

Albany-Hudson Electric Trail Trail Maintenance Plan

Final: December 30, 2019



**Hudson River
Valley Greenway**

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INTRODUCTION

Pursuant to a License Agreement (the License) dated November 29, 2017 between the Hudson River Valley Greenway (the Greenway) and Niagara Mohawk Power Corporation (National Grid), the Greenway was granted the right to plan, design, and construct the Albany-Hudson Electric Trail (AHET or AHET Trail). The AHET is a 36-mile bicycling and pedestrian “rail-trail” from the City of Rensselaer to the City of Hudson in Rensselaer and Columbia Counties on an actively used National Grid owned right of way. Trail construction is slated to be completed in December 2020. Detailed information is available on the trail project website: www.AHETtrail.org.

The off-road sections of the AHET Trail are located on a privately-owned utility corridor, owned by National Grid. The operational and maintenance needs of National Grid to access, inspect, and maintain its facilities, including operation of construction type vehicles, will require sections of the trail to be closed from time to time, and will supercede the use of the trail by the public or the entities performing maintenance described in this document.

New York State is covering 100% of the cost of engineering designs, environmental review, permitting, and construction of the AHET Trail, drawing upon state funds appropriated for the Empire State Trail initiative (EST). The AHET Trail will be one segment of the 750-mile statewide EST route.

The Greenway retains financial responsibility for future capital rehabilitation and repairs to the AHET Trail. As a brand new trail incorporating durable design features, capital rehabilitation needs will be modest for the first five to ten years post construction. Eventually though, capital repairs will be needed, such as resurfacing asphalt and stonedust, replacing safety fencing that is damaged or ages out, maintaining bridges installed as part of the project, replacing missing trail signage, repair of any washouts or culvert failures that may occur, etc. During the spring of each year, the Greenway will complete annual end-to-end inspections of the AHET Trail to identify any needed capital repairs, and will also respond to any site-specific capital issues as they arise over the course of the year. The Greenway will provide National Grid and all Trail Managers information on how to contact the appropriate Greenway staff person in the event any problems or issues are identified along the trail corridor.

Although the Greenway is responsible for the cost of constructing the AHET Trail, along with its long-term capital maintenance, the Greenway does not have on-the-ground trail maintenance staff or capacity. As such, in accordance with the License, the Greenway is requesting the consent and approval of National Grid to contract with local governments and interested non-profit organizations to assume the Greenway’s responsibility for routine maintenance of off-road sections of the trail.

This plan provides a detailed list of required trail maintenance activities, including the frequency of each task. Routine maintenance needs for the Trail are modest. The largest item is mowing a narrow 3 to 4-foot strip of grass along both sides of the trail and designated parking areas during the growing season. Similarly, weed whacking (with hand-held string

trimmers) will be required several times each year around benches, fences, signposts, and other amenities. Other needs include removing the occasional branch or tree that falls onto the trail and addressing any dumping of trash or litter (to the extent it occurs).

The plan provides two frequencies – “Required” versus “Enhanced” – for maintenance activities. For example, the grass margins and lawn areas along the trail should be mowed at least four times per year. However, an enhanced schedule of mowing every two weeks during the growing season is ideal (total of 10 times per year), if staffing resources are available.

Based on experience with other rail trails in New York State, the Greenway estimates the annual cost of maintaining off-road sections of the AHET Trail is approximately \$825 to \$1,675 per mile (a detailed explanation of this cost projection is provided in Appendix A). The fact that the trail crosses through eight towns and three villages allows for maintenance costs to be spread among many parties (Appendix A provides a chart projecting annual cost for each municipality along the trail route). Moreover, volunteers can be utilized to undertake some routine maintenance costs, such as litter removal and trail clean-up days, reducing costs to local governments and non-profits.

The off-road sections of the AHET Trail are being developed on a utility corridor owned by National Grid, which maintains electric transmission lines and associated infrastructure along the corridor (formerly an electric trolley route). Pursuant to the terms of the License, National Grids review is required to ensure this plan for trail maintenance activities is consistent with National Grid’s safety and utility corridor maintenance activities.

The License provides that with the consent of National Grid, the Greenway may contract with local governments and non-profit friends groups to assume the Greenway’s maintenance obligations on portions of the Trail. Local government and non-profit organizations that accept responsibility for maintaining sections of the AHET Trail will enter into a formal written agreement with the Greenway (to be approved and consented to by National Grid), and will provide insurance and liability protection to National Grid and to the Greenway. **Local governments and non-profits that enter into written maintenance agreements are referred to as “Trail Managers” in this document.** A copy of the AHET Trail Maintenance Agreement, including liability and insurance requirements, is provided in Appendix B.

As of November 2019, a number of Towns and Villages have indicated they are willing to maintain their sections of the AHET Trail. Several other towns have declined to participate at this time. A new 501(c)(3) non-profit organization, the Columbia Friends of the Electric Trail (CFET), has formed to assist in maintaining significant portions of the AHET Trail in Columbia County.

Note: This Trail Maintenance Plan applies only to off-road sections of the AHET trail. Due to physical impediments that exist along the historic trolley line, in certain locations the designated AHET route runs along sections of public roads. Maintenance of on-road sections of the AHET route remain the responsibility of the state agency, county, town, village, or city that owns the specific road section.

No provision of this Trail Maintenance Plan is meant to amend or supersede the provisions of the License and in the event of a conflict between the Trail Maintenance Plan and the License, the provisions of the License shall govern.

SECTION 1

GREENWAY-TRAIL MANAGER COMMUNICATIONS

Trail Managers and the Greenway will need to periodically communicate regarding maintenance of the AHET Trail:

- **Annual Planning Meetings.** The Greenway will hold planning meetings each spring with Trail Managers to review trail use issues, trends, and upcoming projects, and to plan for the coming year.
- **Issue-Specific Communications.** The Greenway and each Trail Manager will designate a point of contact, to address specific issues requiring discussion that arise over the course of the year. Greenway staff will conduct field visits with the Trail Manager when appropriate to review specific issues.
- **National Grid Activities.** In accordance with the License, National Grid will inform the Greenway of any planned maintenance activities along the trail corridor, such as repair of utility poles or vegetation management activities, including any activities that will require closing sections of the trail to public access. The Greenway, in turn, will inform impacted Trail Managers of National Grid's planned activities.

The Greenway does not require Trail Managers to provide regular written reports on their routine trail maintenance activities. Rather, communication will occur on an as-needed basis.

SECTION 2

ROUTINE MAINTENANCE

Restrictions on Vehicles and Motorized Equipment

Trail Managers are allowed to use vehicles and motorized equipment to undertake routine maintenance activities, as well as to undertake patrols of the trail. However, to ensure the safety of equipment operators and the public, the following restrictions apply to vehicle use on the off-road sections of the AHET Trail.

- **Eight Feet Maximum Vehicle and Equipment Height Restriction.** Federal and state safety regulations require vehicles and construction equipment to maintain a minimum vertical and horizontal clearance of at least 10 feet to energized utility lines (e.g. conductors) – to prevent equipment from contacting utility lines, and to avoid the possibility of electrical current arcing from energized lines to nearby objects.

To maintain safe conditions at all times, Trail Managers are prohibited from operating vehicles and motorized equipment with a height of more than eight feet (8') on the National Grid corridor. The eight feet height limit applies to both the vehicle itself, as well as to the maximum extension of any excavator arm, lift, bucket, or boom. In the way of example, Trail Managers are prohibited from utilizing excavators, dump trucks, bucket trucks, bobcats, or other vehicles with arms or equipment that can extend more than eight feet above ground surface.

- **Motor Vehicles.** The AHET Trail surface will be designed and constructed to an HS-20 loading standard, and bridges will be constructed to an HS-25 loading standard, which is sufficient to support standard motor vehicles up to a full-size ambulance or fire truck. The Trail Manager is allowed to utilize motor vehicles, such as sedans, pickup trucks, equipment trailers, and tractors on the AHET Trail, provided they comply with the maximum eight-foot height restriction. Operators of motor vehicles used for maintenance purposes must be attentive for pedestrians and bicyclists, and should observe a 5-mph maximum speed limit. Note: The Trail Manager should avoid using motor vehicles on the AHET Trail during the spring thaw season, to avoid the possibility of rutting the trail surface.
- **Motorized Equipment.** Trail Managers are allowed to use motorized equipment, such as ride-on or stand-on mowers, small tractors, and utility vehicles such as golf carts and “gator” carts while undertaking trail maintenance activities. Handheld equipment such as weed whackers, string trimmers, and hand saws are also allowed.
- **Chain Saws.** Trail Managers are allowed to use chain saws to remove downed trees and limbs, provided that any personnel utilizing chain saws must be fully trained in their safe use and must use appropriate Personal Protective Equipment (PPE) at all times.
- **Plows & Snowblowers.** The AHET Trail is open to public use dawn to dusk, year-round. In winter months, the public will use the trail for cross-country skiing, snowshoeing, bicycling, or walking, depending on the trail’s condition. The AHET Trail will not be plowed or salted (in particular, plowing is not allowed by Trail Managers on stonedust sections of the trail, which are susceptible to damage by snowplows). Snow and ice will be allowed to melt naturally. Trail Managers are allowed, but not required, to plow trailhead parking areas under their management.

Safety Training & Personal Protective Equipment (PPE)

Trail Managers shall maintain a comprehensive worker safety program, shall train all staff undertaking maintenance activities on the safe use of all pieces of equipment prior to their use, shall comply at all times with applicable Occupational Safety and Health Administration (OSHA) requirements, and shall provide appropriate Personal Protective Equipment (PPE) to all maintenance personnel.

Routine Maintenance Activities

Below is a narrative explanation of each Routine Maintenance Activity required for the Albany-Hudson Electric Trail.

1. **Grass Mowing: Required 4 Times/Year. (Enhanced frequency up to 10 Times/Year (e.g. twice per month)).**
 - The trail design includes a narrow grass margin, typically three to four feet wide, along both sides of the asphalt or stonedust trail. The mowed grass shoulders prevent vegetation from growing up and leaning into the trail, and provide space for users to move off the trail when stopping. The grass trail margins will be graded and compacted during construction of the trail, meaning they can be easily mowed with commercial landscaping equipment, such as a ride-on mower or tractor capable of mowing a 36" to 48" swath in one or two passes.
 - Lawn mowing will also be required adjacent to the eight AHET Trail trailhead parking areas and at locations where the trail crosses major roads.
 - Personnel operating mowers must be attentive to guy wires that support National Grid's utility poles. Generally speaking, the trail is being designed to avoid the need to mow under or around guy wires. However, personnel operating mowers must be trained to avoid striking guy wires, including anchor points where guys are attached to the ground.
 - In late fall, after trees have dropped their leaves, the Trail Manager may decide to remove leaves from the trail surface, by utilizing a mower to blow them off or using a mechanical sweeper. Removal of leaves is a recommended but not required activity (not required if budget constraints preclude leaf removal).
2. **Weed Whacking, Landscaping, and Trimming: Required 2 Times/Year (Enhanced frequency up to 4 Times/Year).**
 - Grass and weeds that grow up around signposts, benches, fencing, etc. that cannot be reached with mowers will need to periodically cut, typically with hand held string trimmers (e.g. weed whackers).
 - The AHET Trail is designed to require minimum landscaping management. The Greenway will not install flowerbeds or areas requiring regular planting, weeding, or mulching. Shade trees and shrubs, where planted, will be native species that are disease and drought tolerant. No trees or shrubs will be planted in any location that inhibits National Grid's access to its facilities, nor in locations where tree growth could impact National Grid's infrastructure. Trail Managers are allowed to install and maintain plantings including flower or pollinator gardens – however such plantings are entirely optional at the discretion of the Trail Manager.

- In some locations, the AHET Trail will pass near trees or shrubs that will need to be occasionally trimmed to prevent limbs from growing into the trail corridor (typically using hand-held loppers).
- Any vines climbing guy wires or utility poles will be removed by National Grid, if deemed necessary for removal.

3. **Removal of Fallen Trees and Limbs: As Needed, Low Frequency**

- National Grid maintains an active vegetation management program along the AHET corridor to prevent the growth of trees that could impact their transmission lines and infrastructure. As such, removal of fallen trees and limbs does not present a major concern. However, in a small number of locations the AHET Trail will pass near/under mature trees, meaning there will be occasional situations where the Trail Manager will need to utilize chainsaws or hand tools to cut and remove downed trees or limbs. Downed trees and limbs can be left in an out-of-the-way location on the ROW, provided material shall not be piled or pushed within ten feet of poles, anchors, guy wires, or other utility infrastructure. Moreover, material shall not be deposited into environmentally sensitive areas.

4. **Removal of Standing Trees or Branches: Will Be Removed by National Grid**

- National Grid's vegetation management program generally prevents mature trees from growing in proximity to the trail corridor. However, it is conceivable that an individual tree(s) in proximity to the AHET Trail could become diseased or damaged (for example by wind or ice), creating risk that a tree or limb could fall onto the trail. In the event a Trail Manager believes a standing tree presents a potential risk to trail users, the Manager shall review with National Grid and the Greenway. To avoid any risk of a tree striking electrical transmission infrastructure, **any felling or removal of standing trees that could fall and strike a conductor (e.g. energized electric line) and/or the removal of any branches within 10 feet of conductors (other than telephone or cable television (CATV)) will be undertaken solely by National Grid or its contractors.**

5. **Litter and Dumping: As Needed, Low Frequency**

- Experience with other rail-trails in NYS indicates that litter is not expected to be a significant issue along the AHET Trail. To the extent litter does occur, personnel undertaking routine maintenance (mowing, weed whacking, etc.) will be expected to remove litter.
- Dumping of waste is not anticipated to be a pervasive problem along the AHET Trail corridor. However, the Trail Manager will remove and properly dispose of waste materials to the extent dumping occurs.

- Litter and trash removal is an excellent activity for volunteers, through “adopt a trail section” or annual clean-up days, reducing the need for the Trail Manager to use paid staff to keep the trail clean.
- The AHET Trail will be a “carry-in, carry-out” trail. The Greenway will not install trash cans, meaning the Trail Manager will not need to empty trash cans.
- The Trail Manager is allowed (but not required) to install posts and boxes to provide dog waste bags at trail access locations. The Trail Manager is not required to remove dog waste along the trail – rather the Greenway will install signage requiring dog owners to clean up after their pets.
- National Grid shall be immediately notified of any incident or discovery of petroleum or chemical dumping or spill on its property.

6. Trail Patrol and Inspection: Integrated Into Mowing Activities

- During the spring of each year, the Greenway will complete annual end-to-end inspections of the AHET Trail to identify any needed capital repairs to address potential safety hazards (trip and fall, fencing integrity, trail surface condition, damaged/missing safety signage, etc.), as well as monitor structural issues such as the condition of bridges, culverts and drainage structures. The Greenway and National Grid will jointly develop a written inspection checklist, to be completed annually by the Greenway. The Greenway will also develop and implement a formal written protocol for inspecting bridges installed on National Grid’s property.
- On a month-in, month-out basis, personnel operating mowing equipment will be asked to report any issues or concerns encountered along the trail to the Trail Manager (eliminating the need for separate trail patrol staff). The Trail Manager will address minor issues such as removal of downed trees and limbs or dumping, to the extent they occur. Any issues requiring capital repair (such as missing signage, damage to the trail surface, damaged fencing, erosion, or failure of drainage structures) will be reported to the Greenway, which is responsible for addressing capital rehabilitation needs. The Greenway is also responsible for any repairs required to bollards or gates installed along the trail, that impact National Grid’s access to the utility corridor.

7. Trailhead Parking Areas: Unique To Each Parking Area

- The Greenway is developing nine Trailhead parking areas along the 36-mile route. They will range in size from a modest 4-car gravel pull-off to paved lots accommodating 20+ cars. Some are existing parking areas in municipal parks (two are existing NYSDOT parking area), while others will be new construction. Given the narrow configuration of National Grid’s ROW, many of the parking areas will be located on adjacent properties. Trailheads located on public land will be maintained by state or municipal owner. Trailheads located on National Grid’s property will be

maintained by the Greenway and its Trail Manager partners. Because each of the nine AHET Trailhead parking areas is unique, the cost of maintaining them is not included in the “per mile” routine maintenance cost estimate presented in Appendix A.

8. **Pesticides and Herbicides.**

- The Greenway and its Trail Manager partners are prohibited from using pesticides or herbicides on National Grid’s property (removal of vegetation shall be undertaken solely by mowing/mechanical means).
- This provision does not apply to National Grid, which retains the right to apply pesticides and herbicides on its property, consistent with applicable regulations.

9. **Emergency Closures and Repairs.**

- The License Agreement authorizes National Grid and/or the Greenway to close sections of the trail, in the event an emergency situation threatens public safety, National Grid’s facilities, or the integrity of the trail. The License sets forth procedures governing emergency repairs if required.

SECTION 3

Projecting Annual Routine Maintenance Costs

The Greenway has developed a projected annual cost estimate for the routine maintenance costs described above for the Albany-Hudson Electric Trail (see Appendix A). Key factors supporting the cost projection:

- The estimate is presented as a range, reflecting the fact that each Trail Manager has discretion on the frequency of maintenance activities (most notably mowing, which is required a minimum of 4 times per year, but may occur as often as 10 times per year if the Trail Manager has sufficient capacity).
- The cost estimate is presented on a “per mile” basis, allowing each Trail Manager to project their annual cost based on the length of the AHET trail under their jurisdiction (see Appendix A for the off-road trail length in each municipality along the AHET route).
- Labor is the largest component of routine maintenance. The cost estimate assumes an average labor rate of \$25/hour for maintenance staff, including direct salary and fringe rate. Trail Managers with higher or lower staff costs can adjust the annual estimate accordingly.

The Greenway estimates the annual cost of maintaining off-road sections of the AHET Trail is approximately \$825 to \$1,675 per mile (a detailed explanation of this cost projection is provided in Appendix A). Volunteers can be utilized to undertake some routine maintenance costs, such as litter removal and trail clean-up days, reducing local government costs.

SECTION 4

AHET TRAIL MAINTENANCE ENTITIES

NYS/Hudson River Valley Greenway Responsibilities

The Greenway's responsibilities for maintenance and operation of the AHET Trail include:

- Undertake long-term capital repairs and rehabilitation of the AHET Trail, as needs arise in the future, including maintaining the trail's surface, fencing, bridges, drainage structures, and signage.
- Respond to requests from civic organizations desiring to conduct special events on the AHET Trail, such as foot races, fitness events, and fundraising walks. The Greenway will be responsible for issuing any permits authorizing special events.
- Coordinate with state and local law enforcement entities and National Grid, in the event illegal snowmobile or ATV use becomes a problem on a specific section of the AHET Trail. Trail Managers are not expected to take action to address ATV/snowmobile violations in the event they arise – rather they are simply expected to report any issues to the Greenway.
- Monitor trail user patterns along the entire 36-mile AHET Trail route (Trail Managers are not expected to gather trail use data for their respective sections).

Trail Manager Responsibilities

Local governments and non-profit organizations that accept responsibility for maintaining sections of the AHET Trail will enter into a written Trail Maintenance Agreement with the Greenway (the agreement shall be consented and agreed to by National Grid). The Trail Maintenance Agreement shall require the entity performing maintenance to provide insurance and liability protection to National Grid and the Greenway. **An entity that enters into a written Trail Maintenance Agreement is referred to as a "Trail Manager" in this document.** A copy of the AHET Trail Manager Maintenance Agreement, including liability and insurance requirements, is provided in Appendix B.

To jumpstart local efforts, the Greenway may purchase and donate trail maintenance equipment, such as mowers and related equipment, to local governments and non-profit Trail Managers.

With prior written approval from the Greenway, Trail Managers are allowed to install signage informing the public that they are maintaining specific trail segments.

Emergencies and Complaints

If any representative of a Trail Manager encounters an emergency situation such as a visitor injury, they should immediately call 911 to report the emergency. After 911 has been notified, the Trail Manager should report the issue to the Greenway. However, the Greenway's offices are only open during weekday business hours.

If any representative of a Trail Manager encounters an unsafe situation (for example, a washout), they should immediately contact the Greenway.

To the extent Trail Managers receive or observe complaints regarding the public's use of the AHET Trail, they should forward such complaints to the Greenway (Trail Managers are not expected to resolve complaints from the public or adjacent landowners).

Trail Repairs / Ground Disturbance

Local government and non-profit Trail Managers are only authorized to undertake the routine trail maintenance agreements described above. Trail Managers are not authorized to make repairs to the trail, nor to undertake any activities resulting in ground disturbance.

All trail repair projects will be undertaken by the Greenway. As forth in the License, the Greenway must secure prior written approval from National Grid prior to initiating any trail repair or capital improvement projects requiring new construction or ground disturbance on National Grid's property.

Volunteers

The Greenway anticipates that volunteers will play an important role in maintaining the AHET Trail, ranging from the efforts of formal "Friends Groups" and organizations that "Adopt" a section of the trail, to actions by individual trail users who pick up the occasional piece of litter or report a trail condition problem.

While the Greenway welcomes citizen participation, volunteer efforts involving the use of motorized or non-motorized equipment need to be integrated into formal written Trail Manager Maintenance Agreements. In other words, individual citizens who undertake maintenance activities such as mowing or removing downed trees and limbs need to do so under the umbrella of a local government or non-profit Friends Group that has entered into a formal written agreement with the Greenway (among other reasons, to include volunteers in insurance coverage).

Appendix A

Estimated Annual AHET Trail Routine Maintenance Costs

The Hudson River Valley Greenway has developed a projection of the annual cost for the routine maintenance activities for off-road sections of the AHET Trail. Costs are based on information from a variety of sources, including NY State Parks and Canal Corporation and the Rails to Trails Conservancy. Key assumptions underlying the cost projection are:

- The cost projection assumes an average labor cost of \$25/hour. This figure includes hourly pay rate and fringe costs, plus an allotment for gas, supplies, etc. Trail Managers with higher or lower labor costs can adjust accordingly. The projected costs assume all maintenance work is completed by paid staff. Trail Managers that are able to secure volunteers for basic maintenance activities will realize cost savings.
- The projection is calculated on a per-mile basis, and indicates a range of frequency from Required (min) to Enhanced (max). For example, mowing is required 4 times per year, but if resources allow could be as frequent as 10 times per year under an enhanced approach.
- The cost projections do not include the cost of purchasing mowers and other maintenance equipment. The Greenway has committed to donating mowers and related equipment to assist Trail Managers with start-up costs.
- The projections do not include the cost of maintaining designated trailhead parking areas. Each trailhead is unique and will have its own annual maintenance cost (depending on the number of parking spots, surface material, amount of lawn requiring mowing, level of public use, etc.).

Based on these assumptions, the annual projected cost of routine maintenance activities for off-road sections of the AHET Trail ranges from \$825 per mile (Required) to \$1,675 per mile (Enhanced frequency).

Maintenance Activity	Cost per mile/ occurrence	Cost per mile/year	Frequency
Mowing (mowing staff also cover patrol needs)	\$50	\$200-\$500	4 min / 10 max per year
Leaf Removal (seasonal)	\$25	\$25	1 per year (fall)
Litter Clean-Up (can often be completed by volunteers)	\$25	\$50	2 per year
Weed Whacking, Landscaping, and Trimming	\$250	\$500-\$1,000	2 min / 4 max per year
Miscellaneous (removal of fallen trees, maintenance of stone dust surfaces, etc.)	n/a	\$50 - \$100	As needed (assumes 2 to 4 hours per year)
Total Annual Cost (Per-Mile):		\$825 - \$1,675	

The projected cost for maintaining the off-road segments of the Albany-Hudson Electric Trail is depicted on the chart below, reflecting the minimum and maximum costs in the above chart, multiplied by the miles of off-road trail in each municipality.

	Off-Road Miles	Low Cost	High Cost
CITY OF RENSSELAER	0.0	\$0	\$0
TOWN - EAST GREENBUSH	2.5	\$2,090	\$4,244
TOWN OF SCHODACK	6.6	\$5,435	\$11,035
VILLAGE OF NASSAU	0.8	\$685	\$1,390
TOWN OF NASSAU	1.8	\$1,453	\$2,950
RENSSELAER COUNTY	11.7	\$9,663	\$19,620
TOWN OF CHATHAM	2.4	\$1,982	\$4,024
TOWN OF KINDERHOOK	2.5	\$2,021	\$4,104
VILLAGE OF VALATIE	1.4	\$1,139	\$2,312
VILLAGE OF KINDERHOOK	1.4	\$1,114	\$2,261
TOWN OF STUYVESANT	2.1	\$1,724	\$3,501
TOWN OF STOCKPORT	3.8	\$3,143	\$6,382
TOWN OF GREENPORT	1.7	\$1,361	\$2,764
COLUMBIA COUNTY	15.1	\$12,484	\$25,346
TOTAL	26.8	\$22,147	\$44,966

Appendix B
Sample Albany-Hudson Electric Trail Manager Maintenance Agreement

MUNICIPAL/NON-PROFIT AHET TRAIL MANAGER MAINTENANCE
AGREEMENT

THIS TRAIL MAINTENANCE AGREEMENT (this “Agreement”) is made as of this ____ day of _____, 2020, by and between **[INSERT MUNICIPALITY’S OR NON-PROFIT’S NAME AND MAILING ADDRESS]** (hereinafter, “Trail Manager”) and **GREENWAY CONSERVANCY FOR THE HUDSON RIVER VALLEY**, a New York State public benefit corporation having a usual place of business at 625 Broadway, 4th Floor, Albany, New York 12207-2995 (hereinafter, “Hudson River Valley Greenway”).

RECITALS:

WHEREAS, NIAGARA MOHAWK POWER CORPORATION, a New York corporation having a usual place of business at 300 Erie Boulevard West, Syracuse, New York 13202 (hereinafter, “National Grid”) is the owner of certain real property located in Rensselaer and Columbia Counties (“National Grid Land”);

WHEREAS, National Grid and the Hudson River Valley Greenway entered that certain License dated November 29, 2017 (the “License”) granting Hudson River Valley Greenway the right to construct, operate, and maintain a new linear recreational trail on a portion of the National Grid Land for use by the general public, named the Albany-Hudson Electric Trail (the “Trail”). The Trail and the related improvements are collectively referred to as the “Improvements”;

WHEREAS, the Trail Manager (as hereinafter defined) has agreed to maintain a portion of the Trail described in **Exhibit A** (hereinafter, “Maintained Property”); [NOTE: Exhibit A will be a narrative description and map of the specific section(s) of the AHET Trail that the municipality or non-profit has agreed to manage (e.g. the trail section in specific county, town or village).];

WHEREAS, National Grid owns, operates, and maintains electric distribution and transmission line infrastructure and related appurtenances on National Grid Land, including but not limited to the Maintained Property and that such facilities and infrastructure includes poles, guy wires, transformer stations, related infrastructure, and access/egress routes to facilitate inspection, maintenance, and repair of National Grid’s facilities and infrastructure;

WHEREAS, the Hudson River Valley Greenway entered into the License to construct and maintain the Trail to promote healthy lifestyles, enhance the conservation and enjoyment of natural or scenic resources, establish an alternative means of transportation, support recreation-based tourism and economic development activities, and further the general welfare of the public; and

WHEREAS, Section 4 (c) (iii) of the License states that the Hudson River Valley Greenway with the written consent of National Grid may enter into agreements with third party entities for the maintenance of portions of the Trail.

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated herein and made a part hereof, and in further consideration for the mutual covenants contained herein, the parties agree as follows:

(i) **Trail Maintenance Plan.** The Hudson River Valley Greenway has developed the AHET Trail Maintenance Plan, dated December 30, 2019, which has been reviewed by National Grid (attached as **Exhibit B**).

(ii) **Trail Manager Maintenance.** The Trail Manager shall undertake trail maintenance activities on the Maintained Property as identified in Exhibit A. All maintenance activities undertaken by the Trail Manager shall comply with the AHET Trail Maintenance Plan.

(iii) Trail Manager acknowledges and agrees that the use and maintenance of the Trail is subject and subordinate to the rights of National Grid to operate and maintain its facilities and infrastructure.

TRAIL MAINTENANCE AGREEMENT PERIOD

(a) **Initial Period; Renewal.** The initial term of this Agreement shall commence as of the Effective Date and shall run through December 31 of the year next succeeding the Effective Date, and after which date shall, provided no Trail Manager Default exists hereunder, automatically renew on a year to year basis through December 31, 2075 unless earlier terminated pursuant to paragraph (b) below.

(b) **Cancellation by National Grid.** National Grid may terminate the License pursuant to its terms. National Grid may terminate its approval and consent for this Agreement at any time, by delivering thirty (30) days prior written notice to the Hudson River Valley Greenway. Upon delivery of such notice, this Agreement shall terminate and be of no further force and effect except those provisions expressly stated to survive the termination of this Agreement.

(c) **Cancellation by the Hudson River Valley Greenway.** The Greenway may terminate this Agreement at any time, by delivering thirty (30) days prior written notice to the Trail Manager and to National Grid. Upon delivery of such notice, this Agreement shall terminate and be of no further force and effect except those provisions expressly stated to survive the termination of this Agreement.

(d) **Cancellation by Trail Manager.** The Trail Manager may terminate this Agreement at any time, by delivering thirty (30) days prior written notice to the Hudson River Valley Greenway with a copy to National Grid. Upon delivery of such notice, this Agreement shall terminate and be of no further force and effect except those provisions expressly stated to survive the termination of this Agreement.

COMPLIANCE

The Trail Manager shall comply with all provisions of the License, the AHET Trail Maintenance Plan, all applicable federal, state, and municipal laws, statutes, codes, rules, regulations and ordinances and any successor laws, statutes, codes, rules, regulations and ordinances thereto affecting the Trail and the Maintained Property and its occupancy, use, and maintenance thereof pursuant to the terms of this Agreement (the “Applicable Laws”). If any provision of this Agreement is less restrictive than the Applicable Laws, then the Trail Manager shall comply with the more restrictive Applicable Laws.

INDEMNIFICATION

The Trail Manager assumes all risks in the performance of all activities authorized by this Agreement and agrees to defend, indemnify and hold harmless National Grid and the Hudson River Valley Greenway, their officers, employees, agents and assigns (hereinafter, collectively the “Indemnitees”) from and against any and all claims, demands, suits, losses, costs, fees, fines, penalties, causes of action and liabilities (including, without limitation, attorneys’ fees and expenses) (“Claims”) for any damage to property or injury to persons of whatever kind and nature (including death, disability or dismemberment), whether direct or indirect, caused or contributed to by the Trail Manager and the Trail Manager’s contractors, vendors, materialmen, employees, agents, invitees and guests, and/or arising out of Trail Manager’s acts or omissions and/or Trail Manager’s performance (or failure to perform) pursuant to the terms of this Agreement, and/or any legal action against National Grid, Hudson River Valley Greenway and/or the Indemnitees arising from the permission herein granted (including, but not limited to, use by the general public and third party challenges to the validity of this Agreement); provided, however, that the Trail Manager’s indemnity obligation shall not extend to any Claims which are the result of National Grid and/or Hudson River Valley Greenway’s negligence or willful misconduct. The Trail Manager shall defend at Trail Manager’s sole cost and expense any action commenced for the purpose of asserting any Claims of whatever character arising out of this Agreement. The Trail Manager’s responsibility under this section shall not be limited to the required or available insurance coverage.

The indemnification requirements of this Agreement shall survive the termination of this Agreement such that any event that would form the basis of a claim which arises during the term of this Agreement, irrespective of when such claim is actually made, shall be included in the indemnification required by the immediately preceding paragraph.

INSURANCE

The Trail Manager shall comply with the Insurance Requirements set forth in the attached **Exhibit C**, incorporated herein by reference and made a part hereof. The Trail Manager agrees that National Grid shall have no obligation to insure the Improvements. The Trail Manager shall not conduct any work or other activities upon National Grid’s Property unless and until it has obtained the insurance required by this Section and has delivered a certificate of insurance evidencing the required insurance to National Grid and to the Hudson River Valley Greenway.

For the avoidance of doubt, the provisions hereof shall apply to any contractor performing work at the request or on behalf of the Trail Manager.

NOTICE

All notices required or permitted under this Agreement shall be in writing and either delivered in hand or mailed (a) by certified mail (return receipt requested) with the United States Postal Service, or (b) by Federal Express or other nationally recognized overnight mail carrier furnishing evidence of receipt, to:

National Grid: Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, NY 13202
Attention: Real Estate

With a copy to: c/o National Grid USA Service Company, Inc.
40 Sylvan Road
Waltham MA 02451
Attention: Legal Department – Real Estate Group

With a copy to: National Grid
1125 Broadway, Albany, NY 12204
Attention: ROW and Survey Engineering

Trail Manager: [Insert name and mailing address]

And: Hudson River Valley Greenway
625 Broadway, 4th Floor
Albany, NY 12207-2995

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers upon the date first above written.

TRAIL MANAGER: [INSERT NAME OF MUNICIPALITY OR NON-PROFIT]

By: _____
Name: _____
Title: _____

GREENWAY CONSERVANCY FOR THE HUDSON RIVER VALLEY

By: _____
Name: Scott Keller
Title: Executive Director, Empire State Trail

Exhibit A

Description and Map of National Grid's Property Subject to this Trail Maintenance Agreement

Exhibit B
Approved AHET Trail Maintenance Plan

Exhibit “C”

National Grid/Niagara Mohawk and Hudson River Valley Greenway Insurance Requirements

1. From the commencement of the Agreement, through final expiration or longer where specified below, Grantee shall provide and maintain, at its own expense, insurance policies, intended to be primary (with no right of contribution by any other coverage available to National Grid USA its direct and indirect parents, subsidiaries and affiliates (the “Insured Entities”)), covering all Operations, Work and Services to be performed under or in connection with this Agreement, issued by reputable insurance companies with an A.M. Best Rating of at least B+, which at least meet or exceed the requirements listed herein:

(a) **Workers’ Compensation and Employers Liability insurance** as required by the State in which the work activities under this Agreement will be performed. If applicable, Coverage shall include the U.S. Longshoreman’s and Harbor Workers Compensation Act, and the Jones Act. The employer’s liability limit shall be at least \$500,000 each per accident, per person disease, and disease by policy limit.

If Grantee is exempt from having to obtain and maintain workers’ compensation coverage due to their legal status as a sole proprietor or partnership, Grantee shall obtain:

1. Long term disability insurance covering any illness or injury incurred in connection with this Agreement that prevents Grantee from working, with benefits of at least 50% of the Grantee’s monthly income on the last day before the disability begins.
2. Health Care Insurance, covering any loss occasioned by bodily injury, sickness or disease, and medial expense, with limits, coverage, deductibles, co-insurance payments, and any other cost sharing features customarily maintained by other entities of a similar size and business nature.

(b) **Commercial General Liability (CGL) Insurance**, covering all operations to be performed by or on behalf of Grantee under or in connection with this Agreement, with **minimum** limits of:

<i>Bodily Injury (BI)</i>	- <i>\$1,000,000 per occurrence</i>
Property Damage (PD)	- \$ 500,000 per occurrence
OR	
Combined Single Limit	- \$1,000,000 per occurrence
OR	
BI & PD per Occurrence	- \$1,000,000
General Aggregate & Product Aggregate	- \$2,000,000 each

- Coverage shall include: contractual liability (with this Agreement, and any associated verbal agreements, being included under the definition of “Insured Contract” thereunder), products/completed operations, and if applicable, explosion, collapse and underground (XC&U).
- If the products-completed operations coverage is written on a claims-made basis, the retroactive date shall not precede the effective date of this Agreement and coverage shall be maintained continuously for the duration of this Agreement and for at least two years thereafter.
- Additional Insured as required by Article 3 below.
- The policy shall include a separation of insureds condition.

(c) **Automobile Liability**, covering all owned, non-owned and hired vehicles used in connection with all operations, work or services to be performed by or on behalf of Grantee under or in connection with this Agreement with **minimum** limits of:

Bodily Injury - \$500,000 per occurrence; \$1,000,000 aggregate
Property Damage - \$500,000 per occurrence
OR
Combined Single Limit - \$1,000,000 per occurrence

Additional Insured as required in Article 3 below.

(d) **Umbrella Liability or Excess Liability** coverage, with a **minimum** per occurrence limit of \$4,000,000. This coverage shall run concurrent to the CGL required in Article 1(b) above, shall apply excess of the required automobile, CGL and employer's liability coverage required in this Insurance Exhibit, and shall provide additional insured status as outlined in Article 3 below.

(e) **Watercraft Liability (not applicable).**

(f) **Aircraft Liability (not applicable).**

(g) **Contractors Pollution Liability (CPL):** covering any sudden and accidental pollution liability which may arise out of, under, or in connection with this Agreement, including all operations to be performed by or on behalf of Grantee, or that arise out of the Grantee's use of any owned, non-owned or hired vehicles, with a **minimum** liability limit of:

Bodily Injury (BI) - \$1,000,000 per occurrence
Property Damage (PD) - \$ 500,000 per occurrence
OR
Combined Single Limit - \$1,000,000 per occurrence

This requirement may be satisfied by providing either this CPL policy, which would include naming the Insured Entities, including their officers and employees, as additional insured's as outlined in Article 3 below; **OR** by providing coverage for sudden and accidental pollution liability under the CGL and commercial automobile insurance policies required above - limited solely by the Insurance Services Organization (ISO) standard pollution exclusion, or its equivalent.

In the event grantee is unable to secure and/or maintain any or all of this sudden and accidental pollution liability coverage, Grantee agrees to indemnify and hold the Insured Entities harmless against any and all liability resulting from any coverage deficiency that is out of compliance with this insurance requirement.

(h) **Risk of Loss: Grantee** shall be responsible for all risk of loss to its equipment and materials, and any other equipment and materials owned by its employees or by other third parties that may be in their care, custody and control. If this coverage is excluded from the Commercial General Liability policy, then coverage will be acceptable under Grantee's property policy.

In the event that any equipment or materials (Goods) are supplied by the Insured Entities, an Insured Entities representative will provide the insurable value of the Goods to Grantee in writing, both cumulatively and on a maximum per item basis. Grantee will provide replacement cost insurance for these Goods under a blanket builder's risk policy, an equipment floater, or other equivalent coverage, while such Goods are under the care, custody and control of Grantee. Such insurance shall cover all Goods outlined in the Agreement or as noted on subsequent contract amendments. The coverage limit shall apply on either a per location basis or a maximum per item basis, and shall name the Insured Entities, as a Loss Payee with respect to their insurable interest as required in Article 3 below.

(i) **Homeowners/Sole Proprietors Insurance:** In the event that Grantee is either a homeowner or sole proprietor, the requirements in section 1 A and D do not apply. However, these requirements do apply to any contractors that have been hired by Grantee to perform any work activities on the premises as defined in this Agreement.

In addition, if a Homeowners insurance company will not provide the additional insured status to National Grid as required in section 3, Grantee agrees to indemnify and hold harmless the Insured Entities for any liability that would have otherwise been covered had the insurance carrier recognized the additional insured status.

(j) **Limits:** Any combination of Commercial General Liability, Automobile Liability and Umbrella Liability policy limits can be used to satisfy the limit requirements in items 1 b, c & d above.

If the term of this agreement is longer than five (5) years, in the fifth year, and every five (5) years thereafter, the Commercial General Liability and Umbrella/Excess Liability insurance limits required above shall be increased by the percentage increase in the Consumer Price Index from the month the Agreement was executed to the month immediately preceding the first month of the year in which the increase is required.

2. Self-Insurance: Proof of qualification as a qualified self-insurer, if approved in advance in writing by an Insured Entities representative, will be acceptable in lieu of securing and maintaining one or more of the coverages required in this Insurance Section. Such acceptance shall become a part of this insurance provision by reference herein.

For Workers' Compensation, such evidence shall consist of a copy of a current self-insured certificate for the State in which the work will be performed.

In order for self insurance to be accepted, Grantee's unsecured debt must have a financial rating of at least investment grade. For purposes of this section, "Investment Grade" means (i) if Grantee has a Credit Rating from both S&P and Moody's then, a Credit Rating from S&P equal to or better than "BBB-" and a Credit Rating from Moody's equal to or better than "Baa3"; (ii) if Grantee has a Credit Rating from only one of S&P and Moody's, then a Credit Rating from S&P equal to or better than "BBB-" or a Credit Rating from Moody's equal to or better than "Baa3; or (iii) if the Parties have mutually agreed in writing on an additional or alternative rating agency, then the equivalent credit rating assigned to an entity by

such additional or alternative rating agency that is equal to or better than “BBB-” from S&P and/or “Baa3” from Moody’s.

3. Additional Insured and Loss Payee: The intent of the Additional Insured requirement under the CGL, Auto, CPL, Umbrella/Excess, Aircraft and Watercraft policies is to include the Insured Entities, their directors, officers and employees, as Additional Insured’s for liabilities associated with, or arising out of, all operations, work or services to be performed by or on behalf of Grantee, including ongoing and completed operations, under this Agreement. The following language should be used when referencing the additional insured status: **National Grid USA, its subsidiaries and affiliates, and the Hudson River Valley Greenway and its officers, employees, and agents shall be named as additional insureds.**

The Loss Payee language, as required in article 1.h above, shall read as follows: **National Grid USA, its subsidiaries and affiliates shall be included as a Loss Payee as their interest may appear.**

To the extent Grantee’s insurance coverage does not provide the full Additional insured coverage as required herein, Grantee agrees to indemnify and hold harmless the Insured Entities against any and all liability resulting from any deficiency in Grantee’s insurance coverage that may be out of compliance with this insurance requirement.

4. Waiver of Recovery: Grantee and its insurance carrier(s) shall waive all rights of recovery against the Insured Entities and their directors, officers and employees, for any loss or damage covered under those policies referenced in this insurance provision, or for any required coverage that may be self-insured by Grantee. To the extent Grantee’s insurance carriers will not waive their right of subrogation against the Insured Entities, Grantee agrees to indemnify the Insured Entities for any subrogation activities pursued against them by Grantee’s insurance carriers. However, this waiver shall not extend to the gross negligence or willful misconduct of the Insured Entities or their employees, sub-contractors or agents.

5. Contractors: In the event Grantee uses Contractors in connection with this Agreement, it is expressly agreed that Grantee shall have the sole responsibility to make certain that all Contractors are in compliance with these insurance requirements and remains in compliance throughout the course of this Agreement, and thereafter as required. Grantee shall remain liable for the performance of the Contractor, and such sub-contract relationship shall not relieve Grantee of its obligations under this agreement.

Unless agreed to in writing the by the Risk Management Department of National Grid USA Service Company, any deductible or self insured retentions maintained by any Contractor, which shall be for the account of the Contractor, and shall not exceed \$100,000. In addition, Contractor shall name both the Grantee and National Grid USA, (including their subsidiaries, affiliates, officers and employees), as additional insured’s under the Commercial General Liability and Umbrella/Excess Liability insurance. If requested by National Grid, Grantee shall provide National Grid with an insurance certificate from its Contractor evidencing this coverage.

In the event any Contractor is unable to maintain all of the same insurance coverage as required in this insurance article, Grantee agrees to indemnify and hold the Insured Entities harmless against any and all liability resulting from any deficiency in Contractor’s insurance coverage that may be out of compliance with these insurance requirements.

6. Insurance Certification: Upon execution of this Agreement, Grantee shall promptly provide National Grid and the Hudson River Valley Greenway with (a) **Certificate(s) of Insurance** for all coverage’s required herein at the following addresses:

National Grid
Attn: Risk Management Bldg. B-3
300 Erie Boulevard West
Syracuse, NY 13202

Hudson River Valley Greenway
625 Broadway, 4th Floor
Albany, NY 12207

Such certificates, and any renewals or extensions thereof, shall outline the amount of deductibles or self-insured retentions which shall be for the account of Grantee. Such deductibles or self-insured retentions shall not exceed \$100,000 unless agreed to in writing by the Risk Management Department of National Grid USA Service Company, whose approval shall not be unreasonably withheld, delayed or conditioned.

Grantee shall provide National Grid with at least 30 days prior written notice of any cancellation or diminution of the insurance coverage required in this insurance article.

7. Insurance Obligation: If any insurance coverage is not secured, maintained or is cancelled and Grantee fails immediately to procure other insurance as specified, National Grid has the right, but not the obligation, to procure such insurance and to invoice Grantee for said coverage.

8. Incident Reports: Grantee shall furnish the Risk Management Department of National Grid USA Service Company with copies of any non-privileged accident or incident report(s)(collectively, the "Documents") sent to Grantee's insurance carriers covering accidents, incidents or events occurring as a result of the performance of all operations, work and services to be performed by or on behalf of Grantee under or in connection with this Agreement, excluding any accidents or incidents occurring on Grantee property. If any of the National Grid Companies are named in a lawsuit involving the operations and activities of Grantee associated with this Agreement, Grantee shall promptly provide copies of all insurance policies relevant to this accident or incident if requested by National Grid. However, in the event such Documents are deemed privileged and confidential (Attorney Client Privilege), Grantee shall provide the relevant facts of the accident or incident in a format that does not violate such Attorney Client Privilege.

9. Other Coverage: These requirements are in addition to any which may be required elsewhere in this Agreement. In addition, Grantee shall comply with any governmental site specific insurance requirements even if not stated herein.

10. Coverage Representation: Grantee represents that it has the required policy limits available, and shall notify National Grid USA Service Company's Risk Management Department in writing when the minimum coverage's required in this article herein have been reduced as a result of claims payments, expenses, or both. However, this obligation does not apply to any claims that would be handled solely with in Grantee's deductible or self-insured retention.

11. Responsibility: The complete or partial failure of the Grantee's insurance carrier to fully protect and indemnify the Insured Entities per the terms of the Agreement, including without limitation, this exhibit, or the inadequacy of the insurance shall not in any way lessen or affect the obligations of the Grantee to the Insured Entities.

12. Coverage Limitation: Nothing contained in this article is to be construed as limiting the extent of the Grantee's responsibility for payment of damages resulting from all operations, work and services to be performed by or on behalf of Grantee under or in connection with this Agreement, or limiting,

diminishing, or waiving Grantee's obligation to indemnify, defend, and save harmless the Insured Entities in accordance with this Agreement.