

SOLAR FACILITY SITING AGREEMENT

This Solar Facility Siting Agreement (the “Agreement”), dated as of _____, 2023 (the “Effective Date”), is by and between Dinwiddie County, Virginia, a political subdivision of the Commonwealth of Virginia (the “County”) and Lily Pond Solar, LLC a Delaware limited liability company (the “Applicant”). The County and Applicant are herein each a “Party” and collectively, the “Parties”.

RECITALS

WHEREAS, Applicant intends to build the solar project approved by the Dinwiddie County Board of Supervisors (the “Board”) pursuant to Conditional Use Permit # _____ (the “Project”) on certain parcels of land identified as 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 (collectively, the “Property”);

WHEREAS, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia titled “Siting of Solar Projects and Energy Storage Projects,” Applicant and the County may enter into a siting agreement for such facilities;

WHEREAS, pursuant to Virginia Code § 15.2-2316.7(B), said siting agreement may contain terms and conditions, including (i) mitigation of any impacts of such solar project; (ii) financial compensation to the host locality to address capital needs set out in the (a) capital improvement plan adopted by the host locality, (b) current fiscal budget of the host locality, or (c) fiscal fund balance policy adopted by the host locality; or (iii) assistance by the Applicant in the deployment of broadband, as defined in § 56-585.1:9, in such locality;

WHEREAS, after negotiation between the County and the Applicant, the Parties desire to enter into this Agreement to provide said financial compensation to the County and to address any impacts of the Project;

WHEREAS, pursuant to Virginia Code § 58.1-2636, the County may adopt an ordinance assessing a revenue share of (i) up to \$1,400.00 per megawatt, as measured in alternating current (AC) generation capacity of the nameplate capacity of the Project (“Revenue Share Ordinance”).

WHEREAS, the County has not adopted a Revenue Share Ordinance, but may choose to do so at a later date;

WHEREAS, pursuant to Virginia Code § 58.1-3660, “certified pollution control equipment” enjoys certain exemption from state and local taxation pursuant to Article X, Section 6(d) of the Constitution of Virginia;

WHEREAS, solar photovoltaic (electric energy) systems are certified pollution control equipment, and therefore, subject to certain qualified tax exemptions as provided in Virginia Code § 58.1-3660;

WHEREAS, if the County adopts a Revenue Share Ordinance, such certified pollution control equipment exemption is 100% of the assessed value, pursuant to Virginia Code § 58.1-3660(D) (for solar photovoltaic (electric energy) projects);

WHEREAS, if the County does not adopt a Revenue Share Ordinance, such certified pollution control equipment exemption would be 80% of the assessed value as provided by state law and local ordinances, including Virginia Code § 58.1-3660 (C), (D), and (F), commonly known as the Machinery and Tools Tax Stepdown (“M&T Taxes”);

WHEREAS, Applicant has agreed to the payments and financial terms contained herein, including payment of the M&T Taxes together with annual payments supplementing the M&T Taxes in amounts that would result in a total annual payment equal to the greater of the M&T Taxes or what would otherwise be due under a Revenue Share Ordinance, regardless of whether the County actually adopts a Revenue Share Ordinance (the "Annual Supplementary Payments"), as well as an initial payment within sixty (60) days approval of the CUP (Initial Payment); and

WHEREAS, pursuant to the requirement of Virginia Code § 15.2-2316.8(B), the County held a public hearing in accordance with subdivision A of Virginia Code § 15.2-2204 for the purpose of considering this Agreement, after which a majority of a quorum of the members of the Board approved this Agreement.

NOW, THEREFORE, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Code of Virginia, intending to be legally bound hereby and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the County and Applicant do hereby agree as follows:

Article I

Project Features, Conditions and Mitigation

1. Conditional Use Permit Conditions. Applicant acknowledges and agrees that it is subject to all the terms and conditions contained in the Conditional Use Permit (“CUP”) approved by the Board of Supervisors for the Project. The CUP approved by the Board on _____ is attached as **Exhibit A** and is hereby incorporated herein.

2. Violations/Enforcement. Violation by the Applicant or by any of Applicant’s agents, assigns, or successors in interest of any terms and conditions of the CUP shall constitute a violation of this Agreement. A violation of this Agreement enables the County to suspend or revoke the CUP in accordance with Section 20 of the CUP.

Article II

Payments

1. Purpose. The Parties acknowledge that the County has certain capital needs important to the economic, physical, and social well-being of the citizens and businesses within

the County. In recognition that the Project may generate the possibility of additional responsibilities for certain County services, Applicant agrees to the financial payments set forth herein.

2. Payment Structure. The Applicant shall make payments to the County, in the amounts and at such times as set forth in **Exhibit B** (each a “Payment” and collectively, the “Payments”). The Initial Payment (defined in **Exhibit B**), shall be made no later than 60 days after approval of the CUP. All other Payments shall be due and payable on or before December 1st each year (and shall be prorated accordingly for the number of months of Commercial Operation prior to December 1 of the first year), until the earliest of the following (the “Termination Date”): (i) Applicant’s commencement of the decommissioning of all or a material portion of the Project; (ii) permanent cessation of Commercial Operation of the Project.; or (iii) if not previously terminated by (i) or (ii), termination of the CUP. With the exception of the Initial Payment which shall be made in accordance with this section and Exhibit B, Applicant’s obligation to make all other Payments shall be conditioned upon the Project commencing Commercial Operation. As used herein, “Commercial Operation” or “Commercial Operation Date” means the date on which the Project becomes fully operational and begins selling power under the terms of a power purchase or offtake agreement. Generation of test energy shall not be deemed Commercial Operation.

3. Statutory Structure of Payments; Statement of Benefit. Applicant agrees that, by entering into this Agreement, pursuant to Chapter 22, Title 15.2, Article 7.3 of the Virginia Code, the Payments are authorized by statute, and Applicant acknowledges that it is bound by law to make the Payments in accordance with this Agreement. The Parties acknowledge that this Agreement is fair and mutually beneficial to both Parties. Applicant acknowledges that this Agreement provides for a reasonably predictable stream of future payments to the County in amounts fair to both Parties.

4. Use of Payments by the County. The Payments may be used for any lawful purpose.

Article III

Miscellaneous Terms

1. Term; Termination. This Agreement shall commence on the Effective Date and shall continue until the Termination Date. **Applicant shall have no obligation to make Payments after the Termination Date.** The Payment due for the year in which the Project or material part thereof is decommissioned shall be prorated as of the Termination Date. Following the conclusion of the forty-fifth (45th) calendar year of Commercial Operation of the Project, and for each subsequent year of Commercial Operation, this Agreement shall automatically renew for an additional term of one year, from January 1 to December 31 of each calendar year, until written notice of termination is given by either Party, at least one year in advance of the Termination Date. The termination of this Agreement shall not limit Applicant’s legal obligation (i) to pay local taxes or other payments in accordance with applicable law at such time and for such period as the Project remains in operation or (ii) to abide by all other applicable law

pertaining to the Project, including, but not limited to, the Conditional Use Permit.

2. Mutual Covenants. The Applicant covenants to the County that it will pay the County the amounts due hereunder when due in accordance with the terms of this Agreement, and will not seek to invalidate this Agreement, or otherwise take a position adverse to the purpose or validity of this Agreement. The County covenants to the Applicant that it will not seek to invalidate this Agreement or otherwise take a position adverse to the purpose or validity of this Agreement.

3. No Obligation to Develop. Applicant has no obligation to develop or construct the Project. It is understood that development of the Project by Applicant is contingent upon a number of factors including regulatory approvals, availability and cost of equipment and financing, and market demand for the Project's energy. No election by Applicant to terminate, defer, suspend, or modify plans to develop the Project shall be deemed a default of Applicant under this Agreement.

4. Successors and Assigns. This Agreement shall be binding upon the successors or assigns of Applicant, and the obligations created hereunder shall be covenants running with the Property. If Applicant sells, transfers, leases, or assigns all or substantially all of its interests in the Project or the ownership of the Applicant (a "Transfer"), the Transfer agreement shall require this Agreement to be assumed by and be binding on the purchaser, transferee or assignee. Such Transfer, upon full execution of the Transfer agreement, shall relieve Applicant of all obligations and liabilities under this Agreement accruing from and after the date of such Transfer, and the purchaser or transferee shall become responsible under this Agreement. Applicant shall execute such documentation as reasonably requested by the County to memorialize the assignment and assumption by the purchaser or transferee.

5. Execution of Agreement Deems Project "Substantially In Accord" with County's Comprehensive Plan. Pursuant to Va. Code § 15.2- 2316.9(C), execution of this Agreement deems the Project to be substantially in accord with the County's Comprehensive Plan in satisfaction of the requirements of Va. Code § 15.2-2232.

6. Memorandum of Agreement. A memorandum of this Agreement, in a form substantially similar to that attached as **Exhibit C** hereto, shall be recorded in the land records of the Clerk's Office of the Circuit Court of the County, Virginia. Such recordation shall be at Applicant's sole cost and expense and shall occur as soon as reasonably practicable after the Effective Date. If in Applicant's sole discretion, it chooses to not develop the Project, the County shall execute a release of the memorandum filed in the aforementioned Clerk's Office.

7. Notices. Except as otherwise provided herein, all notices required to be given or authorized to be given pursuant to this Agreement shall be in writing and shall be delivered or sent by registered or certified mail, postage prepaid, by recognized overnight courier, or by commercial messenger to:

W. Kevin Massengill
County Administrator

Dinwiddie County
P.O. Drawer 70
14010 Boydton Plank Road
Dinwiddie, VA 23841

With a copy to:

Tyler Southall
Mike Drewry
Dinwiddie County Attorney's Office
P.O. Drawer 70
14010 Boydton Plank Road
Dinwiddie, VA 23841

And

Lily Pond Solar, LLC
c/o Itamar Sarussi
Energix US, LLC
2311 Wilson Blvd., Suite 640
Arlington, Virginia 22201

With a copy to:

John G. "Chip" Dicks
D. Scott Foster, Jr.
Gentry Locke
PO Box 780
Richmond, Virginia 23218

The County and Applicant, by notice given hereunder, may designate any further or different persons or addresses to which subsequent notices shall be sent.

8. Governing Law; Jurisdiction; Venue. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA, WITHOUT REGARD TO ANY OF ITS PRINCIPLES OF CONFLICTS OF LAWS OR OTHER LAWS WHICH WOULD RESULT IN THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. THE PARTIES HERETO (A) AGREE THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING, AS BETWEEN THE PARTIES HERETO, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT AND TRIED ONLY IN THE CIRCUIT COURT OF DINWIDDIE COUNTY, VIRGINIA, (B) CONSENT TO THE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING, AND (C) WAIVE ANY OBJECTION WHICH ANY OF THEM MAY HAVE TO THE LAYING OF VENUE FOR ANY SUCH SUIT, ACTION, OR PROCEEDING IN SUCH COURT AND ANY CLAIM

THAT ANY SUCH SUIT, ACTION, OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH SUIT, ACTION, OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

10. Severability; Invalidity Clause. Any provision of this Agreement that conflicts with applicable law or is held to be void or unenforceable shall be ineffective to the extent of such conflict, voidness, or unenforceability without invalidating the remaining provisions hereof, which remaining provisions shall be enforceable to the fullest extent permitted under applicable law. If, for any reason, including a change in applicable law, it is ever determined by any court or governmental authority of competent jurisdiction that this Agreement is invalid, then the Parties shall, subject to any necessary County meeting vote or procedures, undertake reasonable efforts to amend and or reauthorize this Agreement so as to render the invalid provisions herein lawful, valid, and enforceable. If the Parties are unable to do so, this Agreement shall terminate as of the date of such determination of invalidity, and the Property and Project will thereafter be assessed and taxed as though this Agreement did not exist. The Parties will cooperate with each other and use reasonable efforts to defend against and contest any challenge to this Agreement by a third party.

11. Entire Agreement. This Agreement and any exhibits or other attachments constitute the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the Parties hereto with respect to the subject matter hereof. No provision of this Agreement can be modified, altered or amended except in a writing executed by all Parties hereto.

12. Construction. This Agreement was drafted with input by the County and the Applicant, and no presumption shall exist against any Party. The headings contained in this Agreement are for the convenience of the Parties and for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

13. Force Majeure.

A. “Force Majeure Event” means the occurrence of:

(i) an act of war (whether declared or not), hostilities, insurrection, invasion, act of foreign enemies, terrorism or civil disorder;

(ii) a strike or strikes or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not), in each case affecting on a general basis the industry related to the construction, operation, or maintenance of the Project, as for example but not in limitation, the interruption in the supply of replacement solar panels, and which is not attributable to any unreasonable action or inaction on the part of Applicant or any of its subcontractors or suppliers and the settlement of which is beyond the reasonable control of all such persons;

(iii) specific incidents of exceptional adverse weather conditions in excess of those required to be designed for that are materially worse than those encountered in County during the twenty (20) years prior to the Effective Date;

(iv) tempest, earthquake, or any other natural disaster of overwhelming proportions and the disruption of operations resulting therefrom;

(v) discontinuation of electricity supply, or unanticipated termination of a power purchase agreement;

(vi) quarantines ordered by competent governmental authority in the event of a public health emergency;

(vi) other unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected Party to take precautions and which the affected Party cannot avoid even by using its best efforts, which in each case directly causes either Party to be unable to comply with all or a material part of its obligations under this Agreement.

B. Neither Party will be in breach of its obligations under this Agreement or incur any liability to the other Party for any losses or damages of any nature whatsoever incurred or suffered by that other (otherwise than under any express indemnity in this Agreement) if and to the extent it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure Event, except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure Event had not occurred.

C. As soon as reasonably practicable after the start of a Force Majeure Event, and within a reasonable time after the end of a Force Majeure Event, any Party invoking it will submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.

D. Applicant will, and will ensure that its contractors will, at all times take all reasonable steps within their respective powers and consistent with good operating practices (but without incurring unreasonable additional costs) to:

- (i) prevent Force Majeure Events affecting the performance of Applicant's obligations under this Agreement;
- (ii) mitigate the effect of any Force Majeure Event; and
- (iii) comply with its obligations under this Agreement.

E. The Parties will consult together in relation to the above matters following the occurrence of a Force Majeure Event.

F. Should a single Force Majeure Event occur for a continuous period of more than 180 days, then the Parties shall endeavor to agree on any modifications to this Agreement (including without limitation, determination of new Payments) that are equitable, having due regard to the nature of the ability of Applicant to continue to meet its financial obligations to the County.

G. For the avoidance of doubt, a Force Majeure Event shall not include (a) financial distress or the inability of either Party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a Party's financial inability to perform its obligations hereunder, except such occurrences (a)-(c) that arise from a Force Majeure Event.

14. No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit, priority, or interest in, under, or because of the existence of, this Agreement.

15. Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute one and the same instrument. A signed copy of this Agreement delivered by e-mail/PDF or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by the officers whose names appear below as of the Effective Date.

LILY POND SOLAR, LLC

By: Energix Group, US, LLC
Its: Sole Member

By: _____
Name: _____
Title: _____

DINWIDDIE COUNTY, VIRGINIA

By: _____
Name: Dr. Mark E. Moore
Title: Chair, Board of Supervisors

Approved as to form:

By: _____
County Attorney

EXHIBIT A

Applicant agrees to provide the following community benefits and make the following payments pursuant to the terms of this Agreement:

Initial Payment. A one-time payment to the County in the amount of THREE MILLION SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$3,600,000.00) within sixty (60) days of approval of the Conditional Use Permit for the Project.

Annual Machinery and Tools Tax Payments and Annual Supplemental Payments.

(i) Pay all M&T Payments pursuant to Article 2, Chapters 35 and 36 of Title 58.1 of the Code of Virginia and applicable County Ordinances, in effect as of the date of this Agreement, for the life of the Project, together with Annual Supplementary Payments supplementing the M&T Taxes in amounts that would result in a total annual payment equal to the greater of the M&T Taxes or what would otherwise be due under a Revenue Share Ordinance pursuant to Va. Code Section 58.1-2636.

Year	Real Estate Tax (Reassessed) ¹	Revenue Share Equivalent	Estimated M&T ²	Annual Supplemental Payment	Initial Payment	Total Annual Revenues
1	\$224,084	\$112,000	\$156,050	\$0	\$3,600,000	\$3,980,134
2	\$224,084	\$123,200	\$156,050	\$0	\$0	\$380,134
3	\$224,084	\$123,200	\$156,050	\$0	\$0	\$380,134
4	\$224,084	\$123,200	\$156,050	\$0	\$0	\$380,134
5	\$224,084	\$123,200	\$156,050	\$0	\$0	\$380,134
6	\$224,084	\$123,200	\$156,050	\$0	\$0	\$380,134
7	\$224,084	\$135,520	\$156,050	\$0	\$0	\$380,134
8	\$224,084	\$135,520	\$156,050	\$0	\$0	\$380,134
9	\$224,084	\$135,520	\$155,513	\$0	\$0	\$379,596
10	\$224,084	\$135,520	\$152,877	\$0	\$0	\$376,961
11	\$224,084	\$135,520	\$150,086	\$0	\$0	\$374,169
12	\$224,084	\$149,072	\$147,138	\$1,934	\$0	\$373,156
13	\$224,084	\$149,072	\$144,017	\$5,055	\$0	\$373,156
14	\$224,084	\$149,072	\$140,688	\$8,384	\$0	\$373,156
15	\$224,084	\$149,072	\$137,168	\$11,904	\$0	\$373,156
16	\$224,084	\$149,072	\$133,440	\$15,632	\$0	\$373,156
17	\$224,084	\$163,979	\$129,799	\$34,180	\$0	\$388,063
18	\$224,084	\$163,979	\$125,308	\$38,671	\$0	\$388,063
19	\$224,084	\$163,979	\$120,852	\$43,127	\$0	\$388,063
20	\$224,084	\$163,979	\$116,153	\$47,826	\$0	\$388,063
21	\$224,084	\$163,979	\$111,160	\$52,819	\$0	\$388,063
22	\$224,084	\$180,377	\$105,871	\$74,506	\$0	\$404,461
23	\$224,084	\$180,377	\$100,271	\$80,106	\$0	\$404,461
24	\$224,084	\$180,377	\$94,324	\$86,053	\$0	\$404,461
25	\$224,084	\$180,377	\$88,030	\$92,347	\$0	\$404,461
26	\$224,084	\$180,377	\$81,337	\$99,040	\$0	\$404,461
27	\$224,084	\$198,415	\$74,263	\$124,152	\$0	\$422,498
28	\$224,084	\$198,415	\$66,755	\$131,660	\$0	\$422,498
29	\$224,084	\$198,415	\$58,814	\$139,601	\$0	\$422,498
30	\$224,084	\$198,415	\$50,370	\$148,045	\$0	\$422,498
31	\$224,084	\$198,415	\$41,440	\$156,975	\$0	\$422,498
32	\$224,084	\$218,256	\$31,973	\$186,283	\$0	\$442,340

¹ Numbers in this column are an estimate, and not in any binding upon the County and will be confirmed upon completion of construction of the Project.

² Numbers in this column are an estimate, and not in any binding upon the County and will be confirmed upon completion of construction of the Project.

33	\$224,084	\$218,256	\$21,934	\$196,323	\$0	\$442,340
34	\$224,084	\$218,256	\$17,339	\$200,917	\$0	\$442,340
35	\$224,084	\$218,256	\$17,339	\$200,917	\$0	\$442,340
36	\$224,084	\$218,256	\$17,339	\$200,917	\$0	\$442,340
37	\$224,084	\$240,082	\$17,339	\$222,743	\$0	\$464,165
38	\$224,084	\$240,082	\$17,339	\$222,743	\$0	\$464,165
39	\$224,084	\$240,082	\$17,339	\$222,743	\$0	\$464,165
40	\$224,084	\$240,082	\$17,339	\$222,743	\$0	\$464,165
41	\$224,084	\$240,082	\$17,339	\$222,743	\$0	\$464,165
42	\$224,084	\$264,090	\$17,339	\$246,751	\$0	\$488,174
43	\$224,084	\$264,090	\$17,339	\$246,751	\$0	\$488,174
44	\$224,084	\$264,090	\$17,339	\$246,751	\$0	\$488,174
45	\$224,084	\$264,090	\$17,339	\$246,751	\$0	\$488,174
Total	\$10,083,758	\$8,212,868	\$4,036,050	\$4,478,096	\$3,600,000	\$22,197,903

SCHEDULE B
CONDITIONAL USE PERMIT