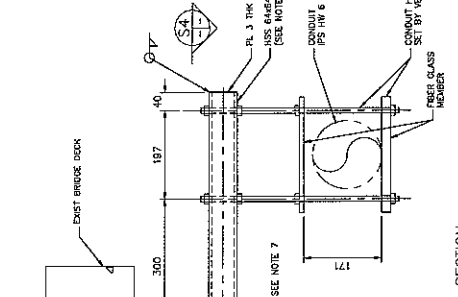
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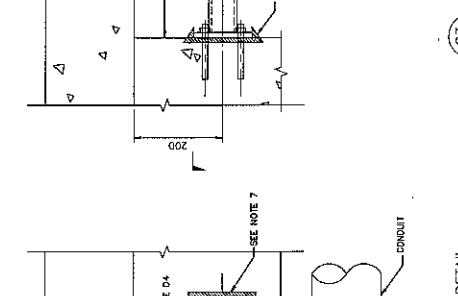
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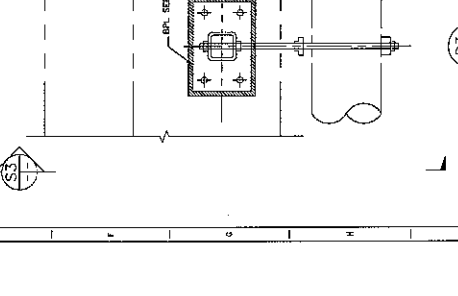
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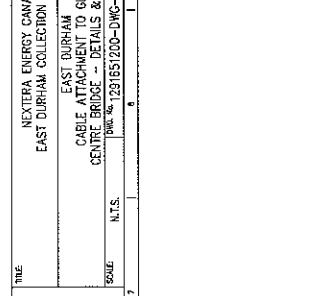
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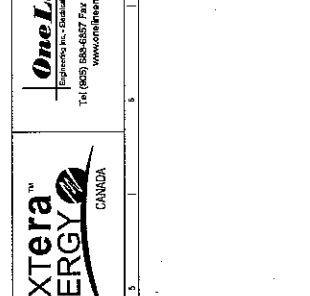
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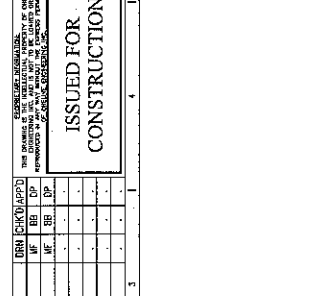
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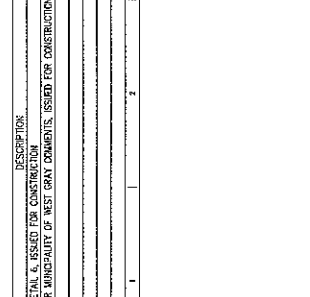
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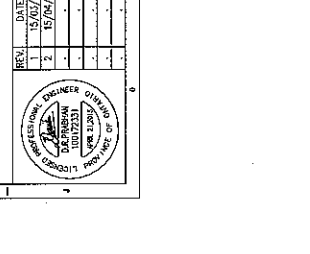
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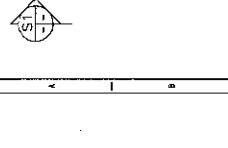
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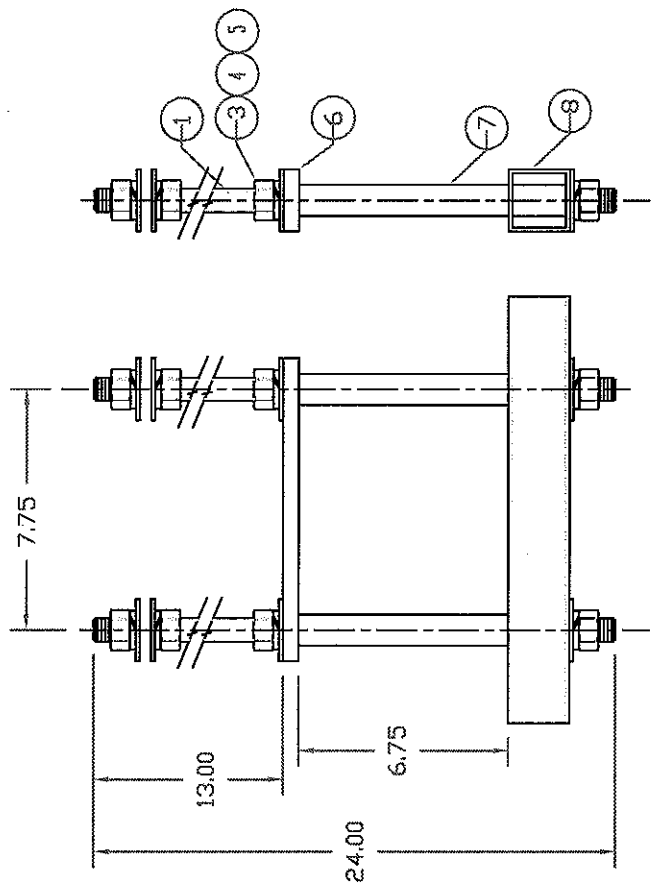
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ZONE	REV	DESCRIPTION	DATE	APPROVED
<p>REVISIONS</p> <p>Condux International, Inc. Support hanger meet the following specifications</p> <p>Fiberglass Items</p> <p>Flat Bar: 1/2" x 2.0"</p> <p>Round Tube: 1.0" O.D., .105 wall</p> <p>Square Tube: 2" x 2" x 1/8"</p> <p>Fiberglass reinforced with polyester resin with surface veil for better weathering, resin shall contain w/v. Inhibitor. Fiberglass is made with continuous strand mat and uni-directional roving, gray in color</p> <p>Tensile Strength (ASTM D 638) 30,000 PSI</p> <p>Tensile Modulus (ASTM D 638) 2,3E6 PSI</p> <p>Flexural Strength (ASTM D 790) 30,000 PSI</p> <p>Flexural Modulus (ASTM D 790) 2,3E6 PSI</p> <p>Compressive Strength (ASTM D 695) 20,000 PSI</p> <p>Compressive Modulus 1.4E6 PSI</p> <p>Yield shear strength 2000 PSI</p> <p>Barcol hardness 50</p> <p>Dielectric strength (ASTM D 149) 200 VPM Min.</p> <p>Stainless steel Hardware Items</p> <p>Threaded Rod</p> <p>Threaded rod meets (ASTM/ASME B1.1) (ASTM F593 CW Grade A)</p> <p>Hexnut</p> <p>Hexnut meets (ANSI/ASME B18.2.2)</p> <p>Material: 304 Stainless steel (ASTM F594) CW</p> <p>Flatwasher</p> <p>Flatwasher meets (ANSI/ASME B18.22.1)</p> <p>Material: 304 stainless steel</p> <p>Lockwasher</p> <p>Lockwasher meets (ANSI/ASME B18.21.1)</p> <p>Material: 304 Stainless steel</p>				
CONDUIT SUPPORT HANGER 1 HIGH X 1 WIDE FIBERGLASS AND 304 STAINLESS STEEL OPENING FOR ONE 6" DUCT		CONDUX INTERNATIONAL, INC. MANKATO MN PH. 800-533-2077 Project:		REV
WEIGHT: 10.68		SIZE FROM NO.	DWG NO.	11126FES15
QUOTE NO.		SCALE	1/2	Date: 04-10-2015
				SHEET 1 OF 1



DRAWING APPROVAL

Note: ALL MEASUREMENTS ARE IN INCHES UNLESS NOTED OTHERWISE

APPROVE THIS DRAWING FOR MANUFACTURING DATE:

ITEM	PART NO.	DESCRIPTION	LENGTH	QTY
7	00122600	SQ. TUBE: 2"X2"X.12 WALL FIBERGLASS	13.75	1
7	00122700	RD. TUBE: 1" O.D. FIBERGLASS	8.62	2
6	00122800	FLATBAR: 1/2" X 2.0 FIBERGLASS	9.75	1
5	02124003	FLAT WASHER: 3/4 304 SS.		8
4	02123903	LOCK WASHER: 3/4 304 SS.		8
3	02125106	HEX HEAD NUT: 3/4-10UNC 304 SS.		8
1	00127700	THREADED ROD: 3/4-10UNC 304 SS.	24.00	2
BILL OF MATERIALS				

This drawing is the property of Condux International, Inc. and the information thereon is to be treated as confidential. It is not to be used, copied or disclosed to outside parties without our written consent.

THIS IS SCHEDULE A TO THE LICENSE AGREEMENT BETWEEN THE CORPORATION OF THE MUNICIPALITY OF WEST GREY AND EAST DURHAM WIND, LP.

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SCHEDULE "B"

CASH DEPOSITS AND SECURITY

The Licensee shall, on the dates specified herein, lodge with the Municipality, the following described cash deposits and security.

1. TYPE OF SECURITY

Any security required to be filed under this Agreement, shall be by Certified Cheque or Bank Draft in the amount or amounts hereinafter set out. Such amounts may be held in an interest bearing account; accrued interest shall be accumulated and form part of the security hereunder.

2. CASH DEPOSITS

The following cash deposits are estimates only and are to be paid to the Municipality, as applicable, prior to the execution of this Agreement by the Municipality. In the event that the actual costs incurred by the Municipality exceed the deposits, such excess shall be invoiced to the Licensee and be due and payable 30 days after demand.

For legal, planning and engineering expenses  
and disbursements in connection with this  
Agreement, a deposit of

\$5,000.00

3. SECURITY SUMMARY

As security during installation and during the currency of  
this license

\$75,000.00