

ACTIONS		
Board of Supervisors Meeting of October 2, 2024		
		October 3, 2024
AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
1. Call to Order. <ul style="list-style-type: none"> The Meeting was called to order at 1:01 p.m. by the Chair, Mr. Andrews. All BOS members were present. Also present were Jeff Richardson, Andy Herrick, Claudette Borgersen, and Travis Morris. 		Link to Video
4. Adoption of Final Agenda. <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED the final agenda. 		
5. Brief Announcements by Board Members. <p><u>Mike Pruitt:</u></p> <ul style="list-style-type: none"> Reported that prior to the Board meeting, he, along with all members of the Board and the Governor of Virginia, attended an announcement regarding the expansion of Afton Scientific, which is located in the Scottsville District. Reminded community members that early in-person voting for the November General Election is available until November 2 and encouraged everyone to vote. <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> Remarked on his attendance at the October 1 screening of the movie <i>In a Different Key</i>, the story of autism, hosted by the VIA Centers for Neurodevelopment. <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> Announced that community members could receive 4 free COVID tests by going to the website covidtests.gov. Announced that on October 4, from 8:30 a.m. to 10:00 a.m., the Peabody School would plant pollinators at Darden Towe Park. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Commented on how Hurricane Helene had reminded community members of the need to improve stream buffers and waterways to prevent catastrophic flooding. She said she looked forward to the consideration and adoption of the Riparian Buffer Overlay District and the Comprehensive Plan. Reported on the Rivanna River Basin Commission meeting that was held the previous Friday at Carver Recreation Center. Announced that October 6, 2024, was the rescheduled date for the Riverwalk and Ice Cream Social from Riverview Park to the Rivanna River Company. She informed community members that they could register through the Piedmont Environmental Council website. Mentioned that October is Wine Month and commented on the local wine industry. She highlighted the direct annual revenue to Albemarle County and the contribution to the tourism industry. Reminded community members to display 		

<p>green lights in their windows and on their porches during the month of November in honor of veterans and to raise awareness of increased services that are available through the Veterans Administration and other local agencies.</p> <p><u>Jim Andrews:</u></p> <ul style="list-style-type: none"> • Mentioned that the Board will discuss the storm efforts during the evening portion of the meeting. • Announced that the Batesville Apple Butter Festival would be held on October 13. 		
<p>6. Proclamations and Recognitions.</p> <p>a. Proclamation Recognizing National 4-H Week.</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED proclamation and presented to Sam Leech. 	(Attachment 1)	
<p>7. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> • There were none. 		
<p>8.2 FY 2024 Appropriations.</p> <ul style="list-style-type: none"> • ADOPTED resolution approving appropriations #2024049; and #2024050 for County government projects and programs. 	<u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachment 2)	
<p>8.3 FY 2025 Appropriations.</p> <ul style="list-style-type: none"> • ADOPTED resolution approving appropriations #2025009; #2025010; #2025011; and #2025012 for County government projects and programs. 	<u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachment 3)	
<p>8.4 Personnel Policy Amendments.</p> <ul style="list-style-type: none"> • ADOPTED resolution amending personnel policies § P-10, and § P-28. 	<u>Clerk:</u> Forward copy of signed resolution to Human Resources and County Attorney's office. (Attachment 4-6)	
<p>8.5 Easements Across County-Owned Parcel 09100-00-00-002E0.</p> <ul style="list-style-type: none"> • SCHEDULED a public hearing on a future agenda to consider approval of the easements and right-of-way dedication for public use. 	<u>Clerk:</u> Schedule on future agenda. advertise in the Daily Progress and notify appropriate individuals.	
<p>8.6 Rural Rustic Resolution (RRR) Designation for Remainder of Sutherland Road (Route 697).</p> <ul style="list-style-type: none"> • ADOPTED resolution to designate the segment of Sutherland Road specified above as a Rural Rustic Road. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development, VDOT Resident Engineer, and County Attorney's office. (Attachment 7)	
<p>9. SE202400001 1234 Carter Street Homestay. (<i>White Hall Magisterial District</i>)</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to approve the special exception. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 8)	
<p>10. SE202400017 4975 Blue Fox Farm Homestay. (<i>White Hall Magisterial District</i>)</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution to approve the special exception. 	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)	
<p>11. Presentation: Ivy Road Corridor Pipeline Project.</p> <ul style="list-style-type: none"> • RECEIVED. 	<u>Community Development:</u> Proceed as discussed.	
<p>Recess</p> <ul style="list-style-type: none"> • At 2:35 p.m., the Board recessed and reconvened at 2:52 p.m. 		
<p>12. Presentation: Transportation Planning Quarterly Report.</p> <ul style="list-style-type: none"> • RECEIVED. 		

<p>13. Presentation: Virginia Department of Transportation (VDOT) Quarterly Report.</p> <ul style="list-style-type: none"> • RECEIVED. 		
<p>14. Closed Meeting.</p> <ul style="list-style-type: none"> • At 3:35 p.m., the Board went into Closed Meeting pursuant to section 2.2-3711(A) of the Code of Virginia: • under subsection (1), to discuss and consider appointments to various boards and commissions including, without limitation: the Crozet Community Advisory Committee; the Historic Preservation Committee; the JAUNT Board; the Jefferson Area Board for Aging (JABA); the Monticello Area Community Action Agency (MACAA); the Places 29 (North) Community Advisory Committee; the Social Services Advisory Board; and the Village of Rivanna Community Advisory Committee. 		
<p>15. Certify Closed Meeting.</p> <ul style="list-style-type: none"> • At 6:01 p.m., the Board reconvened into an open meeting and certified the closed meeting. 		
<p>16. Boards and Commissions:</p> <p>a. Vacancies and Appointments.</p> <ul style="list-style-type: none"> • APPOINTED, Mr. Wallace Barrett-Johnson to the Crozet Community Advisory Committee with said term to expire March 31, 2026. • APPOINTED, Mr. Charles Chapman to the Historic Preservation Committee with said term to expire on June 4, 2026. • REAPPOINTED, Mr. Cameron Mowat to the Jefferson Area Board for Aging (JABA) with said term to expire October 20, 2026. • APPOINTED, Ms. Crystal Bland to the Monticello Area Community Action Agency (MACAA) with said term to expire June 30, 2027. • APPOINTED, Ms. Misty Parsons to the Places 29 (North) Community Advisory Committee with said term to expire on August 5, 2025. • APPOINTED, Ms. Jeanin Braithwaite to the Social Services Advisory Board as the Rivanna District representative with said term to expire December 31, 2027. • APPOINTED, Ms. Zarina Burdge to the Social Services Advisory Board as the Rio Magisterial District representative to fill an unexpired term ending on December 31, 2025. • APPOINTED, Ms. Judy Hundley to the Village of Rivanna Community Advisory Committee with said term to expire on March 31, 2027. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
<p>17. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Dan Eggleston, Chief of Fire Rescue:</u></p> <ul style="list-style-type: none"> • Reported on the storm efforts related to Hurricane Helene. 		
<p>18. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> • There were none. 		

<p>19. <u>Pb. Hrg.: Public Hearing to Consider a One-Time Payment of Monetary Bonus to Employees.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED ordinance. 	<p><u>Clerk:</u> Forward copy of signed ordinance to Human Resources and County Attorney's office. (Attachment 10)</p>	
<p>20. <u>Pb. Hrg.: ZMA202300001 1193 Seminole Trail.</u></p> <ul style="list-style-type: none"> At the request of the applicant, DEFERRED ZMA202300001 1193 Seminole Trail by a vote of 6:0. 	<p><u>Clerk:</u> Schedule when ready.</p> <p><u>Community Development:</u> Notify Clerk when ready.</p>	
<p>21. <u>Pb. Hrg.: Solar Power Purchase Agreement (PPA) Lease at 5th Street County Office Building.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution to authorize the County Executive to sign a proposed lease agreement. 	<p><u>Clerk:</u> Forward copy of signed resolution to Facilities and Environmental Services and County Attorney's office. (Attachment 11)</p> <p><u>County Attorney:</u> Provide Clerk with copy of fully executed Deed of Lease Agreement. (Attachment 12)</p>	
<p>22. <u>Pb. Hrg.: Proposed USA Easement under Boulders Road.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED resolution authorizing a new lease to the U.S. Army for a cable easement under Boulders Road adjacent to Rivanna Station. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 13)</p> <p><u>County Attorney:</u> Provide Clerk with copy of executed lease. (Attachment 14)</p>	
<p>23. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Requested that staff bring to the Board as an agenda item a discussion regarding the change in State Code regarding the sunset clause and LLCs for short-term rentals. Mentioned that it was National Custodian Day and requested that the County Executive extend the Board's gratitude to the Albemarle County custodians. <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> Announced that the next Regional Housing Summit would be held on March 13, 2025. <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> Announced that on Saturday, November 9, 2024, from 11:00 a.m. – 3:00 p.m. at the Carver Recreation Center, there would be a program to commemorate the African American military experience. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Commented that Fluvanna County, in conjunction with DCR (Department of Conservation and Recreation), is pursuing the designation for a section of the Hardware River as a scenic river, and that there is a section in Albemarle County that could be considered at the same time if the County joined in with the application. She mentioned that if there were questions, she could forward them to Fluvanna Supervisors Tony O'Brian. 		
<p>24. Adjourn to October 16, 2024, 1:00 p.m. Lane Auditorium.</p> <ul style="list-style-type: none"> The meeting was adjourned at 7:11 p.m. 		

ckb/tom

- Attachment 1 – Proclamation Recognizing Nation 4-H Week
- Attachment 2 – Resolution to Approve Additional FY 2024 Appropriations
- Attachment 3 – Resolution to Approve Additional FY 2025 Appropriations
- Attachment 4 – Resolution Amending Personnel Policies §P-10 and §P-28
- Attachment 5 – Personnel Policy P-§10 Alcohol-and Drug-Free Workplace
- Attachment 6 – Personnel Policy P-§28 Performance Management
- Attachment 7 – Resolution to Designate Route 697 (Sutherland Road) as a Rural Rustic Road
- Attachment 8 – Resolution to Approve SE2024-00001 1234 Carter Street Homestay
- Attachment 9 – Resolution to Approve SE2024-00017 4975 Blue Fox Farm Homestay
- Attachment 10 – Ordinance No. 24-A(5)
- Attachment 11 – Resolution to Lease Space to Approve the Solar Power Purchase Agreement Lease
- Attachment 12 – DRAFT Deed of Lease Agreement between the County and Sun Tribe Solar, LLC
- Attachment 13 – Resolution Approving Lease of Easement from the County to the USA for Service to Rivanna Station
- Attachment 14 – DRAFT Land Lease between the County and The United States of America

PROCLAMATION RECOGNIZING NATIONAL 4-H WEEK

WHEREAS, October 6-12, 2024, is National 4-H Week in the United States, and more than 1,800 students aged 5 to 19 are involved in 4-H in Albemarle County and Charlottesville City; and

WHEREAS, Virginia Cooperative Extension System conducts 4-H programs through the state land-grant universities, Virginia Tech and Virginia State, with the mission to help young people acquire knowledge, develop skills, and form attitudes which will help them become self-directed, productive members of society; and

WHEREAS, 4-H addresses issues facing youth wherever they live – in inner cities, suburbs, and rural communities and helps break barriers by focusing on learning-by-doing, building self-esteem, leadership, and citizenship skills, and focuses on critical issues such as protecting the environment; and, provide programs on food and nutrition, science and technology, natural resources, substance abuse prevention, animal and plant sciences, career education, community pride, citizenship, and leadership.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby recognize

Sunday, October 6 through Saturday, October 12, 2024, as

NATIONAL 4-H WEEK

and encourage community youth and families to participate fully in the wide range of available programs and activities Albemarle/Charlottesville 4-H provides.

Signed this 2nd day of October 2024.

**RESOLUTION TO APPROVE
ADDITIONAL FY 2024 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 24 Budget is amended to increase it by \$19,500;
- 2) That Appropriations #2024049 and #2024050 are approved;
- 3) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2024.

**RESOLUTION TO APPROVE
ADDITIONAL FY 2025 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 25 Budget is amended to increase it by \$3,115,744.20;
- 2) That Appropriations #2025009; #2025010; #2025011 and #2025012 are approved;
- 3) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2025.

RESOLUTION

WHEREAS, the Board of Supervisors may adopt Personnel Policies under Albemarle County Code §2-901; and

WHEREAS, the Board desires to amend and re-number the following Policies: §P-06 Alcohol/Drug-free Workplace as §P-10 Alcohol and Drugfree Workplace, and §P-23 Performance Review as §P-28 Performance Management.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of Albemarle County, Virginia, hereby approves the renumbering and amendment to the County's Personnel Policies as set forth in the proposed policies.

	P - § 10	Policy Name: Alcohol and Drug-Free Workplace	Approved Date: October 2, 2024
	Prepared By: Human Resources		Adopted Date: August 4, 1993
	Amended Date: May 1, 1996		

A. PURPOSE

To create a safe, healthy, and productive work environment by addressing the use and misuse of alcohol and other substances altering cognitive function. This policy provides guidelines for addressing employee's possession, use of, and impairment due to alcohol, controlled substance, or illegal drug consumption.

B. DEFINITIONS

Controlled Substance – substance that is legally possessed or used under the supervision of a licensed health-care professional or regulated by state law.

Employee Assistance Program (EAP) - a benefit program that assists employees with personal or work-related problems that may impact their job performance, health and general wellbeing.

Essential Functions – the fundamental job duties that an employee must be able to perform to hold a position, with or without reasonable accommodation

Illegal Drug - substance for which manufacture, distribution, dispensing, possession, consumption, use, or sale is prohibited by state or federal law.

Reasonable Suspicion – observations of an employee's behavior, appearance, speech or body odors believed to be associated with alcohol, controlled substance, or illegal drug use.

Safety Sensitive Position – The Code of Virginia (§2.2-1201.1) defines sensitive positions as those generally described as directly responsible for the health, safety and welfare of the general population or protection of critical infrastructures. This list includes, but is not limited to, any of the following: All sworn personnel of the Police Department, uniformed employees of Fire and EMS and the Emergency Communications Center, and employees serving on the County's Human Services Alternative Response Team (HART), employees who handle or dispense prescription medications or other controlled substances, and non-uniformed Emergency Management employees.

C. ROLES AND RESPONSIBILITIES

Employees –

- 1) Employees must notify their supervisor of any criminal charges or convictions related to alcohol or drug-related conduct occurring in or outside of the workplace, which affect the employee's ability to perform job duties (e.g., driving a vehicle, operating equipment, direct interaction with children, enforcement of laws or regulations, etc.), within 2 business days.
- 2) Employees are responsible for consulting with their prescribing physician or pharmacist to determine whether any prescribed drugs or over-the-counter medications may affect their ability to safely and effectively perform their job duties. Employees must notify their supervisor if the use of such products may or does impact their ability to perform their job duties or the safety of the employee, other workers, or the public.
- 3) Employees must comply if they are required to participate in alcohol or drug testing when a supervisor or other designated manager determines that reasonable suspicion exists that the employee is impaired or under the influence of alcohol or drugs while performing their job duties. Employees may also be subject to post-accident testing when involved in safety incidents that result in bodily injury or property damage.
- 4) All County employees are responsible for reporting any evidence that any employee is under the influence of illegal drugs or alcohol while on County property or while performing work on behalf of the County. Employees called into work outside their normal hours must report to their supervisor, before beginning work, if they are under the influence of alcohol or controlled substances.

Supervisors –

- 1) The supervisor must notify Human Resources once an employee has reported that a prescribed medication will impact the ability to perform job duties for longer than 3 working days, as this may result in an accommodation request under the Americans with Disabilities Act or qualification of Family Medical Leave.
- 2) Supervisors are responsible for relieving employees of their active work responsibilities in the event of reasonable suspicion that an employee's cognitive function may be impaired. If a drug and alcohol screening is required, the test should be completed within 2 hours of the determination. Supervisors must notify Human Resources as soon as practicable when an employee has been sent for drug and alcohol screening due to reasonable suspicion.

Human Resources –

- 1) The Department of Human Resources shall provide instruction on this policy for supervisors, noting how to recognize behaviors that may indicate impairment from alcohol or other drug use, appropriate referral techniques, and resources for rehabilitation for alcohol and other drug use.
- 2) Human Resources will determine eligibility for paid leave or Family Medical Leave for employees enrolling in a drug and alcohol abuse recovery program.
- 3) Human Resources will work with supervisors to determine necessity for ADA accommodations or other work arrangements necessitated by the effects prescription drug consumption.

D. POLICY

- 1) Being under the influence of alcohol, an unauthorized controlled substance, or illegal drug while performing duties related to County employment is prohibited. No employee shall report to work, perform assigned duties, or otherwise engage in County business in the community, while impaired by alcohol, marijuana, cannabis, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his or her system.
- 2) The manufacture, distribution, dispensing, possession, transportation, or sale of alcohol, marijuana, cannabis, other controlled substances, or illegal drugs at any time on County property, at a County sponsored function or event, or in any other manner while performing duties or obligations incident to County employment is strictly prohibited.
- 3) Any employee determined to have violated this policy will be subject to disciplinary action, up to and including dismissal in accordance with personnel policies P06 Standards of Conduct and P32 Employee Discipline.
- 4) Employee Assistance
 - a. Employees voluntarily seeking assistance for substance abuse through the Employee Assistance Program (EAP) or a medical professional will not be disciplined as a result of their disclosure of prior drug or alcohol use. This exception only applies where the employee:
 - Sought treatment before being confronted by a supervisor, department head, or human resources;
 - Adheres to and completes the prescribed treatment program; and
 - Does not thereafter violate this policy.

- b. Employees claiming this exemption, and continuing to work during treatment, may be tested on a random or periodic basis during and following enrollment into an addiction recovery program.
- c. Employees may use accrued sick or annual leave to participate in a substance abuse treatment program and may qualify for Family Medical Leave. Consult Human Resources for guidance. Employees may not use leave from the sick leave bank, once their accrued leave has been exhausted.

5) Drug and Alcohol Testing

Employees and applicants shall submit to testing for the presence of drugs and alcohol in the following situations and under the following circumstances. All employment-related, required testing will be paid for by the County.

- a. **Pre-employment.** Safety-Sensitive Positions and CDL positions are subject to pre-employment screening for illegal drug use. Offers of employment are conditioned upon a negative test result.
- b. **Reasonable Suspicion.** Employees may be asked to submit to testing if cause exists to indicate that their ability to perform their duties might be impaired. Examples include sudden changes in work performance or behavior, the odor of alcohol or residual odor peculiar to some chemical or controlled substances, involvement in an accident or near-accident, or discovery or presence of illegal or suspicious substances or material in an employee's possession or near an employee's workplace.
- c. **Post-Injury/Accident.** For employees in Safety-Sensitive Positions and CDL positions, testing will be conducted following a workplace safety incident that results in bodily injury or property damage, to include on-the-job vehicle incidents and any damage to a County vehicle.
- d. **Refusal of Testing.** Employees who refuse to be tested, who do not cooperate with a test, or leave a test site without completing the test, will be disciplined as if they had taken the test and failed it and are subject to additional disciplinary action for insubordination in accordance with County Policy §P-32 Employee Discipline.

6) Temporary Removal from Duty

Employees may be placed on paid administrative leave by Human Resources pending further investigation, assessment or testing in the following circumstances.

- After an injury or accident requiring testing; or
- When reasonable suspicion exists; or

- When the behavior, speech, or performance indicators of alcohol or controlled substance use cannot be confirmed or refuted with a test.

The findings of the investigation or assessment will determine whether an employee will be returned to active work status, or a violation of County Policy has occurred.


7) Use of Marijuana and Cannabis Products

The Drug-Free Workplace Act of 1988 requires certain federal contractors and all federal grantees to provide a drug-free workplace as a precondition of receiving a contract or grant from a federal agency. The Drug-Free Workplace Act considers cannabis to be a “controlled substance,” alongside other drugs such as heroin and methadone, and as such, is subject to the rules under the Act. The possession, distribution, and use of marijuana and cannabis products on County property or while performing work duties on behalf of the County is strictly prohibited. Refer to section D.1. of this policy.

8) Reporting Off- duty Motor Vehicle Infractions

Employees are required to report charges and convictions of a motor vehicle offense involving alcohol, controlled substances, or the misuse of any substance, outside of the workplace within 2 business days. Upon being charged by legal authorities, the employee may be suspended without pay until the case is resolved. If the employee is cleared of the charges, the employee will be reinstated with full pay retroactive to the date of suspension.

Employees who are convicted of a motor vehicle violation involving alcohol, controlled substances, or the misuse of any substance outside of the workplace, will be suspended from driving on County business for one year from the date of conviction. The employee can maintain employment in their position, as long as driving is not an essential function of their role. Any further evidence of personnel policy violations will result in disciplinary up to and including dismissal in accordance with County Policy §P-32 Employee Discipline.

	P - §28.0	<u>Policy Name:</u> Performance Management	<u>Approved Date:</u> October 2, 2024
	<u>Prepared By:</u> Human Resources		<u>Adopted Date:</u> August 7, 1996
	<u>Amended Date:</u> April 4, 2007; March 4, 2009		

A. PURPOSE

To ensure that employees have a clear understanding of the work expected from them, establish an interactive platform to assess performance relative to organizational expectations, and strive for continuous improvement in employee development.

B. DEFINITIONS

Performance Improvement Plan (PIP) – structured plan developed to improve gaps between employee work performance and expectations for the position.

Performance Review - a formal assessment in which a manager evaluates an employee's work performance.

Probationary Employee – a new employee whose performance and suitability for the position are evaluated during a probationary period.

Probationary Period – a trial period of employment during which someone is assessed for capability and suitability to a position and is an “at will” employee.

Ratings –quantifiable measurements of performance and may, when applicable, be used in reward and recognition initiatives.

C. ROLES AND RESPONSIBILITIES

Employee – responsible in participating openly and honestly in planning and assessing the execution of their own performance objectives. Responsible to perform the duties as assigned by their job description and manager/supervisor.

Managers/Supervisors – responsible for creating goals, providing coaching and feedback regarding expectations for the role and employee performance, providing resources for employee growth and development, and completing the performance review form and process.

Human Resources – responsible for the format and timing of all performance review processes, providing guidance for the performance management process and coaching for employee development and accountability, tracking completed initial and annual performance reviews, creating performance management tools and training for supervisory staff.

D. POLICY

This policy has been developed to provide a framework which will enable supervisors to assess employee performance in a fair and consistent manner and to enable the employee to reach the required standard of performance. The County utilizes a performance management process to:

- Align employee work with organizational and department goals.
- Develop skills and capability within our workforce.
- Identify and address areas for improvement in job performance.
- Recognize achievements and contributions of County staff.

The following outlines the County's performance management process:

1. Review Period

The annual performance review period shall align with the County's fiscal year. The review period may not be adjusted because of the employee's use of any approved medical leave, with or without pay. Employees who are on approved leave (medical, military, etc.) during the performance review period will be evaluated on the work performed for the County during the period the employee was not on leave.

2. Types of Reviews

- a. Annual Review- An annual review is a required yearly formal evaluation of the employee's job performance for the fiscal year. The annual review must be completed by the supervisor at the end of each review period and shall become part of the employee's personnel file.
- b. Probationary Review - A probationary review must be completed at the end of an employee's probation period to assess the suitability of continued employment in the position. Probationary periods may be set for 6 or 12 months, depending on the position and any consideration of requirements for state or federally funded positions.

3. Review Categories

Employees shall be annually appraised on the following aspects of their job performance (to include ratings and written narrative feedback):

- a. Completion of position and or employee-specific goals; and

- b. Demonstration of leadership and supervisory skills as required for the position; and
- c. Demonstration of successful assimilation of the County's organizational values (competencies).

4. Performance Goals

Following the annual review process or the first month of commencing employment, each employee must be assigned clearly defined operational and developmental goals, as specified HR by Executive Leadership. Supervisors and Department heads may be assigned additional goals as defined by the Executive Leadership Team.

5. Goal Setting

Goals should be set at the beginning of the probationary period of employment and each fiscal year thereafter. The supervisor's role is to remove barriers to ensure the employee has the necessary resources and information for success in achieving those goals. The following is a list of items to consider when developing and documenting employee goals.

- Goals must align with the County's goals and objectives
- Goals are formed from opportunities identified in the previous year's performance review
- Developmental goals should reflect knowledge or skill gaps in current or potential future job duties.

6. Employee Transfer or Promotion

Employees who change positions in the organization may be required, by the supervisor, to serve an additional probationary period. If unsuccessful in completing this probationary period, the employee will be considered for any vacancies that occur in his/her previous job classification. If no such vacancies are available, the employee is subject to dismissal in the same manner as an employee new to the organization.

7. Annual Review Schedule

Each County employee shall receive an annual performance review at the end of the fiscal year unless specific reasons are given to the employee, in writing, for an extension. The performance review will be conducted by the employee's supervisor. Reviews of performance may be conducted on a more frequent basis as needed. However, in no case will the review be held less frequently than once a year.

8. Performance Improvement Plan (PIP)

The County strives to give employees every opportunity to succeed in our high-performing organization. Improvement plans are used as a coaching and development tool to bridge gaps between knowledge, skills, abilities, or work performance and organizational expectations.

- a. Human Resources must be consulted prior to placing an employee on a PIP to ensure compliance with federal and state laws and determine the best possible outcome for the situation.
- b. Performance Improvement Plans are not utilized for discipline, nor are they subject to employee grievance.
- c. A PIP should be used when previous interventions have not succeeded in addressing one of the following non-disciplinary performance issues:
 - an employee's overall performance has become unsatisfactory or below acceptable standards, i.e., low or poor efficiency, and low or weak skill sets. The employee's unsatisfactory performance should be skill-related and not an issue of the employee's will to do the task or job;
 - an employee's annual rating in a specific competency does not meet expectations;
 - an employee's behavior does not meet the County's Standards of Conduct or the expectations of the department.
- d. The PIP must identify the specific gap where improvement is needed, the timeline of the expected improvement (i.e., 30, 60, 90 days), an action plan with specific goals, progress milestones, and any additional training needed. Throughout the action plan, scheduled follow-ups are required between the supervisor and the employee to review progress milestones.
- e. If the employee cannot meet the expectations set forth, or show substantial progress, further actions may be deemed necessary, in accordance with County personnel policies.

9. Record Keeping

Completed performance reviews and supporting documentation are submitted the Department of Human Resources and become part of the employee's personnel file.

**RESOLUTION TO DESIGNATE ROUTE 697 (SUTHERLAND ROAD)
AS A RURAL RUSTIC ROAD**

WHEREAS, Virginia Code § 33.2-332 permits the hard-surfacing of certain unpaved roads deemed to qualify for designation as Rural Rustic Roads; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1,500 vehicles per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia desires to consider whether the 0.4-mile segment of Route 697 (Sutherland Road) from 1.38 miles west of Route 29 to the end of state maintenance, should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of any pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby designates the 0.4-mile segment of Route 697 (Sutherland Road) from 1.38 miles west of Route 29 to the end of state maintenance, as a Rural Rustic Road, and requests that the Resident Engineer for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that the 0.4 -mile segment of Route 697 (Sutherland Road) from 1.38 miles west of Route 29 to the end of state maintenance, be hard-surfaced and, to the fullest extent prudent, be improved within the existing right-of-way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

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

**RESOLUTION TO APPROVE SE2024-00001
1234 CARTER STREET HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2024-00001 1234 Carter Street Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that modified regulations would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirements, and that the requested special exceptions:

- (i) would not cause adverse impacts to the surrounding neighborhood;
- (ii) would not cause adverse impacts to the public health, safety, or welfare;
- (iii) would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
- (iv) would be consistent in size and scale with the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that in association with the 1234 Carter Street Homestay, the Albemarle County Board of Supervisors hereby approves special exceptions:

- a. to authorize the residency of property-managing agent(s) to meet the residency requirements for a homestay use on Parcel 056A1-01-00-041A0, pursuant to Albemarle County Code § 18-5.1.48(b)(2); and
- b. to increase the permitted guest rooms used for sleeping from two to three with this homestay use on Parcel 056A1-01-00-041A0, pursuant to Albemarle County Code § 18-5.1.48(c)(1)(iii).

**RESOLUTION TO APPROVE SE2024-00017
4975 BLUE FOX FARM HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2024-00017 4975 Blue Fox Farm Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirement, and that the requested special exception:

- (i) would not cause adverse impacts to the surrounding neighborhood;
- (ii) would not cause adverse impacts to the public health, safety, or welfare;
- (iii) would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
- (iv) would be consistent in size and scale with the surrounding neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that in association with the 4975 Blue Fox Farm Homestay, the Albemarle County Board of Supervisors hereby authorizes the residency of property-managing agent(s) to meet the residency requirements for a homestay use.

ORDINANCE NO. 24-A(5)

**AN ORDINANCE TO AUTHORIZE THE ONE-TIME PAYMENT OF A MONETARY BONUS
TO EMPLOYEES OF THE COUNTY OF ALBEMARLE, VIRGINIA**

WHEREAS, in recognition of the hard work and dedication of County employees, and given the lack of a base salary increase since January 1, 2024, the Albemarle County Board of Supervisors has determined to grant a one-time monetary bonus to the following classes of employees (“Covered Employees”):

1. All employees who report to the County Executive, the County Attorney, or the Board of Supervisors.
2. Employees of the Charlottesville Albemarle Convention and Visitors Bureau;
3. Employees of the General Registrar, excluding the General Registrar;
4. Employees of the Albemarle County/Charlottesville Virginia Cooperative Extension. This does not include state employees;
5. Employees of the courts of Albemarle County. This does not include state employees; and
6. Employees of local constitutional officers, excluding the constitutional officers, themselves; and

WHEREAS, the Board is authorized by Virginia Code §§ 15.2-1508 and 15.2-1605.1 to provide for payment of monetary bonuses; and

WHEREAS, approximately \$1.0 million was previously appropriated to the Salary and Benefits Reserve during the FY25 budget adoption for midyear employee compensation considerations.

NOW, THEREFORE, BE IT ORDAINED that, pursuant to the authority in Virginia Code §§ 15.2-1508 and 15.2-1605.1, the Albemarle County Board of Supervisors hereby authorizes the one-time payment of a monetary bonus as follows:

1. A one-time payment of \$1,000 to all benefits-eligible Covered Employees who:
 - A. have a start date before January 1, 2025;
 - B. are an active employee as of January 10, 2025; and
 - C. fill a total full time equivalent 1.0.
2. A one-time payment prorated equal to the allocated full-time equivalent of the position to all benefits-eligible Covered Employees who:
 - A. have a start date before January 1, 2025;
 - B. are an active employee as of January 10, 2025; and
 - C. C. fill a total full time equivalent of less than 1.0.

**RESOLUTION TO LEASE SPACE TO
APPROVE THE SOLAR POWER PURCHASE AGREEMENT LEASE**

WHEREAS, the Board finds that it is in the best interest of the County to enter into a Solar Power Purchase Agreement (PPA) lease of areas on the 5th Street County Office Building roof;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Albemarle, Virginia, hereby authorizes the County Executive to execute a Solar Power Purchase Agreement (PPA) lease of areas on the 5th Street County Office Building roof, along with any necessary related documents, once approved by the County Attorney as to form and substance.

DEED OF LEASE AGREEMENT

PROJECT SITE: COUNTY OFFICE BUILDING – 5TH STREET

BY AND BETWEEN

**COUNTY OF ALBEMARLE, VIRGINIA
("LESSOR")**

AND

**SUN TRIBE SOLAR, LLC
("LESSEE")**

DEED OF LEASE AGREEMENT

THIS DEED OF LEASE AGREEMENT (this "*Lease*") dated as of [REDACTED], 2024 (the "Effective Date"), is made by and between **COUNTY OF ALBEMARLE, VIRGINIA** ("Lessor"), and **SUN TRIBE SOLAR, LLC**, a Virginia limited liability company ("Lessee"). Lessor and Lessee may each be referred to herein as the "Party", or collectively as the "Parties", as the usage of such term may require.

RECITALS

WHEREAS, Lessor is the owner of that certain real property specified on Exhibit A attached hereto and located at the address specified on Exhibit A attached hereto (the "Project Site");

WHEREAS, the Project Site includes an estimated 112,077 square feet of rooftop as more particularly depicted on Exhibit A attached hereto and incorporated herein by this reference (the "Demised Premises");

WHEREAS, pursuant to that certain Solar Power Purchase Agreement by and between Lessor and Lessee dated as of the date specified on Exhibit A attached hereto (as amended, modified, or supplemented from time to time, the "PPA"), Lessor has selected and engaged Lessee to design, install, own, operate, and finance a grid connected solar photovoltaic energy system on the Demised Premises, as more particularly described in the PPA (the "System") and to sell the Output produced by such System to Lessor, all in accordance with the terms of the PPA;

WHEREAS, in connection with the foregoing, Lessee desires that Lessor lease, and Lessor desires to lease to Lessee, the Demised Premises, all in accordance with the terms and conditions set forth herein; and

WHEREAS, capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the PPA.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Lessee and Lessor hereby agree as follows:

1. Lease of Demised Premises; Additional Property Rights.

(a) Demised Premises. Lessor hereby leases to Lessee, in accordance with the terms and conditions set forth herein, the Demised Premises for the installation, operation, maintenance, repair and, if necessary, replacement and decommissioning of the System, including, without limitation, solar panels, solar canopy structures, electrical power inverters, interconnection equipment, electrical wiring, underground conduit, collection lines, wire management systems, charging stations, electric meters, metering, switch cabinets, power distribution boxes, and racking systems.

(b) Lessee's Ancillary Rights. In connection with Lessor's leasing the Demised Premises to Lessee, Lessor hereby grants to Lessee, for a period co-terminus with this Lease, the non-exclusive right to use portions of access drives, parking lots, and other areas of the Project Site as shown on Exhibit B attached hereto and incorporated herein by this reference ("Facility Access"). Lessor may change the Facility Access at any time with reasonable prior Notice to Lessee, provided adequate access to the Demised Premises and adequate space for use of the Facility Access for the purposes set forth herein is available at all times during the Term (as hereinafter defined). The Facility Access is provided for the purpose of accessing the Demised Premises for installation, operation, maintenance, repair (including replacement, if necessary) and decommissioning of the System and to locate any auxiliary equipment necessary to install, operate, maintain or repair the System on the Demised Premises and for the purposes of interconnecting the System with the Project Site's mechanical and electrical systems as agreed by Lessor and Lessee in accordance with the PPA. For avoidance of doubt, Lessor acknowledges and agrees that Lessee may use portions of the Facility Access to be mutually agreed upon by the Parties as a staging area during the periods that Lessee is undertaking the installation and decommissioning of the System or any major repairs to the System. Lessee shall not install any improvements within the Facility Access that would prevent access to or prevent use of the Project Site, or prevent any holders of easements across the Project Site or any governmental or public utility personnel (e.g., fire, police, public utility providers, etc.) or other similar parties from exercising their rights with respect to the Project Site. Furthermore, Lessee shall utilize the Facility Access in a manner as to not unreasonably interfere with the use of the Project Site by Lessor.

(c) Signage. Lessee shall not place any signage on or at the Project Site (other than as required by Applicable Law) unless approved in advance in writing by Lessor. Notwithstanding the foregoing, Lessee may, without the prior approval of Lessor, place signage on or at the Project Site identifying the existence of the System and any required safety notices relating thereto.

2. Term.

(a) Term. The term of this Lease shall commence on the Effective Date and shall terminate as provided in Section 2.1 of the PPA (the "Term"). The Term may be extended pursuant to Section 2.2 of the PPA.

(b) Termination. Notwithstanding anything contained herein to the contrary, this Lease shall automatically terminate if the PPA is terminated for any reason whatsoever.

(c) Access After Termination. Notwithstanding the foregoing, upon the expiration or earlier termination of this Lease (unless Lessor has executed its option to purchase the System in accordance with Section 7.4 of the PPA), Lessee shall have the right to access the Demised Premises for the purpose of decommissioning and removing the System in accordance with Section 8.1 of the PPA, which work shall be completed within sixty (60) days after the expiration of this Lease or within one hundred twenty (120) days after any earlier termination of this Lease, as applicable. The provisions of this Section 2(c) will survive the expiration or termination of this Lease.

3. Utilities. During the Term, Lessor shall have no obligation to provide any utilities to Lessee for Lessee's use in connection with the installation, operation, maintenance and repair of the System on the Demised Premises. To the extent that, during the Term, Lessee requires any utilities in connection with the installation, operation, maintenance and repair of the System on the Demised Premises, Lessee further acknowledges and agrees that Lessee shall be responsible, at its sole cost and expense, for providing or obtaining such utilities and that Lessee's inability to provide or obtain any such utilities shall not relieve Lessee from the performance of Lessee's obligations under this Lease or the PPA.

4. Annual Rent. Commencing on the Actual Commercial Operation Date and continuing thereafter for the remainder of the Term, Lessee shall pay to Lessor annual rent for the Demised Premises in the amount of One and No/100 Dollars (\$1.00) per year ("Annual Rent"). The Annual Rent for the first year of the Term shall be due and payable by Lessee to Lessor within ten (10) Business Days of the Actual Commercial Operation Date, and Annual Rent for each succeeding year of the Term shall be due and payable by Lessee to Lessor, without notice or demand, on or before each anniversary of the Actual Commercial Operation Date during the Term. The Annual Rent shall be payable by Lessee to Lessor at the address for the Lessor set forth in the PPA or at such other address as shall be designated in writing by Lessor. At Lessee's option, Lessee may elect to prepay the Annual Rent for the entire Term.

5. System Installation. The System shall be installed in accordance with Section 5 of the PPA.

6. Liens. To the extent permitted by Applicable Law, all of Lessee's contracts with Subcontractors shall provide that no Lien shall attach to or be claimed against the Demised Premises or any interest therein by Lessee or its Subcontractors as a result of supplying goods or services pertaining to the Demised Premises, and Lessee shall use reasonable efforts to cause all subcontracts let thereunder to contain the same provision.

Lessee shall indemnify and hold Lessor, the Board and Lessor's agents, officers, subcontractors, employees, invitees, and contractors harmless from, and defend against (with legal counsel reasonably acceptable to Lessor) all Losses of every kind, nature, and description which may arise out of or in any way be connected with such work, except for any Losses resulting from the gross negligence or willful actions of Lessor or Lessor's agents, officers, subcontractors, employees, invitees, and contractors. Lessee shall not permit the Demised Premises to become subject to any mechanics', laborers', or materialmen's lien on account of labor, material, or services furnished to Lessee or claimed to have been furnished to Lessee (either directly or through Subcontractors) in connection with work of any character performed or claimed to have been performed for the Demised Premises by, or at the direction or sufferance of Lessee, and if any such Liens are filed against the Demised Premises, Lessee shall promptly and at its cost and expense discharge the same following Lessee's receipt of written notice of such filing; provided, however, that Lessee shall have the right to contest, in good faith and with reasonable diligence, the validity of any such lien or claimed lien if Lessee shall give to Lessor, within fifteen (15) Business Days after demand, such security as may be reasonably satisfactory to Lessor to assure payment thereof and to prevent any sale, foreclosure, or forfeiture of Lessor's

interest in the Demised Premises by reason of non-payment thereof; provided, further, that on final determination of the Lien or claim for Lien, Lessee shall immediately pay any judgment rendered, with all proper costs and charges, and shall have the lien released and any judgment satisfied. If Lessee fails to post such security or does not diligently contest such lien, Lessor may, without investigation of the validity of the lien claim, after ten (10) Days' Notice to Lessee, discharge such Lien and Lessee shall reimburse Lessor upon demand for all costs and expenses incurred in connection therewith, which expenses shall include any reasonable attorneys' fees and any and all other costs associated therewith, including litigation through all trial and appellate levels and any costs in posting bond to effect a discharge or release of the lien.

Nothing contained in this Lease shall be construed as a consent on the part of Lessor to subject the Demised Premises to liability under any lien law now or hereafter existing.

7. System Operation, Ownership, Use, and Removal.

(a) Operation, Maintenance, and Removal of System. Lessee shall operate, maintain, repair, decommission, and remove the System in accordance with Section 6 of the PPA and in accordance with all Applicable Laws and in such a manner as will not unreasonably interfere with Lessor's or, if there are any other occupants of the Project Site, such occupants' operation or maintenance of the Project Site.

(b) Ownership of System. Lessor acknowledges and agrees that (i) notwithstanding that the System may be a fixture under Applicable Laws, as between the Parties, the System shall be deemed to be personal property, and (ii) Lessee is the exclusive owner and operator of the System. In furtherance of the foregoing, Lessor hereby expressly waives all statutory and common law liens or claims that it might otherwise have in or to the System or any portion thereof and agrees not to distraint or levy upon the System or assert any lien, right of distraint or other claim against the System.

(c) Ownership of Energy Output. Lessor acknowledges and agrees that, subject to the terms of the PPA, Lessee is the sole and exclusive owner of all electricity generated by the operation of the System.

(d) Use of Demised Premises. Lessee shall use the Demised Premises solely for the installation, operation, maintenance, repair and decommissioning of the System, but for no other uses. In connection therewith, Lessor acknowledges and agrees that, during the Term, Lessor shall not use the Project Site in a manner that would interfere with the installation, operation, maintenance, repair and decommissioning of the System or materially and adversely affect the System's exposure to sunlight.

8. Access to Demised Premises.

Subject to the notice and security requirements set forth in Section 9 below, Lessor shall provide Lessee with access to the Demised Premises as reasonably necessary to allow Lessee to perform the Services, including ingress and egress rights across the Project Site within the Facility Access.

Lessor shall at all times have access to and the right to observe the Services, including without limitation, installation of the System, subject to Lessor's compliance with Lessee's reasonable safety and security requirements.

During all activities involving the System or the Demised Premises, including but not limited to installation, maintenance, repairs, decommissioning and removal of the System, Lessor's property manager for the Project Site ("Property Manager") or his/her designee must be present onsite at all times. On or prior to the Effective Date, Lessor shall provide Lessee with name and contact information for the Property Manager and his/her designee and, thereafter, Lessor shall advise Lessee in the event of any changes in such information. Lessee shall coordinate its access to the Demised Premises with the Property Manager or his/her designee in accordance with the terms of this Section 8.

Lessee shall have access to the Demised Premises under the following conditions:

- (i) During normal business hours (Monday through Friday 8:00 a.m. - 5:00 p.m.) for the installation and routine maintenance of the System, provided that Lessee shall give the Property Manager at least seventy-two (72) hours' prior notice of the need for such access.
- (ii) Outside normal business hours and in the event of an emergency, Lessee shall contact the emergency contact specified on Exhibit A

and Lessee shall provide: (a) the name and contact information for the individual(s) responding on the Lessee's behalf, and (b) their estimated time of arrival. Upon arrival to the Demised Premises, Lessee shall again call both emergency contacts to signal arrival. The Property Manager's emergency contact will provide access to the Demised Premises upon the Lessee's arrival. If the Property Manager or his/her emergency contact fails to provide Lessee with access to the Demised Premises upon Lessee's arrival to address such emergency and the System is damaged or destroyed as a result of such delay to the extent that Lessee is unable to satisfy its obligation under the PPA to sell and deliver to Lessor the Output generated by the System, Lessee shall be relieved of such obligation until such time as the System is repaired and operational. Furthermore, Lessee shall not be liable for any damage or destruction to any property resulting from the Property Manager or his/her emergency contact's failure to provide timely access to the Demised Premises.

All of Lessee's employees, contractors, or agents must park their vehicles in the areas designated by Lessor.

9. Identification, Security, and Access Requirements.

(a) Identification. All of Lessee's employees and Subcontractors shall display Lessor-issued identification badges above the waist at all times that such individuals are on the Project Site. Any employee, contractor, or Subcontractor of Lessee who arrives at the Project

Site without required identification will be dismissed from the Project Site. All such employees, contractors, and Subcontractors must pass to the satisfaction of Lessor a criminal background check. Notwithstanding the foregoing, Lessor disclaims any liability with respect to the accuracy or completeness of the criminal background check. Lessee shall be solely responsible for all costs associated with such identification badges and criminal background checks.

(b) Inspection. All supplies, materials, and equipment for use at the Project Site are subject to security inspection by Lessor.

(c) Additional Security and Access Requirements. Lessee shall, and shall cause all of its Subcontractors to, at all times comply with the identification, security, and other access requirements set forth on Exhibit C attached hereto.

(d) Amendments to Security and Access Procedures. Lessor reserves the right to amend and/or update its security and access requirements or procedures relative to the Project Site, including Exhibit C, from time to time upon at least three (3) Business Days' Notice to Lessee.

10. Insurance. Lessee covenants and agrees, from and after the Effective Date, to carry and maintain, at its sole cost and expense, the insurance required under Section 9 of the PPA.

11. Taxes. Lessee shall pay, on or before the due date thereof, all personal property taxes, business, and license taxes and fees, service payments in lieu of such taxes or fees, annual and periodic license and use fees, excises, assessments, bonds, levies, fees, and charges of any kind which are assessed, levied, charged, confirmed, or imposed by any Governmental Authority due to Lessee's occupancy and use of the Demised Premises (or any portion or component thereof) or the ownership and use of the System thereon, including but not limited to any real property taxes and assessments attributable to the System improvements on the Project Site. Notwithstanding the foregoing, however, Lessee shall have the right to contest such taxes and/or fees in accordance with the applicable procedures of the Governmental Authority imposing such taxes and/or fees.

12. Indemnification.

(a) Indemnification. Lessee shall indemnify, defend, and hold harmless Purchaser Indemnified Parties from and against any liability for violations or alleged violation of any Applicable Law and Losses (including claims for property damage and claims for injury to or death of persons, including any claim or amounts recovered under "workers compensation laws" or any other Applicable Laws) arising in connection with, or out of, or resulting from (i) the negligent acts or omissions or willful misconduct of Lessee, its agents, officers, directors, employees, Subcontractors, or contractors; or (ii) the breach by Lessee of any of its obligations under this Lease. The obligation to indemnify shall extend to and encompass all costs incurred by Lessor and any Lessor Indemnitee in defending such claims, demands, lawsuits, or actions, including, but not limited to, reasonable attorneys' fees, witness and expert witness fees, and any other litigation related expenses. Notwithstanding the foregoing, Lessee shall not be required to

defend or indemnify Purchaser Indemnified Parties for a Loss to the extent any such Loss results from the negligence or willful misconduct of a Purchaser Indemnified Party or to the extent any such Loss involves any damage or destruction to property for which Lessee is released from liability pursuant to the terms of Section 8 above. The provisions of this Section 12(a) will survive the expiration or termination of this Lease.

(b) Exclusion of Certain Damages. EXCEPT FOR LIABILITY IN RESPECT OF (A) LESSEE'S INTENTIONAL OR WILLFUL MISCONDUCT OR FRAUD OR (B) CLAIMS FOR BODILY INJURY, INCLUDING DEATH AND DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY RESULTING FROM THE NEGLIGENCE OF LESSEE OR ANY AGENT OR EMPLOYEE OF LESSEE, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY, IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), OR UNDER ANY OTHER LEGAL THEORY (INCLUDING STRICT LIABILITY), FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR SIMILAR DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST TAX BENEFITS, OR ENERGY CREDITS, OR INTERRUPTION OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIMS OR DAMAGES.

13. Lessee Default.

The occurrence of any one or more of the following shall constitute an event of default of Lessee (a "Lessee Default"):

- (i) The failure of Lessee to pay the Annual Rent or other sums due hereunder that is not cured within ten (10) Business Days after Notice thereof to Lessee;
- (ii) Any representation or warranty of Lessee hereunder provides to be false or misleading in any material respect;
- (iii) The inability, failure, or refusal of Lessee to perform timely any material obligations under this Lease, unless such failure or refusal is caused by a Force Majeure Event, a Lessor Default or Purchaser Event of Default; provided, however, such failure continues for thirty (30) Days after Lessor shall have given Notice demanding that such failure to perform be cured (or if such failure cannot reasonably be cured within such 30 Day period, Lessee shall not be in default hereunder if Lessee commences efforts to cure such failure within such 30 Day period and, thereafter, diligently pursues those efforts to completion); or
- (iv) A Seller Event of Default under Section 12 of the PPA, which default continues beyond any applicable notice and cure period contained in the PPA.

Upon the occurrence of a Lessee Default, Lessor shall have the following rights: (i) to terminate this Lease by Notice to Lessee, and (ii) to pursue any other remedy under the PPA or now or hereafter existing at law or in equity. No termination of this Lease resulting from

a Lessee Default shall relieve Lessee of its liability and obligations under this Lease, and such liability and obligations shall survive any such termination.

14. Lessor Default.

The occurrence of the following shall constitute an event of default of Lessor (a "Lessor Default"):

(i) The failure of Lessor to perform any material obligations under this Lease, unless such failure is caused by a Force Majeure Event, a Lessee Default or Seller Event of Default; provided, however, such failure continues for thirty (30) Days after Lessee shall have given Notice demanding that such failure to perform to be cured (or if such failure cannot reasonably be cured within such 30 Day period, Lessor shall not be in default hereunder if Lessor commences efforts to cure such failure within such 30 Day period and, thereafter, diligently pursues those efforts to completion); or

(ii) A Purchaser Event of Default under Section 12 of the PPA, which default continues beyond any applicable notice and cure period contained in the PPA.

Upon the occurrence of a Lessor Default, Lessee may pursue any remedies it may have under the terms of Section 12 of the PPA.

15. Fee Mortgages. To the extent there are any mortgages, deeds of trust, or other indentures encumbering the Project Site as of the Effective Date (each, a "Fee Mortgage"), Lessor shall, on or before the Effective Date, obtain from the holder of each such Fee Mortgage a non-disturbance and attornment agreement, in a form acceptable to Lessee (each, an "SNDA"), pursuant to which the holder of each such Fee Mortgage shall agree that, upon it or its successors and assigns obtaining title to the Project Site (whether through a foreclosure proceeding or through acceptance of a deed in lieu of foreclosure) following an event of default by the Lessor under such Fee Mortgage, the holder of such Fee Mortgage or the purchaser of the Project Site at any foreclosure proceeding shall continue to recognize Lessee's leasehold interest in the Demised Premises for the balance of the term of this Lease, so long as Lessee is not then in default hereunder beyond any applicable notice and cure periods provided for herein. Promptly following the Effective Date, each SNDA shall be recorded in the Clerk's Office at Lessee's sole cost and expense, and, within ten (10) Business Days of Lessee's receipt of a written statement from Lessor setting forth all out-of-pocket costs incurred by Lessor in obtaining each such SNDA, together with such supporting documentation as Lessee may reasonably require, Lessee shall reimburse Lessor for such costs.

16. Casualty. Notwithstanding anything to the contrary contained herein, in the event of a casualty or condemnation to all or any portion of the Project Site, Lessor shall have no duty or liability to Lessee to restore the Project Site. If Lessor elects not to restore the Project Site, it shall give Lessee Notice of such election within thirty (30) Days after the occurrence of such casualty or condemnation, and, upon its receipt of such Notice, Lessee may, at its option, elect to terminate this Lease upon Notice to Lessor. Lessor shall be entitled to receive the entire award paid by the condemning authority for the Project Site, without deduction therefrom for any estate

vested in Lessee by this Lease, and Lessee shall receive no part of such award (provided, however, Lessee shall receive any award attributable to the System).

17. Miscellaneous.

(a) Governing Law. The law of the Commonwealth of Virginia shall govern the validity, interpretation, construction, and performance of this Lease, including the Parties' obligation under this Lease, the performance due from each Party under it and the remedies available to each Party for breach of it. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the State that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply.

(b) Assignment. Lessee shall not have the right to assign this Lease, or any of its rights, duties, or obligations hereunder, except in accordance with Section 14.2 of the PPA.

(c) Authority of Purchasing Agent. Lessee acknowledges and agrees that [Purchaser's purchasing agent] or his or her duly authorized representative or agent has the sole responsibility and authority to execute this Lease and any amendment or modification hereto on behalf of Lessor. Any execution, amendment, or modification of this Lease by a Person other than the Lessor or his or her duly authorized representative or agent shall be null and void and of no force and effect.

(d) Dispute Resolution.

(i) Compliance with Statutory Requirements. Lessee shall not institute any legal action under this Lease until all applicable statutory requirements have been met.

(ii) Venue. Any and all Disputes arising out of or in connection with this Lease or any performance hereunder, shall be brought in the Circuit Court of Albemarle County, Virginia.

(e) Due Authorization. Each Party represents and warrants to the other Party that it (i) has been duly authorized to enter into this Lease by all necessary action, and (ii) the execution and delivery of this Lease and the performance by such Party of its obligations hereunder will not result in a default under any agreement to which it is a party.

(f) Notices. Notices shall be given in accordance with Section 14.6 of the PPA.

(g) Successors and Permitted Assignees. This Lease is binding on and inures to the benefit of successors and permitted assignees.

(h) Survivability. Any term, condition, covenant, or obligation that requires

performance by a Party subsequent to termination or expiration of this Lease, whether specifically identified herein or not, shall remain enforceable against such Party subsequent to such termination or expiration.

(i) Negotiated Terms. The Parties agree that the terms and conditions of this Lease are the result of negotiations between the Parties and that this Lease shall not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Lease.

(j) Further Assurances. Each Party agrees to, and shall use all reasonable efforts to, provide such information, execute, and deliver any instruments and documents and take such action as may be reasonably necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Lease and which do not involve the assumption of obligations other than those provided for in this Lease in order to give full effect to this Lease and to carry out the intent of this Lease.

(k) Waivers. No delay in exercising or failure to exercise any right or remedy accruing to or in favor of either Party shall impair any such right or remedy or constitute a waiver thereof. Every right and remedy given hereunder or by Applicable Law may be exercised from time-to-time and as often as may be deemed expedient by the Parties. Neither this Lease nor any provision hereof may be changed, modified, amended, or waived except by a written instrument signed by a duly authorized officer of the Party against whom enforcement of such change, modification, amendment, or waiver is sought. If any representation, warranty, or covenant contained in this Lease is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Lease.

(l) Relationship of the Parties. Nothing in this Lease shall be deemed to constitute either Party a partner, agent, employee, or legal representative of the other Party or to create any fiduciary relationship between the Parties. In addition, nothing in this Lease shall be deemed or construed as creating any contractual relationship between any Subcontractor and Lessor. The Parties agree that Lessee shall be fully responsible for the acts and omissions of any Subcontractor.

(m) Entire Agreement. This Lease, the recitals herein, together with the Exhibits attached to this Lease and the PPA, constitutes the entire and complete agreement and commitment of the Parties with respect to this Lease. All prior or contemporaneous understandings, arrangements, negotiations, or commitments, or any or all of the foregoing with respect to this Lease, whether oral or written, have been superseded by this Lease and the PPA.

(n) Amendments. No amendment, modification, or change to this Lease shall be effective unless the same shall be in writing and duly executed by an authorized person of each Party, which, in the case of Lessor, shall be by [Purchaser's purchasing agent] or his or her duly authorized representative or agent, consistent with Section 17(c).

(o) No Third-Party Beneficiaries. Except as otherwise expressly provided

herein, this Lease and all rights hereunder are intended for the sole benefit of the Parties hereto, and the Financing Parties to the extent provided in the PPA or in any other agreement between a Financing Party and Lessee or Lessor, and do not imply or create any rights on the part of, or obligations to, any other Person.

(p) Headings. Captions and headings in this Lease are for convenience of reference only and do not constitute a part of this Lease.

(q) Counterparts and Signatures. This Lease may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. The delivery of an executed counterpart of this Lease by electronic transmission shall be deemed to be valid delivery thereof. Scanned or digital signatures shall be deemed valid as original as related to this Agreement.

(r) Severability. If any provision, portion, or application of this Lease is, for any reason, held to be invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction, the Parties shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Lease or such other appropriate actions as shall, to the maximum extent practicable, in light of such determination, implement, and give effect to the intentions of the Parties as reflected herein, and the other terms of this Lease, as so amended, modified, supplemented, or otherwise affected by such action, shall remain in full force and effect.

(s) Liability of Officers and Employees. No member of the Board nor any director, officer, agent, consultant, representative, or employee of either Party shall be charged personally by the other or held contractually liable thereto under any term or provision of this Lease, because of either Party's execution or attempted execution of this Lease or because of any breach or alleged breach thereof: provided, however, that all Persons remain responsible for any of their own criminal actions.

(t) No Conflict of Interest. Lessee shall not enter into any agreements that would conflict with Lessee's performance of its obligations under this Lease, or the other transactions contemplated herein, without receiving prior written authorization from Lessor.

(u) Authorization to Conduct Business in the State. At all times during the Term, Lessee shall be authorized to transact business in the State as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, as amended, or as otherwise required by law. Lessee shall not allow its existence to lapse or its certificate of authority or registration to transact business in the State, if so required under Title 13.1 or Title 50 of the Code of Virginia, as amended, to be revoked or cancelled at any time during the Term.

(v) Immigration Reform and Control Act. Lessee represents and warrants to Lessor that it does not, and Lessee covenants that it shall not during the performance of the Lease, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

(w) Estoppel Certificates. Lessor and Lessee shall execute and deliver to each

other, within fifteen (15) Business Days after receipt of a written request therefore, a certificate evidencing whether or not (i) this Lease is in full force and effect; (ii) this Lease has been modified or amended in any respect and describing such modifications or amendments, if any; and (iii) there are any existing defaults thereunder to the knowledge of the party executing the certificate, and specifying the nature of such defaults, if any. If either Party shall fail to deliver said certificate within fifteen (15) business days from request therefor it shall be concluded that this Lease is in full force and effect, unmodified and without default.

(x) Remedies Cumulative. No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(y) Attorneys' Fees. Lessee shall bear its own attorneys' fees, costs, and expenses in connection with negotiating and/or reviewing this Lease, including any amendments, and any additional documents relating to the System.

(z) Brokers. Each Party represents and warrants to the other Party that it has not engaged or had any conversations or negotiations with any broker, finder, or other third party concerning the leasing of the Demised Premises to Lessee who would be entitled to any commission or fee based on the execution of this Lease.

(aa) Time is of the Essence. Time is of the essence of this Lease.

(bb) Memorandum. Lessor and Lessee agree that at the request of either, each will execute a short form memorandum, substantially similar to the form in Exhibit D, of this Lease in form satisfactory for recording in the Clerk's Office that shall be recorded on or promptly following the Effective Date at the cost of the Party seeking to record the same. Upon the expiration or earlier termination of this Lease, the Parties shall promptly execute any release or termination that may be required to release such memorandum of record.

(cc) Deed of Lease. The Parties intend for this Lease to be deemed a deed of lease and a conveyance of a leasehold interest real property by a sealed writing pursuant to Virginia Code Sections 55-2 and 11-3.

(dd) Lessor Responsibility. Lessor shall have the responsibility to pay Lessee for the actual and reasonable costs and expenses associated with any repairs, damage to, or loss of the System resulting from the acts or omissions of Lessor or any of its officers, employees, agents, or contractors.

(ee) Quiet Enjoyment. So long as there does not exist a Lessee Default, Lessor agrees that, subject to the terms and conditions of this Lease, Lessee shall have the right to quietly use and enjoy the Demised Premises for the Term, without hinderance or molestation by Lessor or those claiming by, through or under Lessor.

[Signature Page Follows]

PROJECT SITE: COUNTY OFFICE BUILDING – 5TH STREET

IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year first above written.

LESSOR:

COUNTY OF ALBEMARLE, VIRGINIA

By: _____(SEAL)

Name: _____

Title: _____

LESSEE:

SUN TRIBE SOLAR, LLC

a Virginia limited liability company

By: _____(SEAL)

Name: Rich Allevi

Title: Manager

[Signature Page to Deed of Lease Agreement]

EXHIBIT A

BUILDING; PROJECT SITE;
SURVEY DEPICTING DEMISED PREMISES

SOLAR POWER PURCHASE AGREEMENT DATE: [REDACTED], 2024

BUILDING NAME (if applicable): County Office Building – 5th Street

PROJECT SITE ADDRESS: 1600 5th Street
Charlottesville, VA 22902

The Property Manager’s primary 24/7 emergency contact:

Name: [REDACTED]

Phone Number: [REDACTED]

Or, in the event of non-response by the primary contact, the Property Manager’s secondary 24/7 emergency contact:

Name: [REDACTED]

Phone Number: [REDACTED]

LEGAL DESCRIPTION:

All those four (4) certain tracts or parcels of land, situate in Albemarle County, Virginia, consisting in the aggregate of approximately 13.638 acres, more or less, and more particularly shown and designated as Parcel 54P Sheet 76, containing 10.070 acres, more or less; Parcel 54 Sheet 76, containing 2.111 acres, more or less; Parcel 54N1, containing 30,469 square feet, more or less; and Parcel 54Z, containing 32,989 square feet, more or less, all as shown on a plat made by B. Aubrey Huffman & Associates, Ltd., dated October 13, 1995, a copy of which plat is recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1498, Page 614.

The foregoing conveyances are made subject to all encumbrances, easements, conditions, restrictions and agreements of record that lawfully apply to the Real Estate and the Right of Way, or any part thereof.

[SURVEY DEPICTING PREMISES ATTACHED]

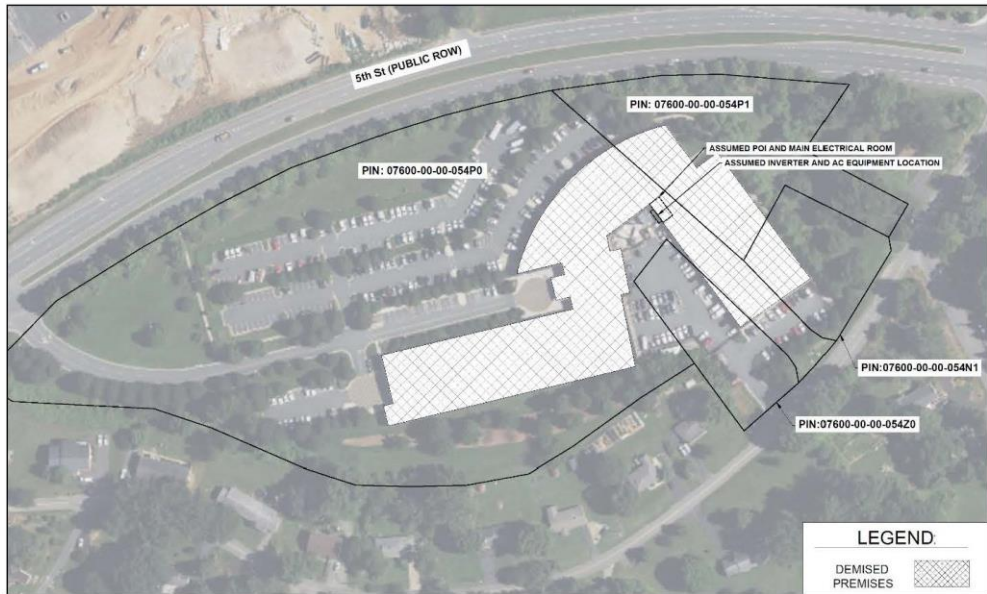


EXHIBIT B
DEPICTION OF FACILITY ACCESS

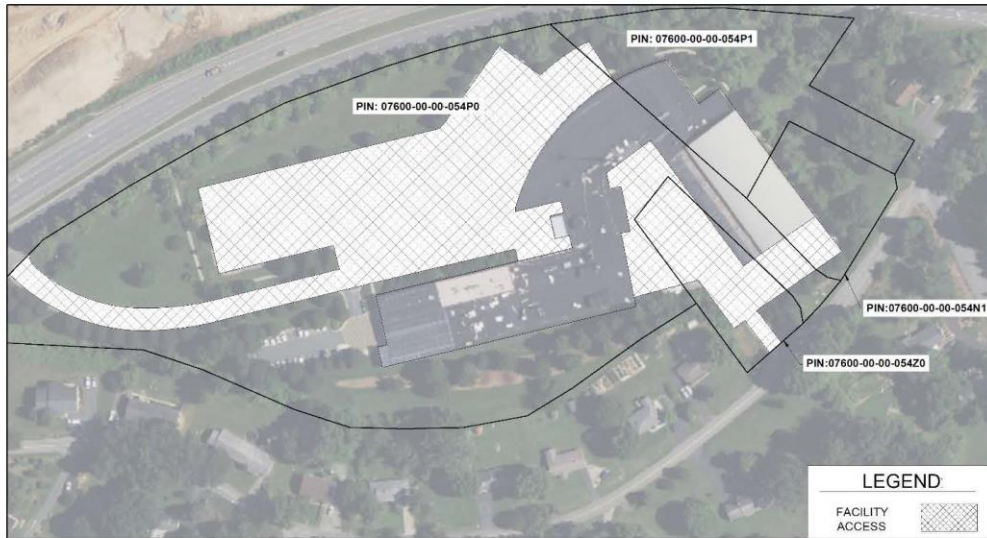


EXHIBIT C
ADDITIONAL SECURITY/ACCESS REQUIREMENTS

[INSERT]

EXHIBIT D

[Rest of page left intentionally blank]

This document prepared by and
after recording return to:

c/o Madison Energy Holdings LLC
8100 Boone Blvd, Suite 310
Vienna, VA 22182
Attn: Legal Department

Tax Parcel Nos.: 07600-00-00-054P0; 07600-00-00-054P1; 07600-00-00-054N1; 07600-00-00-054Z0

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum") is dated as of _____, 2024 (the "Effective Date") by and between **COUNTY OF ALBEMARLE, VIRGINIA** ("**Lessor**"), having an address of 401 McIntire Road, Charlottesville, VA 22902, and **SUN TRIBE SOLAR, LLC**, a Virginia limited liability company ("**Lessee**"), having an address of 107 5th Street SE, Charlottesville, VA 22902, with reference to the following recitals:

WHEREAS, Lessee and Lessor (together, the "Parties" and each a "Party") have entered into that certain unrecorded Deed of Lease Agreement dated of even date herewith (the "Lease"), which affects the Demised Premises (hereinafter defined); and

WHEREAS, the Parties entered into the Lease in conjunction with that certain Solar Power Purchase Agreement (the "PPA"), between Lessor and Lessee dated of even date herewith; and

WHEREAS, the Parties desire to enter into this Memorandum for recordation in the land records of the Clerk's Office of the Circuit Court of Albemarle, Virginia (the "Land Records");

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1.1. Demised Premises. The premises leased by Lessor to Lessee pursuant to the Lease are depicted on "Exhibit A" attached hereto and made a part hereof (the "Demised Premises"), and being all or a portion of that certain real property as described on Exhibit A. Lessee may use, and have access at all times to, the Demised Premises for the installation, operation, maintenance, repair and, if necessary, replacement and decommissioning of a solar photovoltaic energy system, and activities necessary or related thereto. The Demised Premises are located on the Project Site, which is more particular described in the Lease. Pursuant to the Lease, Lessor has granted Lessee certain ancillary rights to use portions of the Project Site.

1.2. Term and Consideration. The initial term of the Lease commenced on the Effective Date and shall terminate on the date which is the thirtieth (30th) anniversary of the Actual Commercial Operation Date at a rate of one dollar (\$1.00) per year. Upon the expiration of the initial term of the Lease, the Parties may agree to extend the Lease for five (5) years in accordance with the terms of the PPA.

1.3. Execution. This Memorandum may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument.

1.4. Applicable Law. This Memorandum and the Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

1.5. Purpose of Memorandum of Lease. This Memorandum, when recorded in the Land Records, is intended to serve as public notice of the existence of the Lease and to incorporate and reference all of its promises, covenants, and agreements to the same extent as if the Lease were fully set forth herein. This Memorandum does not describe or refer to all the terms or conditions contained in the Lease, nor does it intend to modify, amend or vary any of the terms or conditions set forth in the Lease.

1.6. Relationship to Lease. Any capitalized terms used in this Memorandum and not otherwise defined shall the meanings set forth in the Lease or PPA.

IN WITNESS WHEREOF, the Parties have caused this Memorandum to be executed on their behalf as of the Effective Date:

Lessor: County of Albemarle, Virginia

Signature: _____

Name: _____

Title: _____

ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA

COUNTY/CITY OF _____

The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this ___ day of _____, 2024 by _____ (Lessor signatory).

NOTARIAL SEAL

Notary Public (signature)

Lessee: Sun Tribe Solar, LLC

Signature: _____

Name: Rich Allevi

Title: Manager

ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA

CITY OF CHARLOTTESVILLE

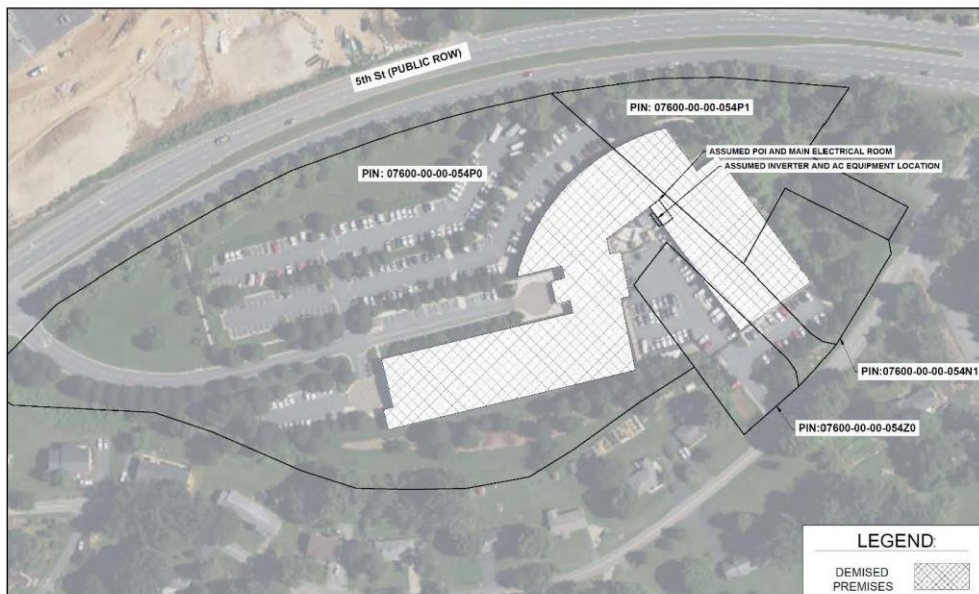
The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this ___ day of _____, 2024 by _____ (Lessee signatory).

NOTARIAL SEAL

Notary Public (signature)

EXHIBIT A

SURVEY DEPICTING DEMISED PREMISES



DESCRIPTION OF REAL PROPERTY

All those four (4) certain tracts or parcels of land, situate in Albemarle County, Virginia, consisting in the aggregate of approximately 13.638 acres, more or less, and more particularly shown and designated as Parcel 54P Sheet 76, containing 10.070 acres, more or less; Parcel 54 Sheet 76, containing 2.111 acres, more or less; Parcel 54N1, containing 30,469 square feet, more or less; and Parcel 54Z, containing 32,989 square feet, more or less, all as shown on a plat made by B. Aubrey Huffman & Associates, Ltd., dated October 13, 1995, a copy of which plat is recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1498, Page 614.

The foregoing conveyances are made subject to all encumbrances, easements, conditions, restrictions and agreements of record that lawfully apply to the Real Estate and the Right of Way, or any part thereof.

RESOLUTION APPROVING LEASE OF EASEMENT FROM THE COUNTY OF ALBEMARLE TO THE UNITED STATES OF AMERICA FOR SERVICE TO RIVANNA STATION

WHEREAS, the federal government has requested an easement under the Boulders Road public right-of-way to maintain telecommunications service to Rivanna Station.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the leasing of an easement to the United States of America, and authorizes the County Executive to sign, in a form approved by the County Attorney, a lease and any other related documents for an easement under or across Boulders Road in order to provide and/or maintain telecommunications service to Rivanna Station.

Lease No.
DACA-31-3-24-0201

LAND LEASE

For

COUNTY-OWNED PROPERTY

BETWEEN

The COUNTY OF ALBEMARLE

AND

THE UNITED STATES OF AMERICA

AUTHORITY: This lease is being acquired under the authority of Title 10 United States Code Section 2661.

I. This LEASE made and entered into this ____ day of _____ in the year of 2024.

by: County of Albemarle

Address: 401 McIntire Road, Charlottesville, Virginia 22902

and whose interest in the property is that of the owner, hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Lessee.

In consideration for RENT the parties promise and agree as follows:

2. PROPERTY: The Lessor leases to the Lessee a below-grade portion of the Boulders Road Right of Way, identified in the local land records as Parcel ID No. 03200-00-00-005C3, for the purpose of maintaining a system of fiber communication conduits and appurtenances, herein after referred to as “the system”, as they are currently situated, further described in Schedule A. Lessee will maintain surface rights as necessary to maintain the system.

3. LEASE TERM: The Lessee shall have the right to have and to hold the said premises, or any portion thereof, for a period of one (1) year, commencing with the termination of Lease No. DACA-31-5-21-302 on June 10, 2022. Thereafter, this lease may be renewed at the option of the Government from year to year for four (4) additional one (1) year periods, provided that the Government gives the Lessor a ninety (90) day written notice to renew, and provided further, that the renewal of this lease is subject to adequate appropriations being made available from year to year for the payment of rentals. Execution of this lease shall operate as an acknowledgement by the parties that the Government has elected to exercise its first and second renewal option.

4. **PROMPT PAYMENT:** The Lessee will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

a. When the date for commencement of rent falls on the 15th day of the month or earlier, the initial rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

b. When the date for commencement of rent falls after the 15th day of the month, the initial rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

5. **RENTAL:** The Lessee shall pay the Owner rent at the following rate: **Three Thousand Four Hundred Dollars** (\$3,400.00) per year, in arrears, on or about the first day of the first month after completion of the rental period. Rent for a lesser period shall be prorated. Rent payments shall be made by Electronics Funds Transfer (EFT) payable to lessor as stated above, by USACE Finance Center, 5720 Integrity Drive, Millington, TN 38054-5055.

In compliance with Federal Law (specifically, Public Law 104-134, The Debt Collection Improvement Act of 1994), contractors are to provide their banking data to the US Government's "System for Award Management (SAM)" [www.sam.gov]. All agencies/departments of the US Government are to use this information to make their electronic payments. Prior to the execution of the Lease, Lessor agrees to complete registration in the SAM and return the Cage Code and Tax ID to the Government. Lessor acknowledges that prior to the commencement of any rental payments by Government, Lessor will have completed SAM Registration.

6. **OWNERSHIP:** The Lessor warrants that it is the rightful and legal owner of the property, subject to all easements and encumbrances of record, and has the legal right to enter into this lease. If the title of the Lessor shall fail, or it be discovered that the Lessor did not have authority to lease to the property, the lease shall terminate. To the extent permitted by law, the Lessor, the Lessor's heirs, executors, administrators, successors, or assigns agree to indemnify the Lessee by reason of such failure and to refund all rentals paid.

7. **TERMINATION:**

a. The Lessee may terminate this lease at any time in whole or in part, by giving thirty (30) days' notice in writing to the Lessor and no rental shall be due for payment after the effective date of termination. Said notice shall be deemed to have been received the day after the date of mailing, or hand delivery.

b. Termination in whole or in part shall be effective upon written notice, however, the parties may enter into a supplemental agreement to resolve certain issues arising from the tenancy and its termination, in whole or in part.

c. The Lessor has no termination rights.

8. **ALTERATIONS/RESTORATION/RELEASE OF LIABILITY:**

All installations placed in said right-of-way by the lessee shall remain the property of the lessee and may be removed therefrom by the lessee at any time. The construction, operation, and maintenance, renewal,

and removal of the said installation shall be accomplished by the Lessee at its sole cost and expense and in such a manner as will at times enable the lessor to use the surface of the right-of-way. The Lessor may, upon not less than 30 days' written notice to the Lessee, and before termination of the lease, require restoration of the leased premises, subject to exceptions to restoration stated below of all alterations. In this event, prior to the expiration or termination of this lease, or prior to relinquishment of possession, whichever first occurs, the Lessee shall, at its sole election, either (1) restore the premises to the same condition as that existing at the time of entering into the lease or; (2) make appropriate settlement to the Lessor representing either the diminution in the fair market value of the property due to the failure to restore, or the actual cost of restoration, whichever is the lesser amount. The Lessee shall not restore the premises, either physically or by payment in lieu thereof, for damages as a result of reasonable and ordinary wear and tear, the elements or circumstances over which the Lessee has no control, or for alterations, or damage thereto, which the Lessee installed at its expense, or the Lessor installed and was reimbursed by the Lessee through payment thereof. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a Supplemental Agreement at the termination of the lease hereto effectuating such settlement. Nothing in this Lease shall require the Government to make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for that purpose, consistent with the Anti-Deficiency Act, 31 U.S.C. 1341, et seq., as amended, and other applicable federal laws.

9. **PROPERTY INVENTORY**: As of the starting date of this lease, a joint inventory and condition report of all personal property of the Lessor included in this lease, and also a joint physical survey and inspection report of the real property shall be made, said reports to reflect the then present condition, and to be signed on behalf of the parties.

10. **TAXES**: The Lessor accepts full and sole responsibility for the payment of all taxes and other charges of a public nature which may arise in connection with this lease, or which may be assessed against the property. This includes registration of the lease and payment of related charges.

11. **NOTICE**: Any notice under the terms of this lease shall be in writing signed by a duly authorized representative of the party giving such notice, and if given by the Lessee shall be addressed to the Lessor at:

County Executive
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

and if given by the Lessor shall be addressed to the Lessee at:

U.S. Army Corps of Engineers
ATTN: CENAB-REI
2 Hopkins Plaza
Baltimore, Maryland 21202

12. **LESSOR'S SUCCESSORS**: The terms and provisions of this lease and the conditions shall bind the Lessor, and the Lessor's heirs, executors, administrators, successors, and assigns.

13. **COVENANT AGAINST CONTINGENT FEES**: The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or a contingent fee, excepting bona fide employees or bona fide

established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Lessee shall have the right to annul this lease without liability or in its discretion to deduct from the lease price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

14. **OFFICIALS NOT TO BENEFIT**: No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this lease if made with a corporation for its general benefit.

15. **GRATUITIES**:

a. The Lessee may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this lease if it is found, after notice and hearing, by the Secretary of the Army or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any officer, or employee of the Lessee with a view toward securing a lease or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such lease; provided, that the existence of facts upon which the Secretary of the Army or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this lease is terminated as provided in paragraph (a) hereof, the Lessee shall be entitled (i) to pursue the same remedies against the Lessor as it could pursue in the event of a breach of the lease by the Lessor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Army or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Lessor in providing any such gratuities to an such officer or employee.

c. The rights and remedies of the Lessee provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this lease.

16. **EXAMINATION OF RECORDS**: The Lessor agrees that any duly authorized representatives shall have the right until the expiration of three (3) years after final payment of the agreed rental, have access to and the right to examine any directly pertinent books, documents, papers and records of the Lessor involving transactions related to this lease.

17. **MODIFICATION**: No Change or modification of this lease shall be effective unless it is in writing and signed by both parties to this lease.

18. **DISPUTES**:

a. This lease is subject to the Contract Disputes Act of 1978 (41 USC 601-613).

b. Except as provided in the Contract Disputes Act ("Act"), all disputes arising under or relating to this lease shall be resolved under this clause.

c. "Claim" as used in this clause, means a written demand or written assertion by one of the leasing parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under a lease, unlike a claim relating to that lease, is a claim that can be resolved under a lease clause that

provides for the relief sought by the claimant. However, a written demand or written assertion by the Lessor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d) (2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

- d. (1) A claim by the Lessor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Lessee against the Lessor shall be subject to a written decision by the Contracting Officer.
- (2) For Lessor claims exceeding \$100,000, the Lessor shall submit with the claim a certification that:
 - (i) The claim is made in good faith;
 - (ii) Supporting data are accurate and complete to the best of the Lessor's knowledge and belief; and
 - (iii) The amount requested accurately reflects the contract adjustment for which the Lessor believes the Lessee is liable.
- (3) (i) If the Lessor is an individual, the certification shall be executed by that individual.
- (ii) If the Lessor is not an individual, the certification shall be executed by:
 - (A) A senior company official in charge at the Lessor's plant or location involved; or
 - (B) An officer or general partner of the Lessor having overall responsibility for the conduct of the Lessor's affairs.

e. For Lessor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Lessor, render a decision within 60 days of the request. For Lessor certified claims over \$100,000, the Contractor Officer must, within 60 days, decide the claim or notify the Lessor of the date by which the decision will be made.

f. The Contracting Officer's decision shall be final unless the Lessor appeals or files a suit as provided in the Act.

g. At the time a claim by the Lessor is submitted to the Contracting Officer or a claim by the Lessee is presented to the Lessor, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternative dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph (d)(2) of this clause, and executed in accordance with paragraph (d)(3) of this clause.

h. The Lessee shall pay interest on the amount found due and unpaid from: (1) the date the Contracting Officer receives the claim (properly certified is required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6 month period as fixed by the Treasury Secretary during the pendency of the claim.

i. The Lessor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

19. **SEVERABILITY:** If any provision of this lease or the application thereof to any person, or if any circumstance is held invalid for any reason, such invalidity shall not affect the other provisions, or any

other application of this lease which can be given effect without the invalid provision or application, and to this end, all the provisions of this lease are hereby declared to be severable.

20. **ANTI-DEFICIENCY ACT:** Any expenditure by the United States of federal funds under this Lease is subject to the lawful availability of such funds for the purposes described in this Lease. Nothing in this Lease will require a violation of the Anti-Deficiency Act (31 U.S.C. 1341(a)(1)(A)), or any other law or regulation relating to appropriated funds of the United States, nor shall this Lease require a violation of any law or regulation relating to the leasing of real property by the United States.

21. **COUNTERPARTS:** If this Lease shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Agreement.

22. **NO WAIVER:** No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

23. **INTEGRATED AGREEMENT:** This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

24. **ASSIGNMENT OF CLAIMS**

- a. The Lessor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 6305 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this lease to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- b. Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this lease and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this lease.
- c. The Lessor shall not furnish or disclose to any assignee under this lease any classified document (including this lease) or information related to work under this lease until the Contracting Officer authorizes such action in writing.

IN WITNESS WHEREOF, the parties have subscribed their names as of the date first above written.

Witnesses:

COUNTY OF ALBEMARLE, LESSOR:

JEFFREY B. RICHARDSON
County Executive
Albemarle County

Witnesses:

THE UNITED STATES OF AMERICA, LESSEE:

STANLEY H. GRAHAM
Real Estate Contracting Officer
Chief, Real Estate Division
Baltimore District, U.S. Army Corps of Engineers

CERTIFICATE

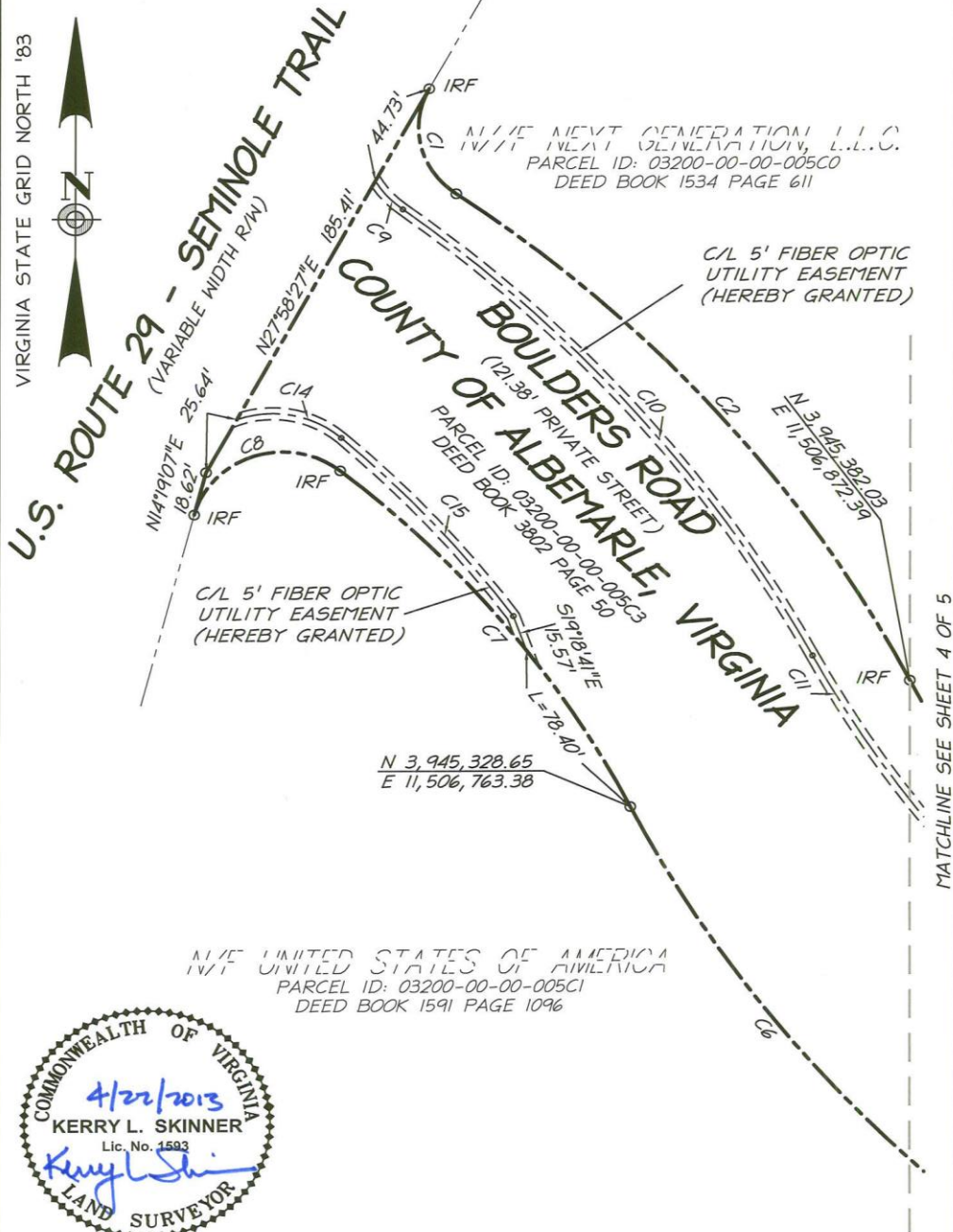
I, _____, certify that I am the _____ of the County of Albemarle; that Jeffrey B. Richardson, who signed the foregoing instrument on behalf of the County was then County Executive of the *County*. I further certify that the said officer was acting within the scope of the powers delegated to this officer by the governing body of the County in executing said instrument.

Date _____

Secretary or other appropriate officer
(Excluding the officer executing the instrument)

{Seal}

VIRGINIA STATE GRID NORTH '83



COMMONWEALTH OF VIRGINIA
 4/22/2013
 KERRY L. SKINNER
 Lic. No. 1593
 Kerry L. Skinner
 LAND SURVEYOR

N/E UNITED STATES OF AMERICA
 N/W UNITED STATES OF AMERICA
 PARCEL ID: 03200-00-00-005C1
 DEED BOOK 1591 PAGE 1096

PLAT SHOWING
 FIBER OPTIC UTILITY EASEMENT
 FOR: QWEST GOVERNMENT SERVICES, INC; dba CENTURYLINK
 ON THE PROPERTY OF
COUNTY OF ALBEMARLE, VIRGINIA
 RIVANNA MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VIRGINIA

SCALE: 1" = 50'
 DATE: 03/21/13
 REV: 04/22/13
 SHEET 3 OF 5

DRAWN:
 BWS
 CHECKED:
 KLS



christopher consultants
 engineering - surveying - land planning
 9417 innovation drive manassas, va 20110
 703.393.9887 fax 703.393.9076

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MATCHLINE SEE SHEET 4 OF 5

8/L6001

NITE NEXT GENERATION, L.L.C.
NITE NEXT GENERATION, L.L.C.
PARCEL ID: 03200-00-00-005C0
DEED BOOK 1534 PAGE 611

C/L 5' FIBER OPTIC
UTILITY EASEMENT
(HEREBY GRANTED)

VIRGINIA STATE GRID NORTH '83



MATCHLINE SEE SHEET 3 OF 5

BOULDERS ROAD
(121.38' PRIVATE STREET)
COUNTY OF ALBEMARLE, VIRGINIA
PARCEL ID: 03200-00-00-005C3
DEED BOOK 3802 PAGE 50

MATCHLINE SEE SHEET 5 OF 5



NITE UNITED STATES OF AMERICA
NITE UNITED STATES OF AMERICA
PARCEL ID: 03200-00-00-005C1
DEED BOOK 1591 PAGE 1096

PLAT SHOWING
FIBER OPTIC UTILITY EASEMENT
FOR: QWEST GOVERNMENT SERVICES, INC; dba CENTURYLINK
ON THE PROPERTY OF
COUNTY OF ALBEMARLE, VIRGINIA
RIVANNA MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VIRGINIA

SCALE: 1" = 50'
DATE: 03/21/13
REV: 04/22/13
SHEET 4 OF 5

DRAWN:
BWS
CHECKED:
KLS



christopher consultants
engineering - surveying - land planning
9417 innovation drive manassas, va 20110
703.393.9867 fax 703.393.9076

100978

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