



LILY
POND SOLAR

LILY POND SOLAR,
LLC PROPOSED CONDITIONAL USE PERMIT
ON SCUP #
Proposed _____, 2022

Lily Pond Solar, LLC (the “Applicant”) has applied (the “Application”) for a Conditional Use Permit (“CUP”) from Dinwiddie County, Virginia (the “County”) to construct a Solar Energy Farm as defined by the Dinwiddie County Solar Energy District Regulations and permitted by Chapter 22-234.70 of the Zoning Ordinance for Dinwiddie County Virginia (the “Ordinance”).

Pursuant to the Application, the Applicant proposes the following Conditional Use Permit conditions (the “Conditions”) which are in concert with and supplementary to the Dinwiddie County Solar Energy Ordinance. Upon approval of the Conditional Use Permit, the Conditions shall be in full force and effect. All terms and phrases used and not otherwise defined herein shall have the meanings ascribed to them in the Dinwiddie County Solar Energy District Regulations.

1. Limitation of Use of the Site for the Project. The use of the Site, as defined herein, shall be limited to an 80 megawatt alternating current (MWac) ground-mounted solar photovoltaic electric generating facility (the “Project”). The Site shall consist of portions of nineteen parcels (19) parcels of land identified as Dinwiddie County Tax Map Parcels 48-49, 48-52, 48-56, 48-59, 61-3, 61-5, 61-6, 61-7, 61-24A, 62-3, 62-5, 62-6, 62-19, 62-20, 62-21, 62-22, 62-24, 62-33, 62-33A (the “Project Parcels”) consisting of approximately 1,891 acres of which approximately 500 acres will be rezoned to Solar Energy District and utilized for the Project, herein referred to as the “Project Site.” The Project Site shall include the areas shown on the final site plan (the “Site Plan”) containing racking, panels, inverters, transformers, cabling and supporting infrastructure (collectively, the “Solar Facilities”), all located within the perimeter fencing, and including all stormwater management areas. The Solar Facilities shall not include battery storage or any other means of large-scale electrical storage. Small batteries associated with inverters shall not be subject to this provision and shall be considered “supporting infrastructure.”

2. Duration of Use and Permit. The Solar Facilities shall constitute the use approved pursuant to the CUP. The CUP shall run with the land.

3. Screening, Buffering. The Solar Facilities, including their security fence(s), shall be screened from public rights-of-way and adjacent residential properties with existing or proposed vegetation as provided in the Landscaping Plan as provided in these Conditions.

4. Fencing. Fencing along the exterior of the Solar Facilities shall be constructed and maintained in accordance with National Electric Code standards but in no case shall be less than six (6) feet in height. The fencing specified herein shall be maintained until the Project has been fully decommissioned as provided in the Conditions, as determined by the Zoning Administrator.

5. Regular Reports. Prior to commercial operation of the Project, the Applicant submit a report annually to the County Administrator outlining the permitting and development plan progress for

the Project. Once operational, the Applicant shall submit an annual operational report to the County Administrator.

6. Public Safety. The Applicant shall arrange a training session with the applicable Dinwiddie County Public Safety Departments to familiarize personnel with issues unique to a solar facility before operations begin and shall repeat such training on an as-needed basis not to exceed once per year.

7. Access and Inspection. The Applicant will allow designated County representatives or employees access to the facility at any time for inspection purposes, with advance notice to the operator of the Project (the “Operator”) and subject to reasonable site safety and security requirements to ensure safe inspection by the County. The Project may be inspected by the County Building Official on an annual basis to ensure compliance with applicable State Building and Electrical Codes. The Project shall be required to have the Solar Facilities inspected annually for three (3) years by the Zoning Administrator or their designee following the issuance of the final permits to authorize commercial operation in order to verify continued compliance with the Conditional Use Permit and the Zoning Ordinance, as applicable. Additional inspections shall be conducted as necessary in the event of complaints and shall not replace the inspections specified in this section.

8. Project Components and Design. The Solar Facilities shall comply with generally accepted national environmental protection and product safety standards for the use of solar panels and associated technologies for solar photovoltaic projects. The Project shall be constructed in compliance with the requirements of the most current Virginia Building and Electrical Codes in effect upon issuance of the building permit. The total height of the Solar Facilities shall not exceed 18 feet above the ground when orientated at maximum tilt. This height limitation shall not apply to the power poles, substation equipment and the connections to the existing transmission lines on the Property. Any electrical wiring used in the Project shall be underground (trenched) except:

- (a) wiring directly connecting individual panels or arrays of panels,
- (b) where necessary to avoid natural obstacles, wetlands or electrical interference, or
- (c) where wiring is brought together for interconnection to system components, substations, and/or the local utility power grid.

9. Lighting. During construction of the Solar Facilities, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and safety lighting shall be exempt from this construction lighting condition. Any on-site lighting provided for the operational phase of the Project shall be dark-sky compliant, shielded away from adjacent properties, and positioned downward to minimize light spillage onto adjacent properties.

10. Groundwater Monitoring. To establish the current groundwater quality and levels of specific element contaminants, groundwater monitoring shall take place prior to and upon completion of construction of the Project throughout the area of the Project. Groundwater monitoring shall take place every five (5) years of the operation of the Project, and upon completion of decommissioning, with each report provided to the Zoning Administrator.

11. Signage. Warning signages shall be placed on the Solar Facilities to the extent required by any local, state or federal law or regulation. The Solar Facilities shall not be used for displaying any advertising except for reasonable identification of the owner and Operator of the Project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on the Solar Facilities except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a governmental agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger.

12. Decommissioning.

(a) *Decommissioning Plan*. The Applicant shall submit a decommissioning plan (the "Decommissioning Plan") to the County in the form of a written agreement that details the method, cost and associated security for the performance of decommissioning for approval in conjunction with final Site Plan approval. The Decommissioning Plan shall include a Decommissioning Cost Estimate prepared by a Virginia licensed professional engineer. The Decommissioning Cost Estimate shall provide the gross estimated cost to decommission the Solar Facilities in accordance with the Decommissioning Plan and these Conditions. The Decommissioning Cost Estimate shall include any estimates or offsets for the resale or salvage values of the Solar Facilities' equipment and materials. The Applicant shall reimburse the County for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimate. The Applicant will update the Decommissioning Cost Estimate every five (5) years from date of the original Certificate of Occupancy (C.O.) and reimburse the County for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision. Such decommissioning plans shall be in the form of a written agreement acceptable to the County, shall comply with Virginia Code § 15.2-2241.2, and shall set forth the joint and several responsibility of the Applicant and all the successors, heirs, and assigns of the Applicant.

(b) *Decommissioning Security*. Prior to the County's approval of the final site plan, the Applicant shall provide security (the "Decommissioning Security") in the amount of the Decommissioning Cost Estimate in accordance with Virginia Code § 15.2-2241.2 and in a form acceptable to the Dinwiddie County Zoning Administrator and Dinwiddie County Attorney. Notwithstanding the foregoing, if a public utility company that is operating in the Commonwealth of Virginia and that has an investment grade credit rating with Moody's and/or Standard and Poor's enters into an agreement to acquire and/or lease the Project, no security shall be required to be issued for so long as the utility company owns the Project and its credit rating remains at or above investment grade.

Any increase or decrease in the amount of the Decommissioning Security shall be implemented by the Applicant (if permissible by the form of security) within ninety (90) days of the relevant determination and shall be similarly revised for every subsequent five-year updated Decommissioning Cost Estimate. The security must be received prior to the approval of the building permit and must stay in force for the duration of the life span of the Solar Facilities and until all decommissioning is completed. If the County receives notice that the security has been revoked or the County receives notice that any security may be revoked, the County shall be entitled to take all action to obtain the rights to the Decommissioning Security. Notwithstanding the foregoing, an alternative security arrangement may be accepted by the County so long as it is a form acceptable to the County Attorney.

(c) *Decommissioning Trigger.* If the Solar Facilities do not deliver electrical power to the grid for a continuous period of twelve (12) months, decommissioning shall commence and be completed within the following period of eighteen (18) months. Decommissioning shall be completed by the Applicant at its sole cost and expense in accordance with the Decommissioning Plan as approved by the County. This time period may be extended or waived by the Zoning Administrator upon request of the Applicant in circumstances where the cessation of operation is caused by some occurrence or factor beyond the control of the Applicant. In no case shall the Solar Facilities remain inactive for a period of greater than twenty four (24) months without triggering the requirement for decommissioning. If the Applicant fails to timely decommission the Solar Facilities, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have full access to the Property and to the full amount of the Decommissioning Security. If applicable, any excess Decommissioning Security funds shall be returned to the current owner of the Property, or their successors, heirs, and assigns, after the County has completed the decommissioning activities. Nothing herein shall limit other rights or remedies that may be available to the County to enforce the obligations of the Applicant, including under the County's zoning powers.

(d) *Equipment/building removal.* As part of the decommissioning, all physical improvements, materials, and equipment related to the Solar Facilities, both surface and subsurface components, shall be removed to a depth of 36 inches. The soil grade shall also be restored following disturbance caused in the removal process. Perimeter fencing shall be removed and recycled or re-used, as possible. The County, in its sole discretion, may grant an exception to removal of certain materials and equipment upon written request from the current or future landowner indicating areas where removal is not desired.

(e) *Infrastructure removal.* As part of the decommissioning, all access roads shall be removed, including any geotextile material beneath the roads and any granular material. The County, in its sole discretion, may grant an exception to removal of the access roads and associated culverts or their related material upon written request from the current or future landowner to leave all or a portion of these facilities in place for use by that landowner. Access roads shall be removed within areas that were previously used for agricultural purposes and topsoil shall be redistributed to provide substantially similar growing media as was present within the areas prior to development of the Project.

(f) *Partial Decommissioning.* If decommissioning is triggered for a portion of the Solar Facilities, then the Applicant or its successor shall commence and complete decommissioning, in accordance with the Decommissioning Plan, for the applicable portion of the Solar Facilities. The remaining portion of the Solar Facilities would continue to be subject to the Decommissioning Plan, and the Decommissioning Security will be decreased proportionately. Any reference to decommissioning the Solar Facilities shall include the obligation to decommission all or a portion of the Solar Facilities, whichever is applicable, upon approval of the Zoning Administrator.

13. Project Liaison. The Applicant will designate at least one public liaison (the “Liaison”), will publicize a toll-free phone number and email address for communication with the Liaison during construction, and will post such information on a temporary sign at each major access point to the

Solar Facilities. The Applicant shall, at a minimum, publish this information on the Operator's website and provide the Zoning Administrator with the same information 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 Solar Facilities or the Project within 72 hours. The Liaison role shall commence at the initial preconstruction meeting. The Liaison shall prepare a monthly report detailing any complaints, complaint date, resolution, and resolution date of any inquiries. The Liaison shall provide a copy of the report to the Zoning Administrator on the first business day of each month throughout the construction period and for an additional six (6) months following issuance of the final occupancy permit or equivalent from the County for the Solar Facilities or the Project.

14. Reimbursement for Third Party Reviews; Inspections. During the development of the Project, Applicant agrees to refund the County up to \$50,000 per year for any costs associated with the provision and/or employment of outside experts and consultants necessary to review specific technical issues outside the County's expertise or for which the County has inadequate full-time staff. This provision shall commence upon submission of a Final Site Plan for approval by the Planning Director and continue through the Commercial Operation Date for the Project, at which point this condition shall be deemed satisfied and the obligation will terminate. During this time, the County shall submit to Applicant invoices for such costs not less than quarterly and such invoices shall be paid within thirty (30) days of receipt.

15. Agricultural Use Value Program and Applicable Taxes and Fees. For any Project Parcel that has been part of the Agricultural Use Value program pursuant to Virginia Code Sections 58.1-3230 and 58.1-3231 during the past five years, all penalties and interest payments that are due to the County will be paid within ninety (90) days of issuance of the CUP.

16. Offset of Impact to Agricultural Use. Areas within the Project Site that have been used as Cropland (as defined by the U.S. Department of Agriculture Economic Research Service) within three (3) years prior to final site plan approval that are removed from such use upon the construction of the Project (the "Impacted Cropland Acreage") will be offset by placing an equal amount of area of the Project Parcels not currently in Cropland (the "Replacement Cropland Acreage") into such use, or in preparation for such use prior to commercial operation of the Project. The Impacted Cropland Acreage will be determined prior to final site plan approval and the Replacement Cropland Acreage will be depicted on the final Site Plan submitted to the County for approval.

17. Site Plan Features. The Project will be developed in substantial conformity with the preliminary site plan dated October 7th, 2022 and included with the CUP application. Specific Site Plan features will include:

- (a) a 250-foot setback maintained from the fence line of the Project to the edge of the right-of-way where the Site abuts the public rights-of-way along Halifax Road;
- (b) a 150-foot setback for the remaining perimeter of the Project Site will be maintained between the fenced solar arrays and the property lines of the adjoining properties.
- (c) A vegetative buffer of willows surround the perimeter of the Project Site. Existing trees and vegetation will be retained where possible and additional vegetation added where necessary as provided in the Landscaping Plan;

- (d) wildlife corridors maintained between fenced areas to promote travel and feeding of wildlife;
- (e) all access points, drives, turnouts, etc. that connect to Halifax Road and Perkins Road;
- (f) no setbacks for the electrical collection/transmission lines right-of-ways; and
- (g) a substation to be located on parcel 161-5.

18. Studies and Plans. Prior to or concurrent with the final Site Plan, the Applicant will submit to the County the studies and plans as set forth in this Section 17.

- (a) Construction Management Plan. Applicant will submit a Construction Management Plan, including the following items:
 - i. Proposed construction schedule and hours of operation;
 - ii. Project access planning for each entry to the Project and any required road improvements;
 - iii. Project security measures to be implemented prior to the commencement of construction of the Solar Facilities;
 - iv. Dust mitigation; and
 - v. Handling of construction complaints via the Liaison.

(b) Traffic Mitigation and Road Repair Plans. The Applicant shall:

- i. Develop a Traffic Mitigation Plan in consultation with the County Planning Staff, the Virginia Department of Transportation (“VDOT”), the Dinwiddie County Sheriff’s Office, and the Virginia State Police to identify and expeditiously resolve or mitigate traffic issues that arise during the construction or decommissioning of the Solar Facilities, including but not limited to (A) lane closures, (B) signage, and (C) flagging procedures. Employee and delivery traffic shall be scheduled and managed so as to minimize conflicts with local traffic. Permanent access roads and parking areas will be stabilized with gravel, asphalt or concrete to minimize dust and impacts to adjacent properties. Traffic control methods shall be coordinated with VDOT prior to initiation of construction. The Traffic Mitigation Plan will identify on-site areas suitable for parking for construction workers and for trucks to be unloaded and to turn around without having to back onto public roadways during construction and decommissioning.
- ii. Develop a Road Repair Plan in consultation with VDOT to provide for repair of damage to public roads occurring within five hundred (500) feet of any entrance to the Project attributable to construction or decommissioning of the Solar Facilities. Such repair shall restore the roads to conditions at least comparable to their conditions before the commencement of construction or decommissioning. Frog Lick Ln shall not be used as access road to the project.

(c) Landscaping Plan. The Applicant shall submit a Landscaping Plan showing the Solar Facilities and the Project, including the security fence, screened from public rights-of-way and adjacent residential properties with existing or proposed vegetation, including the vegetative buffers surrounding the Project. The vegetative buffer provided in the Landscaping Plan shall conform to the following requirements:

- i. The vegetative buffer will consist of trees and/or shrubs which at planting shall be a minimum of six (6) feet in height;
- ii. Existing vegetation will be maintained where possible and supplemented as necessary;
- iii. The vegetative buffer will be regularly inspected and supplemented with additional plantings as necessary to replace dead trees and shrubs. To ensure this process is completed on a timely basis, Applicant will provide for an annual third party inspection of the buffer which will generate a report detailing the condition of the buffer and any needed replanting or supplementing due to thinning or vegetative attrition. A copy of this report will be provided to Applicant and County staff and Applicant will ensure the remedial measures are addressed.
- iv. The Applicant shall submit renderings along with the Site Plan describing the buffer areas, specifically delineating the areas where existing vegetation is to be maintained or supplemented and areas where the vegetative buffer will be established; and
- v. The Landscaping Plan will include the location, acreage and plan of care for a pollinator garden and bee cultivation area established in accordance with the Virginia Pollinator Smart guidelines.
- vi. Provisions for the establishment of the vegetative buffer in core areas either prior to or simultaneous with the commencement of construction of the Facility to ensure those new vegetative buffers are well-established prior to the completion of the Facility.
- vii. A Twenty Thousand Dollar (\$20,000.00) landscaping bond will be posted for ten (10) years to ensure maintenance of the vegetative buffer in accordance with the Landscaping Plan. The bond shall be in a form acceptable to the County Attorney and shall be in place at the time of final site plan approval.

(d) Building and Electrical Plans. The Applicant shall submit building and electrical plans to the Building Inspector for approval.

(e) Final Environmental and Historic Survey Studies. The Applicant shall prepare and submit (as applicable) the following studies and reports:

- i. Wetland and Stream Delineation, including Preliminary Jurisdictional Determination from the Army Corps of Engineers;
- ii. Threatened and endangered species habitat assessment; and
- iii. Phase I archaeological and historical survey of the Project.

- (f) Liability Insurance Certificate. The Applicant shall provide proof of adequate liability insurance for the Project.
- (g) Grading Plan. The Project shall be constructed in compliance with the County-approved grading plan (the “Grading Plan”) as determined and approved by the Planning Director or its designee prior to the commencement of any construction activities and a bond or other security will be posted for the grading operations. The Grading Plan shall:
- i. Clearly show existing and proposed contours;
 - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
 - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
 - iv. Balance the earthwork on-site with no import or export of soil;
 - v. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, provide that topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded; and
 - vi. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
- (h) Erosion and Sediment Control Plan. Unless the County chooses not to opt out of the Erosion and Sediment control program, delegating that authority to DEQ, the County may undertake a third-party review of the Erosion and Sediment Control Plan with corrections completed prior to the County’s review and approval of the Site Plan. The owner or Operator shall construct, maintain and operate the Project in compliance with the approved plan, posting an Erosion and Sediment Control (or other security) for the construction portion of the project.
- (i) Stormwater Management Plan. The County has opted out of Stormwater Management and DEQ will conduct all necessary Stormwater Management control review.
- (j) Initial Groundwater Report. Prior to issuance of the building permit, the Applicant shall submit the initial groundwater monitoring report and confirm the schedule for updated reports as required by Section 22-234.67 of the Dinwiddie County SE District Regulations.
- (k) Other Permits and Reports. All applicable federal, state and local permits shall be obtained and filed with the Dinwiddie County Planning Department along with the request for final site plan approval.

19. Violations. At all times, all activities conducted on the Project Site shall be in conformance with all federal, state and local laws, regulations and ordinances. A violation of any type continuing for 60 days from the date a written notice of violation (“NOV”) is mailed to the Applicant’s written

designated point of contact may result in revocation of this CUP if the Operator has failed to meet with the Zoning Administrator and submit a plan to address the violations cited in the NOV. With respect to any road repairs necessitated by the Operator's use of the roads during construction, any such repairs shall be made within a reasonable period of time after obtaining approval from VDOT. Failure to comply with any and all conditions as approved by the Board of Supervisors may result in this CUP being revoked after a public hearing by the Board.

20. Successors and Assigns. The CUP and the Conditions shall apply to the Applicant and any successors or assigns of the Applicant.