

**ARTICLE II-B.13.**

k. **Utility, Major** means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term Utility, Major shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities, communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance calls and high-speed Internet connections with one or more telecommunication carrier located within a Building, or other uses defined in this section. For the purpose of this definition, the term "Renewable Energy Systems" shall mean the following:

1. **Renewable Energy Systems** means a Wind Energy Conversion System (WECS), a Solar Energy Conversion System (SECS) or a Battery Energy Storage System (BESS). These terms shall mean the following:

(a) **Solar Energy Conversion System (SECS)** means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including, but not limited to, roads, substations, operation and maintenance buildings, as specified in the application. The term Solar Energy Conversion System (SECS) shall not include any public utility transmission lines directly regulated by the governments of either the United States of America or the State of Kansas, but shall include private transmission or collection lines.

(b) **Wind Energy Conversion System (WECS)** means the combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity.

**ARTICLE III-D.6.**

pp. **Renewable Energy Systems.** Renewable Energy Systems, as defined by this Code and where permitted, shall always be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures). Renewable Energy Systems shall be subject to the following:

(1) For the purposes of this Section, the following terms are hereby defined:

(a) Applicant means any party, or parties collectively, requesting Conditional Use approval, any owner or operator of a SECS, or any individual or entity that has or obtains an interest in the SECS. The duties provided within this Section shall survive any transfers of interest or ownership of the SECS or underlying property.

(b) Battery Energy Storage System (BESS) means one or more individual physical containers providing secondary containment to battery cells that are equipped with cooling, ventilation, fire suppression, and an electronic regulator.

(c) Facility Area means the total sum area of all land (calculated in acres) encompassed by a SECS.

(d) Project Area means the Facility Area of a SECS, minus any area of which the sole purpose and use in the application is for underground private transmission lines or collection lines.

(24) All Wind Energy Conversion Systems (WECS) are prohibited within the unincorporated portion of Sedgwick County and the City of Wichita.

(3) All Solar Energy Conversion Systems (SECS) shall be classified as follows:

(a) A Small-Scale SECS shall have a Project Area of ten (10) acres or less.

(b) A Medium-Scale SECS shall have a Project Area of more than ten (10) acres but less than fifty (50) acres.

(c) A Large-Scale SECS shall have a Project Area of fifty (50) acres or more.

(4) General requirements for all SECS's regarding location, size limitations and notice obligations shall be as follows:

(a) All Large-Scale SECS's shall be prohibited in the established and adopted Urban Growth Area of any City as identified in the County Urban Growth Areas Map contained within the Wichita-Sedgwick County Community Investments Plan, except for any area in a Large-Scale SECS Facility Area of

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which the sole purpose and use in the application is for underground private transmission lines or collection lines.

(b) No SECS Project Area shall exceed twelve-hundred eighty (1280) acres.

(c) No SECS Project Area shall be located in or on more than four (4) contiguous sections of land.

(d) No SECS Project Area boundary shall be nearer than two (2) miles to any other SECS Project Area boundary. This distance shall be measured in a straight line from the closest Project Area boundary of one SECS to the nearest proposed Project Area boundary of any other SECS. This regulation shall not apply to any Small-Scale SECS that does not connect to the private transmission lines or collection lines of any other SECS, nor shall the two (2) mile calculation include any such Small-Scale SECS's that do not connect to the private transmission lines or collection lines of any other SECS.

(e) No unattached portion of a Project Area of a SECS may be located more than one-half (1/2) mile from the balance of the SECS Project Area. For purposes of this calculation, a portion of a Project Area of a SECS is unattached if:- (1) it is separated from the balance of the SECS by property not included in the SECS application and Facility Area, or (2) the separating area is included in the Facility Area but not the Project Area, -and is only being used for underground private transmission lines or collection lines.

(f) The maximum area of photovoltaic/solar panel coverage of a SECS shall not exceed sixty-five percent (65%) of the total Project Area acreage. The percentage of coverage shall be calculated as the maximum total area in square feet of all solar panels within the Project Area boundary, expressed as a percentage of the total Project Area in square feet.

(g) It is encouraged that any potential SECS Applicant provide written notice of the planned project to any city within two miles of the planned Facility Area prior to submission of the application. Notwithstanding the foregoing, Applicant shall provide written notice to each specified city either prior to or upon formal submission of their application.

(h) Notwithstanding any other language to the contrary found in this Code, the provisions of Section III-D.6.pp.(4) shall not be waived by the appropriate Governing Body.

(5) Specific requirements for any Large-Scale or Medium-Scale SECS applications are as follows:

(a) Applicant shall submit a concept plan as a visual summary of the project. The concept plan shall be prepared by a licensed engineer and shall include the following:

- 1) Identification of subject parcels and property lines and/or leased portions of parcels and limits of leased areas, and fenced areas, along with areas in acreage and square feet;
- 2) Identification of required Setbacks;
- 3) Existing and proposed Buildings and Structures, including identification of Buildings, Structures, or features to be removed or retained; preliminary locations, total area, and heights of proposed solar panels, ancillary equipment, and other proposed Structures; the location of proposed fencing, driveways, internal roads, and Structures; and the location of points of ingress/egress;

- 4) The location and nature of proposed buffers and Screening elements, including vegetative and constructed buffers, and existing landforms (i.e., natural berms, hills, rocky outcrops, etc.) intended to be used as a buffer or Screening;
- 5) Existing and proposed access roads, drives, turnout locations, and Parking;
- 6) Location of substations, electrical cabling from the facility to substations, ancillary equipment, Buildings, and Structures, including those within any applicable Setback;
- 7) Fencing or other methods of ensuring public safety;
- 8) Proposed lighting;
- 9) Aerial imagery showing the proposed location and boundaries of the facility, fenced areas, ingress/egress, and the closest distance to all Adjacent property lines and Buildings, noting their Uses; and
- 10) Additional information may be required as reasonably determined by the Zoning Administrator.

(b) Applicant shall submit a detailed project narrative identifying all Applicants and their roles, if known at the time of application, and describing the proposed SECS, including:

- 1) an overview of the project and its location;
- 2) the Project Area, Facility Area and the area to be fenced;
- 3) the current Use of the site;
- 4) the estimated time for construction, any phasing schedule, location of staging areas or off-site storage facilities, proposed date for commencement of operations;
- 5) the planned maximum rated capacity of the facility;
- 6) the approximate number, representative types and expected footprint of equipment to be constructed, including the maximum number of photovoltaic panels;
- 7) specifications for proposed equipment, including the manufacturer and model, materials, color and finish, and racking type for solar facilities;
- 8) ancillary facilities;
- 9) and the location of the proposed electrical grid interconnection.

(c) Applicant shall submit a draft grading plan that limits grading to the greatest extent practicable. The required draft grading plan shall include:

- 1) Existing and proposed contours at no greater than two (2) feet intervals;
- 2) Locations and amount of topsoil to be stripped and stockpiled onsite (if any);
- 3) Percent of the site to be graded;
- 4) An earthwork balance designed to limit the import or export of soil; and
- 5) Indicate natural flow patterns in drainage design and amount of impervious surface.

(d) Applicant shall submit a draft Landscape plan which shall identify:

- 1) The location of existing vegetation and the limits of proposed clearing;
- 2) All proposed ground cover, Screening and buffering materials, Landscaping, and elevations;
- 3) Locations of wildlife corridors; and
- 4) Landscape maintenance requirements.

(e) Applicant shall submit a visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the proposed facility minimizes impacts on the visual character, viewsheds, and/or vistas of the City or County. At a minimum, the visual impact analysis shall include accurate, to scale, photographic simulations showing the relationship of the SECS and its associated equipment and development to its surroundings. The photographic simulations shall show such views of the facility from locations such as property lines, roadways, and/or scenic viewsheds/vistas as deemed necessary by the Zoning Administrator in order to assess the visual impact of the facility. The total number of simulations and the perspectives from which they are prepared shall be as reasonably established by the Zoning Administrator. Visual representations shall be in color and shall include actual pre-construction photographs and accurate post-

construction simulations of the height and breadth of the facility. All visual representations shall include existing, as well as proposed, Buildings and tree coverage.

(f) Applicant shall submit a community impact assessment addressing the impact of the proposed SECS on the immediate vicinity as well as the greater area. The assessment shall provide an evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed SECS. The assessment shall analyze in specific terms the probable impact of the SECS on the vicinity and community over time. The Zoning Administrator may waive certain elements of the impact assessment where the nature of the proposed SECS makes such elements inapplicable. Specific attention, as may be appropriate to the individual proposal, shall be given but not be limited to the following elements:

- 1) An assessment of anticipated employment opportunities to be created by the proposed Development;
- 2) An assessment of the anticipated short- and long-term economic impact of the proposed Development;
- 3) If the Development is replacing an existing enterprise, including Agriculture or forestry, an assessment of the anticipated impact the current enterprise has on the local economy and how the local economy will be impacted by the loss of the existing enterprise; and
- 4) Anticipated socioeconomic changes and impacts to result from the proposed Development.

(g) (1) Prior to submission of the Conditional Use application, Applicant shall meet with the applicable City of Wichita Department of Public Works and Utilities or Sedgwick County Department of Public Works, any appropriate public works department of any city, any appropriate township and/or Kansas Department of Transportation to determine what roads may be used as transportation routes for construction and maintenance, and shall provide a map of all of the route(s) to be used. No Building or construction permit shall be issued until Applicant submits proof that appropriate permits and any required guarantees dealing with road damage or maintenance can be provided. A road use agreement and/or other mitigations may be required during project review by the appropriate City of Wichita Department of Public Works and Utilities or Sedgwick County Department of Public Works to address direct costs associated with the maintenance, repair, and improvement of applicable transportation infrastructure.

2) As part of the application, Applicant shall submit a traffic and transportation assessment of the impact of the proposed SECS, including construction processes, on traffic and transportation infrastructure. The traffic and transportation assessment shall include the following:

- A) The time of day that operations and construction transport activities are anticipated to occur;
- B) A map showing the desired primary and secondary transportation routes for operations and construction traffic;
- C) Haul route(s);
- D) Characteristics of operations and construction loaded vehicles, including:
  - i) Length, height, width, curb weight and gross weight;
  - ii) Maximum load capacity;
  - iii) Number of axles, including trailers; and
  - iv) Distance between axles.

(h) Applicant shall submit a construction management and mitigation plan addressing traffic control, site access, site security, lighting, hours of construction, mitigation of dust and burning, and plans for staging and storage of materials and Parking. This plan shall indicate all potential detrimental effects

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expected during both the pre-construction and construction periods, and the effect those may have on local resources.

(6) For all types of SECS's (Large-Scale, Medium-Scale and Small-Scale) a site plan shall be submitted in compliance with the requirements provided by the Site Plan Guidelines for Conditional Use application and shall also provide the following supplemental information and shall be subject to the following regulations:

(a) Information shall be provided relative to the solar technology to be used (i.e. polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.); approximate number of SECS solar modules/panel structures; system mounting (i.e. fixed-tilt on flat roof, fixed-tilt ground mount, 1-axis tracking ground mount, etc.); the maximum height of the array from the ground or roof surface; the maximum height of any new utility poles; and power capacity of the system, in both DC and AC Watts where applicable; total acreage of array and acreage of total project; manner in which the project will connect (i.e. net meter to existing distribution line, to new distribution line, to transmission line); and, whether a new substation will be constructed. (If so, provide location and size).

(b) Applicant shall submit easement information for utility connections between noncontiguous portions of the SECS and across roadways, etc.:

(c) Throughout the duration of the construction, life, and decommissioning of any scale of SECS, Applicant shall maintain appropriate liability insurance, as reasonably determined by the appropriate Governing Body, for the SECS facility and provide proof of coverage prior to the issuance of any permits for construction or development. In particular, the required liability insurance for a Large-Scale SECS shall be in the amounts of at least: \$1,000,000 for Worker's Compensation; \$1,000,000 for General Commercial Liability; \$1,000,000 for Automobile Liability; and \$2,000,000 for Umbrella Liability.

(d) Applicant shall provide information on anticipated slopes. No SECS shall be sited, installed or developed on slopes of 15% or greater. Additionally, increased setbacks and buffers from wetlands, creeks/streams, and rivers may be required during project review and approval.

(e) Applicant shall provide a plan for the collection, proper storage, and removal of damaged panels and components. The collection and/or storage location, the length of time stored prior to removal and the anticipated final disposition of the items shall be specified in the plan.

(f) All SECS's shall be subject to reasonable access and inspection by the proper officials during normal business hours, or at any time if an emergency situation exists, upon the presentation of proper credentials.

(g) If a SECS is proposed to be placed within one (1) mile of any airport or airstrip as shown on the Airport and Airstrip Map incorporated herein by reference, Applicant shall provide acknowledgement of location approval from the Federal Aviation Administration prior to construction.

(h) Applicant shall provide a Solar Glare Hazard Analysis utilizing the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), or its equivalent, per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information, shall be submitted to the Planning **Department Director** at least 30 days before the required public hearing for the Conditional Use approval Permit for the SECS. Any

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applicable SECS design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the Planning Department Director for accurate records of the as-built system. The analysis shall provide an assessment of when and where glare will occur throughout the year.

1) If solar glare is predicted, Applicant shall provide mitigation measures to address the impacts of solar glare. Mitigation measures may include and are not limited to textured glass, anti-reflective coatings, Screening, distance, and angling of solar PV modules/photovoltaic panels in a manner that reduces glare to surrounding land uses of non-participating property owners.

(i) Applicant shall submit an Environmental Assessment to EPA standards that addresses the project's impact, if any, on: wildlife habitat; bird migration; the projects potential to cause bird and bat strikes or death; officially listed flora and fauna; and flood zones.

(j) Applicant shall provide information that addresses: ~~stormwater~~storm water drainage, soil erosion, sediment control, and will detail how same will be addressed, prevented or enhanced by grading, re-vegetation or other standard construction practices in accordance with the reclamation recommendations of the Sedgwick County Department of Environmental Resources Conservation District. Damage to existing vegetation shall be minimized. Disturbed areas shall be re-seeded in accordance with the reclamation recommendations of the Sedgwick County Conservation District. Weed control shall be maintained as directed by the Sedgwick County Noxious Weed Department.

(k) Applicant shall provide information on the construction materials generally anticipated to be used in the SECS. The construction materials shall be reviewed by the Director of the Sedgwick County Department of Environmental Resources and Household Hazardous Waste for properties in the unincorporated County, or the Storm Water Engineer, Public Works and Utilities Department for properties in the City. After review of the construction materials, a recommendation shall be forwarded to the Planning Commission concerning approval or denial, as well as a recommendation of what types of potential groundwater contaminants should be tested for. Failure by the Director of the Sedgwick County Department of Environmental Resources and Household Hazardous Waste for properties in the unincorporated County, or the Storm Water Engineer, Public Works and Utilities Department for properties in the City to make a recommendation shall not prevent consideration of the application.

(l) Applicant shall provide information and test results of any soil and groundwater testing required by the appropriate Governing Body to the Director of the Sedgwick County Department of Environmental Resources and Household Hazardous Waste for properties in the unincorporated County, or the Storm Water Engineer, Public Works and Utilities Department for properties in the City. The testing of soil and groundwater shall be based on contaminants of concern, as listed as an EPA regulated contaminant, related to the specific site. Evaluation of test results will be based on current EPA regulations in effect at the time of the tests, which are subject to change. The required information and test results shall be provided in accordance with the following schedule, unless otherwise changed by the appropriate Governing Body during the application review process:

1) For groundwater:

a) Prior to the commencement of any construction of the SECS.

b) Periodic testing every five (5) years during the life of the SECS. Additional testing may be required as reasonably determined by the Director of the Sedgwick County Department of Environmental Resources and Household Hazardous Waste for properties in the

unincorporated County, or the Storm Water Engineer, Public Works and Utilities Department for properties in the City. Prior to any scheduled testing, Applicant shall inform the appropriate above- designated individual of any substantial change in the construction materials used, or to be used, in the SECS. Additional testing may be required as reasonably and directly related to the change in construction materials.

c) Within ninety (90) days of the completion of the SECS decommissioning and reclamation plan and prior to the release of any financial assurance. If decommissioning and reclamation occurs in phases, the required testing shall be submitted within ninety (90) days of the substantial completion of any such phase.

2). For soil, testing shall only occur as reasonably requested by the Director of the Sedgwick County Department of Environmental Resources and Household Hazardous Waste for properties in the unincorporated County, or the Storm Water Engineer, Public Works and Utilities Department for properties in the City in relation to spillage or another extenuating circumstance in the area that suggests the soil might have been compromised or contaminated.

~~(u) (h) (f) The applicant shall provide an evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility.~~

~~(i) (g) The applicant or developer shall meet with the appropriate department of public works, and/or Kansas Department of Transportation to determine what roads may be used as transportation routes for construction and maintenance, and shall provide a map of the route(s) to be used in Sedgwick County. No building or construction permit shall be issued until the applicant submits proof that appropriate permits and any required guarantees dealing with road damage or maintenance can be provided.~~

~~(m) (i) (h) Applicant~~ Applicant shall provide a list of all Local, State and Federal agencies requiring approval and a copy of such approval, including all required studies, reports and certifications. In the event that a State or Federal Agency has not yet approved a required study, report or certification, then the enforcement of the conditional use permit shall be subject to receipt of a copy of such approval, unless good cause is shown to the satisfaction of the Planning Department Director.

~~(n) (k) (i)~~ The SECS shall not exceed twenty-five feet (25') ~~thirty-five feet (35')~~ in height; provided, however, said height restriction shall not apply to substation facilities or transmission lines. ~~Additionally, the maximum height of the lowest edge of any photovoltaic panel shall not exceed ten feet (10').~~

~~(o) (l) (j)~~ All SECS ~~S~~structures shall be Ssetback at least one-hundred feet (100') -from the project boundary lines, ~~and adjacent public road Section Lines or rights of way (whichever provides a greater setback) and private road rights of way, public rights-of-way at least forty (40) feet.~~ Additional Setbacks may be required to mitigate site specific issues or to provide for access, road or commercial corridors.

~~(p) All SECS Structures, including any photovoltaic panels or any BESS, shall be located at least two-hundred fifty feet (250') from any Dwelling Unit not included in the Facility Area.~~

~~(q) (m) (k)~~ All The-SECS Structures, with the exception of any photovoltaic panels, shall be enclosed by security perimeter-fencing at least 8 feet in height ~~tall~~ to restrict unauthorized access.



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(zr) No SECS shall allow the outdoor Sstorage of any materials or equipment ~~except that which is necessary for the operation of the SECS, and as shown on an approved site plan.~~

(s) ~~(n) (l)~~ On-site communication lines and collection lines are to be generally installed underground. Above ground utility or power lines ~~are generally permitted may be used~~ only in public rights-of-way, easements or other legally dedicated land permitting such uses, or when conditions on-site are found to make installation of such lines or facilities impractical or infeasible, such as existing underground pipelines, utilities or high groundwater. ~~However, alternate installation methods, if requested, may be approved during the review process.~~

(t) ~~(e) (m)~~ There shall be no signage allowed on the SECS with the exception of safety and emergency contact Ssigns, warning Ssigns, directional or project identification Ssigns. ~~All SECS's shall install Signs warning that solar and other electrical equipment is located on the property. Additionally, Signs providing a twenty-four (24) hour emergency contact phone number shall also be installed. The required signage shall be installed on private property at all driveway access points to the SECS.~~

(u) ~~(p) (n)~~ The SECS should be located to make maximum use of existing terrain, vegetation and Sstructures to Sscreen the ~~SECS Project~~ from offsite views. To the greatest extent possible, ~~the SECS shall retain existing native vegetation, trees and tree lines and~~ should be sited such that non-shading vegetation and/or existing Sstructures are located between the facility and public and private viewpoints. -Landscaping and/or Sscreening may be required ~~during review and approval~~ to help sscreen the SECS. ~~Screening shall be provided along any side or rear property line when the SECS is located Adjacent to a Dwelling Unit.~~

(v) ~~(e) (e)~~ Applicant shall identify the potential fire risk associated with the ~~SECSproject~~, including both prescribed burning and nonprescribed burning.

~~(w) (t) Project review and approval by the Wichita Fire Department for properties in the City, or Sedgwick County Fire District # 1 for properties in the unincorporated County, is required. Any issues of non-compliance shall be specifically articulated, and in accordance with the adopted fire code, and any amendments thereto.~~

(x) ~~(s) (p)~~ No SECS shall be placed such that concentrated solar glare casts onto adjacent properties or roadways.

(y) ~~(t) (e)~~ No lighting over 15 feet in height shall be installed on renewable energy facilities unless approved as part of the ~~Ce~~onditional ~~U~~se review process and is required by local, state or federal requirements. No light source greater than one foot-candle shall be directed off-site. Security or safety lighting of the SECS and accessory structures shall be limited to the minimum necessary and full cutoff lighting (e.g., dark sky compliant) may be required when determined necessary to mitigate visual impacts. Lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

(z) ~~(u) (r)~~ Applicant shall provide a SECS site and facility ~~decommissioning and reclamation~~ ~~reclamation and decommissioning~~ plan which indicates the planned life of the SECS and the means by which the facility and its site will be decommissioned and reclaimed at the end of the ~~facility's-SECS's~~ life. Said ~~decommissioning and reclamation~~ ~~reclamation and decommissioning~~

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plan shall certify that any owner of land within the SECS ~~and its site who is not the Applicant(s)~~ has been consulted in development of the ~~decommissioning and reclamation~~ ~~reclamation and decommissioning~~ plan. If the permit is granted, the plan shall be updated every five (5) years until site ~~decommissioning and reclamation~~ ~~reclamation and decommissioning~~ is complete. Before final inspection by public officials, ~~the Applicant~~ shall provide evidence that the ~~decommissioning and reclamation~~ ~~decommissioning~~ plan, and amendments thereto, have been recorded with the Register of Deeds. The ~~decommissioning and reclamation~~ ~~reclamation and decommissioning~~ plan shall provide that, at the end of the project's life, ~~or any array~~ component of an SECS, all, or the appropriate portion, of the site's equipment and access roads shall be removed from the site and the site shall be returned to original condition, or restored to such condition as to allow a ~~Use~~ compatible with surrounding ~~Uses~~ as determined by the Planning ~~Department~~ ~~Director~~, or to such condition as agreed to by the landowner ~~and the SECS Applicant~~ ~~owner, developer, and/or operator~~. The landowner may choose to have access roads left intact.

(aa) ~~(v)~~ ~~(u)~~ The required decommissioning and reclamation plan as outlined in Sec. III-D.6.pp.(6)(z) ~~(u)~~ shall be submitted by the Applicant and provide the following:

1). ~~Financial assurance that the decommissioning and reclamation plan will be completed in accordance with said plan at the end of the life of the SECS.~~

a) ~~The amount of financial assurance shall be the full amount of estimated decommissioning and reclamation cost without regard to the possibility of salvage value.~~

b) ~~The estimated decommissioning and reclamation cost shall be recalculated every five years, at which time Applicant shall deposit additional surety if, and in the amount that, the new cost estimate exceeds the existing financial assurance.~~

c) ~~The required financial assurance shall may be provided by in the form of a surety bond, cash held in escrow (most preferred), or in the form of a surety bond. In the alternative, the required financial assurance may be provided by or any other financial instrument acceptable to, and approved by, the appropriate Governing Body. For any required financial assurance, in addition to standard terms and conditions, the required financial assurance proffered shall either: (1) not have a calendar expiration date, or (2) be callable if not renewed within sixty (60) days prior to expiration.~~

d) ~~In the event Applicant is not in compliance with the decommissioning and reclamation plan, the appropriate Governing Body shall have the right to call the financial assurance, and use it to implement and/or complete the decommissioning and reclamation plan. Should there be any remaining balance, the appropriate Governing Body shall have the right to withhold payment of any refund until the decommissioning and reclamation plan is completed to the satisfaction of the appropriate Governing Body.~~

2). ~~A statement or proposed agreement that provides that the appropriate Governing Body will be notified in the event of any change of ownership of the SECS.~~

3). ~~A statement or proposed agreement that provides for, and sets forth the continuity of the required financial assurance. The required financial assurance shall be conditioned such that the required financial assurance shall remain in full force and effect and will survive any change of ownership or operator of the SECS. Any new owner or operator of the SECS shall be bound by, and fulfill all terms and conditions of the required financial assurance.~~

4) A statement or proposed agreement that sets forth the estimated or anticipated date the SECS will cease the generation of electrical power, if possible; the timeframe in which the decommissioning and reclamation process will commence after the generation of electrical power of the SECS or any portion thereof ceases; and the duration of the decommissioning and reclamation process. This shall include the date of the commencement of the decommissioning and reclamation process, and the estimated timeframe when the decommissioning and reclamation process will be completed. The dates shall be consistent and in conformance with the approved decommissioning and reclamation plan.

5) A statement or proposed agreement that the appropriate Governing Body will be notified on or about six (6) months prior to, at the commencement of, and at the completion of the SECS decommissioning and reclamation plan.

6) A statement or proposed agreement that the appropriate Governing Body will be notified when any SECS or portion thereof has not been in active and continuous service for a period of six (6) months.

7) A statement or proposed agreement that provides that any SECS or portion thereof that has not been in active and continuous service for a period of six (6) months shall be removed, with the exceptions of planned repowering or a force majeure event has or is occurring, requiring longer repairs, and with proper evidence provided to the appropriate jurisdiction having authority.

8) A statement or proposed agreement that provides that the SECS, including all equipment, Structures, photovoltaic panels, fencing and cables or wires (except public utility regulated transmission lines) shall be removed, regardless of depth, within twelve (12) months after the SECS, or any portion thereof, ceases generation of electrical power. However, by agreement with the Applicant, a property owner may permit any such items located four feet (4') or more below grade to remain.

9) A statement or proposed agreement that provides that any SECS or portion thereof, shall be re-graded and re-seeded to as natural condition as possible no later than the end of the twelve (12) month period specified in Sec. III-D.6.pp.(6)(aa)(8). 6. A statement or proposed agreement which provides that all equipment or structures and any portions thereof which are located below grade shall be removed to a minimum depth of four feet (4')

10) A statement or proposed agreement that any groundwater and/or soil testing as required by Sec.III-D.6.pp.(6)(l) shall be performed as specified therein.

11) 7. Any of the aforementioned statements or proposed agreements shall be binding upon Applicant(s), or any new owner of the SECS.

(bb) (w) (s) Upon final approval of the Conditional Use, construction shall begin within two years from the date of final approval; otherwise, the Conditional Use approval shall be deemed to be null and void unless an extension to begin construction is administratively approved by the Director of Planning. The Director of Planning, with the concurrence of the Zoning Administrator, is authorized to administratively grant a one-time, up to- one (1) year extension for construction to begin. Extensions for more than one year require a public hearing and approval by the Metropolitan Area Planning Commission. Construction for a SECS will be considered to have begun once the first array of solar panels has begun to be installed.

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| (cc) ~~(x)~~ ~~(t)~~ Any other issues or concerns that are identified relative to a specific request for a Renewable Energy System may be included within the information required for consideration of the Conditional Use approval Permit.

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