



PAS MEMO ADDENDUM

Specific Planning and Zoning Recommendations for Utility-Scale Solar

This guidance and sample ordinance language for utility-scale solar facilities is drawn from actual comprehensive plan and zoning ordinance amendments as well as conditional (special) use permit conditions. These examples are from Virginia and should be tailored to localities within the context of each state's enabling legislation regarding land use.

THE COMPREHENSIVE (GENERAL) PLAN

The following topics should be addressed for comprehensive plan amendments:

- Identification of major electrical facility infrastructure (i.e., transmission lines, transfer stations, generation facilities, etc.)
- Identification of growth area boundaries around each city, town, or appropriate population center
- Additional public review and comment opportunities for land-use applications within a growth area boundary, within a specified distance from an identified growth area boundary, or within a specified distance from identified population centers (e.g., city or town limits)
- Recommended parameters for utility-scale solar facilities, such as:
 - maximum acreage or density (e.g., not more than two facilities within a two-mile radius) to mitigate the impacts related to the scale of these facilities
 - maximum percent usage (i.e., "under panel" or impervious surface) of assembled property to mitigate impacts to habitat, soil erosion, and stormwater runoff
 - location adjacent or close to existing electric transmission lines
 - location outside of growth areas or town boundary or a specified distance from an identified growth boundary
 - location on brownfields or near existing industrial uses (but not within growth boundaries)
 - avoidance of or minimization of impact to prime farmland as defined by the USDA
 - avoidance of or minimization of impact to the viewshed

of any scenic, cultural, or recreational resources (i.e., large solar facilities may not be seen from surrounding points that are in line-of-sight with a resource location)

- Identification of general conditions to mitigate negative effects, including the following:
 - Concept plan compliance
 - Buffers and screening (e.g., berms, vegetation, etc.)
 - Third-party plan review (for erosion and sediment controls, stormwater management, grading)
 - Setbacks
 - Landscaping maintenance
 - Decommissioning plan and security

THE ZONING ORDINANCE

In addition to, or separate from, comprehensive plan amendments, the zoning ordinance should be amended to more specifically set forth the process and requirements necessary for a thorough land-use evaluation of an application.

Recommended Application Process

Pre-Application Meeting

The process of requiring applicants to meet with staff prior to the submission of an application often results in a better, more complete application and a smoother process once an application is submitted. This meeting allows the potential applicant and staff to sit down to discuss the location, scale, and nature of the proposed use and what will be expected during that process. The pre-application meeting is one of the most

effective tools planners can use to ensure a more efficient, substantive process.

Comprehensive Plan Review

As discussed in the article, a comprehensive plan review for public utility facilities, if required, can occur prior to or as part of the land-use application process. Any application not including the review would be subject to such review in compliance if required by state code. If the plan review is not done concurrently with the land-use application, then it should be conducted prior to the receipt of the application.

An application not substantially in accord with the comprehensive plan should not be recommended for approval, regardless of the conditions placed on the use. Depending on the location, scale, and extent of the project, it is difficult to sufficiently mitigate the adverse impacts of a project that does not conform with the plan.

Land-Use Application

If the comprehensive plan review is completed and the project is found to be in compliance with the comprehensive plan, then the use permit process can proceed once a complete application is submitted. Application completion consists of the submission of all requirements set forth in the zoning ordinance and is at the discretion of the zoning administrator if there is any question as to what is required or when it is required.

Applications should contain all required elements at the time of submittal and no components should be outstanding at the time of submittal.

Sample Ordinance Language

The following sample ordinance language addresses requirements for applications, public notice, development standards, decommissioning, site plan review, and other process elements.

1. Application requirements. Each applicant requesting a use permit shall submit the following:
 - a. A complete application form.
 - b. Documents demonstrating the ownership of the subject parcel(s).
 - c. Proof that the applicant has authorization to act upon the owner's behalf.
 - d. Identification of the intended utility company who will interconnect to the facility.
 - e. List of all adjacent property owners, their tax map numbers, and addresses.
 - f. A description of the current use and physical characteristics of the subject parcels.
 - g. A description of the existing uses of adjacent properties and the identification of any solar facilities—existing or proposed—within a five-mile radius of the proposed location.
 - h. Aerial imagery which shows the proposed location of the solar energy facility, fenced areas and driveways with the closest distance to all adjacent property lines, and nearby dwellings, along with main points of ingress/egress.
2. Public notice.
 - a. Use permits shall follow the public notice requirements as set forth in the zoning ordinance or by state code as applicable.
 - b. Neighborhood meeting: A public meeting shall be held prior to the public hearing with the planning commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.
 - i. Concept plan.

The facility shall be constructed and operated in substantial compliance with the approved concept plan, with allowances for changes required by any federal or state agency. The project shall be limited to the phases and conditions set forth in the concept plan that constitutes part of this application, notwithstanding any other state or federal requirements. No additional phasing or reduction in facility size shall be permitted, and no extensions beyond the initial period shall be granted without amending the use permit. The concept plan shall include the subject parcels; the proposed location of the solar panels and related facilities; the location of proposed fencing, driveways, internal roads, and structures; the closest distance to adjacent property lines and dwellings; the location of proposed setbacks; the location and nature of proposed buffers, including vegetative and constructed buffers and berms; the location of points of ingress/egress; any proposed construction phases.
 - j. A detailed decommissioning plan (see item 5 below).
 - k. A reliable and detailed estimate of the costs of decommissioning, including provisions for inflation (see item 5 below).
 - l. A proposed method of providing appropriate escrow, surety, or security for the cost of the decommissioning plan (see item 5 below).
 - m. Traffic study modelling the construction and decommissioning processes. Staff will review the study in cooperation with the state department of transportation or other official transportation authority.
 - n. An estimated construction schedule.
 - o. [x number of] hard copy sets (11"× 17" or larger), one reduced copy (8½"× 11"), and one electronic copy of site plans, including elevations and landscape plans as required. Site plans shall meet the requirements of this ordinance.
 - p. The locality may require additional information deemed necessary to assess compliance with this section based on the specific characteristics of the property or other project elements as determined on a case by case basis.
 - q. Application fee to cover any additional review costs, advertising, or other required staff time.

- no more than 14 days in advance of the meeting date.
 - ii The date, time, and location of the meeting shall be advertised in the newspaper of record by the applicant, at least seven but no more than 14 days in advance of the meeting date.
 - iii The meeting shall be held within the community, at a location open to the general public with adequate parking and seating facilities which may accommodate persons with disabilities.
 - iv The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and make comments regarding the proposal.
 - v The applicant shall provide to the zoning administrator a summary of any input received from members of the public at the meeting.
3. Minimum development standards.
- a. No solar facility shall be located within a reasonable radius of an existing or permitted solar facility, airport, or municipal boundary.
 - b. The minimum setback from property lines shall be a reasonable distance (e.g., at least 100 feet) and correlated with the buffer requirement.
 - c. The facilities, including fencing, shall be significantly screened from the ground-level view of adjacent properties by a buffer zone of a reasonable distance extending from the property line that shall be landscaped with plant materials consisting of an evergreen and deciduous mix (as approved by staff), except to the extent that existing vegetation or natural landforms on the site provide such screening as determined by the zoning administrator. In the event that existing vegetation or landforms providing the screening are disturbed, new plantings shall be provided which accomplish the same. Opaque architectural fencing may be used to supplement other screening methods but shall not be the primary method.
 - d. The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.
 - e. Maximum height of primary structures and accessory buildings shall be a reasonable height as measured from the finished grade at the base of the structure to its highest point, including appurtenances (e.g., 15 feet). The board of supervisors may approve a greater height based upon the demonstration of a significant need where the impacts of increased height are mitigated.
 - f. All solar facilities must meet or exceed the standards and regulations of the Federal Aviation Administration (FAA), State Corporation Commission (SCC) or equivalent, and any other agency of the local, state, or federal government with the authority to regulate such facilities that are in force at the time of the application.
 - g. To ensure the structural integrity of the solar facility, the owner shall ensure that it is designed and maintained in compliance with standards contained in applicable local, state, and federal building codes and regulations that were in force at the time of the permit approval.
- h. The facilities shall be enclosed by security fencing on the interior of the buffer area (not to be seen by other properties) of a reasonable height. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the security fencing shall result in revocation of the use permit and the facility's decommissioning.
 - i. Ground cover on the site shall be native vegetation and maintained in accordance with established performance measures or permit conditions.
 - j. Lighting shall use fixtures as approved by the municipality to minimize off-site glare and shall be the minimum necessary for safety and security purposes. Any exceptions shall be enumerated on the concept plan and approved by the zoning administrator.
 - k. No facility shall produce glare that would constitute a nuisance to the public.
 - l. Any equipment or situations on the project site that are determined to be unsafe must be corrected within 30 days of citation of the unsafe condition.
 - m. Any other condition added by the planning commission or governing body as part of a permit approval.
4. Coordination of local emergency services. Applicants for new solar energy facilities shall coordinate with emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
5. Decommissioning. The following requirements shall be met:
- a. Utility-scale solar facilities which have reached the end of their useful life or have not been in active and continuous service for a reasonable period of time shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the municipality may require evidentiary support that a longer repair period is necessary.
 - b. Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility or system was located is again tillable and suitable for agricultural uses. The site shall be graded and reseeded to restore it to as natural a condition as possible, unless the land owner requests in writing that the access roads or other land surface areas not be restored, and this request is approved by the governing body (other conditions might be more beneficial or desirable at that time).
 - c. The site shall be regraded and reseeded to as natural condition as possible within a reasonable timeframe after equipment removal.

- d. The owner or operator shall notify the zoning administrator by certified mail, return receipt requested, of the proposed date of discontinued operations and plans for removal.
 - e. Decommissioning shall be performed in compliance with the approved decommissioning plan. The governing body may approve any appropriate amendments to or modifications of the decommissioning plan.
 - f. Hazardous material from the property shall be disposed of in accordance with federal and state law.
 - g. The applicant shall provide a reliable and detailed cost estimate for the decommissioning of the facility prepared by a professional engineer or contractor who has expertise in the removal of solar facilities. The decommissioning cost estimate shall explicitly detail the cost and shall include a mechanism for calculating increased removal costs due to inflation and without any reduction for salvage value. This cost estimate shall be recalculated every five (5) years and the surety shall be updated in kind.
 - h. The decommissioning cost shall be guaranteed by cash escrow at a federally insured financial institution approved by the municipality before any building permits are issued. The governing body may approve alternative methods of surety or security, such as a performance bond, letter of credit, or other surety approved by the municipality, to secure the financial ability of the owner or operator to decommission the facility.
 - i. If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the municipality may collect the surety and staff or a hired third party may enter the property to physically remove the installation.
6. Site plan requirements. In addition to the site plan requirements set forth in the zoning ordinance, a construction management plan shall be submitted that includes:
- Traffic control plan (subject to state and local approval, as appropriate)
 - Delivery and parking areas
 - Delivery routes
 - Permits (state/local)
- Additionally, a construction/deconstruction mitigation plan shall also be submitted including:
- Hours of operation
 - Noise mitigation (e.g., construction hours)
 - Smoke and burn mitigation (if necessary)
 - Dust mitigation
 - Road monitoring and maintenance
7. The building permit must be obtained within [18 months] of obtaining the use permit and commencement of the operation shall begin within [one year] from building permit issuance.
8. All solar panels and devices are considered primary structures and subject to the requirements for such, along with the established setbacks and other requirements for solar facilities.
9. Site maintenance.
- a. Native grasses shall be used to stabilize the site for the duration of the facility's use.
 - b. Weed control or mowing shall be performed routinely and a performance bond reflecting the costs of such maintenance for a period of [six (6) months] shall be posted and maintained. Failure to maintain the site may result in revocation of the use permit and the facility's decommissioning.
 - c. Anti-reflection coatings. Exterior surfaces of the collectors and related equipment shall have a nonreflective finish and solar panels shall be designed and installed to limit glare to a degree that no after image would occur towards vehicular traffic and any adjacent building.
 - d. Repair of panels. Panels shall be repaired or replaced when either nonfunctional or in visible disrepair.
10. Signage shall identify the facility owner, provide a 24-hour emergency contact phone number, and conform to the requirements set forth in the Zoning Ordinance.
11. At all times, the solar facility shall comply with any local noise ordinance.
12. The solar facility shall not obtain a building permit until evidence is given to the municipality that an electric utility company has a signed interconnection agreement with the permittee.
13. All documentation submitted by the applicant in support of this permit request becomes a part of the conditions. Conditions imposed by the governing body shall control over any inconsistent provision in any documentation provided by the applicant.
14. If any one or more of the conditions is declared void for any reason, such decision shall not affect the remaining portion of the permit, which shall remain in full force and effect, and for this purpose, the provisions of this are here by declared to be severable.
15. Any infraction of the above-mentioned conditions, or any zoning ordinance regulations, may lead to a stop order and revocation of the permit.
16. The administrator/manager, building official, or zoning administrator, or any other parties designated by those public officials, shall be allowed to enter the property at any reasonable time, and with proper notice, to check for compliance with the provisions of this permit.

EXAMPLE OF RECOMMENDED USE PERMIT CONDITIONS (In Virginia: conditional uses, special uses, special exceptions)

Conditions ([approved/revise] at the Planning Commission meeting on [date])

If the Board determines that the application furthers the comprehensive plan's goals and objectives and that it meets the criteria set forth in the zoning ordinance, then the Planning Commission recommends the following conditions to mitigate the adverse effects of this utility-scale solar generation facility with any Board recommendation for permit approval.

1. The Applicant will develop the Solar Facility in substantial accord with the Conceptual Site Plan dated _____ included with the application as determined by the Zoning Administrator. Significant deviations or additions, including any enclosed building structures, to the Site Plan will require review and approval by the Planning Commission and Board of Supervisors.
2. Site Plan Requirements. In addition to all State site plan requirements and site plan requirements of the Zoning Administrator, the Applicant shall provide the following plans for review and approval for the Solar Facility prior to the issuance of a building permit:
 - a. *Construction Management Plan.* The Applicant shall prepare a Construction Management Plan for each applicable site plan for the Solar Facility, and each plan shall address the following:
 - i. Traffic control methods (in coordination with the Department of Transportation prior to initiation of construction), including lane closures, signage, and flagging procedures.
 - ii. Site access planning directing employee and delivery traffic to minimize conflicts with local traffic.
 - iii. Fencing. The Applicant shall install temporary security fencing prior to the commencement of construction activities occurring on the Solar Facility.
 - iv. Lighting. During construction of the Solar Facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and safety lighting shall be exempt from this construction lighting condition.
 - b. *Construction Mitigation Plan.* The Applicant shall prepare a Construction Mitigation Plan for each applicable site plan for the Solar Facility to the satisfaction of the Zoning Administrator. Each plan shall address, at a minimum, the effective mitigation of dust, burning operations, hours of construction activity, access and road improvements, and handling of general construction complaints.
 - c. *Grading plan.* The Solar Facility shall be constructed in compliance with the County-approved grading plan as determined and approved by the Zoning Administrator or his designee prior to the commencement of any construction activities and a bond or other security will be posted for the grading operations. The grading plan shall:
 - i. Clearly show existing and proposed contours;
 - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
 - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
 - iv. Require an earthwork balance to be achieved on-site with no import or export of soil;
 - v. Require topsoil to first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded in areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required;
 - vi. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce stormwater storage needs.
 - d. *Erosion and Sediment Control Plan.* The County will have a third-party review with corrections completed prior to submittal for Department of Environmental Quality (DEQ) review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. An E&S bond (or other security) will be posted for the construction portion of the project.
 - e. *Stormwater Management Plan.* The County will have a third-party review with corrections completed prior to submittal for DEQ review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A stormwater control bond (or other security) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator.
 - f. *Solar Facility Screening and Vegetation Plan.* The owner or operator shall construct, maintain, and operate the facility in compliance with the approved plan. A separate security shall be posted for the ongoing maintenance of the project's vegetative buffers in an amount deemed sufficient by the Zoning Administrator.
 - g. The Applicant will compensate the County in obtaining an independent third-party review of any site plans or construction plans or part thereof.
 - h. The design, installation, maintenance, and repair of the Solar Facility shall be in accordance with the most current National Electrical Code (NFPA 70) available (2017 version or later as applicable).
3. Operations.
 - a. *Permanent Security Fence.* The Applicant shall install a permanent security fence, consisting of chain link, 2-inch square mesh, 6 feet in height, surmounted by three strands of barbed wire, around the Solar Facility prior to the commencement of operations of the Solar Facility.

- Failure to maintain the fence in a good and functional condition will result in revocation of the permit.
- b. *Lighting.* Any on-site lighting provided for the operational phase of the Solar Facility shall be dark-sky compliant, shielded away from adjacent properties, and positioned downward to minimize light spillage onto adjacent properties.
 - c. *Noise.* Daytime noise will be under 67 dBA during the day with no noise emissions at night.
 - d. *Ingress/Egress.* Permanent access roads and parking areas will be stabilized with gravel, asphalt, or concrete to minimize dust and impacts to adjacent properties.
4. Buffers.
 - a. *Setbacks.*
 - i. A minimum 150-foot setback, which includes a 50-foot planted buffer as described below, shall be maintained from a principal Solar Facility structure to the street line (edge of right-of-way) where the Property abuts any public rights-of-way.
 - ii. A minimum 150-foot setback, which includes a 50-foot planted buffer as described below, shall be maintained from a principal Solar Facility structure to any adjoining property line which is a perimeter boundary line for the project area.
 - b. *Screening.* A minimum 50-foot vegetative buffer (consisting of existing trees and vegetation) shall be maintained. If there is no existing vegetation or if the existing vegetation is inadequate to serve as a buffer as determined by the Zoning Administrator, a triple row of trees and shrubs will be planted on approximately 10-foot centers in the 25 feet immediately adjacent to the security fence. New plantings of trees and shrubs shall be approximately 6 feet in height at time of planting. In addition, pine seedlings will be installed in the remaining 25 feet of the 50-foot buffer. Ancillary project facilities may be included in the buffer as described in the application where such facilities do not interfere with the effectiveness of the buffer as determined by the Zoning Administrator.
 - c. *Wildlife corridors.* The Applicant shall identify an access corridor for wildlife to navigate through the Solar Facility. The proposed wildlife corridor shall be shown on the site plan submitted to the County. Areas between fencing shall be kept open to allow for the movement of migratory animals and other wildlife.
 5. Height of Structures. Solar facility structures shall not exceed 15 feet, however, towers constructed for electrical lines may exceed the maximum permitted height as provided in the zoning district regulations, provided that no structure shall exceed the height of 25 feet above ground level, unless required by applicable code to interconnect into existing electric infrastructure or necessitated by applicable code to cross certain structures (e.g. pipelines).
 6. Inspections. The Applicant will allow designated County representatives or employees access to the facility at any time for inspection purposes as set forth in their application.
 7. Training. The Applicant shall arrange a training session with the Fire Department to familiarize personnel with issues unique to a solar facility before operations begin.
 8. Compliance. The Solar Facility shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.
 9. Decommissioning.
 - a. *Decommissioning Plan.* The Applicant shall submit a decommissioning plan to the County for approval in conjunction with the building permit. The purpose of the decommissioning plan is to specify the procedure by which the Applicant or its successor would remove the Solar Facility after the end of its useful life and to restore the property for agricultural uses.
 - b. *Decommissioning Cost Estimate.* The decommissioning plan shall include a decommissioning cost estimate prepared by a State licensed professional engineer.
 - i. The cost estimate shall provide the gross estimated cost to decommission the Solar Facility in accordance with the decommissioning plan and these conditions. The decommissioning cost estimate shall not include any estimates or offsets for the resale or salvage values of the Solar Facility equipment and materials.
 - ii. The Applicant, or its successor, shall reimburse the County for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimate.
 - iii. The Applicant, or its successor, will update the decommissioning cost estimate every 5 years and reimburse the County for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.
 - c. *Security.*
 - i. Prior to the County's approval of the building permit, the Applicant shall provide decommissioning security in one of the two following alternatives:
 1. Letter of Credit for Full Decommissioning Cost: A letter of credit issued by a financial institution that has (i) a credit Rating from one or both of S&P and Moody's of at least A from S&P or A2 from Moody's and (ii) a capital surplus of at least \$10,000,000,000; or (iii) other credit rating and capitalization reasonably acceptable to the County, in the full amount of the decommissioning estimate; or
 2. Tiered Security:
 - a. 10 percent of the decommissioning cost estimate to be deposited in a cash escrow at a financial institution reasonably acceptable to the County; and
 - b. 10 percent of the decommissioning cost estimate in the form of a letter of credit issued by

- a financial institution that has (i) a credit rating from one or both of S&P and Moody's of at least A from S&P or A2 from Moody's and (ii) a capital surplus of at least \$10,000,000,000, or (iii) other credit rating and capitalization reasonably acceptable to the County, with the amount of the letter of credit increasing by an additional 10 percent each year in years 2–9 after commencement of operation of the Solar Facility; and
- c. The Owner, not the Applicant, will provide its guaranty of the decommissioning obligations. The guaranty will be in a form reasonably acceptable to the County. The Owner, or its successor, should have a minimum credit rating of (i) Baa3 or higher by Moody's or (ii) BBB- or higher by S&P; and
 - d. In the tenth year after operation, the Applicant will have increased the value of the letter of credit to 100 percent of the decommissioning cost estimate. At such time, the Applicant may be entitled to a return of the 10 percent cash escrow.
- ii. Upon the receipt of the first revised decommissioning cost estimate (following the 5th anniversary), any increase or decrease in the decommissioning security shall be funded by the Applicant or refunded to Applicant (if permissible by the form of security) within 90 days and will be similarly trued up for every subsequent five-year updated decommissioning cost estimate.
 - iii. The security must be received prior to the approval of the building permit and must stay in force for the duration of the life span of the Solar Facility and until all decommissioning is completed. If the County receives notice or reasonably believes that any form of security has been revoked or the County receives notice that any security may be revoked, the County may revoke the special use permit and shall be entitled to take all action to obtain the rights to the form of security.
- d. *Applicant/Property Owner Obligation.* Within 6 months after the cessation of use of the Solar Facility for electrical power generation or transmission, the Applicant or its successor, at its sole cost and expense, shall decommission the Solar Facility in accordance with the decommissioning plan approved by the County. If the Applicant or its successor fails to decommission the Solar Facility within 6 months, the property owners shall commence decommissioning activities in accordance with the decommissioning plan. Following the completion of decommissioning of the entire Solar Facility arising out of a default by the Applicant or its successor, any remaining security funds held by the County shall be distributed to the property owners in a proportion of the security funds and the property owner's acreage ownership of the Solar Facility.
- e. *Applicant/Property Owner Default; Decommissioning by the County.*
 - i. If the Applicant, its successor, or the property owners fail to decommission the Solar Facility within 6 months, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning security, and the rights to the Solar Facility equipment and materials on the property.
 - ii. If applicable, any excess decommissioning security funds shall be returned to the current owner of the property after the County has completed the decommissioning activities.
 - iii. Prior to the issuance of any permits, the Applicant and the property owners shall deliver a legal instrument to the County granting the County (1) the right to access the property, and (2) an interest in the Solar Facility equipment and materials to complete the decommissioning upon the Applicant's and property owner's default. Such instrument(s) shall bind the Applicant and property owners and their successors, heirs, and assigns. Nothing herein shall limit other rights or remedies that may be available to the County to enforce the obligations of the Applicant, including under the County's zoning powers.
 - f. *Equipment/Building Removal.* All physical improvements, materials, and equipment related to solar energy generation, both surface and subsurface components, shall be removed in their entirety. The soil grade will also be restored following disturbance caused in the removal process. Perimeter fencing will be removed and recycled or reused. Where the current or future landowner prefers to retain the fencing, these portions of fence will be left in place.
 - g. *Infrastructure Removal.* All access roads will be removed, including any geotextile material beneath the roads and granular material. The exception to removal of the access roads and associated culverts or their related material would be upon written request from the current or future landowner to leave all or a portion of these facilities in place for use by that landowner. Access roads will be removed within areas that were previously used for agricultural purposes and topsoil will be redistributed to provide substantially similar growing media as was present within the areas prior to site disturbance.
 - h. *Partial Decommissioning.* If decommissioning is triggered for a portion, but not the entire Solar Facility, then the Applicant or its successor will commence and complete decommissioning, in accordance with the decommissioning plan, for the applicable portion of the Solar Facility; the remaining portion of the Solar Facility would continue to be subject to the decommissioning plan. Any reference to decommissioning the Solar Facility shall include the obligation to decommission all or a portion of the Solar Facility whichever is applicable with respect

to a particular situation.

10. Power Purchase Agreement. At the time of the Applicant's site plan submission, the Applicant shall have executed a power purchase agreement with a third-party providing for the sale of a minimum of 80% of the Solar Facility's anticipated generation capacity for not less than 10 years from commencement of operation. Upon the County's request, the Applicant shall provide the County and legal counsel with a redacted version of the executed power purchase agreement.