

AGREEMENT FOR THE PAYMENT OF MUNICIPAL ENGINEERING AND LEGAL EXPENSES

This Agreement dated _____ by and between the Town of Orangeville, a municipal corporation with its principal office located at the Orangeville Town Hall, 4082 Route 20A, Warsaw, New York 14569 (the “Town”) and Stony Creek Energy LLC, with its place of business located at One South Wacker Drive, Suite 1900, Chicago, Illinois 60606 (the “Applicant”).

WHEREAS, the Applicant has submitted applications to the Town for approval of wind power generation facilities in the Town (the “Applications”); and

WHEREAS, the Applicant has offered and the Town has accepted the Applicant’s offer to reimburse the Town for its reasonable and documented out-of-pocket expenses in reviewing and processing the Applications in accordance with the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town has or will retain legal counsel and an outside engineering firm (collectively the “Third Party Professionals”) to assist in the review of the Applications; and,

WHEREAS, the Town intends to be Lead Agency for the SEQRA review of the Applications.

NOW THEREFORE, in consideration of the mutual promises herein, the Town and Applicant agree that the terms and conditions of this Agreement are the following:

1. Applicant shall reimburse the Town for all of its documented out-of-pocket engineering and legal fees reasonably incurred by the Third Party Professionals in connection with the review of the Applications, including but not limited to services required to process the Applications, review the Applications under the Town Law, compliance with SEQRA and other approvals required from the Town.

2. The Town has designated the Third Party Professionals to be _____ as the consulting engineer firm and the Law Office of David M. DiMatteo as its legal counsel.

3. Within fifteen (15) business days of the execution of this Agreement, Applicant shall deposit the sum of Twenty Thousand Dollars (\$20,000.00) with the Town Clerk, whom shall hold the funds in escrow for payment of the engineering and legal fees to the Third Party Professionals required pursuant to this Agreement. The Applicant shall make such funds available to the Town in accordance with the instructions specified in Exhibit A.

4. Whenever the balance of the escrow fund falls below Five Hundred Dollars (\$500.00), the Town shall notify the Applicant in writing, through its attorney, of the balance of funds in the escrow account with an accounting of all monies expended since the last notification including the name of the payee, amount, invoice date and payment date. Within fifteen (15) business days of Applicant’s receipt of such notification, the Applicant shall deposit an additional Five Thousand Dollars (\$5,000.00), or such other amount as the Applicant shall designate, into the account with the Town Clerk in accordance with the funding instructions specified in Exhibit A. In the event Applicant fails to replenish the escrow account within fifteen (15) business days of such Town written notification, the Town Board may direct the Third Party Professionals to cease all work on the Applications until such additional funds are received from Applicant.

5. The invoices from the Third Party Professionals for engineering and legal services shall

be submitted on a monthly basis directly to the Town Clerk for the Town Board's review and approval. Upon approval of an invoice, the Town Clerk shall thereafter be directed to disburse funds from the escrow account for payment of the approved monthly invoices. Copies of all invoices shall be provided to Applicant through its attorney within ten (10) business days of the Town's receipt of such Third Party Professional invoices.

6. In the event that any escrow funds are disbursed by the Town for expenses or services that are not in connection with the review and processing of the Applications, unreasonable, or undocumented ("Out of Scope Disbursement"), the Town shall within fifteen (15) business days deposit an amount equal to the funds so disbursed in connection with the Out of Scope Disbursement into the escrow account.

7. Nothing in this Agreement shall obligate the Applicant to contribute more than the amount due under SEQRA regulations, 6 N.Y.C.R.R. § 617.13. Any contribution above that amount shall only be by the mutual written consent of the Town and the Applicant. The failure of the Applicant and the Town to agree on additional funding does not relieve the Town of any obligations it has under applicable law to process the Applications in a timely and diligent manner.

8. The services provided by the Third Party Professionals hereunder shall be solely limited to those services solely required to assist the Town in the review and processing of the Applications in accordance with applicable law. The rates charged by the Third Party Professionals are specified in Exhibit B herein.

9. Upon completion of the Town's review of the Applications and payment of any outstanding and approved invoices from the Third Party Professional, any monies remaining in the escrow account shall be within thirty (30) business days returned to the Applicant and this Agreement shall terminate upon such receipt of monies by Applicant.

10. The Town shall deliver to the Applicant' attorney an accounting of all monies received and expended in connection with the escrow funds and an estimate of all costs, fees and expenses to be expended in the next three (3) months with the invoices delivered pursuant to Section 5 above.

11. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing and delivering one or more counterparts.

12. This Agreement shall be governed by the laws of the State of New York.

TOWN OF ORANGEVILLE

STONY CREEK ENERGY LLC

By: _____
Name: Susan May
Title: Town Supervisor

By: _____
Name: David Groberg
Title: Vice President

EXHIBIT A
Instructions for Depositing Escrow Funds

Funds shall be deposited by wire transfer or by check as follows:

Wire Transfer Instructions

Bank Name and Address: Bank of Castile

ABA Number: _____

Account Name: Town of Orangeville SEQRA Escrow

Account Number: _____

Check Instructions

Make checks payable to: Town of Orangeville SEQRA Escrow

Mail or deliver checks to: Town Clerk
Orangeville Town Hall
4082 Route 20A
Warsaw, New York 14569

EXHIBIT B

Allowable Billing Rates for the Third Party Professionals

(see attached sheets)