

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT
("Agreement"), made as of _____, 2019, by and between the COUNTY OF EL DORADO, a political subdivision of the State of California ("Sublandlord") and REC SOLAR COMMERCIAL CORPORATION, a Delaware corporation duly qualified to conduct business in the State of California ("Subtenant"), and the UNITED STATES OF AMERICA, acting through the Rural Housing Service (the "USDA")

WITNESSETH

A. Sublandlord, as landlord, and the Municipal Asset Finance Corp., as tenant, are parties to a Site Lease dated July 1, 2018 (the "Site Lease"), which was recorded in the Official Records of El Dorado County, California on July 6, 2018 as Document No. 2018-0025969-00 in relation to the property described therein (the "Prime Leased Property").

B. The Prime Leased Property was leased back to Sublandlord, as tenant, by Municipal Asset Finance Corp. pursuant to a Facilities Lease, dated as of July 1, 2018 (the "Facilities Lease"), which Site Lease was recorded in the Official Records of El Dorado County, California on July 6, 2018 as Document No. 2018-0025969-00.

C. Municipal Asset Finance Corp. assigned its rights under the Site Lease and the Facilities Lease to the USDA pursuant to an Assignment Agreement, which was recorded in the Official Records of El Dorado County, California on July 6, 2018 as Document No. 2018-0025968-00. Section 6.7 of the Facilities Lease provides that prior to the Sublandlord leasing or otherwise encumbering the Prime Leased Property, Sublandlord must obtain the consent of the USDA.

D. Sublandlord and Subtenant have entered into a Solar Facility Sublease (the "Sublease") for that certain portion of the Prime Leased Property as described on Exhibit A, attached hereto, and as depicted on the map in Exhibit B, attached hereto (the "Subleased Premises"). The USDA has consented to the Sublease.

E. Subtenant desires that the parties hereto establish certain rights, safeguards, obligations and priorities with respect to their respective interests by means of this Agreement:

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. So long as the Sublease is in full force and effect and Subtenant is not in default under any provision of the Sublease beyond any applicable notice or cure period, and no event has occurred that would entitle Sublandlord to terminate the Sublease or would entitle Sublandlord to dispossess Subtenant (or anyone else with rights in the Subleased Premises pursuant to the terms of the Subleased Premises) thereunder:
 - (a) the right of possession of Subtenant to the Subleased Premises and its rights and privileges under the Sublease, including but not limited to, any renewal or extension rights, shall not be terminated, diminished, interfered with or disturbed by any steps or proceedings taken by the USDA in the exercise of any remedy or rights under the Facilities Lease or related agreements; and

- (b) the Sublease shall not be terminated or affected by said exercise of any remedy or rights provided for in the Facilities Lease or related agreements and Sublandlord and USDA hereby covenant that any sale or repossession by it of the property that is the subject of the Facilities Lease or the Subleased Premises pursuant to the exercise of any rights and remedies under the Facilities Lease or related agreements, or otherwise shall be made subject to the Sublease.
2. USDA acknowledges that all solar panels, transmission facilities and other equipment installed by Subtenant pursuant to the Sublease shall be deemed to be the personal property of Subtenant, shall not be deemed to be fixtures, may be removed by Subtenant at any time, and shall not be subject to any lien or interest of the USDA or under the Facilities Lease.
 3. The agreements herein contained shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, successors-in-interest and assigns.
 4. This Agreement may not be modified other than by agreement in writing signed by the parties hereto or their respective successors-in-interest.
 5. This Agreement may be signed in counterparts.
 6. If any term or provision of this Agreement shall by any event be held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each term and provision hereof shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal as of the day and year first above written.

County of El Dorado

By: _____

Name: Sue Novasel

Title: Chair, Board of Supervisors

ATTEST:

James S. Mitrison

Clerk of the Board of Supervisions

By: _____

Deputy Clerk

United States of America, acting through the Rural Housing Service

By: _____

Name: _____

Title: _____

REC Solar Commercial Corporation

By: _____

Name: Matt Walz

Title: Chief Executive Officer

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)

_____)

COUNTY OF _____)

On _____ before me, _____, (here insert name and title of the officer), personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Exhibit A

Legal Description

A portion of that certain property situated in the County of El Dorado, State of California described below, consisting of approximately 0.75 acres and as depicted on the map in Exhibit B, attached hereto and made a part of this description:

Tract A, as shown on that certain Record of Survey filed in the office of the El Dorado County Recorder on June 14, 2007 in Book 30 of Record of Surveys, Page 31.

[APN 329-240-55]