ORDINANCE NO. 2025-02

VILLAGE OF YORKVILLE
COUNTY OF RACINE, STATE OF WISCONSIN

AN ORDINANCE TO AMEND SECTION 20-1475 OF THE RACINE COUNTY CODE OF ORDINANCES AS ADOPTED BY THE VILLAGE OF YORKVILLE UNDER SECTION 55-1(A) OF THE CODE OF ORDINANCES OF THE VILLAGE OF YORKVILLE, COUNTY OF RACINE, STATE OF WISCONSIN, RELATING TO SOLAR ENERGY SYSTEMS

WHEREAS, the Village Board reviewed this draft ordinance on February 10, 2025, and held a public hearing to receive public input on this draft ordinance on February 10, 2025.

WHEREAS, the Village Plan Commission reviewed this draft ordinance on February 10, 2025, and attended the public hearing to receive public input on this draft ordinance on February 10, 2025.

THE VILLAGE BOARD OF THE VILLAGE OF YORKVILLE, COUNTY OF RACINE, STATE OF WISCONSIN, ORDAINS AS FOLLOWS:

1. That Section 20-1475 of the Code of Ordinances of the Racine County Code of Ordinances as adopted by the Village of Yorkville under Section 55-1(A) of the Code of Ordinances of the Village of Yorkville, be, and hereby is, amended to read as follows on the attached "Exhibit A" incorporated herein by reference.

2. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Yorkville, County of Racine, State of Wisconsin, this 10th day of February, 2025.

VILLAGE OF YORKVILLE

Ayes: 5

Nays: 0

Abstentions: 0

Absences: 0

By: /s/ Douglas Nelson
Douglas Nelson, President

Attest: /s/ Janine Carls
Janine Carls, Clerk

EXHIBIT A

DIVISION 2. - SOLAR ENERGY SYSTEMS

Sec. 20-1475 Solar Energy Systems.

(a) *Definitions.*

(1) *Agrivoltaics* - A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

(2) *Building-integrated Solar Energy Systems* - A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

(3) Commu*nity-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 1 acre.

(4) *Community Solar Garden* - A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system. Also referred to as shared solar.

(5) *Grid-intertie Solar Energy System* - A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

(6) *Ground-mount* - A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

(7) *Large-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of retail or wholesale sales of generated electricity to many customers and/or is not primarily for consumption of electricity on the property on which the system is located. A large-scale solar energy system will have a project size greater than 1 acre and is the principal land use for the parcel(s) on which it is located.

(8) *Off-grid Solar Energy System* - A photovoltaic solar energy system in which

the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

(9) *Passive Solar Energy System* - A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

(10) *Photovoltaic System* - A solar energy system that converts solar energy directly into electricity.

(11) *Renewable Energy Easement, Solar Energy Easement* - An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to sunlight passing over the burdened land, consistent with Wis. Statutes §700.35.

(12) *Roof-mount* - A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.

(13) *Roof Pitch* - The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

(14) *Solar Access* - Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

(15) *Solar Carport* - A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

(16) *Solar Collector* - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

(17) *Solar Daylighting* - Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

(18) *Solar Energy* - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

(19) *Solar Energy System* - A device, array of devices, or structural design

feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

(20) *Solar Hot Air System* - (also referred to as Solar Air Heat or Solar Furnace) - A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

(21) *Solar Hot Water System* - A solar energy system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

(22) *Solar Mounting Devices* - Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

(23) *Solar Resource* - A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year and can be measured in annual watts per square meter.

(24) *Viewshed* - a natural or historic environment that is visible from a viewing point.

(b) *Permits and Approvals*. The following permits, agreements and/or approvals are required for installation of any Village-regulated Solar Energy System:

(1) A building permit, zoning permit and site plan are required for all Accessory Use Solar Energy Systems. The owner must pay any applicable fees, and provide any information specified in the Village zoning ordinance with permit applications. Site plans shall contain to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(2) In addition to a building permit, zoning permit and required fees, a conditional use permit is required for all Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts. A conditional use permit application must be on a form approved or provided the Village and provide the information required in the Village ordinance.

(3) Plan Approvals - Applications for Accessory Use and Large-Scale Solar

Energy Systems shall require review and recommendation by the Plan Commission and approval by the Village Board. Plan approval does not indicate compliance with Building Code or Electric Code. For Large-Scale Solar Energy Systems, written confirmation by the Union Grove – Yorkville Fire Department that the project site can be safely accessed for fire and rescue calls must be obtained by the applicant and submitted to the Village.

(4) Solar Energy Systems designed for operation at a capacity of 100 megawatts or more are under the jurisdiction of the Public Service Commission and not subject to this ordinance.

(c) *Solar Energy System - Accessory Use*. Solar Energy systems which are not a principal use are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar Energy Systems that do not meet the following design standards will require a conditional use permit.

(1) Height - Solar energy Systems must meet the following height requirements:

a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in the underlying zoning district. For purposes of height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.

b. Ground or pole-mounted solar energy systems shall not exceed maximum allowed height for accessory structures in the underlying zoning district.

(2) Setback. Solar Energy Systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below.

(3) Roof or Building-Mounted Solar Energy Systems. The collector surface and mounting devices for roof-mounted Solar Energy Systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are

regulated as awnings.

(4) Ground-mounted Solar Energy Systems - Ground-mounted solar energy systems may not extend into the side-yard or rear-yard setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

(5) Building Integrated Photovoltaic Systems - Building integrated photovoltaic solar energy systems shall be allowed provided the building component in which the system is integrated meets all required setbacks, land use, or performance standards for the district in which the building is located.

(6) Aesthetic restrictions - Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons.

(7) Reflectors. All Solar Energy Systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

(8) Lot Coverage. Ground-mount systems total collector area shall not exceed half the building footprint of the principal structure if applicable.

a. Ground-mount systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted, and the system area is less than one acre in size.

b. Ground-mounted systems shall not count toward accessory structure limitations.

c. Solar carports in non-residential districts are exempt from lot coverage limitations.

(d) *Solar Energy System Principal Use - Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts*. The development of commercial or utility scale Solar Energy Systems are permitted where such systems present few land conflicts with current and future development patterns. Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts are conditional uses.

(1) Principal Use General Standards.

Solar Energy System in the A-1, A-2, A-4, and M-1 Districts.

a. Minimum lot size and frontage: Lot size and frontage requirements shall generally be consistent with the requirements for the underlying

zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

b. Minimum setbacks: Setbacks, shall be measured from the foundation of any associated system building, the outer edge of battery storage system, converter or inverter or from the solar collector extended at full tilt parallel to the ground. Setbacks shall generally be consistent with the setback provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

c. Maximum height for solar collectors: Height requirements shall generally be consistent with the height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

d. Shall not be located within the 100-year floodplain.

e. Shall not be located within a designated wetland.

f. Any buildings associated with the Solar Energy System shall meet the building requirements specified in the underlying zoning district related to building size and height but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

g. Any Solar Energy System that is on-grid shall comply with the Public Service Commission of Wisconsin's Rule 119, Rules for Interconnecting Distributed Generation Facilities.

h. Agreement Exhibits: The following exhibits shall be submitted:

1. Proposed Site Plan: Exhibit A is the proposed plan for above-ground facilities of the Solar Energy System.

2. Proposed Haul Route: Exhibit B is a map depicting proposed Solar Energy System equipment Haul Routes.

3. Construction Schedule: Exhibit C is the proposed Construction Schedule.

4. Vegetation Management Plan: Exhibit D is the Vegetation Management Plan.

5. Drain Tile Management Plan: Exhibit E is the Drain Tile Management Plan.

6. Decommissioning Plan: Exhibit F is the Decommissioning Plan.

i. Archeology: Shall conduct an Archeological Site Assessment with review by the Wisconsin State Historical Preservation Office.

j. Fencing: Other than the fencing directly surrounding the Solar Energy System substation, O&M and BESS the Solar Energy System perimeter fencing shall consist of “deer fencing" (wire mesh), which can be described in greater detail as a six (6) to ten (10) foot in height woven wire partition with posts. Fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner. Alternate fencing specifications may be requested by the applicant or imposed by the Village as part of the conditional use process to better complement the specific project under consideration.

1. Installed fencing shall be adequately maintained at all times during the Solar Energy System operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire or wooden posts shall be remedied within two weeks of written notification from the Village’s Zoning Administrator, Code Enforcement Officer, or designee. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.

k. Visual Considerations: The Solar Energy System shall not be used for any type of advertising. The Solar Energy System may erect and maintain a single Solar Energy System identification sign subject to sign requirements of Article IX of Exhibit A to Section 55-1(a). The Solar Energy System shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall meet the lighting requirements of Section 20-1065 of Exhibit A of the Municipal Code for the Village. Solar Energy System will provide the Village with a description of permanent Solar Energy System lighting plans as part of the conditional use process.

l. Drain Tile: Solar Energy System shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially reasonable, and mitigate the landowner and non-participating landowners' drainage issues where significant impact is expected as a result of drain tile alteration. The Solar Energy System Owner agrees to discuss and address identified drain tile concerns at the post-construction meeting to finalize remedies to known drainage issues on either participating or non-participating property. Solar Energy System Owner shall receive, investigate, and remedy drain tile issues due to the Solar Energy System that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan attached hereto as Exhibit E.

1. If drainage infrastructure or systems are damaged by the Solar Energy System and the result is reduced drainage performance that adversely affects non-participating landowners, Solar Energy System Owner shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile Management Plan attached as Exhibit E. Pre-existing condition shall mean the flow capacity existing immediately prior to the Solar Energy System commencing construction. If previous flow capacity cannot be determined, Solar Energy System Owner and landowners agree to negotiate an adequate solution in good faith. Solar Energy System Owner is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Solar Energy System as provided in Exhibit E. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Solar Energy System. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Solar Energy System on a participating property ("Solar Energy System - related Damage"), and the Solar Energy System-related Damage causes damages to non-participating property owners upstream of the Solar Energy System-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Solar Energy System Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system. Solar Energy System Owner agrees to cooperate with non-participating landowners as outlined in Exhibit E that desire to repair or replace drainage tile affecting their properties to the

extent that such work does not interfere with the Solar Energy System or its related facilities. Solar Energy System Owner will not unreasonably withhold approval for access to the Property that lies outside of any fenced solar collector area, to the extent participating property owners also agree to such access.

2. For purposes of this agreement, participating landowner or property owner shall mean a property owner who has signed a solar lease and easement agreement, collection easement, or purchase option for the use of his or her property for solar generation, construction access, and/or placement of facilities associated with the Solar Energy System. Non-participating landowner or property owner shall mean a property owner who is not a participating landowner. A solar lease and easement agreement does not include a good neighbor agreement.

m. Stormwater Management and Erosion Control: Solar Energy System Owner shall ensure compliance with Chapter 10, Article IX ("Erosion Control") and Article X ("Post-Construction Storm Water Management") of the Municipal Code of Village of Yorkville and shall ensure that a plan for compliance with said chapter is presented at the pre-construction meeting. Solar Energy System Owner will comply with stormwater and erosion control requirements imposed by the Wisconsin Department of Natural Resources (WDNR). Where the lands associated with the proposed Solar Energy System are adjacent to the East Branch of the Root River Canal, the land owner and Solar Energy System Owner shall grant and convey to the Village a permanent easement and right-of-way, including the perpetual right to enter upon the easement areas described, including the East Branch of the Root River Canal, to construct, improve, alter, maintain or repair drainage channels, drains, pipelines and appurtenances thereto for the purpose of draining, conveying, and transporting storm water over, across, under, and through such lands with all necessary and proper workers, equipment and materials, and the right to remove such trees, bushes, undergrowth, and other obstructions which may interfere with the location, construction, improvement, alteration, maintenance, or repair of such drainage channels, drains, pipelines and appurtenances; and a temporary construction easement to further the above-described activities.

n. Ground cover and buffer areas: The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may

apply as required by the Village.

1. Large-scale removal of mature trees on the site is discouraged. The Village may set additional restrictions on tree clearing or require mitigation for cleared trees.

2. To the greatest extent possible, the topsoil shall not be removed during development, unless part of a remediation effort.

3. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage run off, and improve soil.

4. Seeds should include a mix of grasses and wildflowers (pollinator habitat), exclusively native to the region of the Solar Energy System site that, which will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.

5. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Village and/or Wisconsin DNR.

6. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the Village equal to one hundred twenty-five (125) percent of the costs to meet the ground cover and buffer area standard. The financial guarantee shall remain in effect until vegetation is 75% established.

7. Solar Energy System Owner shall contact every owner of property with a residential dwelling immediately adjacent to solar collector and discuss in good faith a reasonable, strategically-located visual buffer of plants that, upon mutual agreement, shall be installed at Solar Energy System Owner's expense prior to the completion of construction of the Solar Energy System. Where the Solar Energy System Owner and the adjacent property owner are unable to agree on the type of visual buffer and the adjacent property owner makes a request in writing to Solar Energy System Owner to provide a visual buffer, the Solar Energy System owner shall install a vegetative buffer on the Solar Energy System site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years.

Proposals and plans for vegetative buffers will be finalized in writing by the pre-construction meeting with the Village.

8. Solar Energy System Owner shall submit a vegetative buffer plan for a visual barrier along all roadways subject to approval by the Village.

o. Road Use: The Solar Energy System Owner and its successors, assigns, contractors, agents and representatives may use public roads as part of the construction, operation, maintenance and repair of the Solar Energy System. The Solar Energy System Owner acknowledges that in connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, that Solar Energy System facilities may cross road rights-of-way and/or drainage systems. The Solar Energy System Owner agrees that it shall seek and obtain all permits typically required of others, including permits required under Section 38-81 of the Village's Code of Ordinances, entitled "Occupancy of public rights-of-way."

1. The Solar Energy System Owner further agrees that the construction process may cause wear, tear, and damage to the Haul Route roads identified in Exhibit B above. In addition to providing the Village engineer with a written description of the designated haul roads, vehicles to be utilized, and the type of materials being hauled to or removed from a project site, the engineer shall be provided sufficient time to inspect the designated haul roads before they are used. Said inspection shall include, if requested, a representative of the Solar Energy System Owner. The engineer will document any deficiencies or special conditions regarding the existing roads and structures. During the hauling operations, the Solar Energy System Owner and its contractors shall use only designated haul roads, observe legal weight and speed limits, provide an adequate water supply, applying water as needed to control dust, and shall perform minor preventative and repair maintenance as necessary (after giving reasonable notice to the Village engineer), to minimize damage to the haul roads. All haul roads must be maintained in a dust-controlled condition and any dust palliatives must be approved by the DNR prior to usage. The Solar Energy System Owner shall clean applicable rights-of-way of mud, dirt, stone or debris related to the project within twenty-four (24) hours after receiving verbal notice from the Village Engineer, or designee. If the rights-of-way are not cleaned up after notification, the Village reserves the right to do so at the expense of the Solar

Energy System Owner. Prior to commencement of construction, the Solar Energy System Owner shall post a letter of credit in an amount approved by the Village Board, upon the recommendation of its engineer, taking into account the duration and nature of the project, haul route to be utilized and materials to be transported. All minor road repairs and general maintenance shall be inspected and approved by the Village engineer or designee to ensure that the repair or maintenance meets Village standards.

2. Throughout the construction of the Solar Energy System, the Solar Energy System Owner shall work cooperatively to maintain public road infrastructure in a safe condition for passage by the public. During the ongoing construction of the Solar Energy System, Solar Energy System Owner shall regularly monitor its designated haul roads, and at its expense, shall repair any significant damage that jeopardizes the safety of the travelling public. In the event the Village engineer or designee notifies the Solar Energy System Owner of a safety concern to the traveling public the Solar Energy System Owner shall carry out the necessary repair to mitigate the unsafe road condition. In the event a unsafe road condition exists that presents a safety hazard to the public use of the road and is not promptly repaired by Solar Energy System Owner within one week after receipt of notice of the unsafe condition, the Village may make emergency road repairs, or order emergency road repairs to be performed by qualified contractors, and Solar Energy System Owner will promptly reimburse the Village for reasonable emergency road repairs. The Village reserves the right to access the letter of credit posted by the Solar Energy System Owner if reimbursement is not made within thirty (30) days of notice.

3. After the hauling operations are concluded, the Village engineer or designee, and Solar Energy System Owner's representative, if requested, shall jointly inspect the designated haul roads. The Village engineer will review the results of the initial and final inspections and will consider the impacts of other parties that used the haul roads. Upon consideration of all pertinent factors, the engineer will determine the amount of restoration necessary to return the haul roads to their condition at the time of the initial inspection. The Village Board shall decide whether to permit the Solar Energy System Owner to undertake the necessary restoration, or to undertake the work as a publicly bid project, utilizing the Solar Energy System Owner's letter of credit

toward the cost of the project. If there is a deficiency in the estimated cost of the project, less any proceeds posted by the Solar Energy System Owner, the Solar Energy System Owner shall submit the difference within thirty (30) days of notice.

4. Solar Energy System Owner shall be responsible for addressing applicable road use issues with other entities to the extent they have jurisdiction over roads to be used for the Solar Energy System.

p. Foundations: A qualified engineer shall certify, by sealed stamped and signed plans that the foundation and design of the solar panels' racking and support is within accepted professional standards, given local soil and climate conditions.

q. Power and communication lines: Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Village in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Department as shown by adequate soil borings.

r. Agricultural Protection: Commercial use Solar Energy Systems must comply with site assessment or soil identification standards that are intended to protect agricultural soils.

s. Aviation Protection: For Solar Energy System s located within 1,000 feet of an airport or within approach zones of an airport or landing strip, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Solar Energy Systems on Federally Obligated Airports, or most recent version adopted by the FAA.

t. Decommissioning: Solar Energy System Owner shall implement the Decommissioning Plan attached as Exhibit F to this Agreement upon permanent cessation of the commercial operation of the Solar Energy System. For the purposes of this Agreement, permanent cessation of the commercial operation of the Solar Energy System shall mean that the entire Solar Energy System has ceased commercial operation for a consecutive period of twelve (12) months for reasons other than a force majeure event. The Solar Energy System shall be deemed to be in commercial operation if the Solar

Energy System is under active construction activities including but not limited to construction activities in connection with Solar Energy System-wide replacements or upgrades.

1. The Solar Energy System Owner acknowledges that a Decommissioning Plan shall be submitted that includes a detailed Decommissioning Cost Analysis and will provide such a plan to the Village when the analysis is available. The Solar Energy System Owner agrees that the Decommissioning Plan shall require Solar Energy System Owner to, at a minimum:

    a) Notify the Department when permanent cessation has been determined.

    b) Remove, at its expense, all Solar Energy System components including but not limited to solar collectors and associated facilities, buried wires and transmission lines, to a depth of 4 feet and properly dismantle all components that shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.

    c) Restore the land to a condition reasonably similar to pre-existing conditions, including de-compacting areas where Solar Energy System access roads were installed and any other areas of substantial soil compaction, and installing a new drainage system including drainage tile to the extent those facilities were present at the commencement of the project. The Solar Energy System's Access Roads can remain in place if requested by the property owner.

    d) Prior to the issuance of a zoning permit, the Solar Energy System owner shall post a commercially reasonable financial assurance (bond, letter of credit) in the amount of 120% of the reasonably estimated costs of decommissioning the Solar Energy System as determined by the Village engineer, or designee. The costs of this determination are to be paid by the Solar Energy System Owner. The need for and amount of the financial assurance shall be reviewed by a qualified engineer, and if applicable, updated approximately every 5 years.

e) All solar equipment shall be decommissioned and disposed of in accordance with State, Federal and local regulations.

u. Replacement of Lost Property Tax Revenue: Properties hosting qualifying utility generating facilities under Chapter 76 Wis. Stats. and approved by the PSCW are removed from the local property tax roll. Solar Energy System Owner will establish a program (the "Lost Revenue Program") to reimburse the local school districts for lost revenue following completion of the Solar Energy System, when the specific, qualified utility properties are identified. The Lost Revenue Program will calculate the amount of lost revenue based on local tax rates for the land at the time the Solar Energy System is placed in service. Payment amount for each taxing authority will be increased annually by Two Percent (2%). Solar Energy System Owner will execute the Lost Revenue Program only to the extent the amount promised is recoverable by the Solar Energy System Owner through approval by the PSCW of rates under Wis. Stat. 196.20. The Solar Energy System Owner's obligation to make such payments shall be suspended if the State adopts or implements a new mechanism to replace the Utility Aid Shared Revenue payments, to the extent that the new payment system provides payments equal or greater than the payments provided herein. In such case of suspension of payments, the Solar Energy System Owner's payment obligations as set forth herein will only be reinstated if such new payment system is eliminated by the Legislature.

v. Insurance for Solar Energy Systems as Principal Use: Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts.

1. Solar Energy System Owner and its Contractors/Subcontractors:

a) At all times during construction and operation Owner and its contractors/subcontractors shall maintain Commercial General Liability Coverage of: $3,000,000 per occurrence; $5,000,000 general aggregate; $5,000,000 products-completed operations aggregate.

b) Coverage shall list the Village as an additional insured.

c) Coverage shall be primary and non-contributory to the insurance of the Village.

d) Coverage shall provide a Waiver of Subrogation in

favor of the Village.

e) Umbrella/Excess Liability - $3,000,000 each occurrence; $5,000,000 annual aggregate; $5,000,000 completed operations aggregate. The policy shall follow form to the Commercial General Liability policy.

f) Automobile Liability - $1,000,000 Combined Single Limit

1) Coverage shall list the Village as Additional Insureds.

g) Workers Compensation - Workers Compensation as required by the State of Wisconsin Statute.

w. Limitations upon authority: The Village's review and action in the matter shall be subject to the limitations imposed by § 66.0401, Wis. Stats. In the event the applicant believes the Village has exceeded its authority in this regard, the applicant shall notify the Village and it may reconsider the matter. In that event, the applicable permit authority of the Village may modify the requirements of this section as applied to that application, on a case-by-case basis if, and only to the extent, such modification is necessary to ensure that applicable laws are followed. This section is intended to allow case-by-case consideration of the standards of § 66.0401(1m), Wis. Stats., as needed.

(e) *Community-Scale Solar Energy System Standards*:

(1) Community-scale uses - Ground-mount Community Solar Energy Systems are a conditional use in all districts.

(2) Dimensional standards - Setbacks and height standards shall generally be consistent with the setback and height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

(3) Other standards - Ground-mount systems shall generally be consistent with the standards for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

(f) *Approved Solar Components*. Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC

rating.

(g) *Compliance with Building Code*. All solar energy systems shall meet approval of the building inspector, consistent with the State of Wisconsin Building Code and solar thermal systems shall comply with HVAC related requirements of the Energy Code.

(h) *Compliance with State Electric Code*. All photovoltaic systems shall comply with the Wisconsin State Electric Code.

(i) *Compliance with State Plumbing Code*. Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.

(j) *Utility Notification*. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

(k) *Rooftop Community Solar Gardens*. Rooftop community solar garden systems are a permitted accessory use in all districts where buildings are permitted.

Secs. 20-1476 — 20-1489. - Reserved.