

**FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF OCEAN ENERGY MANAGEMENT,
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE OCEAN WIND 1 OFFSHORE WIND FARM PROJECT,
LEASE AREA OCS-A 0498**

WHEREAS, the New Jersey State Historic Preservation Officer (NJ SHPO), the Bureau of Ocean Energy Management (BOEM), and the Advisory Council on Historic Preservation (ACHP) executed a Memorandum of Agreement (MOA) on June 30, 2023, to resolve adverse effects associated with the construction, operation, maintenance, and decommissioning for the wind energy project known as Ocean Wind 1 Offshore Wind Farm Project (the Project) on Lease Number OCS-A 0498 which is located approximately 15 miles southeast of Atlantic City, New Jersey; and

WHEREAS, Ocean Wind LLC (referred to as the Lessee), Delaware Nation, and the New Jersey Historic Trust signed the MOA as invited signatories and BOEM invited other consulting parties to sign the MOA as invited signatories and they chose to not sign the MOA; and,

WHEREAS, on September 21, 2023, BOEM approved with conditions the Construction and Operations Plan (COP) submitted by the Lessee; and

WHEREAS, on November 1, 2023, the Lessee first notified BOEM that unforeseen challenges associated with supply chain delays led the Board of Directors of Orsted A/S (the ultimate corporate parent of Orsted North America Inc. and its wholly-owned subsidiary Ocean Wind LLC) to cease development of the Project pursuant to the June 21, 2019 award of Offshore Renewable Energy Certificates (“ORECs”) made by the New Jersey Board of Public Utilities (NJ BPU). These circumstances have negatively impacted the Lessee’s ability to construct and operate the Project; and

WHEREAS, on January 19, 2024, pursuant to 30 C.F.R. § 585.416, the Lessee submitted a request for suspension of the operations term for Lease Number OCS-A-0498 lasting until the earlier of: (1) the date that is two years after BOEM’s issuance of a suspension order; or (2) such date that BOEM specifies if it grants a request by the Lessee that BOEM lift the suspension order sooner; and

WHEREAS, on February 29, 2024, pursuant to 30 C.F.R. § 585.418, BOEM approved a two-year suspension of the operations term until February 28, 2026. Under the terms of the approved lease suspension, the Lessee may not conduct any activities on the lease, including the project easement, during the suspension. During the suspension, BOEM suspends the Lessee's obligation to comply with all deadlines in the Lessee’s approved COP and COP Approval that relate to the date of COP Approval or that recur regularly (e.g., annual reports) and tolls deadlines relating to the date of COP Approval for the duration of the suspension. Further, BOEM will consider any written requests from the Lessee for an early termination of the lease suspension consistent with OCSLA, the regulations in 30 C.F.R. Part 585 Subpart D, and the terms of the lease. Additional terms and details are described in the lease suspension approval letter, which can be accessed on the BOEM website¹; and

¹ https://www.boem.gov/sites/default/files/documents/renewable-energy/Lease%20Suspension%20Approval%20Letter%20for%20Ocean%20Wind%201_%20OCS-A%200498.pdf
[last accessed April 12, 2024]

WHEREAS, BOEM determined that an amendment to this MOA is appropriate: (1) to clarify that the Lessee requested a lease suspension and BOEM approved the lease suspension request; (2) to modify the timeframes for the initiation and implementation of certain mitigation measures described in the MOA; (3) to modify language describing the timing of MOA expiration; (4) to modify timing requirements for annual reporting; and (5) to clarify the process for invitation of an additional MOA invited signatory in the event BOEM approves the assignment of the lease to a new legal entity; and

WHEREAS, the Lessee commenced site mobilization for onshore construction activities for the Project on October 5, 2023, pursuant to the terms of this MOA which were incorporated into BOEM’s Conditions of Approval for the COP, and onshore construction activities stopped on November 2, 2023; and

WHEREAS, the Lessee prepared an archaeological monitoring report pursuant to Stipulation XII (Terrestrial Archaeological Monitoring Stipulation) and Attachment 5 (Terrestrial Archaeological Monitoring Plan) of the MOA and BOEM shared this report with the NJ SHPO and federally recognized Tribes; and

WHEREAS, the Lessee submitted an Annual Report for 2023 pursuant to Stipulation XV on December 20, 2023, and shared the report with the consulting parties on March 20, 2024; and

NOW THEREFORE, in accordance with Stipulation XVII (Amendment) of the MOA, the signatories (BOEM, NJ SHPO, and the ACHP) and the invited signatories (the Lessee, the Delaware Nation, New Jersey Historic Trust) agree to amend the MOA as follows:

1. Amend the last sentence describing the timeframe in Stipulation III.A.1.ii (Marine APE, Open-Source GIS and Story Maps) so it reads as follows:

This measure may be completed during or post-construction, to be completed within five years after the lease suspension ends and no later than February 28, 2031.

2. Amend the last sentence describing the timeframe in Stipulation III.A.1.iv (Marine APE - Ethnographic Study with the Delaware Tribe of Indians, the Delaware Nation, and the Stockbridge-Munsee Community Band of Mohican Indians) so it reads as follows:

This measure may be completed pre, during or post-construction, and must be completed within five years after the lease suspension ends and no later than February 28, 2031.

3. Amend the last sentence describing the timeframe in Stipulation III.A.1.v (Marine APE - Ethnographic Study with the Shinnecock Indian Nation) so it reads as follows:

This measure may be completed pre, during or post-construction, and must be completed within five years after the lease suspension ends and no later than February 28, 2031.

4. Amend the first sentence describing the timeframe in Stipulation III.B.3 (Visual APE) so it reads as follows:

Mitigation measures under III.B.5 must be initiated within one year after the lease suspension ends and no later than February 28, 2027 and must be completed within four years after the lease suspension ends and no later than February 28, 2030, unless a different timeline is agreed upon by interested consulting parties and accepted by BOEM and may be completed simultaneously, as applicable.

5. Amend the timeline subsection of the implementation section for Attachment 4 of the MOA (Historic Properties Treatment Plan for the Ocean Wind 1 Offshore Wind Farm Project, Historic Properties Subject to Adverse Visual Effect, Cape May and Atlantic Counties, New Jersey), (page 27) so it reads as follows:

Within one year after the lease suspension ends and no later than February 28, 2027, these mitigation measures must be initiated. Tasks associated with all measures can occur during and/or after construction. Mitigation measures within this HPTP are to be completed within four years of its initiation, unless a different timeline is agreed upon by Participating Parties and accepted by BOEM and may be completed simultaneously, as applicable.

6. Amend the first sentence describing the timeframe in Stipulation III.C.1.vi (Mitigation Fund) so it reads as follows:

BOEM will consult with the third-party administrator to develop operating procedures for the mitigation fund and BOEM will review and approve the final operating procedures no later than 2 years after the lease suspension ends, and no later than February 28, 2028.

7. Amend the first sentence in Stipulation XI. Duration so it reads as follows:

This MOA will expire at (1) the decommissioning of the Project in the lease area, as defined in the Lessee's lease with BOEM (Lease Number OCS-A 0498), (2) 25-years from the date of termination of the lease suspension, or (3) 27-years from the date of COP approval, whichever occurs first.

8. Amend the first sentence of the Stipulation XV. Monitoring and Reporting so it reads follow:

At the beginning of each calendar year by January 31, following the termination of the lease suspension and until the MOA expires or is terminated, the Lessee will prepare and, following BOEM's review and agreement to share this summary report, provide all signatories, invited signatories, and consulting parties to this MOA a summary report detailing work undertaken pursuant to the MOA.

9. Add new Stipulation XXI. Lease Assignments

- A. If BOEM approves the assignment of the lease, or a portion of the lease, to a new legal entity, the new legal entity may become an invited signatory to the MOA by providing written notice to the signatories that it agrees to the terms of the MOA. The participation of this new legal entity is subject to approval by the signatories who must respond to the written notice within 30-calendar days, or the approval will be considered implicit. Any necessary amendments to

the MOA as a result will be considered in accordance with this Stipulation and Stipulation XVII. Amendments.

- B. An amendment will not be necessary if the new legal entity's participation does not change the undertaking in a manner that would require any modifications to the stipulations set forth in this MOA. In such a case, BOEM will document these conditions and involvement of the new legal entity in a written notification to the signatories, invited signatories, and consulting parties and include a copy of the new legal entity's executed signature page, which will codify the addition of the new legal entity as a signing party in lieu of an amendment.

10. All other provisions of the MOA remain in effect.

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LEASE AREA OCS-A 0498**

Signatory

BUREAU OF OCEAN ENERGY MANAGEMENT

**ELIZABETH
KLEIN**

 Digitally signed by ELIZABETH
KLEIN
Date: 2024.05.08 12:17:50 -04'00'

Date May 8, 2024

Elizabeth Klein
Director
Bureau of Ocean Energy Management

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Signatory

NEW JERSEY STATE HISTORIC PRESERVATION OFFICER



Katherine J. Marcopul, Ph.D., COM
Administrator and
Deputy State Historic Preservation Officer
New Jersey Department of Environmental Protection

Date 5/7/2024

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Signatory

ADVISORY COUNCIL ON HISTORIC PRESERVATION



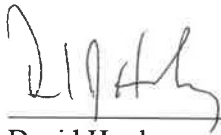
Date May 30, 2024

Reid J. Nelson
Executive Director
Advisory Council on Historic Preservation

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Invited Signatory

OCEAN WIND LLC (Lessee), by its agent Orsted Wind Power North America LLC



David Hardy
Authorized Person

Date May 10, 2024

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Invited Signatory

The New Jersey Historic Trust



Glenn Ceponis
Executive Director
The New Jersey Historic Trust

Date 5/6/24

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Invited Signatory

The Delaware Nation



Deborah Dotson
President of the Executive Committee
The Delaware Nation

Date 05/20/2024