

HAYES TOWNSHIP

RESOLUTION _____

DATED: _____

ZONING APPLICATION FEE AND ESCROW POLICY

The Hayes Township Board, is authorized by state statute and Township Zoning Ordinance to establish fees for the processing of various types of zoning applications. In order to properly place the cost of processing these applications primarily upon the applicant instead of the public at large, the Hayes Township Board hereby adopts this escrow fee policy requiring the deposit of specified amounts into escrow to be held by the Township Treasurer which deposit shall be used to offset the zoning fees and costs incurred by the township in the processing of the application(s).

Establishment of Fee Schedule by Resolution of the Township Board. The Township Board shall establish a Fee Schedule by resolution, which fee schedule may be changed from time to time by resolution of the Township Board. The Township Board shall post a copy of the most recent fee schedule in a conspicuous place in the office of the Township Clerk and on the Township's website.

Components of the Fee Schedule. Such fee schedule shall include an application fee which shall be a basic fee for the submission of an application and an escrow fee, which shall be a deposit upon which to draw for extraordinary expenses associated with particular types of applications.

Basic Fee. The basic fee shall approximate the basic costs to the Township for the processing of the application, which may include, the initial review by the Zoning Administrator, notices, publication, mailing, and copying costs and appearances at a single regularly-scheduled meeting by the Township Attorney, Planning Consultant and/or Zoning Administrator. No portion of the basic fee is refundable.

Special Meeting Fee. The basic application fee shall be increased an amount set by the Township Board on its adopted fee schedule if the applicant requests that a special meeting be called for consideration of the application.

Escrow Fee. The escrow fee shall be a deposit in the amount specified by resolution of the Township Board for the particular type of application made.

Escrow Fee. Pursuant to the Township schedule, the applicant shall make the required escrow fee deposit with the Township Zoning Administrator prior to consideration of the application and prior to required noticing and processing. All expenses not covered by the basic fee enumerated above shall be paid by the applicant from an escrow account established with the Township. These expenses include but are not limited to:

- A. Review by Township Attorney.

- B. Review by Township Planning Consultant.
- C. Review by Township Engineer.
- D. Beyond initial review by Zoning Administrator.
- E. Review by special consultants.
- F. Any additional public hearings, required mailing, legal notice and copies.

Deposit Required. The escrow fee amount shall be set by resolution of the Township Board in an initial amount dependent upon the type of application. The initial escrow deposit along with the basic application fee shall be paid to the Zoning Administrator at the time of the Application. The Zoning Administrator shall turn the escrow fee and application basic fee over to the Township Treasurer or Treasurer's designee. The applicant shall also at the time of application review this policy and sign an Escrow Policy Affidavit in the form attached to this policy. The application will not be processed without any required escrow deposit and the signing of the Escrow Policy Affidavit.

Accounting of Costs and Maintenance of Balance. The Township Treasurer or Treasurer's designee shall maintain records of funds expended upon each application for which an escrow deposit has been collected. At no time prior to the Township's completion of review and processing of the application shall the escrow be exhausted. If an Escrow Account balance is exhausted, the Township Zoning Administrator shall notify the applicant that the application will not be further processed until additional amounts are deposited into escrow. If the escrow balance is exhausted, an additional deposit of half the initial escrow fee shall be required to continue the review. Additional amounts above half the initial escrow fee may be required upon recommendation of the Township Planning Consultant, Township Engineer, Township Zoning Administrator and/or Township Attorney indicating that such additional funds are required in order to complete the Township's review and action on the application.

Failure to Maintain Escrow. Any additional escrow amounts required shall be deposited into the escrow fee account in order for the Township to continue processing the application. Failure of the applicant to maintain an escrow balance as specified above shall be cause for the application to be removed from further Township consideration until the shortfall is eliminated. No further review or processing of the application shall occur until the escrow fee account has been re-established to the appropriate level. The Township Zoning Board of Appeals or Planning Commission is authorized to dismiss an application and require re-application after a period of 90 days after notification of need to supplement escrow without payment.

Appeal of Amount. In the event an applicant objects to the reasonableness or the amount of an escrow fee, the amount of additional deposits required, or how the Township has applied the funds from the escrow fee account, the aggrieved applicant may appeal the determination regarding the matter to the Township Board. All such appeals shall be in writing and shall be made not later than thirty (30) days after receipt of the disputed escrow determination. The Township Board shall establish a date and time to hear the appeal and shall permit the applicant or the applicant's agent to appear before the Township Board at a regularly scheduled Board meeting to object and to

appeal the determination. The Township Board may affirm, modify, or reverse the determination. This provision applies only to a determination as to the reasonableness of the escrow fees and not to any other appeal.

Refund of Excess Escrow Funds. Within 45 days after final Township action on the application or withdrawal of the application by the applicant, the Township shall refund to the applicant any excess escrow funds without interest.

No Occupancy Permit or Building Permit. No final approval, building permit, certificate of use and occupancy permit, or other similar approvals shall be issued or final Township zoning approval be deemed granted until the escrow funds are paid in full.

Withdrawal of Application and Noncompliance. Should the applicant withdraw its application or otherwise fail to complete all actions necessary for the Township to issue a final building permit or final zoning approval, the Township may seek reimbursement for its costs incurred in responding to the application. The Township shall be permitted to take any legal action to collect such costs and shall be permitted to assess all costs and legal fees incurred in the collection process. Interest shall accrue on such costs at 1% per month until paid in full.

This escrow fee resolution was offered by _____, supported by _____.

The following members voted "yes":

The following members voted "no":

The Supervisor declared the resolution passed.

_____, Clerk

HAYES TOWNSHIP

RENEWABLE ENERGY LAND USE APPLICATION

Pursuant to PA 233 of 2023, Compatible Renewable Energy Ordinance

PRE-APPLICATION REQUIREMENTS

Prior to submitting any application, the applicant must attest (with attached proofs) that they have performed each of the following:

- ☐ At least 60 days prior to the public meetings provided for in MCL 460.1223, the Applicant offered to meet with the Township Supervisor or Supervisor's Designee of each affected local unit.
- ☐ Within 30 days of the meetings with each Supervisor or Supervisor's Designee, each applicable affected local unit notified the Applicant that the local unit has a Compatible Renewable Energy Ordinance.

APPLICATION PROCEDURES

Once this application is submitted, the Township shall follow these general procedures pursuant to its Compatible Renewable Energy Ordinance:

1. Township shall review and confirm the application has been completed. Applications which fail to include any required information shall be deemed incomplete and shall not be accepted.
2. Township shall review and consider the entire application, consulting with relevant planning, legal, engineering, and other professionals as necessary.
3. Within 120 days (or longer if agreed), Township shall approve or deny the application.
4. If application is approved, Township shall issue a permit to the Applicant authorizing the development of the renewable energy facility. Said permit shall be subject to the Township's Compatible Renewable Energy Ordinance.

APPLICANT INFORMATION

Contact Person	
Business Name	
Address Line 1	
Address Line 2	
City, State, ZIP	
Phone Number	
Email Address	

<u>PROJECT INFORMATION</u>			
Proposed Project	SOLAR ENERGY	WIND ENERGY	BATTERY STORAGE
Project Developer (if different from Applicant)			
Nameplate Capacity of entire Project (in MW)			
Nameplate Capacity of Project in Township			
Total Acreage of Project			
Total Acreage of Project located within Township			
Total number of participating parcels			
Total number of participating parcels located within Township			
Planned Start Date of Construction			
Planned Duration of Construction			

PROPERTY OWNER INFORMATION

Check here if same as applicant: ☐

Owner Name	
Business Name (if applicable)	
Address Line 1	
Address Line 2	
City, State, ZIP	
Phone Number	
Email Address	

Must attach documentation for each property owner of each participating property indicating the property owner's consent to the use of their property for the project. Said documentation shall include, at a minimum, proof of ownership of the property, a notarized signature of the property owner(s) granting consent to use their property for the project, provisions related to decommissioning, and the duration of the agreement.

PROPERTY INFORMATION

**IF MULTIPLE PROPERTIES/PARCELS, PLEASE CHECK
HERE AND ATTACH ADDITIONAL SHEETS: ☐**

Address Line 1	
Address Line 2	
City, State, ZIP	
Current Zoning District	
Current Property Use	
Land Use Master Plan Designation	
Gross Acreage	
Parcel Dimensions (approx.)	

SITE PLAN INFORMATION

All applicants must attach a detailed site plan to their application that fully adheres to this section. The site plan shall be prepared by a registered professional engineer and shall contain the professional seal of the preparer. Ten (10) copies of the site plan must be provided at a scale not to exceed one (1) inch equals one hundred (100) feet (1" = 100') for properties in excess of three (3) acres or one (1) inch equals twenty (20) feet for properties of three (3) acres or less.

The following items must be shown on the Site Plan:

1. The location and a description of the energy facility, including grid interconnection point.
2. A description of the anticipated effects of the energy facility on the environment, natural resources, and solid waste disposal capacity, which may include records of consultation with relevant state, tribal, and federal agencies.
3. Date, north arrow, and scale.
4. The signed seal, name, and address of the professional individual, and firm, responsible for the preparation of the site plan.
5. The name and address of the property owner and applicant.
6. A location sketch showing the subject property in relation to the surrounding area.
7. Legal description of the subject property.
8. The size (in acres) of the subject property, and approximate number of acres allocated to each proposed use (renewable facilities, accessory buildings, temporary construction buildings, parking, street right-of-way, open space, etc.).
9. Lot lines and required setbacks shown and dimensioned.
10. The location of all existing structures, and public road rights of way within the setback area. This shall include the use of such structures and shall identify such areas as occupied or vacant.
11. Gross floor area for buildings.
12. The location, footprint, and dimensions of all existing and proposed buildings and renewable energy facilities on the subject property.
13. The location of all existing and proposed drives, both temporary and permanent (including dimensions and radii), acceleration and deceleration lanes, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas.
14. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
15. Size and location of existing and proposed utilities, including any proposed connections to public, or private community sewer or water supply systems.
16. The location and size of all surface water drainage facilities, including source, volume expected, route, and course to final destination.
17. Existing and proposed topographic contours at a minimum of five (5) foot intervals.
18. The existing zoning and use of all properties abutting the subject property.
19. Site specific information addressing compliance with the Township's Compatible Renewable Energy Ordinance Section IV.
20. Such other plans as required by this application, applicable law, or information required by Michigan Public Service Commission rule or order.

REQUIRED DOCUMENTATION

All applicants must attach documentation providing complete answers to each of the following:

- ☐ A description of the energy facility, including a complete and accurate site plan.
- ☐ A description of the expected use of the energy facility.
- ☐ Expected public benefits of the proposed energy facility.
- ☐ Expected direct impacts of the proposed energy facility on the environment and natural resources, and how the applicant intends to address and mitigate these impacts.
- ☐ Information on the effects of the proposed energy facility on public health and safety.
- ☐ A description of the portion of the community where the energy facility will be located.
- ☐ A statement and reasonable evidence that the proposed energy facility will not commence commercial operation until it complies with applicable state and federal environmental laws, including, but not limited to, the natural resources and environmental protection act, 1994 PA 451 (MCL 324.101 to 324.90106).
- ☐ Evidence of consultation, before submission of the application, with the department of environment, Great Lakes, and energy (EGLE) and other relevant state and federal agencies before submitting the application, including, but not limited to, the department of natural resources and the department of agriculture and rural development.
- ☐ The soil and economic survey report under section 60303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.60303, for the county where the proposed energy facility will be located.
- ☐ Interconnection queue information for the applicable regional transmission organization.
- ☐ If the proposed site of the energy facility is undeveloped land, a description of feasible alternative developed locations, including, but not limited to, vacant industrial property and brownfields, and an explanation of why they were not chosen.
- ☐ If the energy facility is reasonably expected to have an impact on television signals, microwave signals, agricultural global position systems, military defense radar, radio reception, or weather and doppler radio, a plan to minimize and mitigate that impact. Information in the plan concerning military defense radar is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by the commission or the electric provider or independent power producer except pursuant to court order.
- ☐ A stormwater assessment and a plan to minimize, mitigate, and repair any drainage impacts at the expense of the electric provider or IPP. The applicant shall make reasonable efforts to consult with the county drain commissioner before submitting the application and shall include evidence of those efforts in its application.
- ☐ A fire response plan and an emergency response plan.

DECOMMISSIONING PLAN

All applicants must attach a decommissioning plan that is consistent with agreements reached between the applicant and other landowners of participating properties and that ensures the return of all participating properties to a useful condition similar to that which existed before construction, including removal of facilities and infrastructure that have no ongoing purpose. The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, but excluding cash. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the energy facility, after deducting salvage value, as calculated by a third party with expertise in decommissioning, hired by the applicant. This amount is subject to verification by the Township. The financial assurance must be posted at 100% by the start of commercial operation and prior thereto must be in an amount to assure the return of all participating properties to the condition as provided herein.

In order to evaluate whether the decommissioning plan is consistent with the agreements reached between the applicant and other landowners and participating properties, applicant **must** attach copies of those agreements.

ADDITIONAL INFORMATION

[Pursuant to Section MCL 460.1223(3)(a), an affected local unit may require other information necessary to determine compliance with the compatible renewable energy ordinance. Consult your legal counsel regarding these additional requirements.]

CONSENT TO EXTENSION

Pursuant to Section 223(3)(b), the local unit of government must approve or deny the application within 120 days of receipt of a complete application. The Applicant and local unit may jointly agree to extend this deadline by up to 120 days.

☐ CHECK HERE IF YOU CONSENT TO EXTEND THE DEADLINE

LENGTH OF DEADLINE EXTENSION: _____

ATTESTATION

BY SUBMITTING THIS APPLICATION, THE APPLICANT ATTESTS THAT ALL INFORMATION PROVIDED IS COMPLETE, TRUE, AND ACCURATE TO THE BEST OF THEIR KNOWLEDGE. APPLICANT FURTHER ATTESTS THAT ANY PERMITS ISSUED SHALL BE IN RELIANCE ON THE INFORMATION PROVIDED IN THIS APPLICATION.

APPLICANT FURTHER AGREES THAT THE INFORMATION PROVIDED IN THIS APPLICATION IS TIED TO THE PROJECT AND THE PROPERTY. PRIOR TO ANY TRANSFER OF OWNERSHIP OR OPERATIONAL AUTHORITY, APPLICANT AGREES TO NOTIFY ANY NEW PARTIES OF THE TERMS OF THIS APPLICATION AND ANY PERMITS ISSUED. APPLICANT FURTHER AGREES TO IMMEDIATELY NOTIFY THE TOWNSHIP OF ANY CHANGES IN OWNERSHIP OR OPERATIONAL AUTHORITY.

I, APPLICANT, ATTEST THAT I HAVE REVIEWED THIS APPLICATION IN ITS ENTIRETY AND AGREE TO ABIDE BY ITS TERMS. I FURTHER ATTEST THAT I HAVE OBTAINED THE CONSENT OF ALL DEVELOPERS AND PROPERTY OWNERS INVOLVED IN THIS PROJECT TO REVIEW AND SUBMIT THIS APPLICATION.

PRINTED NAME

SIGNATURE

FOR TOWNSHIP USE ONLY

DATE RECEIVED: _____

- ☐ Applicant complied with all pre-application procedures, including meetings with chief elected officials.
- ☐ Each affected local unit properly notified the Applicant of their Compatible Renewable Energy Ordinance.
- ☐ Required application fee and escrow fee has been paid in full.
- ☐ Application is complete and provides answers to all required sections.
- ☐ Applicant has signed indicating agreement to all terms.

DATE ACCEPTED: _____

DECOMMISSIONING AGREEMENT

This Decommissioning Agreement is entered into between **[INSERT APPLICANT NAME]** a **[INSERT BUSINESS STRUCTURE AND STATE OF ORGANIZATION]** at **[INSERT BUSINESS ADDRESS]** ("Applicant") and ~~the Michigan Public Service Commission (the "Commission" or "MPSC") at 7109 W Saginaw Hwy, Lansing, MI 48917.~~ **Hayes Township, Charlevoix County, 9195 Major Douglas Sloan Road, Charlevoix MI 49720.**

WHEREAS, PA 233 of 2023 (the "Act") provides siting authority to ~~the Commission~~ **Hayes Township** for utility-scale solar, wind, and energy storage projects under specific conditions and requires applications under the Act to include a "decommissioning plan that is consistent with agreements reached between the applicant and other landowners of participating properties and that ensures the return of all participating properties to a useful condition similar to that which existed before construction, including removal of above-surface facilities and infrastructure that have no ongoing purpose";

WHEREAS, the ACT provides that the "decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, or an irrevocable letter of credit, but excluding cash";

WHEREAS, on **[INSERT APPLICATION DATE]** the Applicant applied to ~~the Commission~~ **Hayes Township** for a certificate pursuant to MCL 460.1221 *et seq.* (the "Application") for a _____ megawatt **[INSERT ONE OF THE FOLLOWING: solar energy facility, wind energy facility, or energy storage facility]** referred to as **[INSERT NAME OF PROJECT]** located at **[INSERT PROJECT LOCATION]** (the "Project"); and

~~WHEREAS, the Commission opened a contested case pursuant to MCL 460.1226(3) entitled MPSC Case No. [INSERT CASE NUMBER] to conduct a proceeding on the Application and found, pursuant to MCL 460.1226(7),~~ **Whereas the Hayes Township Board of Trustees acting upon the approval of the special land use permit application by the Planning Commission recommend** that the Application should be approved, subject to the conditions set forth in **the Special Use Permit Commission's [INSERT ORDER DATE]** Order (Attachment A to this Agreement) and the ~~Commission-~~ **Township** approved decommissioning plan (Attachment B to this Agreement).

NOW, THEREFORE, the parties to this Agreement set forth the following terms and conditions of the Project decommissioning to which the parties, as well as any subsequent successors in interest, are bound:

1. **Term.** This Agreement is effective [INSERT EFFECTIVE DATE] and will continue until terminated as provided below.
2. **Decommissioning Obligations.** The Applicant shall satisfy all obligations for decommissioning the Project as provided in this Agreement, the ~~Commission Order~~ **Special Use Permit** approving the Project certificate, and the ~~Commission-Township~~-approved Decommissioning Plan. These obligations shall ensure the return of all participating properties to a useful condition similar to that which existed before construction, including removal of above-surface facilities and infrastructure that have no ongoing purpose. Specifically, these decommissioning obligations include:
 - 2.1. **[INSERT OTHER PROJECT-SPECIFIC DECOMMISSIONING ACTIVITIES CONSISTENT WITH THE ~~ORDER~~ **Special Use Permit** AND DECOMMISSIONING PLAN]**
 - 2.2. **State and Local Units of Government Requirements.** The Applicant remains bound to obtain any permits or other authorizations required by the State or any local unit of government for purposes of decommissioning activities.
3. **Decommissioning Process.**
 - 3.1. **Initiation.** Decommissioning of the Project shall commence under any of the following conditions ("Decommissioning Trigger Events"):
 - 3.1.1. **Applicant-Initiated Decommissioning.** The Developer may, subject to its agreements with the participating landowners and the terms of ~~Commission~~ **Special Use Permit** approval, provide written notice to the parties of this Agreement, and the affected local unit's chief elected official, of its intent to decommission the Project or a portion thereof.
 - 3.1.2. **Landowner Agreements.** The Applicant has entered into separate agreements with the owners of the land on which the Project will be developed. To the extent these agreements require decommissioning within a stated period or upon specific events, decommissioning shall commence no later than upon the triggering of such terms to the extent not in conflict with the ~~Commission Order~~ **Special Use Permit**. This decommissioning agreement is intended to be consistent with applicable landowner agreements to the extent not in conflict with the ~~Commission Order~~ **Special Use Permit**

3.1.3. **Depowering.** [ADJUST THIS TERM BASED ON RESOURCE TYPE]

If the Project ceases to generate, store, or produce electricity for twelve (12) consecutive months, the project shall be deemed depowered and decommissioning shall commence unless the Applicant can demonstrate that the lack of generation, storage, or production is the result of a reasonable and temporary condition for which there is an appropriate remedy approved through a ~~Commission~~ **Hayes Township** proceeding. If a Project fails to generate, store, or produce electricity within 5 years of commencing construction, it shall be deemed depowered, and decommissioning shall commence unless the Applicant can demonstrate through a ~~Commission~~ **Haye Township** proceeding that generation, storage, or production will proceed within a reasonable time and manner. If the Project begins to generate, store, or produce electricity in accordance with the requirements of this Agreement and the ~~Commission order~~ **Special Use Permit** approving the Project certificate before a decommissioning activity commences, the depowering may be deemed reversed pursuant to a ~~Commission~~ **Hayes Township** proceeding.

3.1.4. **Failure of Financial Assurance.** The **applicant** must replace any expiring financial assurance instrument meeting the requirements of this Agreement and the ~~Commission order~~ **Special Use Permit** approving the Project (including any Estimated Decommissioning Cost updates pursuant to Paragraph 4.2.3) no less than ninety (90) days prior to the expiration date of the financial assurance instrument. If the Applicant fails to do so, then decommissioning shall commence; provided, that prior to commencing decommissioning for failure to replace the expiring financial assurance instrument, the **Applicant** shall have at least thirty (30) days to cure such failure. If the **Applicant's** financial assurance is to be revoked, terminated, or otherwise ceases to meet the requirements of the Act and ~~Commission order~~ **the Special Use Permit** approving the Project certificate, the Developer must immediately notify the parties to this Agreement. If the **Applicant** cannot cure this inadequacy and bring the Project into conformance with the Act and ~~Commission order~~ **Special Use Permit** approving the Project certificate within thirty (30) days, then decommissioning shall commence.

3.1.5. **Change of Ownership.** If the ownership of the Project is transferred, the Applicant seeks to dissolve, or the ownership structure of the Developer is otherwise changed, the Developer must immediately file a demonstration in the ~~MPSC docket assigned to the Project~~ **Hayes Township** confirming the continued compliance with the Project certificate and the continued validity of the financial assurance. If the Applicant fails to make any such demonstrations within 30 days of the underlying change, then decommissioning shall commence.

3.1.6. **Repowering.** If the Applicant attempts to repower the Project, as defined by MCL 460.1221(v), the Developer must seek a new certificate pursuant to MCL 460.1222. If the Developer begins repowering but fails to seek a new certificate, then decommissioning shall commence unless the Developer halts all repowering activities and initiates the procedures for seeking local approval or a certificate to the satisfaction of ~~the Commission~~ **Hayes Township** within thirty (30) days of the start of repowering activities.

3.2. **Decommissioning Notice.** Upon the occurrence of any of the above-specified Decommissioning Trigger Events, the Applicant shall immediately provide written notice to the parties to this agreement and the affected local units of government and ~~(file such notice in the MPSC docket assigned to the Project.)~~ ?

3.3. **Completion Notice.** Within sixty (60) days of completing decommissioning activities, the Applicant must notify ~~the Commission~~ **Hayes Township** and submit a decommissioning report that includes a summary of decommissioning activities and a description of any mitigation measures used during decommissioning ~~(in the MPSC docket assigned to the Project.)~~?

3.4. **~~Commission~~ **Township** Decommissioning Authority.**

3.4.1. **~~Commission~~ **Township**-Initiated Decommissioning.** If the Applicant, its successors or assigns, or any other person controlling the Project fails, refuses, or neglects to initiate decommissioning within 180 days of any of the Decommissioning Trigger Events, the ~~Commission~~ **Township** shall itself have the right, but not the obligation, to perform the Applicant's decommissioning obligations under this Agreement, the ~~Commission order~~ **Special Use Permit** approving the Project certificate, and the ~~Commission~~ **Township**-approved Decommissioning Plan. In

such event, the Applicant (or its successors or assigns) agrees to give the ~~Commission~~ **Township** and its contractors or agents the right to possess, dispose of, and otherwise decommission the property that makes up the Project and shall defend, hold harmless, and indemnify the ~~Commission~~ **Hayes Township** for any and all claims, liability, loss, or damage arising out of its exercise of its right to decommission the Project as provided for herein, except in cases of negligence by the ~~Commission~~ **Hayes Township** or any of its contractors or agents. The ~~Commission~~ **Township** shall not be required to expend funds beyond those funds provided through the financial assurances in order to perform the Applicant's decommissioning obligations. In the event the Applicant (or its successors or assigns) subsequently takes steps to initiate such activities and a decommissioning proceeding before the ~~Commission~~ **Township** within a reasonable time, the ~~Commission~~ **Township** may refrain from decommissioning activities and allow the Applicant (or its successors or assigns) to commence the necessary actions.

3.4.2. **Access Representations.** The Applicant hereby represents that it has the rights of ingress, egress, access, and possession to the Project location pursuant to its agreements with Landowners and that the ~~Commission's~~ **Township** rights under this Agreement are consistent with the terms of such agreements with the landowners. The Commission shall provide reasonable notice to the Applicant and Landowner before entering the Project location if ~~Commission-~~ **Township**-initiated decommissioning is warranted. The Applicant hereby represents it possesses the authority to grant such authority pursuant to its lease agreements and property rights.

3.4.3. ***** Future Obligations.** The parties to this Agreement acknowledge and agree that appropriation of funds is a legislative function that the Commission cannot contractually commit itself to perform. The Commission's obligations under this Agreement will not constitute a general obligation of the State of Michigan and the Commission's obligations under this Agreement will not constitute either a pledge of the full faith and credit or the taxing power of the State of Michigan.
This needs Board decision

4. **Financial Assurance. [ADJUST THESE TERMS FOR IRREVOCABLE LETTERS OF CREDIT OR PARENT COMPANY GUARANTEES]**

- 4.1. **Estimated Decommissioning Cost.** Pursuant to MCL 460.1225(r) and the ~~Commission order~~ **Special Use Permit** approving the Project certificate, the estimated cost of decommissioning the project ("Estimated Decommissioning Cost"), which is subject to the periodic updates described below, is initially \$_____. The Estimated Decommissioning Cost is intended to include the following:
- 4.1.1. Costs for removal of energy facility equipment and infrastructure, land restoration and reclamation, and insurance requirements calculated by a third party with expertise in decommissioning.
 - 4.1.2. Salvage value for energy facility equipment and infrastructure calculated by a third party with expertise in decommissioning.
 - 4.1.3. The cost to hire a decommissioning consultant to manage the decommissioning process in the event of Applicant abandonment or bankruptcy.
- 4.2. **Bond Acquisition.** [ADJUST THIS TERM BASED ON APPROVED FINANCIAL ASSURANCE SCHEDULE] No later than the start of construction, the Applicant shall post a Decommissioning Bond in the amount of at least \$_____ for the benefit of the Commission, which is 25% of the Estimated Decommissioning Cost. No later than 1 year from the beginning of construction, the Applicant shall post a Decommissioning Bond in the amount of at least \$_____ for the benefit of the ~~Commission~~, **Township**, which is 50% of the Estimated Decommissioning Cost. No later than the start of full commercial operation, the Applicant shall post a Decommissioning Bond in the amount of at least \$_____ for the benefit of the ~~Commission~~, **Township**, which is 100% of the Estimated Decommissioning Cost. The bond shall conform to the Bond Agreement (Attachment C to this Agreement).
- 4.2.1. **Renewal.** The Applicant or its successor in interest to the Project shall be responsible for renewing the Bond until the financial assurance requirement is terminated pursuant to this agreement and the ~~Commission order~~ **Special Use Permit** approving the Project certificate. At the end of each bond term, the Applicant shall renew the bond.
 - 4.2.2. **Decommissioning Cost Update.** The Estimated Decommissioning Cost shall be updated as follows:

4.2.2.1. **Timeline.** For the first twenty (20) years of commercial operation, the Estimated Decommissioning Cost will be updated every five (5) years. Starting in the twenty-first (21st) year of commercial operation and continuing until the financial assurance requirement is terminated pursuant to this agreement and the ~~Commission order~~ **Special Use Permit** approving the Project, the Estimated Decommissioning Cost will be updated every three (3) years. The amount of any bond obtained subsequent to an Estimated Decommissioning Cost update must be based on such updated costs.

4.2.2.2. **Expert Review.** The Estimated Decommissioning Cost must be updated by a third party with expertise in decommissioning based on the updated decommissioning plan.

4.2.2.3. **Updated Decommissioning Plan.** Upon the Estimated Decommissioning Cost update, the Decommissioning Plans must be updated to incorporate any improvements in the decommissioning process or necessary changes. (The Applicant will file the updated Decommissioning Plan with the Commission in the MPSC docket assigned to the Project.) **Not sure what needs to be reported to MPSC in this regard.**

4.2.2.4. **Updated Financial Assurance.** Upon the Estimated Decommissioning Cost update, the financial assurance shall be updated according to such updated cost estimates.

4.3. **Use of Funds.** If a Decommissioning Trigger Event occurs, the financial assurance is called upon, and the ~~Commission~~ **Township** performs some or all of the Applicant's decommissioning obligations, all funds received by the ~~Commission~~ **Township** through the ~~Commission's~~ **Township's** claims on the financial assurances for the Project shall be used for reasonable costs incurred by the ~~Commission~~ **Township** in connection with performing the Applicant's decommissioning obligations for the project and expenses related thereto (including, but not limited to, third-party consultant and administrator fees, litigation expenses, attorney fees, and expert fees).

5. **Annual Showing.** Every year, **no later than [ADD DATE SPECIFIED BY THE TOWNSHIP COMMISSION]**, the Developer must file proof that the financial

assurance requirements are satisfied in the MPSC docket assigned to the Project along with a summary of the power generated, stored, or produced for the proceeding twelve (12) month period and a description of any portions of the Project that have failed to generate, store, or produce electricity during the proceeding twelve (12) months, including the extent and length of such depowering. **Verify MPSC ROLE in A Workable scenario**

6. Termination.

- 6.1. **~~Commission-TOWNSHIP-~~ Approved Decommissioning.** Upon completion of all decommissioning obligations described in this agreement, the ~~Commission-order~~ **Special Use Permit** approving the Project certificate, and the ~~Commission-Township-~~approved Decommissioning Plan, the Applicant may apply to the ~~Commission~~ **Township** for termination of this Agreement. The ~~Commission~~ **Township** shall determine whether any outstanding obligations exist. Otherwise, the ~~Commission-Township~~ shall terminate this Agreement.
- 6.2. **Financial Assurance Termination.** If the Applicant applies for, and is granted, termination of this Agreement upon completion of all decommissioning obligations as addressed in the preceding paragraph, then the ~~Commission~~ **Township** may terminate the applicable financial assurance requirements.

7. Miscellaneous.

- 7.1. **Assignment.** No party may assign all or any part of this Agreement without the other parties' prior written consent. This Agreement inures to the benefit of the parties hereto and their successors and permitted assigns and is binding on each other and each other's successors and permitted assigns.
- 7.2. **Conflicts.** In the event of a conflict between the ~~Commission-order~~ **Special Use Permit** approving the Project certificate and this Agreement or any agreements between the Applicant and Landowner, the ~~Commission-order~~ **Special Use Permit** shall control.
- 7.3. **Severability.** Any provision of this Agreement held to be void or unenforceable will not affect the validity of its remaining provision.
- 7.4. **Amendment.** This Agreement cannot be modified or waived in any way without express agreement signed by all parties.

7.5. **Counterparts.** This Agreement may be executed and delivered in counterparts and duplicate originals, including by a facsimile and/or electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically.

7.6. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

[INSERT APPLICANT NAME]

Print Name: _____

~~MICHIGAN PUBLIC SERVICE~~ **HAYES TOWNSHIP**

~~COMMISSION~~

Print Name: _____

HAYES TOWNSHIP ESCROW
POLICY AFFIDAVIT

I have read and accept the Hayes Township Zoning Application Fees and Escrow Policy and agree to abide by the same. I understand that the payment of the prescribed application and escrow fees is intended to cover the Township's costs associated with the processing and/or review of my zoning application and should not in any manner be construed as suggesting any particular outcome for the application. I agree that I shall be obligated to pay the fees prescribed under the policy regardless of whether my application is approved, denied, modified or withdrawn. In addition, I agree the Township shall be permitted to take any legal action to collect its fees and costs and shall be permitted to assess to me all costs and legal fees incurred in the collection process.

I understand that the Township may stop processing my application if the escrow fee drops below the parameters set forth in the Zoning Escrow Fee policy. It will be my responsibility to replenish the escrow fee to the amount required by the policy before processing my application resumes.

Name: _____

Signed: _____

Print Name: _____

Date: _____

Person/Company Responsible for Account (Billing Purposes)

Address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____ Fax or Email: _____