

The staff recommended conditions are consistent with the Planning Commission recommended conditions except as shown and described below and include changes resulting from an additional legal review. Please note that staff conditions do not change, supersede, or outweigh the Planning Commission's recommended conditions.

SUP18-0001 Staff Recommended Conditions:

A. General:

1. The solar energy facility ("Facility") to be developed on current Tax Parcels 28-A-1, 28-A-78, 29-A-1, 17-A-7, 18-A-16, 30-A-1, 17-5-19, 17-A-3, 17-A-3A, 17-A-4, 17-A-48, 16-A-1, 17-A-47, 18-A-15, 18-A-20, 28-A-71, 28-A-77, 29-A-2, 29-A-2A, 29-A-22, 29-A-24, 29-A-25, 29-A-26, 29-A-27, 29-A-28, 29-A-7 north of West Catharpin Road, and 28-A-79 ("Property") pursuant to special use permit SUP18-0001 ("Special Use Permit"), shall be developed in conformance with the Generalized Development Plan titled "Generalized Development Plans Spotsylvania Solar Energy Center A Special Use Permit—SUP 18-0001 Livingston Magisterial District Spotsylvania County, VA", as last revised November 20, 2018 ("GDP") which is attached hereto and incorporated herein by reference. To the extent that the conditions herein are contrary to the GDP, the conditions herein shall supersede the GDP and control. SUP18-0001, along with SUP18-0002 and SUP18-0003, constitute the Spotsylvania Solar Energy Center ("Project"). The verbs "shall" and "must" as used throughout this Special Use Permit denote a mandatory act or requirement.
2. ~~This Special Use Permit is issued to the owners of the Property and shall run with the land unless and until this Special Use Permit is revoked, lapses, expires, or is voided. The applicant acting on behalf of the owners of the Property in applying for this Special Use Permit is Sustainable Property Holdings, LLC. These conditions shall bind the applicant, any and all owners, occupants, and users of the Property, jointly and severally, which shall also be referred to at times collectively as the "Operators". ("Applicant"). The Applicant is wholly owned or is otherwise controlled by its parent company, FTP Power, LLC, also known as "sPower". These conditions shall bind the Applicant, any and all owners, occupants, and users of the Property, which shall also herein be referred to at times collectively as the "Operators". All bonding or posting of sureties for the project shall be by and in the name of the parent company, FTP Power, LLC, and the then current owner of the Property.~~
3. The ~~Applicant~~Operator shall secure and at all times maintain public liability insurance for personal injuries, death, and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in the minimum amounts set forth below, and shall include the County as co-insured:
 - a. Commercial General Liability covering personal injuries, death and property damage: \$2,000,000 per occurrence/ \$6,000,000 aggregate;
 - b. Automobile Coverage: \$1,000,000 per occurrence/ ~~\$2,000,000 aggregate~~;
 - c. Excess Liability: ~~\$4~~5,000,000;
 - d. Workers Compensation and Employers Liability Insurance in accordance with applicable statutory amounts.
4. The ~~Applicant~~Operator's Commercial General liability insurance policy and excess liability policy shall specifically include the County and its officers, boards, employees, volunteers, attorneys, agents, and consultants as additional insureds.

Commented [WP1]: Changes to A.2 were made to more accurately reflect the legal status of the permit, if issued, being issued to the owner of the subject property. Also, to avoid any procedural issues in enforcement, the parties bound by the conditions were clarified. These changes are intended to best ensure enforcement of the conditions if the permit is issued. As a result, 'Applicant' is changed to 'Operator' throughout the document.

Commented [WP2]: The applicant informed us that the auto aggregate coverage is an issue for them because their insurance provider does not provide aggregate on auto liability. They suggested increasing the excess liability to \$5M to compensate. I reviewed this with the County's insurance carrier and they responded "Yes, this is perfectly acceptable. They may carry a combination of General Liability and Umbrella/Excess Liability to compensate for the total amount required. This is very common as most standard carriers can only accommodate up to \$2M aggregate for General Liability."

5. The ~~Applicant~~Operator's insurance policies shall be issued by an insurance company licensed to do business in the State and with a Best's rating of at least A.
6. The ~~Applicant~~Operator shall provide the Zoning Administrator Certificates of Insurance annually, and the amounts of required insurance shall be reviewed every two years for adequacy of coverage by the County's carrier. As determined solely by the County's insurance carrier, insurance premiums or coverage shall be increased when necessary to protect the County.
7. The ~~Applicant~~Operator's insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
8. The ~~Applicant~~Operator's insurance renewal or replacement policies or certificates shall be delivered to the County Zoning Administrator at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
9. Prior to the issuance of a land-disturbing permit, the holder of the Special Use Permit shall deliver to the County Zoning Administrator a copy of each of the policies or certificates representing the insurance in the required amounts.
10. Access to the Property and the Facility for inspections or monitoring by the County, including its employees, agents and representatives, shall be provided to any of these parties within twenty-four (24) hours of the date and time written notice is provided to the ~~Applicant~~Operator.
- ~~11.~~ The storage of ~~electricity utilizing chemical batteries~~ power generated by the Facility on the Property is prohibited.
- ~~12.~~ Any batteries stored or utilized on the Property during the operation of the Facility shall be for the operation of vehicles or maintenance equipment on the Property, for backup support during power outages to ensure the safety, security, and continued monitoring of the Facility and shall not be used to store power for transmission to the power grid. Any batteries stored on the Property shall be stored indoors on an impervious surface and any batteries stored or utilized on the Property shall be removed from the Property and disposed of safely at the first sign of damage, leakage, or corrosion.
- ~~13.~~ The use of biosolids on the Property is prohibited.
- ~~14.~~ Photovoltaic panels manufactured using the GenX chemical are prohibited on the Property.
- ~~15.~~ Photovoltaic panels containing Cadmium Telluride, also referred to as "Cad Tel", are prohibited on the Property.
- ~~16.~~ Inverters and solar panels, measured from the grade of the ground on which the structures sit to their highest possible point, shall not exceed a height of fifteen (15) feet.
- ~~17.~~ After construction is complete and the Facility begins operating, lighting on the Property not included in or expressly exempted from the Spotsylvania County ordinances shall be located, screened or shielded so that adjacent residential lots and adjacent roads are not directly illuminated and shall not exceed 0.5 footcandles at the Property boundary.
- ~~18.~~ Soil testing shall be performed in accordance with the "Proposed Soil Testing and Remediation Plan Operations Phase", prepared by ~~Power and~~ dated December 13, 2018, incorporated by reference herein and attached hereto as "Exhibit A", and shall:

Commented [WP3]: Applicant raised a concern about the wording of this condition and it being misinterpreted to prohibit batteries in general. The intent of the condition is to prohibit the storage of power generated by the facility in batteries on the property. The condition was never intended to prohibit the use of batteries to operate equipment or serve as back-up power in the event of an outage. Reworded to make this clear and added #12, which includes additional standards to address safe battery use, storage, and disposal.

Commented [WP4]: As presented at the Board's public hearing, staff did not adopt the Planning Commission's condition prohibiting CdTe panels. This is based on County Consultant findings regarding their safety.

Commented [WP5]: Here and throughout, it is a given that the referenced plan is the applicant's. The plan is also attached as an exhibit, so there can be no confusion as to the correct document.

- a. Include sampling designed in accordance with the Environmental Protection Agency's "Guidance on Choosing a Sampling Design for Environmental Data Collection for Use in Developing a Quality Assurance Project Plan" Chapter 7.
 - b. A sample frequency of at least 1 sample per 100 acres shall be collected.
 - c. Samples shall be collected over a variety of site conditions and shall:
 1. Be mapped to display the site's location and differentiate panels within proximity based on the panel's manufacturer and model.
 2. Include one sample collected from each side of each onsite stream or river at its most upstream and most downstream locations.
 3. Samples shall be analyzed for Cadmium Telluride, if panels containing Cadmium Telluride are installed, and all metals identified in the "Guidance for Developing Ecological Soil Screening Levels (Eco-SSLs)" Attachment 1-4, Table 1.1.
 4. Samples shall be analyzed for type, acidity, and nutrient levels, including Nitrogen, Phosphorus, Potassium, Magnesium, Sulfur, and Calcium.
 - d. Test reports shall be provided to the Zoning Administrator prior to the issuance of a land-disturbing permit and every five (5) years thereafter and shall be accompanied by an executive summary of the results.
 - e. A test report shall be provided to the Zoning Administrator prior to and immediately following decommissioning.
 - f. Abnormal results, as determined solely by the County, may warrant additional studies, as determined solely by the County, to be performed by the Operators, at the Operators' cost, including but not limited to an Environmental Site Assessment, conducted in accordance with the applicable American Society for Testing and Materials, now known as ASTM International, standards and subsequent tests, as deemed necessary by the County or the Virginia Department of Environmental Quality ("VDEQ"). Results of all required testing shall be shared with the County free of charge and without demand therefor.
 - g. To the extent the "Proposed Soil Testing and Remediation Plan Operations Phase", prepared by sPower and dated 12/13/2018 is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
- 17,18. A sealed dry-waste container shall be maintained at the Facility for the disposal of any damaged solar panels.
- 18,19. When the Facility reaches the end of its operational life, or its use is otherwise discontinued or substantially reduced, the Operators shall decommission it according to the following requirements, as well as those found in the Spotsylvania County Code of Ordinances, Section 23-4.5.7, all of which requirements supersede the decommissioning plan submitted by the Applicant/Operator. To the extent these conditions are more restrictive or intense than those in Section 23-4.5.7, as determined solely by the County, these conditions shall control:
- a. The decommissioning of the Facility must include the complete removal of the Facility, including, but not limited to, all of the facilities and structures above and below ground on the Property related in any way to the collection, conduction, or storage of solar energy and their appurtenances, installed at

Commented [WP6]: Added to cover either option that the Board may adopt if the SUP is approved...allowing CdTe panels or prohibiting them.

any time during the construction or operation of the Facility. This must include, at least, the removal from the Property of all of the following: solar panels, panel trackers, anchors, supports, footers, mounts, inverters, inverter buildings, electrical conductors, electrical cables, substation components, internal fencing, structures, and all other equipment and structures on the Property unless otherwise limited herein.

- b. The decommissioning must also include at least the following: the Facility will be disconnected from the utility power grid; solar panels must be disconnected from the on-site electrical system; all work must be undertaken with conventional construction equipment; all materials must be disposed of safely; solar panels must be removed from their support frames and packaged in a manner that ensures that they sustain no damage during their disconnection and removal from the Property; all hazardous materials must be removed and disposed of or recycled in accordance with all applicable laws and regulations; all concrete must be removed and recycled offsite by a recycling facility or used onsite as fill material as part of a stabilization or regrading plan which meets all applicable laws and regulations as determined solely by the Program Administrator or Zoning Administrator, as applicable; and grading must be minimized to the maximum extent possible under all applicable laws and regulations as determined solely by the Program Administrator or Zoning Administrator, as applicable. To the extent possible, all solar panels and equipment must be delivered to a designated recycling facility for recycling and material re-use; all electrical interconnection, transmission, and distribution lines and cables must be recycled offsite at a recycling facility; all steel and metal including, but not limited to, support posts and internal fencing must be recycled offsite by a recycling facility; and electrical and electronic devices including, but not limited to, inverters, transformers, panels, support structure, lighting fixtures, and their respective shelters must be recycled offsite by a recycling facility.
- c. After removal of the above, the ground must be restored to the original topography prior to the beginning of the decommissioning. In other words, holes, ditches, ruts, and the like created by removing underground conduit, support footers, or any other decommissioning activity must be filled in to restore the topography of the Property and allow for stabilization.
- d. At the outset of the decommissioning, the Operator^s shall produce to the County an inventory of all the materials on the Property which will be removed or are otherwise subject to the provisions herein. At the completion of the decommissioning, the Operator^s shall produce to the County a report detailing compliance with all of the requirements herein including, but not limited to, details of the removal and disposition of materials required herein, including an explanation of why any material was not recycled. This detailed report must explain how each requirement related to the decommissioning set out herein has been met and must be certified by a third party engineer licensed in Virginia.
- e. The decommissioning of the Facility may include, at the discretion of the person depicted in the land records of Spotsylvania County as of the date of completion of decommissioning as the Property owner, the removal of perimeter fencing surrounding outside perimeter of the Property. All fencing

internal to the perimeter fencing must be removed as set out above. The decommissioning must not include the following: removal of stream crossings, de-compacting or removing gravel roads or paths established for the operation of the Facility, or removal of permanent stormwater management features.

- f. Further, the Property must be restored to the agricultural condition of the Property as of the date of approval of this Special Use Permit with the additional requirement that the Property must be stabilized so as to adequately control, prevent, and minimize, any and all erosion and sediment runoff. Stabilization must be completed according to all standards established under applicable laws and regulations as determined by the Program Administrator or Zoning Administrator, as applicable. Prior to stabilization, all soils compacted by decommissioning work or by construction or operation of the Facility, except gravel roads and paths established for the operation of the Facility, shall be de-compacted, scarified, and restored six (6) inches in depth.
- g. All onsite decommissioning work must be performed only between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday.
- h. County staff shall be granted access to the Property on twenty-four (24) hour prior notice to monitor all decommissioning work.
- i. The County must be provided a monthly report detailing the decommissioning work performed and progress toward completion.
- j. The Operators, prior to the start of construction of the Facility, and throughout its operation until the decommissioning is complete, shall guarantee the decommissioning and stabilization of the Property by providing and maintaining for the County's benefit surety for performance of the decommissioning equal to the highest total estimated cost of decommissioning the Facility on the Property. Such surety must be irrevocable and must be maintained in full without decrease until the Facility decommissioning has been completed as required herein. The highest total estimated cost must be calculated by the Operators and include, at least, the following delineated by line item:
 - i. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
 - ii. Costs related to creating, maintaining, and re-stabilizing all construction entrances identified on the Property, with a separate line item for each such construction entrance.
 - iii. Costs for mobilization.
 - iv. Costs for removal and disposal of all materials set forth above line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure" "cost to remove inverters," etc. Such costs must not be reduced by any estimated credits or setoffs for recycling, reuse, or otherwise.
 - v. Costs to de-compact, scarify, and restore all soils required herein.

- vi. Costs to stabilize land disturbed by the decommissioning work and as otherwise required herein.
 - vii. Costs to meet the recycling requirements herein excluding any anticipated credits or setoff generated by the recycling.
 - viii. Costs of trucking, hauling, and equipment use.
 - ix. Costs for soil testing pursuant to Condition A 15 (e) set out herein.
 - x. Costs of all labor and estimated man-hours to perform the decommissioning work required herein.
 - xi. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty (30) of operation.
 - xii. Costs for contingencies and for weather delay.
 - xiii. Costs for insurance.
 - xiv. Costs associated with transportation traffic planning, traffic mitigation, and road restoration on all roads utilized for decommissioning within Spotsylvania County for the duration of the impact of decommissioning on Spotsylvania County roadways.
 - xv. The certification of a third party engineer licensed in Virginia affirming that the Operators's cost estimate is sufficient to satisfy the decommissioning required herein.
- k. The estimated costs cannot include or be reduced by any credits or setoffs. In other words, estimated costs must not be decreased by funds potentially generated, whether from resale, recycling, reuse, or otherwise, by the removed materials.
- l. Prior to the issuance of a land-disturbing permit to construct the Facility and in no case later than three (3) months after approval of this Special Use Permit, the Operators shall produce to the County an estimate of the above costs by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The amount of the surety shall be no less than the ~~Property's proportionate share of the Thirty-Six Million Seven Hundred Five Thousand Six Hundred Forty-One Dollars (\$36,705,641.00)~~ **\$10,487 per disturbed acre**, already estimated, and excluding recycling credits, as provided by the ~~Applicant Operator's~~ "Project Decommissioning and Site Restoration Cost Estimate" attached hereto as "Exhibit G". The estimate shall be signed and sealed by a third party engineer licensed in Virginia and shall include a statement by the engineer that "The total estimated cost provides for the complete decommissioning of the Facility and stabilization of the Property as defined and required in SUP18-0001."
- m. Surety must be provided either by a cash bond deposited with the County or by an irrevocable letter of credit provided for the County's benefit. Cash bond shall be in the form of a cashier's check or certified check deposited with the County which has cleared all issuing institutions. Any interest accruing on such funds shall be added to the total amount and retained by the County for decommissioning. This deposit shall be accompanied by a letter agreement, acceptable to, and issued by, the Zoning Administrator, confirming that the cash deposit is to be held by the County to guarantee the performance of the decommissioning work required herein and should the

Commented [WP7]: Applicant noted that the decommissioning estimate is based on a 500 MW facility disturbing approximately 3,500 acres. If the SUP is adopted with 350' setbacks, they assert they will only be able to build a fraction of the 500 MW facility. To address this proportionality issue, the decommissioning estimate of \$36,705,641 was divided by the total disturbed acreage resulting in a per disturbed acre minimum surety amount.

Facility be abandoned, or should the decommissioning work not be diligently undertaken or performed according to the requirements herein, or should this Special Use Permit be revoked, lapse, expire, or be voided, all as determined solely by the County, the County may expend the deposited funds to undertake the decommissioning work required herein without more after providing written notice to the person identified as owner of the Property in the land records of Spotsylvania County as of the date of the notice. Within six (6) months of the completion of the decommissioning work required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the Zoning Administrator, the cash bond and accrued interest, less any amounts expended by the County as allowed for herein, shall be released to the person identified as owner of the Property in the land records of Spotsylvania County as of the date of the completed decommissioning or as otherwise directed by that owner of the Property.

Commented [WP8]: Changes to m-x were made to strengthen enforceability and ensure protection of the County in the event the SUP is revoked, lapses, etc. or the bond needs to be pulled.

- n. An irrevocable letter of credit shall mean an instrument provided by a lending institution guaranteeing payment to the County within seventy-two (72) hours of the County's written notice to the institution that the Facility has been abandoned or the decommissioning work has not been diligently undertaken or performed according to the requirements herein and demand to the institution for the funds, without more. This letter of credit shall have no expiration date or required renewal and shall remain in effect for the benefit of the County and shall under no circumstances be withdrawn before the decommissioning work required herein is completed or the amount guaranteed has been fully drawn by the County. The letter of credit shall require that the County be notified six (6) months prior to any cancellation or alteration of the letter of credit. Should the County receive notice that the letter of credit will be cancelled or otherwise become unavailable or decrease, or should this Special Use Permit be revoked, lapse, expire, or be voided, the County may, without more, and without notice to the Operator^s, immediately draw down the entirety of the letter of credit and convert the surety to a cash bond to be deposited with the County and subject to the terms herein; this shall be specifically reflected in the language of the irrevocable letter of credit. The County may expend the guaranteed funds without more to undertake the decommissioning work required herein after providing written notice to the person identified as owner of the Property in the land records of Spotsylvania County as of the date of the notice. Within six (6) months following the completion of the decommissioning work required herein by a person or entity other than the County or a contractor engaged by the County, as confirmed by the Zoning Administrator, the letter of credit shall be released by the County.
- o. The estimated costs and surety to meet the above requirements shall be reviewed by the Zoning Administrator who shall determine if the estimates adequately reflect the decommissioning costs and that the surety will guarantee performance. Should the Zoning Administrator determine that estimated costs and surety are insufficient, he shall determine adequate surety and communicate the deficiencies to the ~~Applicant~~Operator who shall then provide the adequate surety prior to the issuance of any land-disturbing permit.

~~p.~~ Should this Special Use Permit be revoked, lapse, expire, or be voided, the County may immediately draw down all of the surety funds and convert them into a cash bond for the purposes of decommissioning as set forth hereunder. In such a case, no contractual agreement shall be required for the cash bond. This shall be reflected in the surety provided.

~~o-q.~~ The amount of surety for decommissioning shall be reviewed by the Zoning Administrator every two (2) years on the anniversary of the date this Special Use Permit is approved and an updated decommissioning plan shall be submitted to the County at that time. The decommissioning surety shall be adjusted by the Operators, if necessary, to reflect the then current decommissioning cost as determined by the Zoning Administrator. The decommissioning requirements set out herein shall not be amended, reduced, or otherwise changed through any decommissioning plan required to be submitted herein, or any approval thereof, without first amending this Special Use Permit. The Zoning Administrator shall not approve any decommissioning plan, but shall only use it to determine the adequacy of the surety.

~~p-r.~~ Should the funds guaranteed for the decommissioning work for any reason not be sufficient to complete the decommissioning work, the Operators Operator, which includes all owners, occupants, and users of the Property, jointly and severally remain liable to the County for the difference between the guaranteed funds and the amounts required to decommission the Property. The County shall not be liable to any party in any way for the funds drawn pursuant to the conditions set out herein and expended in relation to decommissioning.

~~q-s.~~ Should the Facility be abandoned, or should this Special Use Permit be revoked, lapse, expire, or be voided, or should the decommissioning work not be diligently undertaken or performed according to the requirements herein as determined solely by the County and should the County draw down funds for the purpose of performing the decommissioning work herein and mobilize its contractors to perform the decommissioning work or otherwise incur liability to its contractors for the performance of the decommissioning work, the Operators shall have no right to perform the decommissioning work required herein unless specifically authorized by the County in a writing that confirms that the County has incurred no liability to any contractors to perform the work or any such liability is transferrable as deemed acceptable by the County.

~~t.~~ The Operators shall immediately, upon written demand by the County or any person or entity authorized to act on behalf of the County, without more, grant or release to the County, or any person or entity authorized to act on behalf of the County, under terms deemed acceptable solely by the County, all necessary real property rights, personal property rights, either or both, as determined solely by the County, other than fee simple ownership or a leasehold interest of the real property, so that the County or any person or entity authorized to act on behalf of the County may undertake any decommissioning work required herein that has not otherwise been performed as required herein. This shall include, but not be limited to, releasing any interest in the personal property, facilities, fixtures, and

structures which are to be removed and recycled, disposed or otherwise demolished.

~~s.u.~~ The amount of surety guaranteed herein shall not be reduced for any reason except as allowed for herein. Should the amount of surety guaranteed herein at any point for any reason be reduced except as allowed for herein, this Special Use Permit shall be void.

~~t.v.~~ Decommissioning shall begin immediately after the Facility has, for a period of three (3) months, ceased operating as a solar energy facility collecting and storing energy and then transferring and distributing it to the electrical grid (the "Decommissioning Commencement Date") and shall be diligently pursued, as determined solely by the County, and completed within one (1) year from the Decommissioning Commencement Date, providing a one-year decommissioning period. Prior to its expiration, the County may extend this one year decommissioning period by six (6) months if the County finds, in its sole discretion, that the Operators commenced decommissioning the Facility immediately after the Decommissioning Commencement Date, diligently and continuously worked to decommission the Facility throughout the decommissioning period, and ~~are-is~~ reasonably expected to complete decommissioning within the additional six-month period. This provision does not in any way limit the County's authority under Section 23-4.5.7.

~~w.~~ Periods during which the Facility is not operational for maintenance, repair, or due to catastrophic events beyond the Operators's control, during which the Operators works diligently to return the Facility to full operating status, shall not trigger the decommissioning requirement herein. The Operators must provide written notice and evidence of the above to the County during the period in which the Facility is not fully operational. Such notice shall include identify the last day on which the Facility was fully operational. Failure of the Operators to provide such written notice or evidence precludes it them from contesting the County's reasonable determination of the last day on which the Facility was fully operational. Regardless of the efforts of the Operators to return the Facility to full operational status, if the Property does not operate as a solar energy facility collecting and storing energy and then transferring and distributing it to the electrical grid after the catastrophic event, for a period of two (2) years, as determined by the County in its sole discretion, the Special Use Permit shall be void and the Operators shall commence decommissioning no later than the 730th day after the last day the Facility was fully operational.

~~u.x.~~ Any change of ownership, lessee, or party responsible for decommissioning of the Facility, or change in any part of the contact information shall be reported to the Zoning Administrator within sixty (60) days of the change(s).

~~19-20.~~ Prior to the issuance of a land-disturbing permit, the ~~Applicant~~Operator shall request an informal review of the Facility by the Department of Defense's Siting Clearinghouse.

B. Construction:

1. The ~~Applicant~~Operator shall comply with the "Spotsylvania Solar Energy Center Traffic Mitigation Plan" ~~prepared by sPower~~ dated December 13, 2019, attached

hereto as “Exhibit B” and incorporated by reference herein. To the extent that the “Spotsylvania Solar Energy Center Traffic Mitigation Plan” prepared by sPower dated December 13, 2019 is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.

2. The ~~Applicant~~Operator shall shuttle at least ~~seventy-two~~ percent (70%) of the workforce to and from the site during construction. Employees ride-sharing with a minimum of three (3) employees per vehicle may contribute to this requirement. Compliance with this requirement shall be demonstrated through the ~~Applicant~~Operator’s monthly provision to the County of a transportation log which provides the following information: License Plate Number, Vehicle type (Oversize Load, heavy delivery, delivery, shuttle, employee vehicle carrying three (3) or more persons, employee vehicle carrying less than three (3) persons, or guest, which is someone not related to the Project or its construction), Entry time, and Exit time. “Oversize Load” shall be defined as any vehicle that requires a Hauling Permit from the Virginia Department Motor Vehicles.
3. No less than seventy percent (70%) of material deliveries shall occur between the hours of 9:00 a.m. and 2:45 p.m. from August 1 through May 31 during construction of the ~~facility~~Facility. Compliance with this requirement shall be demonstrated through the ~~Applicant~~Operator’s monthly provision to the County of a transportation log which provides the following information: License Plate Number, Vehicle type (Oversize Load (as defined above in paragraph B.2), heavy delivery, delivery, shuttle, employee vehicle carrying three (3) or more persons, employee vehicle carrying less than three (3) persons, or guest, which is someone not related to the Project or its construction), Entry time, and Exit time.
4. The ~~Applicant~~Operator shall fully fund any temporary or permanent signage as requested or required by the County Transportation Planner or VDOT.
5. ~~If required by the National Park Service, the~~ ~~Applicant~~Operator shall acquire and ~~provide~~ to the County an approved permit from the National Park Service for commercial use of the intersection of Brock Road and Orange Plank Road and any other haul routes over affected National Park Service roads.
6. The ~~Applicant~~Operator shall document the condition of all haul routes, including public and private roads, by video recordings which shall at a minimum record the full width of the roadway plus a five-(5) foot buffer. The videos shall be recorded prior to the issuance of a land-disturbing permit on a clear day and be organized by road segment.
7. Construction and operational traffic shall only use the access points to the Property identified on the GDP.
8. Entrances 2 and 8 as depicted on the GDP page EX-2-2 shall be restricted access for employees and light deliveries only. Vehicles with more than two axles are prohibited from using these entrances.
9. All construction activity on the Property shall be limited to the following:
 - a. ~~All clearing, grading, and construction of the Property shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and between 8:00 a.m. and 6:00 p.m. Saturday and Sunday. The act of replacing a broken panel on an already established array, even if located within the 400 acres of then currently disturbed land area, and the repair work required to be undertaken within twenty four (24) hours as set out in Sections C(1)(e), C(2)(e), and C(3)(e) herein, shall be exempt from this provision;~~

Commented [WP9]: As presented at the Board’s public hearing, staff believes the 70% requirement to be too aggressive a requirement.

Commented [WP10]: Added definitions for clarity.

Commented [WP11]: Made clear that if a permit is required, it is to be acquired by the applicant and provided to the County.

Commented [WP12]: As presented at the Board’s public hearing, staff has not adopted the Planning Commission’s condition of no Sunday work out of concern that the trade-off is a longer construction phase of approximately 78 to 104 days and the associated noise, traffic, etc.

- ~~b.a.~~ Pile driving within 500 feet of any residential property boundary shall cease no later than 5:00 p.m. daily and shall be prohibited all day on every Sunday.
10. Oversize load deliveries are prohibited on Orange Plank Road, West Catharpin Road, and Post Oak Road during prime school bus traffic between the hours of 6:10 a.m. and 8:40 a.m. and 2:45 p.m. and 4:30 p.m., or any amendment thereof due to inclement weather, during the Spotsylvania County Public Schools instructional year. The ~~Applicant~~Operator shall designate at least one public liaison and publicize a toll-free phone number and email address for communication with the liaison during construction. At a minimum, the information shall be published on the ~~Applicant~~Operator's website and provided to the County's Public Information Officer ("PIO") for publication on the County's website and other social media. The liaison shall act as a point of contact between citizens and construction crews. The liaison shall be available in person and by phone during active construction hours and shall respond to any questions related to the Facility or Property. The liaison role shall commence prior to issuance of a land-disturbing permit and remain a minimum of six (6) months following issuance of the final Certificate of Occupancy for the Facility. The liaison shall prepare a monthly report detailing the complaint, complaint date, resolution, and resolution date. The report shall be provided to the Zoning Administrator on the first business day of each month throughout the construction period and an additional six (6) months following issuance of the final Certificate of Occupancy for the Facility.
 11. Advance notice shall be mailed by first class mail to properties within 1,000 feet of a pile driving location no less than seven (7) days prior to the start of such activities and shall include the estimated start date, estimated end date, and the liaison's contact information. The notice and a list of recipient addresses shall also be mailed to the Zoning Administrator no less than seven (7) days prior to the start of such activities.
 12. The following noise-reducing practices shall be followed to reduce construction noise:
 - a) Trucks and engine-powered equipment shall include mufflers and engine shrouds no less effective than those originally installed by the manufacturer;
 - b) Trucks and engine-powered equipment shall be maintained in proper tune according to manufacturers' specifications;
 - c) Truck engine exhaust braking shall be limited to emergencies; and
 - d) The use of noise-producing signals, including horns, whistles, alarms, and bells shall be for safety warning purposes only.
 13. Construction staging areas, parking areas, portable sanitation facilities, and solid waste collection areas shall be set back a minimum of 500 feet from any residential property boundary, and the area shall be shielded from view, and shall employ sound dampening shrouds, barriers, fencing, and/or berms to reduce noise impacts.
 14. The ~~Applicant~~Operator shall participate in a Joint Construction Traffic Reaction Team, which shall also include County Staff and should include the Virginia Department of Transportation ("VDOT"), the Spotsylvania County Sheriff's Office, and the Virginia State Police to identify and expeditiously resolve or mitigate traffic issues that arise during the construction phase of the Facility. The ~~Applicant~~Operator shall assist in resolving and implementing solutions to traffic issues.

15. Prior to issuance of a land disturbing permit, the ~~Applicant~~Operator shall secure a VDOT Land Use Permit and post surety for the estimated cost of repairs to public roads based on an estimate reviewed and approved by the County's Transportation Planner, ~~currently Doug Morgan~~, and VDOT.
16. Any pavement damage to roads, including shoulders and aprons, attributable to construction of the Facility shall be repaired by the ~~Applicant~~Operator within 120 days of issuance of the final Certificate of Occupancy for the Facility at the ~~Applicant~~Operator's expense or within forty-eight (48) hours after receiving notice from the County's Transportation Planner that the damage has made a road unsafe.
17. Wildlife corridors shall be established through the preservation of on-site resource protection areas (singular is "RPA" while plural is "RPA's") and the supplementation of raised wildlife-compatible fencing in order to establish a minimum of three (3) passages, each of which shall cross the entirety of the site to allow small wildlife unimpeded passage through the Facility, including:
 - a. Raised wildlife-compatible fencing shall be used to connect the Whitehall Creek RPA, to the isolated wetland immediately west, to the intermittent stream further west on GDP page EX 1-7.
 - b. Raised wildlife-compatible fencing shall be used to connect the Shanty Bridge Creek Stream with the two unnamed streams to the south, opposite of the enclosed array area on GDP page EX 1-5.

C. Erosion and Sediment Control

Unless specifically defined in this Section C, all terms and abbreviations used herein shall be as defined in Spotsylvania County Code of Ordinances, Chapters 6A, 8, and 19A.

1. Stormwater Conveyance Channels and Sediment Basins
 - a. Stormwater conveyance channels ("SCC") and diversion ditches shall be designed for permanent stormwater control and shall utilize check dams or weirs to control sediment transport. Rock check dams shall be installed in SCC immediately following construction and the establishment of final grade. Check dams shall be installed per the Virginia Erosion and Sediment Control Handbook ("VESCH") or per ~~Virginia Department of Transportation ("VDOT")~~ detail EC-4 standards and details as applicable. Check dams should be evaluated for sediment accumulation after each runoff-producing storm event and remediated as necessary to maintain function.
 - b. SCC, vegetated swales, or diversion dikes shall be installed to divert overland sheet flow or shallow concentrated flow to a stabilized outlet or a sediment trapping facility during construction. When used at the top of a slope, the structure shall protect exposed slopes by diverting storm run-off away from the slopes to a stabilized outlet or sediment trapping device. When used at the base of a slope, the SCC shall protect downslope areas by diverting sediment-laden runoff to a sediment-trapping facility or stabilized outlet.
 - c. Sediment basins shall be equipped with measuring devices to accurately determine the sediment capacity of the basin. Sediment shall be removed from basins when accumulation reaches twenty-five percent (25%) of the required wet storage volume for each individual basin. In no case shall sediment cleanout levels be higher

than one (1) foot below the bottom of the de-watering device. Remediation crews shall remove sediment or to be able to correct any Erosion and Sediment Control ("ESC") issues within twenty-four (24) hours. The daily presence of these crews shall be indicated in the monitoring report. When Sediment Basins or traps are cleaned the intended use and location of the removed material shall be indicated in the monitoring report.

- d. ESC measures shall be installed as a first step in any land disturbing activity area and shall be made functional before upslope land disturbance takes place. Unless subject to stricter standards set out herein, all ESC measures shall at a minimum comply with VESCH and VDOT standards and details as applicable. Unless subject to stricter standards set out herein, the overall ESC plan shall comply with VESCH minimum standards.

2. Monitoring and Reporting

- a. The ~~Applicant~~Operator shall have one Responsible Land Disturber ("RLD") and at least one certified Erosion Control Inspector ("ECI") per land-disturbing activity area. These land-disturbing activity areas shall not exceed 400 acres in aggregate within the Project at any one time. Once land is stabilized, it shall not count towards the 400 acres of disturbed land. Stabilization and whether an area is fully stabilized shall be determined solely by the Erosion and Sediment Control/Virginia Stormwater Management Program Administrator ("Program Administrator"). The RLD and ECI shall both be required to be knowledgeable of environmental permit compliance requirements, be experienced in ESC and Storm Water Management ("SWM") Best Management Practice ("BMP") installation, operation, and maintenance requirements. The RLD will also keep a daily log of activity documenting all Facility activities, including, but not limited to, construction, environmental permit compliance and corrective measures implemented, site visitors (i.e. non-Project staff), waterbody and wetland crossings, and ESC installation and maintenance activities.
- b. The RLD shall provide e-reporting to a central File Transfer Protocol ("FTP") site to which the Program Administrator shall be granted access. Reports will be submitted no later than next day following any inspections and shall include the inspection report for each disturbed area of development. Site inspections and reports shall be conducted and reported at a minimum as required by the Virginia Stormwater Management Program ("VSMP") permit. Any corrective actions done in the field shall be e-mailed to the Program Administrator within twenty-four (24) hours of completion.
- c. Post-rainfall event inspections shall be required for any runoff-producing event (equal to or greater than one quarter (0.25) inches of rain within a twenty-four (24)-hour time period) and shall be maintained on site and logged in an e-report uploaded to a central FTP server to which the Program Administrator shall be granted access. ~~Inspectors-~~An ECI shall evaluate erosion control measures

and sediment basins to determine if maintenance is required. Any remediation that is required shall be performed immediately and reported to the Program Administrator within twenty-four (24) hours.

- d. Water quality testing shall occur through the use of a stream gauge, which collects data on rainfall, turbidity and sediment loads, and pollutant loads. These gauges shall be placed at each intake and discharge point on the site, as determined by the Program Administrator. The testing shall be reported in a monthly Water Quality Discharge Report which shall provide a summary of marginal increases or decreases of the measurements.

3. Site Stabilization Conditions

- a. Windrows, filter socks, or slope breaks shall be constructed interior to array fields using soil, organic material, or mulch to reduce runoff velocity and sediment. These devices shall be a minimum six (6) inches in height above final grading. These devices shall be installed parallel to slope with a maximum spacing of 200 feet, or as needed based on slope and drainage area. These devices shall be maintained during site stabilization process and may remain during operation.
- b. Sediment barriers such as silt fences, mulch berms, or brush barriers shall be used to temporarily intercept and detain small amounts of sediment from disturbed areas of limited extent and to decrease the velocity of sheet flows. Temporary sediment barriers shall be installed at the base of slopes adjacent to road crossings until disturbed vegetation has been reestablished.
- c. Sediment barriers shall be inspected daily by the ~~Applicant~~Operator in accordance with Virginia Erosion and Sediment Control Program (“VESCP”) and VSMP guidelines to identify any damage incurred during construction and after each runoff-producing rainfall as defined in C.2.c herein. The inspection reports shall be emailed to the Program Administrator within twenty-four (24) hours of a qualifying rainfall event. Sediment barriers that are not functioning properly must be cleaned and restored to good working condition or replaced immediately.
- d. All disturbed soils shall be seeded and temporarily stabilized within seven (7) days after final grade is reached on any portion of the Property. Seed mixes used for permanent stabilization shall provide self-propagating, low maintenance groundcover that will minimize erosion and sedimentation while providing wildlife and pollinator habitat benefits.
- e. Drill seeding shall be used as the primary mechanism for installation of seed. In areas where access is limited, hydroseed or spraying of seed is an approved method of application. In areas that are drill seeded, mulch shall not exceed a depth which inhibits germination, as field-determined. All seeding installation, bed preparations, seed mixes, lime, fertilizer, and mulch shall meet VESCH minimum standards and specifications for permanent and/or temporary seeding as applicable.

- f. Slopes thirty-three percent (33% (3:1)) or steeper shall be stabilized with steep slope soil stabilization blankets or erosion control fabric, such as bonded fiber blankets or jute thatching. The blanket shall be nontoxic to vegetation and to the germination of seed and shall be entwined and anchored to the slope.

D. Burning and Fire, Rescue, and Emergency Management

1. The ~~Applicant~~Operator shall follow the policies and procedures contained in the “Emergency Management Plan – Construction”, ~~prepared by sPower and~~ dated November 19, 2018, attached hereto as “Exhibit C” and incorporated herein by reference, throughout the course of the Facility’s construction. To the extent the “Emergency Management Plan – Construction”, ~~prepared by sPower and~~ dated November 19, 2018 is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
- ~~2. The burning of timber waste shall be done only if via open pit incineration using an incinerator such as, but not limited to, a 2018 model T-300 Trench burner or newer, in accordance with the manufacturer’s recommendations, a copy of which shall be provided to the Fire Marshal. n Airburner 3000. The burning of waste other than timber waste is prohibited. Open pit incineration shall be done in accordance with the above-referenced Emergency Management Plan – Construction, except that any open pit incineration shall be set back a minimum of 3,000 feet from any boundary line of the Property. Trenches shall be maintained at depths in accordance with the trench burner specifications and such specifications shall be provided by the Operator to the Fire Marshal. The Applicant~~Operator shall use all due diligence to use or dispose of ~~mulched timber waste off site prior to pit incineration.~~
- ~~3. The burning of timber waste or any other matter shall be strictly prohibited.~~
- ~~4. The Applicant~~Operator shall follow the policies and procedures contained in the “Emergency Response Plan – Operations”, ~~prepared by sPower and~~ dated November 19, 2018 attached hereto as “Exhibit D” and incorporated herein by reference. To the extent the “Emergency Response Plan – Operations”, ~~prepared by sPower and~~ dated November 19, 2018 is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
- ~~5. The Applicant~~Operator shall follow the policies and procedures contained in the “Site Specific Safety Plan – Construction”, ~~prepared by sPower and~~ dated November 19, 2018 attached hereto as “Exhibit F” and incorporated herein by reference. To the extent the “Site Specific Safety Plan – Construction”, ~~prepared by sPower and~~ dated November 19, 2018 is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
- ~~6. The Applicant~~Operator shall install signage within the Facility and provide ~~to the Fire Chief~~ a Wayfinding Map, that shows each road segment within the Facility with a designated name and/or identifier and each array with an individual identifier, ~~to the Fire Chief, currently Jay Cullinan,~~ prior to the approval of any site plan or land disturbing permit.
- ~~7. Access road aggregate material shall be placed in accordance with the requirements of the applicable specifications governing the type of material or construction being used~~

Commented [WP13]: As presented at the Board’s public hearing, staff did not adopt the Planning Commission’s prohibition on burning, although it is important to note that the applicant did say to the Planning Commission that they would not object to the no burning condition. The staff condition requires the use of a newer model trench burner operated in accordance with the manufacturer’s recommendations. In consultation with the Fire Chief, staff’s concern is that the trade-off is the potential for more trucks on the roads hauling debris, more mulch being produced and the associated spontaneous combustion concerns, and added time to the construction phase.

and shall be compacted at optimum moisture, within \pm two (2) percentage points of optimum per Appendix C of VDOT's Road & Bridge Specifications. These access roads shall further be designed and constructed to International Code Council Section 503 for adequate FIRE access.

~~7-8.~~ All internal crossings shall be permanent and be designed to a minimum of FAST Act standards for EV2 and EV3 class vehicles, with a rating defined as H-20 per the VDOT IIM-S&B-86.1 guidance document.

~~8-9.~~ As each portion of the Facility becomes operational the ~~Applicant~~ Operator shall install and maintain video cameras throughout said portion, and, upon completion, the entire Facility shall be covered by comprehensive remote surveillance. The cameras shall be monitored twenty-four (24) hours a day by the ~~Applicant~~ Operator for potential security, hazard, and general maintenance concerns. These camera feeds shall be recorded and recordings shall be retained a minimum of six (6) months and shall be made available upon request in cases of emergency as determined by the County Fire Marshal or the County Sheriff.

~~9-10.~~ Two (2) 50,000-gallon water tanks shall be located on the Property and those tanks shall provide off-site access for FIRE use in an emergency at a location approved by the Fire Chief. The tanks shall remain at least fifty-(50) percent full at all times in order to serve potential FIRE needs.

~~10-11.~~ A minimum twenty-(20) foot-wide fire break shall be maintained within the Property between the arrays, inverters, and generators and the Property boundary. Portions of the fire break that are vegetative shall be mowed and maintained to a height of four (4) inches or less. Fire breaks may include surface materials, such as gravel, provided they are devoid of all combustible materials.

~~11-12.~~ The storage of mulched timber waste ("Mulch") on site shall be limited in accordance with the following:

- a. Mulch storage shall be set back a minimum of 500 feet from the Property boundary.
- b. Mulch storage shall not be located within any RPA.
- c. Stored Mulch shall be kept in piles or rows which shall not exceed ten (10) feet in height, fifteen (15) feet in width, and 150 feet in length.
- d. Stored Mulch shall not be compacted.
- e. Piles and rows of stored Mulch must be separated by a minimum of ten (10) feet from any other mulch pile or row.
- f. Piles and rows of stored Mulch shall be regularly wetted to maintain a minimum fifty percent (50%) moisture content.
- g. Piles and rows of stored Mulch shall be turned or reassembled at least once every ninety (90) days.
- h. Piles and rows of stored Mulch shall be monitored weekly by taking an internal temperature reading at the center of the pile; if mulch is stored in a row then internal readings shall be taken every twenty (20) linear feet.
- i. Piles and rows of stored Mulch shall be immediately wetted and turned or reassembled in the event an internal temperature reading reaches a minimum 160 degrees Fahrenheit.
- j. Piles and rows of stored Mulch shall be immediately turned or reassembled if the internal temperature reaches a minimum 140 degrees Fahrenheit.

E. Landscaping, Maintenance, Setbacks, and Buffers:

1. The ~~Applicant~~Operator shall follow the Invasive Species Management Plan which is attached hereto as “Exhibit E” and is incorporated by reference herein. To the extent the Invasive Species Management Plan is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
2. Inverters and generators shall be set back a minimum of 400 feet from the boundary of the Property.
3. No structure, improvement, or equipment, including but not limited to, solar arrays and supporting structures, shall be located within 350 feet of the Property boundary on which a residence is currently located or is platted or master planned for residential use. This shall not apply to construction or maintenance equipment, which is temporary in nature, during the periods when it is actively being used during construction or maintenance activities. This setback shall not apply along any boundary shared between the Property and another property owned by the Operator*.
4. The minimum setback of any structure, improvement, or equipment, including but not limited to, inverters, generators, and solar arrays and supporting structures, from any VDOT right-of-way shall be fifty (50) feet. This shall not apply to construction and maintenance equipment which is temporary in nature during the periods when it is actively being used during construction or maintenance activities.
5. Fencing, berms, landscaping, access roads, bridges, and above-ground utility poles are exempt from these setbacks.
6. No trees shall be removed from any fifty- (50) foot setback area or fifty-(50) foot preserved buffer as shown on the GDP except for the removal of non-native species (which is anything not included in the native species list in the County’s Design Standards Manual (“DSM”)), hand-clearing for safety or the removal of dead or dying trees, or any clearing necessary for ingress/egress or infrastructure connectivity.
7. Buffer plantings shall be planted in accordance with the GDP’s Landscaping Plan except that:
 - a) Only earth, which is defined as soil, shall be used to create any berms on the Property.
 - b) Residential structures adjacent to the Property, which are not separated from the Property by a minimum of forty (40) feet of the ~~Applicant~~Operator’s preserved woodlands, and which are located 300 feet or less from the Property’s boundary shall be screened with a bermed buffer consisting of a minimum eight-(8) foot-high earthen berm and a buffer planted with a minimum of one (1) evergreen tree with a minimum height of six (6) feet every ten (10) feet, one (1) large deciduous tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every fifteen (15) feet, one (1) understory deciduous tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every fifteen (15) feet, one (1) evergreen shrub with a minimum height of four (4) feet every ten (10) feet.
 - c) Residential structures located 300 feet or less from the Property boundary which are separated from the Property by a minimum of forty (40) feet of the ~~Applicant~~Operator’s preserved woodlands, or residential structures located 600 feet or less from the Property’s boundary, or adjacent to VDOT right-of-way, shall be screened with a landscaped buffer consisting a minimum of one (1) evergreen tree with a minimum height of six (6) feet every fifteen (15) feet and one (1) large deciduous

Commented [WP14]: As presented at the Board’s public hearing, staff did not adopt the Planning Commission’s consistent 350’ setback around the project. Staff’s condition is a 350’ setback to existing residential and platted residential properties based on the recommendation of the County’s Consultant.

Commented [WP15]: Changes to #7 add clarity that the intent of the buffer is to limit visibility of the facility from surrounding properties and additional standards regarding the berm design.

tree with a minimum trunk caliper of two (2) inches measured six (6) inches from the ground every ten (10) feet.

- d) At site plan, all buffers and berms shall be designed by a certified landscape designer or landscape architect to minimize visibility, maximize survivability and stability, and minimize losses from deer or other wildlife consumption.
- e) All berms shall be landscaped with grass and/or other plantings and those that include trees and/or shrubs on top of the berm shall be landscaped, and installed shall have a minimum six-(6) foot wide planting area on top of the berm.
- f) Aside from landscaping provided atop required atop all berms, other plantings to provide a visual buffer shall be placed outside of any landscaped berm, relative to the interior of the Property boundary.
- g) Plant and tree species shall be installed as early as possible following establishment of erosion and stormwater management controls, and shall be selected based upon their ability to provide the desired screening after two (2) years of growth.
- h) A variety of native trees shall be used, to include a mix of deciduous and evergreen, which shall be environmentally friendly and compatible with local wildlife.
- i) A variety of native plants shall be used, which shall be environmentally friendly and compatible with local wildlife.
- j) ~~Supplemental~~ Any supplemental plantings in buffer areas that are needed to provide additional screening shall be in conformance with the County's DSM. Determination as to whether these supplemental plantings, and whether trees or plants, are needed to meet the screening requirements set out herein ~~or in the GDP~~, shall be solely at the discretion of the ~~Planning~~ Director of Planning.
- k) Landscaped berms shall be located outside of any fencing, relative to the interior of the Property boundary.
- l) Landscaped berms shall be installed with each phase of the Facility's development during site grading and prior to the driving of pilings within 1,000 feet of the required berm.
- m) Understory vegetation and seeding shall conform with the County approved seed list.
- n) The planting on or within the Dominion easement, as set out in the GDP, on the north side of Catharpin Rd. shall be as depicted in the GDP and plantings shall be a minimum of four (4) feet tall at time of planting.
- o) The landscaping bond as required by Article 6 of the DSM shall be in effect for three (3) years after the planting of landscaping. Because the landscaping is to be done in phases, this bond will not be fully released until the last of the landscaping is completed and three (3) years has elapsed from that date.

Commented [WP16]: In consultation with a landscape architect under contract through Public Works we found that a 8' berm with a 6' planting area would need to be 86' wide at the recommended maximum slope of 5:1. This may be necessary in certain areas to provide a visual screen but in other areas an 8' berm of less width and closer to the property line with trees planted between the berm and property line and natural regrowth in front and behind the berm may be a better approach to limit visibility.

Commented [WP17]: Clean up...both staff's and the Planning Commission conditions supersede landscaping shown on the GDP.

F. Biological:

1. A minimum of a four (4) person landscaping team with necessary equipment, supplemented by additional staffing and equipment as needed during high-growth rate periods, shall minimize uncontrolled and/or undesired growth.

2. The ~~Applicant~~Operator shall follow the requirements of Exhibit E as applicable to these provisions in F. To the extent the relevant portions of Exhibit E are contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
3. Herbicide use shall be limited to non-residual herbicides that break down in the soil within fourteen (14) days.
4. Herbicides and fertilizers shall be applied following manufacturers specifications and shall not be applied during rain, when wind speed exceeds ten (10) miles per hour, or within fifty (50) feet of any surface water body.
5. Fertilizers shall not contain phosphorus, except that fertilizers applied during construction in order to establish vegetative growth may contain phosphorus if determined necessary to support the growth. Fertilizer composition as regulated by Sec. 10.1-104.2 of the Code of Virginia shall be based upon soil testing. All fertilizers shall be applied by a Certified Fertilizer Applicator and fertilizer shall only be applied at rates, times, and by methods that are consistent with standards and criteria for nutrient management promulgated pursuant to Sec. 10.1-104.2 of the Code of Virginia.
6. Pesticides shall be limited to biorational pesticides and shall be applied by a licensed pest control professional.
7. Only biodegradable soap and water may be used for cleaning of solar panels during operation of the Facility.
8. No disturbance is permitted to occur within the identified potential Small Whorled Pogonia Suitable Habitat and high-visibility fencing shall be placed coincident with this area clearly identifying that the area as protected.
9. The ~~Applicant~~Operator shall ensure employees are trained to identify the Loggerhead shrike and the Northern long-eared bat, and be instructed to contact the Virginia Department of Game and Inland Fisheries (VDGIF) should either species be identified.
10. The ~~Applicant~~Operator shall not plant and shall remove invasive species identified in Virginia Department of Conservation and Recreation's "Virginia Invasive Plant Species List" and the Department of Environmental Quality's invasive seed in the "Frequently Asked Questions (FAQ) Native vs. Invasive Plant Species for Erosion and Sediment Control" dated April 2017.
11. Seed mixtures shall be developed and identified on the Landscape Plan of the Site Plan based on guidance from the ~~Department of Environmental Quality (VDEQ)~~ related to invasive species and utilizing the Virginia Department of Conservation and Recreation ("VDCR")'s Virginia Solar Site Native Plant Finder.
12. The ~~Applicant~~Operator shall spread pollinator supportive seed mixture within a minimum of fifty percent (50%) of new landscape buffers and adopt best management practices to increase pollinator activity during operation of the facility in order to achieve a minimum score of 145 points on the ~~Virginia Department of Conservation and Recreation~~VDCR's "Virginia Solar Site Pollinator/Bird Habitat Scorecard" dated March 2018.
13. Rumble Strip Locations shall be in place during construction to reduce the introduction of invasive seeds.

G. Cultural:

1. No land disturbance is to occur within 100 feet of the cemeteries identified on GDP pages EX-1-4 and EX-1-6 and high-visibility fencing shall be placed coincident with this buffer clearly identifying the area as protected.
2. The ~~Applicant~~Operator shall grant trail easements for future trail development for the segments of the Virginia Central Railroad, Po River, Todds Tavern Spur, and Lake Anna State Park Connector located on the site, as depicted on GDP page Ex-2-3. The easements shall be granted to the County at no cost pursuant to the County's Trailways Master Plan. The trail easements shall not be obstructed by barriers including, but not limited to, fences and locked gates. The trail easements, consistent with the County's DSM, shall be granted and recorded among the land records of Spotsylvania County within six (6) months of the issuance of the Certificate of Occupancy for the Facility. The trail easements granted shall in no way legally or practically encumber the County's or other party's ability to construct or utilize the easements for the segments of the Virginia Central Railroad, Po River, Todds Tavern Spur, and Lake Anna State Park Connector located on the site, as depicted on GDP page Ex-2-3 as determined by County Staff.

H. Water:

1. The ~~Applicant~~Operator shall only utilize public water during the construction and operations phases of the Facility. No on-site groundwater shall be used during the construction or operation of the Facility. Wells shall only be accessed to perform water testing.
2. Any connection by the ~~Applicant~~Operator to the public water system for bulk use (greater than a single ¾" meter) shall be controlled by the Spotsylvania County Utilities Department ("Utilities Department") in a manner that will not negatively impact the existing distribution system. Said connection shall include a pressure sustaining function and flow control function, with the setting of those functions at the discretion and direct control of the Utilities Department. The County does not guarantee any volume of bulk withdrawal available to the ~~Applicant~~Operator.
3. For the Project, bulk withdrawal from the 531-foot pressure zone as determined by the Utilities Department shall be limited to between the hours of 10 p.m. and 4 a.m. with a maximum aggregate volume usage of 69,000 gallons per day from October to April and 56,000 gallons per day from May to September.
4. For the Project, bulk withdrawal from an upgraded public water system shall be limited to between the hours of 10 p.m. and 4 a.m. with a maximum aggregate volume usage of 166,000 gallons per day from October to April and 153,000 gallons per day from May to September. Upgraded public water system referenced above shall be defined as increasing the water transmission main size within the 531-foot pressure zone from twelve (12) inches to sixteen (16) inches from the existing Lake Bottom Booster Station to the main 12-inch loop feed within the Fawn Lake Subdivision. This will include all appurtenances (i.e., fire hydrants, pressure reduction valves, etc.) as required by the Utilities Department.