



COMMONWEALTH OF VIRGINIA
County of Henrico

DEPARTMENT OF FINANCE
Cecelia H. Stowe, CPPO, C.P.M.
Purchasing Director

Contract No. 1919A

Agreement among Sun Tribe Solar, LLC, County of Henrico, Virginia, and County School Board of Henrico County, Virginia for Solar Power Purchase Agreement Services

This Agreement (“Agreement”) dated March 1, 2020 (“Effective Date”) is made and entered into by Sun Tribe Solar, LLC (hereinafter referred to as “Sun Tribe”), County of Henrico, Virginia (“Henrico”), and County School Board of Henrico County, Virginia (“HCPS”) (together, referred to as the “County”).

WHEREAS, on September 13, 2019, the County issued Request for Proposal No. 19-1919-9JOK (hereinafter referred to as “RFP”), titled “Solar Power Purchase Agreement Services”; and,

WHEREAS, Sun Tribe submitted a proposal dated October 17, 2019 in response to the RFP; and,

WHEREAS, the County selected Sun Tribe as the Successful Offeror to provide goods and services in accordance with the RFP; and,

WHEREAS, the parties have negotiated the terms and conditions under which Sun Tribe will provide goods and services as outlined in the Agreement Documents; and,

WHEREAS, Sun Tribe hereby agrees to provide solar power purchase agreement services as described in the Agreement Documents; and,

WHEREAS, the delivery of the goods and services will be provide as set forth in the Agreement Documents.

NOW, THEREFORE, the parties agree as follows:

- (1) **Agreement Documents** – The Exhibits listed below are hereby incorporated into and made part of this Agreement, and this Agreement and the incorporated Exhibits shall be the “Agreement Documents”. Any Power Purchase Agreements and Site Lease Agreements (together, a “PPA”) the parties enter into after the date of this Agreement will also become a part of the Agreement Documents. In the event of conflict among the Agreement Documents, the provisions of this Agreement shall supersede the Exhibits. Except as otherwise described herein, any inconsistency among the incorporated Exhibits shall be resolved by giving priority to the Exhibits in the order in which they are listed below, provided, however, the General Terms and Conditions contained in the RFP will always be given effect:

Exhibit A – Solar Power Purchase Agreement and Site Lease Agreement.

Exhibit B – Sun Tribe’s Best and Final Offer dated November 25, 2019.

Exhibit C – Sun Tribe’s Original Proposal dated October 17, 2019.

Exhibit D – Addendum No. 2 dated September 19, 2019.

Exhibit E – Addendum No. 1 dated September 19, 2019.

Exhibit F – Questions and Answers dated October 3, 2019.

Exhibit G – RFP No. 19-1919-9JOK dated September 13, 2019.

- (2) **Compensation** – As applicable, the Henrico and HCPS will pay Sun Tribe compensation as set forth in any applicable PPA.
- (3) **Four Initial Sites** – As described in the RFP, Sun Tribe will initially compete solar installations at four sites (Henrico: Public Safety Building; HCPS: New J.R. Tucker High School, New Highland Springs High School, and Holladay Elementary School Expansion) (the “Four Sites”). Sun Tribe and Henrico or HCPS, as applicable, will enter into PPAs for each of the Four Sites. As of the date of this Agreement, construction at each of the Four Sites is not complete. Sun Tribe acknowledges that its solar installation at one or more of the Four Sites (i) may be delayed if construction delays arise or (ii) may be impossible if there is a casualty event at one of the Four Sites.
- (4) **New Sites** – In addition to the four sites the County identified in the RFP, the County may request Sun Tribe to identify and evaluate other prospective sites upon the County’s request as described in the Agreement Documents (each, a “New Site”). Upon the County’s request, Sun Tribe will perform a solar feasibility study and cash flow analysis for each New Site as described in the Agreement Documents. If the County opts to proceed with a New Site, Sun Tribe will offer pricing equal to or less than the pricing listed in the table below. In its discretion, Sun Tribe will take the conditions and characteristics of the New Site into consideration in determining whether to offer pricing less than the pricing listed below.

Annual Escalator	Type of New Site	Year 1 Electricity Price
0%	Carport	\$0.143/kWh
	Rooftop	\$0.106/kWh
	Ground Mount	\$0.104/kWh
1%	Carport	\$0.129/kWh
	Rooftop	\$0.097/kWh
	Ground Mount	\$0.095/kWh
2.5%	Carport	\$0.113/kWh
	Rooftop	\$0.086/kWh
	Ground Mount	\$0.085/kWh

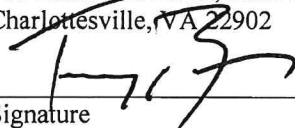
- (5) **Term** – The Agreement term shall be from the Effective Date through a period of one (1) year with four (4) one (1) year renewal options which the County may exercise in its sole discretion. Sun Tribe shall provide the County with at least ninety (90) days prior written notice in the event Sun Tribe elects to not seek renewal. At any time during the term of this Agreement (including any renewals), the County may enter into additional PPAs with terms not to exceed 30 years. The expiration of this Agreement will not affect the validity of any PPAs entered into while this Agreement is in effect. The terms and conditions of the Agreement Documents will survive expiration or termination of this Agreement and will continue to apply to any PPAs duly executed while this Agreement is in effect.
- (6) **Cooperative Contract** – Pursuant to Section V(FF) of the RFP, this Agreement is a cooperative contract. Any public body in the Commonwealth of Virginia (a “Public Body”) may request Sun Tribe to perform the services described in Section 4 above and enter into PPAs with terms of up

to 30 years while this Agreement is in effect. A Public Body may, but is not required to, execute any contract document in order for Sun Tribe to perform a solar feasibility study and cash flow analysis for a prospective New Site. Upon the Public Body's request, Sun Tribe will provide a certificate of insurance to the Public Body naming it as an additional insured before performing any work on its site. The pricing set forth in any resulting PPA will be subject to Section 4 above. With Sun Tribe's consent, a Public Body may propose immaterial changes to the PPA (Exhibit A) to accommodate the Public Body's local policy or practice. Unless the Public Body and Sun Tribe agree otherwise, venue for disputes shall be deemed to be the state courts of the jurisdiction in which the Public Body is located. If a Public Body enters into one or more PPAs with Sun Tribe pursuant to this Agreement, the term "County" and any other terms unique to Henrico County throughout the Agreement Documents will be interpreted to refer to that particular Public Body unless the context requires otherwise.

- (7) **Sovereign Immunity** – Notwithstanding any contrary language in the Agreement Documents, the County neither waives nor abrogates its sovereign immunity hereunder, in part or in whole, in any manner, under any theory.
- (8) **Merger** – The Agreement Documents represent the entire agreement between the parties and supersede all prior communications and negotiations. This Agreement may be modified only in writing, signed by both the County and Sun Tribe.
- (9) **Severability** – If any provision of the Agreement Documents is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement Documents shall not be affected thereby and each other provision of the Agreement Documents shall be valid and enforceable to the fullest extent permitted by law.
- (10) **Controlling Law and Venue** – The Agreement is made and entered into, and shall be performed, in the County of Henrico, Virginia, and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to conflicts of law principles. Any dispute arising out of the Agreement, its interpretations, or its performance shall be litigated only in Henrico County General District Court or in the Circuit Court of the County of Henrico, Virginia.
- (11) **Claims** – Sun Tribe shall submit any and all claims arising under this Agreement, without exception, in accordance with Va. Code §2.2-4363(C).

WHEREFORE, the parties hereby execute this Agreement as evidenced by the signatures below as of the Effective Date.

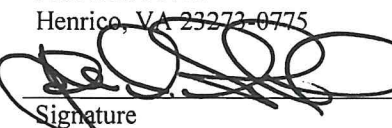
Sun Tribe Solar, LLC
 300 East Main Street, Suite 200
 Charlottesville, VA 22902



 Signature

Taylor Brown
 Chief Technical Officer

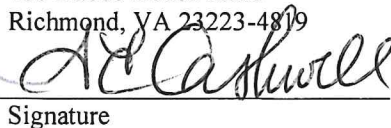
County of Henrico, Virginia
 P.O. Box 90775
 Henrico, VA 23272-0775



 Signature

John A. Vithoukias
 County Manager


**County School Board of
 Henrico County, Virginia**
 406 Dabbs House Road
 Richmond, VA 23223-4819



 Signature

Dr. Amy E. Cashwell
 Superintendent

APPROVED AS TO SUBSTANCE: <u>SEM</u> <small>DIRECTOR, CONSTRUCTION & MAINTENANCE</small>
APPROVED AS TO FORM: <u>SABE RIGHT</u> <small>ASSISTANT COUNTY ATTORNEY</small>
FUNDING APPROVED: <u>[Signature]</u> <small>ASSISTANT SUPERINTENDENT FOR OPERATIONS</small>

APPROVED AS TO FORM

 COUNTY ATTORNEY