

PRESENT: Greg Benton, Livingston District
Kevin W. Marshall, Berkeley District
Timothy J. McLaughlin, Chancellor District
David Ross, Courtland District
Gary F. Skinner, Lee Hill District
Paul D. Trampe, Salem District
Chris Yakabouski, Battlefield District

STAFF PRESENT: Ed Petrovitch, Interim County Administrator
Mark L. Cole, Deputy County Administrator
Karl Holsten, County Attorney
Aimee R. Mann, Deputy Clerk

Dr. Trampe called the meeting to order at 4:30 p.m. Mr. Marshall led the Pledge of Allegiance and Dr. Trampe gave the invocation.

APPROVAL OF AGENDA

On a motion by Mr. Benton and passed unanimously, the Board approved the agenda with the following additions:

- Appointment of Hamza Atif to the Transportation Committee as an At-Large Member;
- Appointment of Ed Petrovitch to the Rappahannock Area Community Criminal Justice Board;
- Appointment of Ed Petrovitch to the Rappahannock Juvenile Detention Commission;
- Appointment of Ed Petrovitch to the Rappahannock Regional Jail Authority;
- Approval Resolution for National Public Safety Telecommunications Week – April 14-20, 2019;
- Approval of Resolution for National EMS Week – May 19-25, 2019.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

PUBLIC COMMENT ON CONSENT AGENDA

None

APPROVAL OF THE CONSENT AGENDA

The County Administrator read the synopsis as a brief preview of these agenda items for the public.

The following item was removed for separate consideration:

- Approval of Spotsylvania County Animal Shelter – Stormwater Change Order

On a motion by Mr. Skinner and passed unanimously, the Board approved the amended Consent Agenda as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

1. Approval of the Minutes of the February 26, 2019 Board of Supervisors Meeting;
2. Appointment of David Ansell as the Property Maintenance Official for Spotsylvania County;
3. Appointment of Laura Hatch to the Rappahannock Area Alcohol Safety Action Program Policy Board;
4. Appointment Sarah Reid to the Community Policy and Management Team;
5. Approval of Contract to Edifice Studio, LLC to Provide for the Judicial Center Expansion and Renovation;
6. Appointment of Mark Cole as Americans with Disabilities Act (ADA) Coordinator;
7. Approval of Certificate of Refunding of Local School Bond;
8. Approval of Second Amendment to HDT Expeditionary Systems Performance Agreement;
9. Bloomsbury Subdivision, Monument Court and Knob Hill Court Street Acceptance located in the Livingston Voting District, into the Virginia Secondary Street System as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-27

**RESOLUTION TO REQUEST THE COUNTY ADMINISTRATOR AUTHORIZE
THE VDOT ADMINISTERED CONSTRUCTION OF MONUMENT COURT
AND KNOB HILL COURT IN THE BLOOMSBURY SUBDIVISION AS A RURAL
ADDITION.**

WHEREAS, the Spotsylvania County Board of Supervisors desires to enter into a VDOT Administered – Locally Funded Project Administration Agreement with the Virginia Department of Transportation to hard-surface Monument Court (Route 2321) and Knob Hill Court (Route 2322) in the Bloomsbury subdivision to rural rustic standards; and

WHEREAS, the County has determined its subdivision ordinance satisfies subsection B of §33.2-335, Code of Virginia, and is therefore eligible to make qualifying additions to the Secondary System of State Highways maintained by the Virginia Department of Transportation and fund necessary improvements as setout therein, except as otherwise prohibited by subsection B of §33.2-336, Code of Virginia; and

WHEREAS, after examining the ownership of all property abutting this street, including the deeds and related plats, this Board finds no restriction on the use of public funds for improving of the road; and

WHEREAS, after examining the ownership of all property abutting this street, this Board finds that speculative interest does not exist; and

WHEREAS, this Board has identified available funding to make improvements required to qualify the street for addition to the aforesaid Secondary System of State Highways, based on the Virginia Department of Transportation's cost estimate of \$150,000;

NOW, THEREFORE, BE IT RESOLVED, on this 11th day of September, 2018, that the Spotsylvania County Board of Supervisors hereby requests, pursuant to §33.2-335, Code of Virginia, that the following street be added to the Secondary System of State Highways maintained by the Virginia Department of Transportation, and hereby guarantees the right-of-way of the street to be clear, unencumbered, and unrestricted, which right-of-way guarantee shall include any necessary easements required for cuts, fills, and drainage:

Name of Subdivision:	Bloomsbury
Name of Street:	Knobb Hill
From:	Intersection of Monument Court
To:	0.10 Miles South of Monument Court (Cul-de Sac)
Length:	0.10 Miles
Guaranteed ROW Width:	Fifty (50) Feet or as necessary
ROW Instrument Reference:	Section 4, Plat File 5, Page 520
Recorded On:	2/22/1996

Name of Subdivision:	Bloomsbury
Name of Street:	Monument Court

From: Intersection of RT. 1470
To: Intersection of Knobb Hill Court.
Length: 0.25 Miles
Guaranteed ROW Width: Fifty (50) Feet or as necessary
ROW Instrument Reference: Section 4, Plat File 1, Page 198
Recorded On: 7/23/1987

Name of Subdivision: Bloomsbury
Name of Street: Monument Court
From: Intersection of Knobb Hill Court.
To: 0.14 miles East of Knobb Hill Court
Length: 0.25 Miles
Guaranteed ROW Width: Fifty (50) Feet or as necessary
ROW Instrument Reference: Section 4, Plat File 1, Page 198
Recorded On: 7/23/1987

BE IT YET FURTHER RESOLVED, that this Board agrees to reimburse, within 45 days of receiving an invoice, all costs that the Virginia Department of Transportation incurs to relocate existing utilities within the right-of-way that are discovered during the course of and in conflict with the construction, drawing such funds from resources other than those administered by the Department; and

BE IT YET FURTHER RESOLVED, that this Board agrees to reimburse, within 45 days of receiving an invoice, all costs that the Virginia Department of Transportation incurs in the construction of necessary improvements to the road that are over and above the estimated cost of improvements, or to otherwise identify an eligible source of funds administered by the Department to cover such costs; and

BE IT FINALLY RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

10. Budget Adjustment and Appropriation for Replacement of Erosion Control Vehicles as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-28

BE IT RESOLVED by the Board of Supervisors of the County of Spotsylvania, Virginia, that the following appropriation be, and the same hereby are, made for the fiscal year beginning July 1, 2018, from the funds and for the functions or purposes indicated.

For two replacement vehicles, to be expended only by order of the Board of Supervisors as follows:

CODE COMPLIANCE FUND: \$38,000

11. Budget Amendment and Appropriation for the Approved No-Cost Extension for the Federal Fiscal Year 2015 Staffing for Adequate Fire and Emergency Response Grant Award as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-29

BE IT RESOLVED by the Board of Supervisors of the County of Spotsylvania, Virginia, that the following appropriation be, and the same hereby are, made for the fiscal year beginning July 1, 2018, from the funds and for the functions or purposes indicated.

For additional FFY 2015 SAFER personnel grant funds associated with nine firefighters and/or firefighter medics, to be expended only by order of the Board of Supervisors as follows:

GENERAL FUND: \$272,624

12. Capital Projects Budget Adjustments as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-30

BE IT RESOLVED by the Board of Supervisors of the County of Spotsylvania, Virginia, that the following appropriation be, and the same hereby are, made for the fiscal year beginning July 1, 2018, from the funds and for the functions or purposes indicated.

To close and reallocate funding on certain capital projects, to be expended only by order of the Board of Supervisors as follows:

CAPITAL PROJECTS FUND: (\$297,928)

UTILITIES CAPITAL PROJECTS FUND: (\$148,503)

13. Designation of Mark Cole as the Department of Social Services (DSS) Local Administrative Board;
14. Hospital Blvd and Spotsylvania Pkwy Street Acceptance located in the Lee Hill Voting District into the Virginia Secondary Street System as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-31

**A RESOLUTION REQUESTING HOSPITAL BLVD AND THE REMAINDER OF
SPOTSYLVANIA PKWY BE ADDED TO THE STATE SYSTEM OF SECONDARY
ROADS**

WHEREAS, Hospital Blvd and the remainder of Spotsylvania Pkwy located within the Lee Hill voting district as described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Spotsylvania County, and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Street Requirements of the Virginia Department of Transportation,

WHEREAS, the County and the Virginia Department of Transportation have entered into a comprehensive agreement on June 6, 1997, for stormwater detention in Spotsylvania County,

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form AM-4.3 to the secondary system of state highways, pursuant to Sec. 33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements, and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as currently described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

15. Human Resources – Chapter 10 Policy and Procedures – Benefits Effective Date;

16. Reappointment of William Harrington to the Rappahannock Emergency Medical Services Council;
17. Resolution Authorizing Signature of Pierson Drive Industrial Access Road Project Agreement with VDOT as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-32

**Resolution to Authorize the Interim County Administrator to Execute a Project
Administration Agreement with VDOT for Development of An Access Road Off Tidewater
Trail and Pierson Drive**

WHEREAS, the Spotsylvania County Board of Supervisors desires to enter into a Project Administration Agreement with the Virginia Department of Transportation to develop an access road off Tidewater Trail and Pierson Drive to be known as the Pierson Drive Industrial Access Road project; and

WHEREAS, State funding in the amount of \$650,000 has been awarded through an Economic Development Access Program grant; and

WHEREAS, a required local match of \$150,000 has been budgeted and appropriated by the Spotsylvania County Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Board of Supervisors hereby grants authority for the Interim County Administrator or his designee to execute the Project Administration Agreement for the design and construction of an access road off Tidewater Trail and Pierson Drive; and

BE IT FURTHER RESOLVED that the Spotsylvania County Board of Supervisors hereby commits to fund its local share of project costs in accordance with the Project Administration Agreement; and

BE IT FURTHER RESOLVED that funding by the Spotsylvania County Board of Supervisors shall be subject to annual appropriation.

ADOPTED this 9th day of April 2019.

18. Appointment of Hamza Atif to the Transportation Committee as an At-Large Member;

19. Appointment of Ed Petrovitch to the Rappahannock Area Community Criminal Justice Board;
20. Appointment of Ed Petrovitch to the Rappahannock Juvenile Detention Commission;
21. Appointment of Ed Petrovitch to the Rappahannock Regional Jail Authority;
22. Approval Resolution for National Public Safety Telecommunications Week – April 14-20, 2019 as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-33

**A RESOLUTION IN RECOGNITION OF
NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK
APRIL 14-20, 2019**

WHEREAS, public safety dispatchers and call takers are the first and most critical contact our citizens have with emergency services; and

WHEREAS, emergencies can occur at any time requiring law enforcement, fire suppression or emergency medical services; and

WHEREAS, when an emergency occurs, the prompt response of law enforcement, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of the public and first responders is dependent upon the quality and accuracy of information provided by public safety dispatchers and call-takers; and

WHEREAS, public safety dispatchers and call-takers are a vital link for our law enforcement and fire personnel by monitoring their activities by radio, providing information during fluid situations, and ensuring their safety; and

WHEREAS, public safety dispatchers and call-takers have contributed substantially to the apprehension of criminals, suppression of fires, and treatment of patients; and

WHEREAS, each public safety dispatcher and call-taker has exhibited compassion, understanding and professionalism during the performance of their job; and

WHEREAS, the Spotsylvania County Board of Supervisors would like to recognize and honor the contributions of all Spotsylvania County Communications personnel in the public safety arena for their continued efforts to preserve public safety through our 9-1-1, non-emergency lines, and the dispatch of first responders to thousands of calls for service each year.

NOW, THEREFORE, BE IT RESOLVED by the Spotsylvania County Board of Supervisors that the week of April 14-20, 2019, be duly recognized as National Public Safety Telecommunicators Week and honor the men and women of Spotsylvania County Communications, whose diligence and professionalism keep Spotsylvania County citizens, visitors and property safe.

23. Approval of Resolution for National EMS Week – May 19-25, 2019.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-34

**A RESOLUTION IN RECOGNITION OF NATIONAL EMS WEEK
MAY 19-25, 2019**

WHEREAS, emergency medical services is a vital public service that the members, both volunteer and career, of the **Spotsylvania County Department of Fire, Rescue, and Emergency Management (FREM)** stand ready to provide lifesaving care to those in need 24 hours per day, seven days per week, 365 days per year; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those experiencing sudden illness or injury and **FREM** plays a critical role in public outreach and injury prevention, while constantly evolving in its role as an important member of the healthcare community; and

WHEREAS, **FREM** responders will be the first to respond to terrorist or natural disaster events and are consistently training to respond to any possible occurrence, which will benefit the citizens and visitors to Spotsylvania County daily through the knowledge, skills, and ability of these highly trained individuals, who engage in thousands of hours of specialized training and continuing education opportunities in order to enhance their life saving skills.

NOW, THEREFORE, BE IT RESOLVED by the Spotsylvania County Board of Supervisors that the week of May 19-25, 2019, be duly recognized as **National EMS Week** and honor the men and women of the Spotsylvania County Department of Fire, Rescue, and Emergency Management, whose diligence, professionalism, and service keep Spotsylvania County citizens, visitors and property safe.

Approval of Spotsylvania County Animal Shelter – Stormwater Change Order

Based on concerns from adjacent property owners the County has requested the contractor provide an estimated change order value to convert the proposed stormwater pond to an underground storm water system. The estimated cost of the change, including engineering, is approximately \$200,000; this includes an approximate \$80,000 credit for the stormwater pond deletion.

Mr. McLaughlin made a motion to suspend the bylaws and table Approval of Spotsylvania County Animal Shelter – Stormwater Change Order until the next Board meeting. The motion passed unanimously.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

PUBLIC PRESENTATIONS

The following citizen spoke regarding first responders compensation: Robert Morrison.

BOARD OF SUPERVISORS REPORTS

Mr. Benton asked about the budget amendment at the state level for the Lake Anna State Park expansion. Mr. Benton stated he did not support the additional funding to the YMCA for capital projects. He also publicly apologized for allowing his emotions to get the best of him on a Facebook post. Mr. Benton asked whether there was a county policy regarding disposing of solar panels.

Dr. Trampe referenced the closed meeting resolution and stated he hoped the Board members would be as supportive of the hard working county employees behind closed doors as they are in public.

PRESENTATIONS/REPORTS BY STAFF

FY2020 Budget Work Session

Mr. Benton read the following statement:

I hereby disclose I have an interest in the budget transaction as a retired employee of the County. My disclosure is on file with the clerk and is available to the public for review. Ed/Aimee, please record this disclosure in the minutes of this meeting as required by law.

Mr. Marshall read the following statement:

I hereby disclose I have an interest in the budget transaction as an employee of the County. My disclosure is on file with the clerk and is available to the public for review. Ed/Aimee, please record this disclosure in the minutes of this meeting as required by law.

Staff reviewed budget updates and scenarios. After reviewing various budget scenarios, Dr. Trampe made a motion for a one year pause in increasing the percentage of general fund transferred to capital projects. The motion passed 6 to 1 with Mr. Yakabowski opposed.

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner and Dr. Trampe
Nays:	1	Mr. Yakabowski
Absent:	0	
Abstain:	0	

Dr. Trampe made a motion to revise the proposed COLA to be distributed as half COLA and half merit. The motion passed 4 to 3 with Mr. Marshall, Mr. Skinner and Mr. Yakabowski opposed.

VOTE:

Ayes:	4	Mr. Benton, Mr. McLaughlin, Mr. Ross and Dr. Trampe
Nays:	3	Mr. Marshall, Mr. Skinner and Mr. Yakabowski
Absent:	0	
Abstain:	0	

Dr. Trampe made a motion to reduce the transfer to the George Washington Regional Commission by \$20,000. The motion passed 4 to 3 with Mr. Marshall, Mr. Skinner and Mr. Yakabowski opposed.

VOTE:

Ayes:	4	Mr. Benton, Mr. McLaughlin, Mr. Ross and Dr. Trampe
Nays:	3	Mr. Marshall, Mr. Skinner and Mr. Yakabowski
Absent:	0	
Abstain:	0	

Dr. Trampe made a motion to have convenience centers, with the exception of Chancellor and Livingston Landfill, open on Wednesday, Saturday and Sunday only. The motion failed 2 to 5 with Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Skinner and Mr. Yakabouski opposed.

VOTE:

Ayes:	2	Mr. Ross, Dr. Trampe
Nays:	5	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Skinner and Mr. Yakabouski
Absent:	0	
Abstain:	0	

Mr. Ross directed staff to prepare the documentation to make the assessment ratio 100% for the personal property tax rate. The motion passed 5 to 2 with Mr. Skinner and Mr. Yakabouski opposed.

VOTE:

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross and Dr. Trampe
Nays:	2	Mr. Skinner and Mr. Yakabouski
Absent:	0	
Abstain:	0	

Mr. Benton made a motion to deny funding for the YMCA expansion in the amount of \$200,000. The motion failed 3 to 4 with Mr. Marshall, Mr. Ross, Mr. Skinner and Mr. Yakabouski opposed.

VOTE:

Ayes:	3	Mr. Benton, Mr. McLaughlin, Dr. Trampe
Nays:	4	Mr. Marshall, Mr. Ross, Mr. Skinner and Mr. Yakabouski
Absent:	0	
Abstain:	0	

The Board recessed at 6:50 p.m. and reconvened at 7:03 p.m.

PUBLIC PRESENTATIONS

None

PUBLIC HEARINGS

FY2020 – FY2025 Secondary Six-Year Plan Joint Public Hearing with VDOT

The Secondary Six-Year Plan is the secondary road transportation development plan that is presented to the Board of Supervisors at a public hearing for approval on an annual basis. This plan included VDOT's proposed Secondary Construction Budget of \$501,807 for FY2019 and it outlined the projects prioritized by the Board of Supervisors in previous years for the continuation to complete the unpaved roads, Route 606 and connector road, Spotsylvania Pkwy and Hospital Blvd. The funding for the Secondary Six-Year Plan was derived from state and federal gasoline taxes, vehicle title fees, vehicle sales tax and one-half percent of state's sales tax and distributed to the primary urban and secondary systems after addressing maintenance, administrative costs and other priorities established in the Code of Virginia.

Mr. Morgan presented.

Dr. Trampe opened the public hearing and when no one indicated an intention to speak, closed the public hearing.

On a motion by Mr. McLaughlin and passed unanimously, the Board adopted the resolution as follows:

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-35

FY2020-2025 SECONDARY ROAD SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN AND FY2020 SECONDARY ROAD CONSTRUCTION BUDGET PUBLIC HEARING

WHEREAS, Section 33.2-331 of the Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Road Six-Year Transportation Improvement Plan; and

WHEREAS, the Spotsylvania County Board of Supervisors agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed FY2020-2025 Secondary Road Six-Year Transportation Improvement Plan and FY2020 Secondary Road Construction Budget on April 9, 2019, duly advertised so that all citizens of Spotsylvania County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan; and

WHEREAS, the Virginia Department of Transportation, appeared before the Spotsylvania County Board of Supervisors and recommended approval of the FY2020-2025 Secondary Road Six-Year Transportation Improvement Plan and the Construction Budget for FY2020 for Spotsylvania County identifying the finalization of Mt. Holly Lane, including UPC 111456 (Route 2092) secondary access north of Route 606, the continuation of funding of the unpaved roads, Spotsylvania Pkwy and Hospital Blvd.

WHEREAS, That the County Administrator and/or his designee is authorized to execute all agreements and/or addendums for any approved projects with the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the citizens of Spotsylvania County, the Spotsylvania County Board of Supervisors does hereby approve the FY2020-2025 Secondary Road Six-Year Transportation Improvement Plan and the Construction Budget for FY2020 as presented at the public hearing.

PRESENTATIONS/REPORTS BY STAFF (cont'd)

SUP18-0001 – Sustainable Property Holdings, LLC (sPower Solar Energy Facility Site A)(Livingston District)(Public Hearing Closed)

The applicant requested special use permit approval on multiple parcels to develop a 400 MW solar energy facility on Agricultural 3 (A-3) zoned properties together constituting a site of approximately 5,200 acres. The properties consist of 11501 W. Catharpin Rd., 12910 Orange Plank Rd., 10900 Buckland Rd., 13301 W. Catharpin Rd., 13001 W. Catharpin Rd., and 22 additional unaddressed parcels. The properties are located in western Spotsylvania County, south of Orange Plank Road, north of W. Catharpin Road, east of the Spotsylvania/Orange County line and west of Catharpin Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential or Agricultural and Forestal Land Use development on the Future Land Use Map of the Comprehensive Plan.

The Board of Supervisors held a public hearing on February 26, 2019 and closed the hearing. The Board continued consideration of the case to March 12, 2019 and requested that staff prepare a table listing concerns raised during the public hearing process with sPower's proposal to address the concerns, staff or County consultant comment, and recommended conditions. On March 12th, the Board reviewed several of the concerns but, due to the late hour, continued the item to March 19th.

On March 19th, the Board concluded review of the concerns and directed staff to update the Planning Commission conditions with recommended legal edits and to include a requirement to use E-Verify in the hiring of employees, to add a perimeter road requirement for FREM use, and to convert the landscape buffer to all evergreen trees and ensure maintenance of the planted buffer in perpetuity. Section E, as related to the landscape buffers, had received significant edits. The conditions maintain the spirit of the Planning Commission landscape buffer conditions, but were edited to ensure enforceability and remove any ambiguity as to the landscape buffer type,

composition, and width. The red-line conditions document presented showed the changes and was the base document for use by the Board in considering any additional amendments.

Mr. Skinner made a motion to approve Section A General of the SUP18-0001 conditions draft as presented. The motion passed 5 to 2 with Mr. Ross and Dr. Trampe opposed.

VOTE:

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Skinner, Mr. Yakabowski
Nays:	2	Mr. Ross and Dr. Trampe
Absent:	0	
Abstain:	0	

Mr. Marshall made a motion to approve Section B Construction of the SUP18-0001 conditions draft as presented. The motion passed 6 to 1 with Mr. Ross opposed.

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	1	Mr. Ross
Absent:	0	
Abstain:	0	

Mr. Skinner made a motion to approve Section D Burning and Fire, Rescue and Emergency Management of the SUP18-0001 conditions draft as presented. The motion passed unanimously.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

Mr. Skinner made a motion to approve Section E Landscape, Maintenance, Setbacks and Buffers as presented of the SUP18-0001 conditions draft as presented. The motion passed 4 to 3 with Mr. McLaughlin, Mr. Ross and Dr. Trampe opposed.

VOTE:

Ayes:	4	Mr. Benton, Mr. Marshall, Mr. Skinner, Mr. Yakabowski
Nays:	3	Mr. McLaughlin, Mr. Ross and Dr. Trampe
Absent:	0	
Abstain:	0	

Mr. Benton made a motion that the set-back requirement would apply to site plans in process and/or approved. The motion passed 5 to 2 with Mr. McLaughlin and Mr. Ross opposed.

VOTE:

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. Skinner Dr. Trampe, Mr. Yakabowski
Nays:	2	Mr. McLaughlin and Mr. Ross
Absent:	0	
Abstain:	0	

The Board recessed at 8:05 p.m. and reconvened at 11:22 p.m.

On a motion by Mr. Benton and passed 5 to 2 with Mr. Ross and Dr. Trampe opposed, the Board adopted the resolution with conditions as follows:

VOTE:

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Skinner, Mr. Yakabowski
Nays:	2	Mr. Ross and Dr. Trampe
Absent:	0	
Abstain:	0	

RESOLUTION NO. 2019-36

Special Use Permit SUP18-0001

Charles Woolfrey Construction Inc., Robert S. Coleman, Jr., MWD Properties 2009, LLC, Goodwin Brothers Lumber Company LLC, Meadows Farms, Victor N. Meadows, II, David L. Meadows, Frederick L. Meadows, Berman J. Meadows, Betty Meadows, Jay Meadows, RiverOak Timberland Investments, LLC, Gary Thomas Woolfrey (“Owners”) (Sustainable Property Holdings, LLC (“Applicant”) - sPower Solar Energy Facility Site A):

WHEREAS, the Owners, through the Applicant, request Special Use Permit approval on multiple parcels to develop a 400 MW solar energy facility on Agricultural 3 (A-3) zoned properties together constituting a site of approximately 5,200 acres. The properties consist of

11501 W. Catharpin Rd., 12910 Orange Plank Rd., 10900 Buckland Rd., 13301 W. Catharpin Rd., 13001 W. Catharpin Rd., and 22 additional unaddressed parcels. The properties are located in western Spotsylvania County, south of Orange Plank Road, north of W. Catharpin Road, east of the Spotsylvania/Orange County line and west of Catharpin Rd. The properties are located outside of the Primary Development Boundary. The properties are identified for Rural Residential or Agricultural and Forestal Land Use development on the Future Land Use Map of the Comprehensive Plan. 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, and 28-A-79. Livingston Voting District; and

WHEREAS, staff has reviewed the subject application and recommends approval as stated in the staff report and the executive summary; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on December 5, 2018, duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Planning Commission voted to postpone the subject case to January 2, 2019 to provide an opportunity for the applicant to supply four plans recommended by staff for incorporation as conditions and to allow the Planning Commissioners additional time to review the application and consider public hearing input, with a vote of 5-2; and

WHEREAS, on January 2, 2019, the Spotsylvania County Planning Commission voted to postpone the vote on the subject case to January 16, 2019 to allow staff time to address comments from the Planning Commission, with a vote of 5-2; and

WHEREAS, the Spotsylvania County Planning Commission recommended denial with a vote of 5-2; and

WHEREAS, the Spotsylvania County Board of Supervisors held a public hearing on February 26, 2019, duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Board of Supervisors considered the Special Use Permit request in accordance with Sec. 23-4.5.7, Standards of Review, and finds that the application with the recommended conditions satisfies the following standards:

1. That the proposed use is in accord with the comprehensive plan and other official plans adopted by the county;
2. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
3. That the proposed use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

4. That the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;
5. That the proposed use will not be detrimental to the public welfare or injurious to property or improvements within the neighborhood;
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, wastewater treatment, fire and police protection, waste disposal, and similar facilities;
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard; and
8. That the proposed use will have no unduly adverse impact on environmental or natural resources.

WHEREAS, general welfare and good zoning practice are served by approval of the Special Use Permit application;

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Board of Supervisors does hereby approve SUP18-0001 Sustainable Property Holdings, LLC - sPower Solar Energy Facility Site A with the conditions listed below:

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. The Facility shall not be designed, constructed, or operated in any configuration or makeup of panels intended to allow the Project to generate greater than five hundred megawatts (500 MW) of power.
3. 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 “Operator”.
4. The 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;
 - c. Excess Liability: \$5,000,000;
 - d. Workers Compensation and Employers Liability Insurance in accordance with applicable statutory amounts.
 5. The 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.
 6. The Operator’s insurance policies shall be issued by an insurance company licensed to do business in the State and with an AM Best’s rating of at least A.
 7. The 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.
 8. The 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.
 9. The Operator’s insurance renewal or replacement policies or certificates shall be delivered to the Zoning Administrator at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
 10. Prior to the issuance of a land-disturbing permit, the holder of the Special Use Permit shall deliver to the Zoning Administrator a copy of each of the policies or certificates representing the insurance in the required amounts.
 11. 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 Operator.
 12. The Operator shall fully comply with all state and federal laws and regulations that apply to the construction or maintenance of the Project or use of the Property.
 13. The storage on the Property of power generated by the Facility is prohibited.
 14. 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.
15. The use of biosolids on the Property is prohibited.
 16. Photovoltaic panels manufactured using the GenX chemical are prohibited on the Property.
 17. Photovoltaic panels containing Cadmium Telluride, also referred to as “Cad Tel”, shall not be used on the Property in an amount which would cause the total number of panels containing Cadmium Telluride used in the Project to exceed thirty percent (30%) of the total panels used in the Project.
 18. 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.
 19. 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.
 20. Soil testing shall be performed in accordance with the “Proposed Soil Testing and Remediation Plan Operations Phase”, dated December 13, 2018, incorporated by reference herein and attached hereto as “Exhibit A”, and shall:
 - 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. Include the collection of samples at a frequency of at least 1 sample per 100 acres.
 - c. Include samples collected over a variety of site conditions. Samples 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. Be analyzed for Cadmium Telluride and all metals identified in the “Guidance for Developing Ecological Soil Screening Levels (Eco-SSLs)” Attachment 1-4, Table 1.1.
 4. Be analyzed for type, acidity, and nutrient levels, including Nitrogen, Phosphorus, Potassium, Magnesium, Sulfur, and Calcium.
 - d. Include test reports provided to the Zoning Administrator prior to the issuance of a land-disturbing permit and every five (5) years thereafter which are accompanied by an executive summary of the results.
 - e. Include a test report provided to the Zoning Administrator prior to and immediately following decommissioning.

- f. Include, as determined solely by the County, additional studies warranted by abnormal results, as determined solely by the County, to be performed by the Operator, at the Operator's 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. Comply with the conditions, which shall supersede and control, to the extent the "Proposed Soil Testing and Remediation Plan Operations Phase", dated December 13, 2018 is contrary to the conditions herein, as determined solely by the County.
- 21. A sealed dry-waste container shall be maintained at the Facility for the disposal of any damaged solar panels.
- 22. When the Facility reaches the end of its operational life, or its use is otherwise discontinued or substantially reduced, the Operator 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 Operator, and shall bear all costs of decommissioning. 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 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 Zoning Administrator or Erosion and Sediment Control/Virginia Stormwater Management Program Administrator ("Program 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 shall produce to the Zoning Administrator 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 shall produce to the Zoning Administrator 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. 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 Zoning Administrator must be provided a monthly report detailing the decommissioning work performed and progress toward completion.
- j. The Operator, throughout its operation until the decommissioning is complete, shall guarantee the decommissioning and stabilization of the Property. The Operator shall provide and maintain for the County's benefit surety for performance of the decommissioning equal to the estimated cost of decommissioning the Facility on the Property as set forth herein. Such surety must be irrevocable and must be maintained in full as set forth herein until the Facility decommissioning has been completed as required herein. The highest total estimated cost must be calculated by the Operator 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. 19.(e) set out herein.
 - x. Costs of all labor and estimated man-hours to perform the decommissioning work required herein.

- x.
 - 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 Operator's highest total cost estimate is accurate.
- k. The highest total estimated cost may be reduced by any estimated funds generated from resale or recycling of the removed materials, so long as such funds are of a type that the County or any third party would generate in the event the Operator fails or refuses to decommission the Facility. Each reduction shall be listed as a separate line item in the estimated cost. Any reductions shall be certified by a third party engineer licensed in Virginia that they are accurate.
- 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 Operator shall produce to the County an estimate of the above costs by line item. The amount of the estimated costs on which the surety shall be based shall be no less than the Ten Thousand Nine Hundred Fifty Seven Dollars (\$10,957.00) per disturbed acre of land already estimated in the "Project Decommissioning and Site Restoration Cost Estimate" attached hereto as "Exhibit G" as provided by the applicant, as reduced by any applicable recycling credits allowed for herein. 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. The Operator must provide surety to guaranty that the decommissioning work can be performed by the County if not performed by the Operator as required herein. Surety must be provided by a cash bond deposited with the County, by an irrevocable letter of credit provided for the County's benefit, or by a surety bond listing the County as the obligee. 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 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.

- 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, 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. A surety bond shall mean a bond issued by a company with an AM Best rating of A++, that is Treasury listed, and that is licensed to do business in the Commonwealth of Virginia. The surety bond shall list the County as an obligee and shall remain in effect for the benefit of the County and shall under

no circumstances be withdrawn or cancelled before the decommissioning work required herein is completed or the amount guaranteed has been fully paid to the County. The surety bond shall require that the County be notified six (6) months prior to any cancellation or alteration of the bond. Should the County receive notice that the surety bond will be cancelled or otherwise become unavailable or decrease below the limits required herein, or should this Special Use Permit be revoked, lapse, expire, or be voided, the County may, without more, and without notice to the Operator, immediately file a claim, which the Operator shall not contest, for the entirety of the amount of the bond, the guarantor shall pay the amounts guaranteed and the County shall 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 surety bond. 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 surety bond shall be released by the County.

- p. The amount of the surety required shall escalate as follows. Beginning on the date on which the first land disturbing permit is issued for the Project (referred to in this subsection as the "Surety Date"), and for the next five (5) years, no surety shall be required. Beginning on the fifth anniversary of the Surety Date, and thereafter for years six (6) through ten (10) after the Surety Date, the Operator shall provide and maintain surety in an amount equal to 20% of the most recently estimated decommissioning costs. Beginning on the tenth anniversary of the Surety Date, and thereafter for years eleven (11) through fifteen (15) after the Surety Date, the Operator shall provide and maintain surety in an amount equal to 40% of the most recently estimated decommissioning costs. Beginning on the fifteenth anniversary of the Surety Date, and thereafter for years sixteen (16) through twenty (20) after the Surety Date, the Operator shall provide and maintain surety in an amount equal to 60% of the most recently estimated decommissioning costs. Beginning on the twentieth anniversary of the Surety Date, and for years twenty-one (21) through twenty-five (25) after the Surety Date, the Operator shall provide and maintain surety in an amount equal to 80% of the most recently estimated decommissioning costs. Beginning on the twenty-fifth anniversary of the Surety Date, and for every year thereafter, the Operator shall provide surety in an amount equal to 100% of the estimated decommissioning costs. This escalation allowed herein shall not be interpreted to reduce the Operator's liability for decommissioning costs as set forth herein.

- q. 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, the Zoning Administrator shall determine adequate surety and communicate the deficiencies to the Operator who shall then provide the adequate surety.
- r. 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.
- s. The costs of decommissioning and any amount of required surety for decommissioning shall be reviewed by the Zoning Administrator every thirty (30) months on the anniversary of the date this Special Use Permit is approved and an updated decommissioning plan shall be submitted to the County prior to that date. The decommissioning surety shall be adjusted by the Operator, if necessary, to reflect the then current decommissioning cost as determined by the Zoning Administrator. When determining the amount of the total estimated decommissioning costs for the surety escalation in paragraph A.22.p, the Operator shall use the amount established by the Zoning Administrator's most recent review. 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.
- t. Should the funds guaranteed for the decommissioning work as of the Decommissioning Commencement Date, as defined hereafter in paragraph A.22.x, for any reason not be sufficient for the County to complete the decommissioning work as allowed for herein, the 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 and shall pay the difference to the County upon demand. 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.
- u. 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 Operator 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 that any such liability is transferrable as deemed acceptable by the County.

- v. The Operator 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.
- w. The amount of surety guaranteed herein shall not be reduced for any reason except as allowed for herein.
- x. 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 Operator commenced decommissioning the Facility immediately after the Decommissioning Commencement Date, diligently and continuously worked to decommission the Facility throughout the decommissioning period, and 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.
- y. Periods during which the Facility is not operational for maintenance, repair, or due to catastrophic events beyond the Operator's control, during which the Operator works diligently to return the Facility to full operating status, shall not trigger the decommissioning requirement herein. The Operator must provide written notice and evidence of the above to the Zoning Administrator during the period in which the Facility is not fully operational. Such notice shall identify the last day on which the Facility was fully operational. Failure

of the Operator to provide such written notice or evidence precludes it from contesting the County's reasonable determination of the last day on which the Facility was fully operational. Regardless of the efforts of the Operator 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 Operator shall commence decommissioning no later than the 730th day after the last day the Facility was fully operational.

- z. 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).

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

B. Construction:

- 1. The Operator shall comply with the "Spotsylvania Solar Energy Center Traffic Mitigation Plan" 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" 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 Operator shall shuttle at least twenty percent (20%) 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 Operator's monthly provision to the Zoning Administrator 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. Compliance with this requirement shall be demonstrated through the Operator's monthly provision to the Zoning Administrator of a transportation log which provides the following information: License Plate Number, Vehicle type (Oversize Load (as defined 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 Operator shall fully fund any temporary or permanent signage as requested or required by the County Transportation Planner or the Virginia Department of Transportation (“VDOT”).
5. Tractor trailers shall not access Orange Plank Road (Route 621) from Plank Road (Route 3) when accessing the Property, and shall not access Plank Road (Route 3) from Orange Plank Road (Route 621) when leaving the Property.
6. If required by the National Park Service, the Operator shall acquire and provide to the Zoning Administrator 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.
7. The 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.
8. Construction and operational traffic shall only use the access points to the Property identified on the GDP.
9. 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.
10. 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.c, C.2.c, and C.3.c herein, shall be exempt from this provision;
 - b. Pile driving within 500 feet of any residential property boundary shall cease no later than 5:00 p.m. Monday through Saturday. Pile driving anywhere on the Property is prohibited on Sundays. These prohibitions shall not apply to the use of an auger;
 - c. 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;
 - d. The 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 Operator’s website and provided to the County’s Public Information Officer 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; and
 - c) 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 Operator shall participate in a Joint Construction Traffic Reaction Team, which shall also include County Staff and should include 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 Operator shall assist in resolving and implementing solutions to traffic issues.
15. Prior to issuance of a land disturbing permit, the 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 and VDOT.
16. Any pavement damage to roads, including shoulders and aprons, attributable to construction of the Facility shall be repaired by the Operator within 120 days of issuance of the final Certificate of Occupancy for the Facility at the 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 ("RPA") and the supplementation of raised wildlife-compatible

fencing in order to establish a minimum of three (3) passages, each of which each 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 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 Operator shall have one Responsible Land Disturber (“RLD”) and at least one VDEQ 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 Program Administrator. The RLD and ECI shall both be required to be knowledgeable of environmental permit compliance requirements, be experienced in ESC and Stormwater Management Best Management Practice 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. 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 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 be at 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 at a grade of 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 Operator shall follow the policies and procedures contained in the “Emergency Response Plan – Construction”, 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 Response Plan – Construction”, 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 limited to no more than fifty percent (50%) of the timber waste produced by the construction of the Facility to include, but not be limited to, all clearing and grading of the Property. This shall be evidenced by a report submitted every thirty (30) days to the Zoning Administrator detailing the amount of timber waste burned and the amount of timber waste mulched or disposed of offsite over the previous thirty (30) days. The burning of any other matter shall be prohibited.
3. The burning of timber waste shall be done only if via open pit incineration using incinerator 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. 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 2,000 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 Operator shall be required to demonstrate sufficient access to proposed trench pit locations for Fire, Rescue, and Emergency Management (“FREM”) vehicles prior to the County issuance of any burning permit. Sufficient access shall be determined by an inspection from the Fire Marshal or designee.
4. The Operator shall follow the policies and procedures contained in the “Emergency Response Plan – Operations”, dated November 19, 2018 attached hereto as “Exhibit D” and incorporated herein by reference. To the extent the “Emergency Response Plan – Operations”, 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 Operator shall follow the policies and procedures contained in the “Site Specific Safety Plan – Construction”, dated November 19, 2018 attached hereto as “Exhibit F” and incorporated herein by reference. To the extent the “Site Specific Safety Plan – Construction”, 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 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 prior to the approval of any site plan or land disturbing permit.
7. All roads within the Property shall be designed, planned, and constructed for adequate FREM access as determined by the Fire Chief based on all applicable standards and regulations at the time of site plan review. All roads within the Property shall be constructed pursuant to the International Code Council Section 503 for adequate FREM 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 and shall be compacted at optimum moisture, within \pm two (2) percentage points of optimum per Appendix C of VDOT's Road & Bridge Specifications.
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.
9. As each portion of the Facility becomes operational the 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 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.
10. Two (2) 50,000-gallon water tanks shall be located on the Property and those tanks shall provide off-site access for FREM use in an emergency at a location approved by the Fire Chief. The tanks shall remain at least fifty-percent (50%) full at all times in order to serve potential FREM needs.
11. A minimum twenty-(20) foot-wide fire break shall be maintained around the perimeter of the Property and 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.
12. All timber waste, which is not burned, shall be mulched and utilized onsite or disposed of offsite. 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 when the internal temperature reading reaches a minimum 160 degrees Fahrenheit.
- j. Piles and rows of stored Mulch shall be immediately turned or reassembled when the internal temperature reaches a minimum 140 degrees Fahrenheit.

E. Landscaping, Maintenance, Setbacks, and Buffers:

- 1. The 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 425 feet of any real property improvement that complies with all legal requirements for residential occupancy (“Residential Structure”). 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. No structure, improvement, or equipment, including but not limited to, solar arrays and supporting structures, shall be located within 425 feet of the center point of any lot that is the subject of a residential site plan application or is part of an approved residential site plan as of the date the Facility’s site plan application is deemed complete by the Department of Planning. 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.
- 5. 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 one hundred (100) 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.
6. The setback requirements do not apply to fencing, berms, landscaping, plantings, access roads, bridges, and above-ground utility poles.
 7. Fencing shall be to the interior of all berms and re-vegetated buffers with plantings required in the document attached hereto as "Exhibit H."
 8. No trees shall be removed from any one hundred-(100) foot setback area or one hundred-(100) foot preserved buffer as shown on Exhibit H 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.
 9. The shared boundaries between the Property and abutting parcels and between the Property and any VDOT right-of-way shall be screened with berms with plantings, preserved vegetation, re-vegetated areas with plantings, and vegetated areas left to regrow as applicable according to Exhibit H.
 10. Plantings required in Exhibit H shall comply with the GDP's Landscape Plan except that to the extent the GDP's Landscape Plan is contrary to the conditions herein, as determined solely by the County, the conditions herein shall supersede and control.
 11. Only earth, which is defined as soil, shall be used to create any berm on the Property.
 12. Re-vegetated buffers with plantings and berms with plantings required in Exhibit H 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 buffers and berms.
 13. At site plan, a Landscape Architect, licensed and certified in accordance with Virginia Code Title 54.1, shall design all buffers and berms so that they minimize visibility, maximize survivability and stability, and minimize losses from deer or other wildlife consumption.
 14. 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.
 15. The Operator shall use a variety of native plants and native evergreen trees, selected from the County's DSM, which are drought tolerant, environmentally friendly, and compatible with local wildlife.
 16. If, in the sole discretion of the Director of Planning, supplemental plantings are needed to effectuate the intent of these conditions to provide adequate screening, the Operator shall engage a Landscape Architect, licensed and certified in accordance with Virginia Code Title 54.1, to design such supplemental plantings consistent with the requirements herein.
 17. Understory vegetation and seeding shall conform with the County-approved seed list.
 18. The planting on or within the Dominion easement, as set out in the GDP, on the north side of Catharpin Road, shall be as depicted in the GDP and evergreen plantings shall be a minimum of four (4) feet tall at the time of planting.

19. 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 phase of the landscaping is completed and three (3) years has elapsed from that date.
20. Operator shall be responsible for maintaining all planted trees and shrubs. Operator shall have an Arborist certified by the International Society of Arboriculture inspect all plantings biennially in August to determine which, if any, trees and shrubs require replacement. Operator shall replace such trees and shrubs as indicated by the Arborist and shall submit to the Zoning Administrator by December 31st of that year a report of the Arborist's findings and the replacement plantings installed, if any.

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 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 Virginia Department of Agriculture and Consumer Sciences 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 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 should either species be identified.
10. The Operator shall not plant and shall remove invasive species identified in Virginia Department of Conservation and Recreation's ("VDCR") "Virginia Invasive Plant Species List" and VDEQ'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 VDEQ related to invasive species and utilizing VDCR's Virginia Solar Site Native Plant Finder.
12. The 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 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 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 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 Operator to the public water system for bulk use (greater than a single $\frac{3}{4}$ " 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 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.

BE IT FINALLY RESOLVED that the Spotsylvania County Board of Supervisors' approval and adoption of any conditions does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable Spotsylvania County Ordinances, rules, regulations, or adopted standards. To the extent anything in this Special Use Permit is less restrictive than the County's Ordinances, or its rules, regulations, or adopted standards, the lessened restriction shall be superseded and the County's Ordinances, or its rules, regulations, or adopted standards shall control and be applicable to the approved use, but the superseded condition shall not be deemed unlawful, unenforceable, or otherwise rendered void so as to void the Special Use Permit as set out below. The Spotsylvania County Board of Supervisors' decision to approve this Special Use Permit is predicated on the Spotsylvania County Board of Supervisors' understanding that the above conditions the Spotsylvania County Board of Supervisors hereby imposes upon this Special Use Permit are valid, lawful, and shall apply to the approved use for the life of the use; therefore, these conditions, independently and in the aggregate, are not severable from the Spotsylvania County Board of Supervisors' action to approve this Special Use Permit. Should any condition imposed by this Special Use Permit be found to be unlawful, unenforceable, or otherwise rendered void, this Special Use Permit shall be void and the use shall be deemed unlawful.

SUP18-0002 – Sustainable Property Holdings, LLC (sPower Solar Energy Facility Site B)(Livingston District)(Public Hearing Closed)

Dr. Trampe made a motion to continue SUP18-0002 – Sustainable Property Holdings, LLC (sPower Solar Energy Facility Site B)(Livingston District) to the next Board meeting and suspend the bylaws requiring agenda items to be requested 9 days in advance of the meeting. The motion passed unanimously.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

SUP18-0003 – Sustainable Property Holdings, LLC (sPower Solar Energy Facility Site C)(Livingston District)(Public Hearing Closed)

Dr. Trampe made a motion to continue SUP18-0003 – Sustainable Property Holdings, LLC (sPower Solar Energy Facility Site C)(Livingston District) to the next Board meeting and suspend the bylaws requiring agenda items to be requested 9 days in advance of the meeting. The motion passed unanimously.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

NEW BUSINESS

Dr. Trampe advised the County Attorney that the Board wished to add a closed meeting to the next Board agenda.

ADJOURNMENT

On a motion by Mr. Benton and passed unanimously, the Board adjourned its meeting at 11:37 p.m.

VOTE:

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

Ed Petrovitch
Clerk to the Board of Supervisors