

Exhibit A

REIMBURSEMENT AGREEMENT

THIS AGREEMENT, effective as of the date of attestation thereto, by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota, hereinafter “City,” and NORDEX USA, INC., a Delaware corporation, hereinafter “Nordex”.

WHEREAS, City is owner and operator of the street system in the City of Duluth including all traffic control devices and street lights located on and adjacent to the street right-of-ways in the City, including those located at the intersection of Garfield Avenue and West Superior Street, hereinafter referred to as the “Intersection”; and

WHEREAS, Nordex is desirous of transporting or causing to be transported certain wind turbine equipment and parts (the “Equipment”) from the Duluth Port Authority facilities out of the City by truck which will require them to move the Equipment by truck north on Garfield Avenue to the Intersection and then turning east through the Intersection onto West Superior Street on the way to their destination; and

WHEREAS, in order to make the above described turn movement through the Intersection, Nordex needs City to make certain modifications to the Intersection including removing a traffic signal and street light and a short raised median in Garfield Avenue just south of the Intersection by July 20, 2020 and replacing the traffic signal at a location which will not interfere with the turning movement described above (the “Work”); and

WHEREAS, City is willing to make the above-described Work if Nordex will agree to reimburse City for the costs thereof; and

WHEREAS, Nordex is willing to so reimburse City.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto hereby agree as follows:

1. Plans and Specifications

City has furnished Nordex with plans and specifications for Work, which plans and specifications are attached hereto and made a part hereof as Exhibit A. Nordex acknowledges that it has reviewed said plans and specifications and has determined

that the Work as described therein will be sufficient to allow them to move the Equipment through the Intersection.

2. Reimbursable Cost

The parties stipulate and agree that the sum of Thirteen Thousand, Three Hundred Dollars (\$13,300) constitutes fair and reasonable reimbursement from Nordex to City to reimburse City for the cost of the Work.

3. Reimbursement Payment

Within Ten (10) days of the Effective date of this Agreement, Nordex agrees to pay to City the sum of Thirteen Thousand, Three Hundred Dollars (\$13,300) to reimburse City for the cost of committing to perform the Work in accordance with the terms of this Agreement. Said sum shall be deposited in Fund 411-035-4654-02 (Other Reimbursements and Refunds) PI 2019-1596.

4. Work to be Performed

No later than July 20, 2020, City shall have caused the Work to have been completed. City and its contractors shall be solely responsible for the performance of the Work and Nordex shall have no liability therefore.

5. Indemnification

City agrees for itself and its officers, agents, servants, employees and contractors to indemnify Nordex and itself and its officers, agents, servants, employees and contractors from and against any liability arising directly out of the performance of the Work itself. Nordex agrees for itself and its officers, agents, servants, employees and contractors that it shall indemnify City and its officers, agents, servants, employees and contractors from and against any liability arising out of the movement of the Equipment through the Intersection.

6. Independent Contractor

a. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Nordex as an agent, representative or employee of the City for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. Nordex and its employees shall not be considered employees of the City, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on

behalf of Nordex's employees while so engaged, and any and all claims whatsoever on behalf of Nordex's employees arising out of employment shall in no way be the responsibility of City. Except for compensation provided in Section II of this Agreement, Nordex's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. Further, City shall in no way be responsible to defend, indemnify or save harmless Nordex from liability or judgments arising out of Nordex's intentional or negligent acts or omissions of Nordex or its employees while performing the work specified by this Agreement.

b. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.

7. Notices

Unless otherwise expressly provided herein, any notice or other communication required or given shall be in writing and shall be effective for any purpose if served, with delivery or postage costs prepaid, by nationally recognized commercial overnight delivery service or by registered or certified mail, return receipt requested, to the following addresses:

City: City of Duluth
411 West First Street
Room 240 City Hall
Duluth, MN 55802
Attn: City Engineer

Nordex: Nordex USA, Inc.
300 South Wacker Drive, Suite 1400
Chicago, Illinois 60606
Attn: B.J. Dykstra

with a copy to:
Nordex USA, Inc.
300 South Wacker Drive, Suite 1400
Chicago, Illinois 60606
Attn: Legal Department

8. Nondiscrimination

Nordex, as part of the consideration under this Agreement, does hereby covenant and agree that:

- a. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination with regard to the work to be done pursuant to this Agreement.
- b. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code, and any regulations and executive orders which may be affected with regard thereto.

9. Obey all Laws

Nordex agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota and the City with respect to their respective agencies which are applicable to its activities under this Agreement.

10. Applicable Law

This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

11. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under his Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, franchises or permits, or inability to obtain labor, materials, equipment, or transportation. Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on

which the party's obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.

12. Severability

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provision shall continue in full force and effect and shall be binding upon the parties to this Agreement.

13. Entire Agreement

It is understood and agreed that the entire agreement of the parties including all exhibits is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.


IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date of attestation shown below.

CITY OF DULUTH, a Minnesota
Municipal Corporation

NORDEX USA, INC., a Delaware
Corporation

By: _____

It's Mayor

By:  _____

Its John McComas
Head of PM

Attest:

By: _____

It's City Clerk

By:  / Steven Cieslak

Its CFO

Date: _____

Approved:

Countersigned:

By: _____

It's City Attorney

By: _____

It's City Auditor