

CONSENT (NAPA SANITATION DISTRICT)

This CONSENT (this “Consent”), dated as of _____, 2017, is by NAPA SANITATION DISTRICT, a county sanitation district formed under the laws of California (the “Consenting Party”) for the benefit of NAPA SANITATION DISTRICT SOLAR, LLC, a Delaware limited liability company (the “Project Company”), and WELLS FARGO BANK NORTHWEST, NATIONAL ASSOCIATION, as Collateral Agent (together with its successors in such capacity, the “Collateral Agent”) under the Participation Agreement (as defined below).

RECITALS

WHEREAS, in order to consummate the sale and leaseback (the “Transaction”) of an approximately 1,096 kW solar photovoltaic generating facility located in Napa, California (the “Project”), the Project Company has entered into that certain Participation Agreement, dated as of October 7, 2016 (as amended, amended and restated, modified or supplemented from time to time, the “Participation Agreement”), by and among SUNPOWER COMMERCIAL HOLDING COMPANY IV, LLC (the “Lessee”), the Project Company and certain subsidiaries of the Lessee that become parties thereto by joinder from time to time, as the SPE Subsidiaries (collectively, the “SPE Subsidiaries”), RF SP SOLAR TRUST, as Lessor (the “Lessor”), WELLS FARGO DELAWARE TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee, SUNPOWER ASSETCO, LLC, as Pledgor, and REGIONS EQUIPMENT FINANCE, LTD., as Owner Participant, pursuant to which the Project Company and the Lessor agreed to sell and lease various projects, including the Project described in this Consent, on the terms described therein;

WHEREAS, the Consenting Party and the Project Company have entered into those certain agreements set forth on Schedule I hereto (as amended, restated, modified or otherwise supplemented from time to time in accordance with the terms hereof, the “Assigned Agreements”);

WHEREAS, the Lessee, the SPE Subsidiaries and the Lessor have entered into that certain Master Lease Agreement, dated as of October 7, 2016 (as amended, amended and restated, modified or supplemented from time to time, the “Master Lease Agreement”), setting forth certain terms and conditions for a master lease program for certain projects, including the Project described in this Consent, identified more specifically in schedules between SPE Subsidiaries and the Lessor;

WHEREAS, pursuant to the Participation Agreement, the Project Company and the Lessor will enter into, as of the date of this Consent, that certain Bill of Sale, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Bill of Sale”), pursuant to which the Project Company will sell the Project to the Lessor on the terms described therein;

WHEREAS, pursuant to the Master Lease Agreement, the Project Company and the Lessor will enter into, as of the date of this Consent, that certain Lease Schedule dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Lease”), pursuant to which, and pursuant to the terms of the Master Lease

Agreement, the Project Company will lease from the Lessor, operate, use and maintain the Project on the terms described therein;

WHEREAS, the Project Company and the Collateral Agent will enter into that certain Security Agreement (as amended, amended and restated, modified or supplemented from time to time, the “Security Agreement” and, together with the Participation Agreement, the Bill of Sale, the Master Lease Agreement and the Lease, the “Sale Leaseback Documents”), pursuant to which the Project Company will collaterally assign and grant to the Collateral Agent for the benefit of the Lessor a first-priority security interest in all of the Project Company’s right, title and interest in, to and under the Assigned Agreements as collateral security for satisfaction of all obligations of the Project Company under the Sale Leaseback Documents; and

WHEREAS, it is a requirement under the Participation Agreement that the Consenting Party execute and deliver this Consent.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. CONSENT TO ASSIGNMENT.

a. Consent to Assignment. The Consenting Party (i) consents to the pledge and assignment to the Collateral Agent for the benefit of the Lessor of all of the Project Company’s right, title and interest in, to and under the Assigned Agreements and (ii) consents to the direct assignment of the Assigned Agreements to the Lessor under the terms of the Master Lease Agreement and Security Agreement or any Substitute Owner in accordance with Section 1(b) below.

b. Substitute Owner. Notwithstanding anything to the contrary in the Assigned Agreements and without any additional consent of the Consenting Party, the Consenting Party agrees that, if (i) the Collateral Agent notifies the Consenting Party that an event of default under any Sale Leaseback Document has occurred and is continuing and that the Collateral Agent has exercised its rights (A) to have itself or its designee or assignee substituted for the Project Company under any of the Assigned Agreements, (B) to acquire or have its designee or assignee acquire the Project Company or (C) to sell, assign, transfer or otherwise dispose of any Assigned Agreement to a third party or (ii) the Collateral Agent or the Project Company notifies the Consenting Party that the Project Company will return the Project to the Lessor or its designee at the end of the Lease term, then the Collateral Agent, the Collateral Agent’s designee (including the Lessor), or such third party (each, a “Substitute Owner”) shall be substituted for the Project Company under such Assigned Agreement and, in such event, the Substitute Owner shall cure any outstanding uncured defaults by the Project Company under the Assigned Agreements and shall continue to perform its obligations under such Assigned Agreement in favor of the Substitute Owner subject to the terms and conditions hereof and of the Assigned Agreements. A Substitute Owner must be a party that at the time of such assignment (i) has (or whose ultimate parent has) a net worth that is equal to or in excess of twenty-five million dollars (\$25,000,000) and (ii) has engaged with an experienced owner, operator or manager of renewable energy assets for the operation of the Project.

c. Right to Cure. Notwithstanding anything to the contrary contained in any of the Assigned Agreements, the Consenting Party shall not exercise any right it may have under any Assigned Agreement, at law or in equity, to cancel, suspend or terminate any Assigned Agreement or any of its obligations under any Assigned Agreement, as the result of any default or other action or omission of the Project Company in the performance of any of its obligations under any Assigned Agreement, or upon the occurrence or non-occurrence of any event or condition under any Assigned Agreement that would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable the Consenting Party to terminate or suspend its obligations or exercise any other right or remedy under such Assigned Agreement or under applicable law (hereinafter an “Assigned Agreement Default”), until the Consenting Party first gives written notice of such Assigned Agreement Default to the Collateral Agent and affords the Collateral Agent or the Collateral Agent’s designee or assignee a period of at least forty-five (45) days (or, if such default is a payment default, twenty (20) days) to cure such default, commencing from the later to occur of (A) the Collateral Agent’s receipt of such notice and (B) the expiration of any notice periods or cure periods provided for in such Assigned Agreement; provided, however, that (x) the time periods specified in this Section 1(c) for curing an Assigned Agreement Default shall be extended for the time taken to complete foreclosure proceedings, and (y) if any such party is prohibited from curing any such Assigned Agreement Default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding involving the Project Company or the Lessee, then the time periods specified in this Section 1(c) for curing an Assigned Agreement Default shall be extended for the period of such prohibition.

2. PAYMENTS UNDER AND AMENDMENT OF THE ASSIGNED AGREEMENTS

a. Payments. The Consenting Party shall pay all amounts payable by it under the Assigned Agreements, if any, in lawful money of the United States of America, in immediately available funds, directly into the account specified on Exhibit A attached hereto, or to such other person or account as may be specified from time to time by the Collateral Agent to the Consenting Party in writing.

b. No Offset, Etc. All payments required to be made by the Consenting Party under the Assigned Agreements shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever.

c. Amendment of Assigned Agreement. The Consent Party and the Project Company hereby agree that the PPA (as defined in Schedule I attached hereto) is amended as follows:

i. Section 10.4.1 of the PPA is amended by adding the words “, subject to Provider’s approval,” between the words “option and “to renew”.

3. REPRESENTATIONS AND WARRANTIES OF THE CONSENTING PARTY

The Consenting Party makes the following representations and warranties as of the date hereof:

a. Organization; Power and Authority. The Consenting Party has all requisite power and authority to enter into and to perform its obligations under this Consent and the Assigned Agreements, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

b. Execution and Delivery; Binding Agreements. Each of this Consent and each Assigned Agreement is in full force and effect, has been duly executed and delivered on behalf of the Consenting Party and constitutes the legal, valid and binding obligation of the Consenting Party, enforceable against the Consenting Party in accordance with its terms except as the enforceability hereof or thereof may be limited by (i) bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law).

c. No Default or Amendment. Neither the Consenting Party nor, to the best of the Consenting Party's knowledge, any other party to any Assigned Agreement is in default of any of its obligations thereunder. The Consenting Party has no existing claims for damages, indemnity payments or otherwise, or existing counterclaims against the Project Company or offsets or defenses to payments currently due, if any, by the Consenting Party to the Project Company. To the best of the Consenting Party's knowledge, no event or condition exists that would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either the Consenting Party or the Project Company to terminate or suspend its obligations (or the performance of such obligations) under any Assigned Agreement. None of the Assigned Agreements has been amended, modified or supplemented in any manner except as expressly reflected in Schedule I hereto.

d. Representations and Warranties. All representations, warranties and other statements made by the Consenting Party in each Assigned Agreement were true and correct as of the date when made and are true and correct as of the date of this Consent.

e. Indemnity or Warranty Claims. Neither the Project Company nor the Consenting Party has made any indemnity or warranty claim or claims for liquidated damages under any Assigned Agreement.

4. MISCELLANEOUS

a. Applicable Law; Submission to Jurisdiction. a. i. THIS CONSENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA, UNITED STATES OF AMERICA, WITHOUT REFERENCE TO CONFLICTS OF LAWS.

b. Notices. All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the party or parties to whom such notice is addressed, shall be sent by first class mail, by personal delivery, by a nationally-recognized courier service, by facsimile or by email (attached as a portable document file (.pdf) only), and shall be directed as follows:

If to the Consenting Party: Napa Sanitation District
1515 Soscol Ferry Road

Napa, California 94558
Attention: Jeff Tucker
Telephone: (707) 258-6000
Facsimile: (707) 258-6048

If to the Project Company: Napa Sanitation District Solar, LLC
77 Rio Robles
San Jose, California 95134
Attention: General Counsel
Facsimile: (510) 540-0552

If to the Collateral Agent: Wells Fargo Bank Northwest, National Association
299 S. Main Street, 5th Floor
MAC: U1228-051
Salt Lake City, Utah 84111
Attention: Corporate Trust Lease Group
Facsimile: (801) 246-7142

The above parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

c. Amendment, Waiver. Neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the Consenting Party, the Collateral Agent, and, unless an event of default under any Sale Leaseback Document has occurred and is continuing, the Project Company.

d. Counterparts. This Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Consent by facsimile or portable document format (.pdf) shall be effective as delivery of a manually executed counterpart of this Consent.

e. Severability. In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

f. Successors and Assigns. This Consent shall be binding upon the parties hereto and their permitted successors and assigns and shall inure to the benefit of the parties, their designees and their respective permitted successors and assigns; provided, however, that, the Collateral Agent shall have an unlimited right to assign all or any portion of its rights in this Consent to a successor collateral agent without the consent of the Consenting Party; provided further, that neither the Project Company (or its respective successors or assigns) nor the Consenting Party (or its successors or assigns) shall assign any of its interest in this Consent

except in connection with an assignment of its interests in the Assigned Agreements and then only to the same person(s) to which its interest in the Assigned Agreements is so assigned.

g. Survival. All agreements, statements, representations and warranties made by the Consenting Party herein shall be considered to have been relied upon by the Collateral Agent and the Lessor and shall survive the execution and delivery of this Consent.

h. Conflicts. In the event of a conflict between any provision of this Consent and the provisions of the Assigned Agreement, the provisions of this Consent shall prevail.

i. Further Assurances. The parties hereto hereby agree to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be executed by their respective officers as of the date first above written.

NAPA SANITATION DISTRICT,
as Consenting Party

By: _____
Name:
Title:

NAPA SANITATION DISTRICT SOLAR, LLC,
as Project Company

By: SunPower Commercial Holding Company IV, LLC, its
sole member

By: _____
Name:
Title:

WELLS FARGO BANK NORTHWEST, NATIONAL
ASSOCIATION,
as Collateral Agent

By: _____
Name:
Title:

ASSIGNED AGREEMENTS

1. Power Purchase Agreement, dated as of May 28, 2015, by and between Napa Sanitation District Solar, LLC and Napa Sanitation District, as amended by that certain First Amendment to Power Purchase Agreement, dated as of September 1, 2015 and that certain Second Amendment to the Power Purchase Agreement, dated as of _____, 2017 (the “PPA”).

2. Site Lease Agreement, dated as of May 28, 2015, by and between Napa Sanitation District Solar, LLC and Napa Sanitation District, as amended by that certain First Amendment to Site Lease Agreement, dated as of September 1, 2015 and that certain Second Amendment to Site Lease Agreement, dated as of _____, 2017 (the “Site Lease”).

PAYMENT INSTRUCTION

Collateral Agent: Wells Fargo Bank Northwest, N.A.
Bank: Wells Fargo Bank, N.A.
ABA Routing Number: 121000248
Account Number: 77084100
Account Name: Revenue Account