

**THE CORPORATION
OF THE
MUNICIPALITY OF HURON EAST
BY-LAW NO. 100 FOR 2013**

Being a by-law to authorize a Community Vibrancy Agreement
with Varna Wind Inc.

WHEREAS Varna Wind Inc. has developed and received a Renewable Energy Approval (7483-94DPRF) for a Class 4 wind facility under the provisions of the Green Energy Act, 2009 as amended;

AND WHEREAS Varna Wind Inc. is desirous of contributing funds to the Municipality of Huron East to be used to support legally permitted municipal projects within the Municipality of Huron East;

AND WHEREAS Section 9 of the Municipal Act, S.O. 2001, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

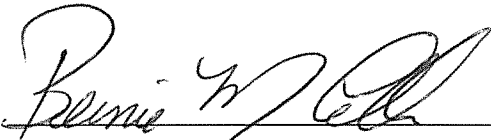
AND WHEREAS Section 5 (3) of the Municipal Act, S.O. 2001, as amended, provides that a municipal power, including a municipality's capacity, rights, powers and privileges shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;


NOW THEREFORE the Council of the Corporation of the Municipality of Huron East enacts as follows:

1. That the Mayor and CAO/Clerk are hereby authorized to sign and execute a Community Vibrancy Agreement, attached hereto as Schedule "A" with Varna Wind Inc.
2. That this by-law shall come into force and take effect on the date of final passing thereof.

Read a first and second time this 3rd day of December, 2013.

Read a third time and finally passed this 17th day of December, 2013.


Bernie MacLellan, Mayor


Brad Knight, CAO/Clerk

COMMUNITY VIBRANCY AGREEMENT

THIS COMMUNITY VIBRANCY AGREEMENT ("Agreement") made this 17th day of December, 2013.

BETWEEN

VARNA WIND, INC. ("Varna")-and-

THE MUNICIPALITY OF HURON EAST (the "Municipality")

WHEREAS Varna has entered into a Feed-In Tariff Contract dated July 13, 2011 (the "Supply Contract") with the Ontario Power Authority for the supply of electricity from renewable generating facilities; and

WHEREAS Varna proposes to construct a renewable energy generating facility whose Electrical Infrastructure is partially located within the boundaries of the Municipality to be known as the Bluewater Wind Energy Centre to supply electricity in accordance with the Supply Contract; and

WHEREAS the Bluewater Wind Energy Centre is expected to be rated at approximately sixty megawatts (60 MW) and is expected to consist of up to thirty-seven (37) wind turbines, each having the design capacity to generate (1.62) megawatts of electricity, together with the appurtenant equipment, buildings, collection systems and transmission facilities; and

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the parties have agreed with each other as follows:

PART I - DEFINITIONS

1. In this Agreement:
 - a. " Fee" means the fee payable by Varna to the Municipality in accordance with Part III of this Agreement;
 - b. "Anything of value" shall have the meaning set forth in Section 13;
 - c. "Commercial Operation" means the point in time when the Bluewater Wind Energy Centre is deemed by the terms of the Supply Contract to have achieved commercial operation;
 - d. "Commercial Operation Date" has the same meaning as in the Supply Contract and means the date on which commercial operation of the Bluewater Wind Energy Centre is attained;

- e. "Community Vibrancy Fund" shall have the meaning set forth in Section 11;
- f. "Construction Period" means the period of time between the date of issuance of the first building permit for the Bluewater Wind Energy Centre and the first anniversary of the Commercial Operation Date;
- g. "Council" means the Council of the Municipality;
- h. "Electrical Infrastructure" means infrastructure for the transmission and distribution of electricity, including a line or lines of towers and/or poles, with such wires and/or cables (whether above ground or buried), for the transmission of electrical energy, and all necessary and proper foundations, footings, cross arms and other appliances, facilities and fixtures for use in connection therewith including without limitation, vaults and junction boxes (whether above or below ground), manholes, handholes, conduit, fiber optics, cables, wires, lines and other conductors of any nature, multiple above or below ground control, communications, data and radio relay systems, and telecommunications equipment, including without limitation, conduit, fiber optics, cables, wires and lines;
- i. "Governmental official" shall have the meaning set forth in Section 18;
- j. "Road Use Agreement" means the Agreement between the Corporation and Varna entered into contemporaneously with the execution of this Agreement;
- k. "Stub Year" means the period of time between the Commercial Operation Date and December 31 of the same year;
- l. "Supply Contract" means the Feed-In Tariff Contract dated July 13, 2011 between Varna and the Ontario Power Authority, and any amendments or renewals thereof;
- m. "Bluewater Wind Energy Centre" means the renewable energy generating facility and its appurtenant wind turbines, equipment, buildings, collection systems and transmission facilities to be constructed by Varna in the Municipality for the purpose of supplying electricity in accordance with the Supply Contract;
- n. "Transmission Line Payment" means the fixed amount, expressed in dollars, as set out in Section 5;
- o. "wind turbine" means a wind driven turbine constructed by Varna, or

any subsidiaries or affiliates of Varna, as part of the Bluewater Wind Energy Centre;

- p. "year" means a calendar year.

PART II - TERM

2. "Term" of this Agreement shall be twenty (20) years, commencing upon the Commercial Operation Date of the Project as defined in the PPA. This Term coincides with the production term established in the PPA. If the term of the PPA is shortened or the PPA is terminated, then the Term shall be shortened to match the remaining term of the PPA. If the term of Proponent's PPA is extended, or Proponent otherwise continues to operate the Wind Project after the expiration or termination of the PPA, then the Parties shall enter into good faith negotiations to extend the Term and amend this Agreement as appropriate to reflect Proponent's continued operation of the Project under the circumstances then prevailing.

PART III - FEE

3. Commencing on the Commercial Operation Date and continuing each year during the term of this Agreement, Varna shall pay the Fee to the Municipality.

4 INTENTIONALLY DELETED

5. The Fee shall be a payment of Five Thousand Dollars (\$5000.00) per kilometer of overhead transmission line of greater than 50kV installed in municipal rights-of-way located within with the boundaries of the Municipality ("Transmission Line Payment").

6. The Fee for the Stub Year shall be calculated in accordance with Section 4, subject to the amount calculated in accordance with Section 4(a) being prorated using the percentage that the number of days in the Stub Year is to 365.

7. Varna shall pay the Fee annually beginning on March 31 of the first year following commencement of commercial operations and each March 31st thereafter for the remainder of the Term.

8. If the parties are unable to resolve any dispute between them involving payment of any fees set forth in this Agreement, either party may request that the dispute be submitted first to mediation by an impartial third party to be agreed upon by Varna and Municipality. If the parties are unable, in good faith, to resolve the dispute through mediation, same shall be submitted to binding arbitration in accordance with the dispute resolution provisions in Part VII of this agreement.

PART IV - BUILDING PERMIT AND DEVELOPMENT FEES

9. Varna shall pay permit fees for all components of the Bluewater Wind Energy Centre, for which a building permit is required, in accordance with By-law 2-2007 of the Municipality and any subsequent amendments thereto. The parties acknowledge that the amount of the permit fees pursuant to this Section are anticipated to be reasonable charges for the Municipality to administer and enforce the Building Code Act. Said fees shall cover the following:

- a. The cost to review all plans and drawings in support of the application for the permit;
- b. All inspections of the construction required by the Building Code Act;
- c.
- d. The assigning of a municipal address for the point of interconnection substation
and
- e. All other efforts reasonably anticipated to be necessary for the issuance of the permit.

10. The Bluewater Wind Energy Centre shall be exempt from payment of any other development charges under any by-law enacted by Council. Varna and Municipality acknowledge that Varna is making payments for fees to the Municipality under a separate road use agreement between the Municipality and Varna that is being entered into contemporaneously with this Agreement. In the event Varna is not exempt from the payment of development charges in respect of the Bluewater Wind Energy Centre or is required to pay any increased amount of property or other taxes in respect of the transmission line of the Bluewater Wind Energy Centre, any such payments or increased amounts shall be set off against and deducted from the other payments or contributions required under this Agreement

PART V - COMMUNITY VIBRANCY FUND

11. The Municipality agrees to provide for the establishment of a segregated fund solely for the purposes of receiving the Fee made by Varna and administering all expenditures of such Fee by the Municipality which form the subject matter of this Agreement ("Community Vibrancy Fund"). The Community Vibrancy Fund shall be utilized in any lawful manner by Municipality to support the following:

- a. Expenditures relating to energy sustainability (i.e. municipal renewable energy systems; vehicle fleet upgrades; building energy-efficiency upgrades; conservation programs);
- b. Land stewardship initiatives (i.e. habitat creation/improvement; tree planting);
- c. Expenditures relating to development and construction of Municipal recreational facilities (i.e. arenas, parks, trails);

- d. Expenditures for improvement of community and protective services (i.e. police, fire, EMS, healthcare);
- e. Expenditures related to education and job training;
- f. Property tax relief for residents and businesses in the community; or
- g. Other community-related activities sanctioned by the community;

12. All proposed expenditures or application of funds from the Community Vibrancy Fund shall require (i) approval by the Municipal Council in a public forum, and (ii) no less than 15 days' written notice to Varna prior to submission of any such request to the Municipality Council for approval. Varna shall have the right to reject any such proposed expenditures or application of funds that it determines do not support the lawful purposes identified in Section 11 or the implementation of which Varna reasonably determines results in a risk of violation of any of the Municipality's obligations under Sections 14 or 15.

13. Notwithstanding anything to the contrary herein, the Municipality, in its administration of this Agreement, shall refrain from offering, giving or promising, directly or indirectly, money or anything of value to a Canadian or foreign governmental official to influence the official in his or her official capacity, induce the official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person. For the purposes of this Section 13, "anything of value" shall include, but not be limited to, cash or a cash equivalent, discounts, gifts, use of materials, facilities or equipment, entertainment, drinks, meals, transportation, lodging, insurance benefits, or promise of future employment. "governmental official" shall mean any person holding any level of legislative, administrative, or judicial office of the Canadian, tribal, or a foreign government or any of its departments or agencies or divisions; any person acting on behalf of the Canadian, tribal, or a foreign government, including a provincial agency, enterprise, or organization; any official or agent of a Canadian, tribal, or a foreign public administration or publicly funded organization; any political party or official of a Canadian or a foreign political party; any officer or agent of a public international organization (e.g., World Bank, International Monetary Fund, World Health Organization, United Nations, World Trade Organization); or any relatives or close family/household members of any of those listed above. The Municipality shall indemnify and hold harmless Varna from all claims brought against Varna as a result of the Municipality or its representatives' failure to comply with this Section. The Municipality will immediately report any breach of this Section by the Municipality or its representatives. Varna shall have the right to audit Municipality's books and records with respect to payments made on behalf of Varna in the event that Varna believes that Municipality has violated this Section. Varna shall have the right to immediately terminate all payments to Municipality under this Agreement if Municipality fails to comply with this Section.

14. In regards to the receipt and administration of the Fees received from Varna to the Community Vibrancy Fund, the Municipality shall, at a minimum, institute the following process and procedures:

a. make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the Fees received from Varna; and

b. devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:

(i) transactions are executed in accordance with the Municipality's general or specific authorization;

(ii) transactions are recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (b) to maintain accountability for all payments received;

(iii) access to the fund and all payments held therein is permitted only in accordance with the Municipality's general or specific authorization; and

(iv) the recorded accountability for all such payments held in the fund is compared with the existing fund balance at reasonable intervals and appropriate action is taken with respect to any differences.

15. Upon reasonable notice to the Municipality, Varna shall have the right to inspect all records created and maintained which relate to the transactions undertaken by the Municipality with regard to the Community Vibrancy Fund. Notwithstanding any other provision of this Agreement to the contrary, Varna shall have the right to terminate this Agreement in the event of any breach of Sections 11 through 15 of this Agreement.

PART VI - COMMUNITY SUPPORT

16. The Municipality and Varna acknowledge that Varna will normally respond first to any emergency situation involving the Bluewater Wind Energy Centre; however, the parties shall use their best efforts to identify and Varna shall allow the Municipality to utilize any special vehicles, equipment or other apparatus at Varna's disposal that may be required by the Municipality's fire and other emergency response personnel to deal adequately with any emergency involving the Electrical Infrastructure at the Bluewater Wind Energy Centre, and to provide the appropriate training for such personnel on an on-going basis.

17. The Municipality and Varna shall work cooperatively during the term of this Agreement, including meeting at least once each year, to develop and review plans for ensuring that Varna is appropriately recognized by the Municipality and its residents for the contribution, including payment of the Fee, that Varna has made and is continuing to make toward the betterment of the community.

19. Simultaneously with the execution of this Agreement, the Municipality and Varna

shall enter into a Road Use Agreement in respect of Varna's use of the Municipality's roads on terms and conditions that are acceptable to both parties, both acting reasonably and having already been negotiated. Notwithstanding the other provisions of this Agreement, the Municipality acknowledges and agrees that the obligation of Varna to pay the Community Vibrancy Fund contributions to the Municipality as provided herein shall be conditional upon the execution and delivery of a mutually satisfactory Road Use Agreement.

20. The Community Vibrancy Fund contributions are made in consideration of the Municipality's agreement to appropriately recognize the value to the community of the Bluewater Wind Energy Centre and Varna's investment within the Municipality.

PART VII - DISPUTE RESOLUTION

21. This Part sets out the rules and procedures that shall govern any matter that may be arbitrated between the parties in accordance with the terms of this Agreement.

22. If a party has the right to request that a matter be submitted to arbitration, the party may commence the arbitration by delivering a written request to the other party setting out the issue that the party requests be submitted to arbitration and the section of this agreement that entitles the party to request that the matter be resolved by arbitration, and thereafter the matter shall be submitted to arbitration pursuant to the Arbitrations Act, or any applicable successor legislation, and the decision of the arbitrator or, if more than one, the decision of a majority shall be final and binding on the parties with no right of appeal on a question of law, fact or mixed law and fact.

23. Where a party requests a matter he submitted to arbitration, the matter shall be decided by a single arbitrator acceptable to the parties, unless either party notifies the other that the former wishes the matter be decided by a Board of Arbitration, in which case each party may appoint one member to the Board of Arbitration and the two members appointed by the parties shall appoint the third member who shall act as Chair.

24. Notwithstanding anything to the contrary herein, the arbitrator will not have any power to alter or change any provisions of this Agreement or to impose any new provisions to this Agreement or to substitute any new provisions for any existing provisions or to give any decision inconsistent with the terms and provisions of this Agreement.

25. Each party shall pay its own costs of the arbitration and shall share equally the costs of the arbitrator and any incidental expenses.

PART VIII - INDEMNITY

26. In carrying out this Agreement, Varna shall indemnify the Municipality against all actions, causes of action, suits, claims and demands whatsoever which may arise from any action or failure to act by Varna, its employees, servants and agents and not caused by the

negligent acts of the Municipality.

27. In carrying out this Agreement, Municipality shall indemnify Varna against all actions, causes of action, suits, claims and demands whatsoever which may arise from any action or failure to act by Municipality, its employees, servants and agents and not caused by the negligent acts of the Varna.

PART IX - ENFORCEMENT

30. If Varna proposes to sell, convey, transfer, assign, mortgage, lease, pledge, or otherwise dispose of or encumber its ownership or control of the Bluewater Wind Energy Centre, or to make a bulk sale of Varna's assets within the provisions of any Bulk Sales Act, Varna covenants and agrees to notify the Municipality within sixty (60) days of said change and shall provide written proof that the transferee, lessee, or assignee has written notice of and acknowledges this agreement, and agrees to be fully bound by and to perform the duties and obligations of Varna hereunder in the same manner as if such person was an original signatory to this Agreement.

PART X - GENERAL

31. All invoices, notices and communications to Varna in connection with this Agreement shall be addressed to the party at:

VARNA WIND, INC.
ATTN: Business Management
5500 North Service Road, Suite 205
Burlington, Ontario L7L 6W6
Phone: (905) 335-4904

Copy to: VARNA WIND, INC.
ATTN: General Counsel
700 Universe Blvd.
Juno Beach, Florida 33408
Phone: (561) 691-7575

32. All invoices, notices and communications to the Municipality in connection with this Agreement shall be addressed to:

THE CORPORATION OF THE
MUNICIPALITY OF HURON EAST

72 Main Street South, Seaforth, Ontario N0K 1W0
Attention , Brad Knight Chief Administrative Officer
Phone: 519-527-0160

33. Any invoice, notices or other communication required or permitted to be given or made under this Agreement shall be in writing, and shall be properly given or made if:
- a. delivered in person during normal business hours left with the addressee or any other responsible employee at the relevant address set out herein, or
 - b. telexed, telecopied or sent by other means of recorded electronic communication provided receipt thereof is electronically confirmed.
34. Any party to this Agreement may from time to time change its address for notice by giving notice to the other party in the manner as herein provided.
35. No amendment to this Agreement shall be permitted, except by the written mutual consent of both parties, and any amendment shall be in writing.
36. Except as may otherwise be expressly permitted herein, neither this Agreement nor any of the benefits or burdens hereunder shall be assigned, in whole or in part, by the either party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
37. No consent shall be required for Varna to assign this Agreement to an affiliated or successor entity, or for purposes of securing indebtedness or other obligations respecting the Bluewater Wind Energy Centre. The Municipality acknowledges that a change in control of Varna shall not be considered an assignment of this Agreement or of any of Varna's rights and obligations under this Agreement.
38. For greater certainty, Varna shall be entitled to assign this Agreement and all of its rights thereunder without the consent of the Municipality to Varna's lenders ("Secured Parties" or "Secured Party" as applicable) as security for Varna's obligations to such Secured Parties which shall be further entitled to assign this Agreement and the Varna's rights thereunder in connection with an enforcement of their security.
39. The mere failure of either party to give notice to the other of the breach or non-fulfillment of any provision of this Agreement shall not constitute acceptance of the breach or non-fulfillment.
40. The acceptance of a breach or non-fulfillment of any provision of this Agreement shall not constitute acceptance of a further breach or non-fulfillment of either the same provision, or any other provision of this Agreement.
41. Notwithstanding anything to the contrary herein, either party may, by written notice of default to the other, terminate this Agreement in whole or in part if the defaulting party violates any representation herein or fails to perform any of its responsibilities as set forth in this Agreement or any extension hereof. The non-defaulting party's right to terminate this Agreement may be exercised if the defaulting party does not cure such violation or failure (if the violation or failure is capable of cure) within 10 days

following receipt of the default notice from the non-defaulting party specifying the violation or failure.

42. This Agreement shall be governed by and interpreted in accordance with the laws of Canada and the Province of Ontario.

43. Time shall be of the essence in this Agreement.

44. This Agreement constitutes the entire agreement or understanding between the parties with respect to the subject matter hereof and supersedes all prior negotiations and documents in relation thereto.

45. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

46. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

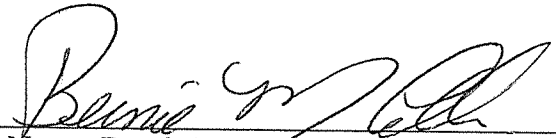
47. Whenever in this Agreement the approval or consent of either party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld or delayed.

48. This Agreement shall inure to the benefit of the Municipality and Varna, and their respective successors and assigns.

(SIGNATURES ARE ON THE NEXT PAGE)

IN WITNESS WHEREOF this Agreement has been executed by the parties under seal by their authorized signing officers as at the date first set out above.

THE CORPORATION OF THE MUNICIPALITY OF HURON EAST



Name: Bernie MacLellan

Title: Mayor



Name: Brad Knight

Title: CAO/Clerk

We have authority to bind the corporation”

VARNA WIND, INC.

Per:

Name:

Office:

“I have authority to bind the corporation”