Kopperl, Tx

STATE OF TEXAS	§	**GRANT AGREEMENT BETWEEN THE**
	§	**COUNTY OF BOSQUE AND**
COUNTY OF BOSQUE	§	**TPE WHITNEY SOLAR, LLC**

THIS GRANT AGREEMENT ("***Agreement***") is entered into as of the date of the last signature set forth on the signature page below ("***Effective Date***") between the County of Bosque a political subdivision of the State of Texas ("***COUNTY***"), duly acting herein by and through the Bosque County Commissioners Court ("***Commissioners Court***") for and on behalf of COUNTY and TPE Whitney Solar, LLC, a Delaware Limited Liability Corporation, validly existing, in good standing and authorized to do business under the laws of the State of Texas ("***DEVELOPER***"). The COUNTY and DEVELOPER may be collectively referenced herein as the "Parties" or individually as a "Party".

WITNESSETH:

WHEREAS, pursuant to the authority granted under Article 3, Section 52-a of the Texas Constitution, the Texas Legislature has determined through Section 381.004(b)(1) and (3) of the Texas Local Government Code ("***Code***") that a public purpose is served by a county stimulating business and commercial activity by developing and administering a program for: state and local economic development and for stimulating, encouraging and developing business location and commercial activity in a county, and a county commissioners court may grant public money towards such a program; and

WHEREAS, DEVELOPER intends to construct, operate, and maintain a 10 megawatt solar farm (cumulatively, the *"Project"*) on an approximately 102 acre tract of land as further described in Exhibit "A"; and

WHEREAS, in order to receive the benefits contemplated by this Agreement, DEVELOPER has pledged to develop the Project and has provided a conceptual site plan which is attached as Exhibit "B"; and

WHEREAS, the COUNTY has determined that making an economic development grant to DEVELOPER in accordance with this Agreement will further the objectives of the COUNTY and benefit the COUNTY and its residents and serve the broader purpose of stimulating and encouraging business and commercial activity in the COUNTY, retaining and expanding job opportunities and building the property tax base; and

WHEREAS, pursuant to Section 381.004(c)(1) of the Code, the COUNTY may contract with another entity, including a municipality, non-profit organization, or any other person, to administer a program for local economic development; and

WHEREAS, COUNTY, through approval and execution of this Agreement, hereby establishes a community and economic development program, pursuant to Section 381.004(b) and (h) of the Code, through a grant of public money to DEVELOPER, such grant amount to be based on taxes generated by personal property.

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS

1.01 "*Ad Valorem Taxes*" means only that portion of ad valorem taxes charged, levied, or imposed by for and on behalf of the COUNTY and assessed by the Bosque County Central Appraisal District ("*Appraisal District*") on the Personal Property owned by DEVELOPER and shall specifically exclude taxes levied by the Commissioners Court for and on behalf of any other taxing authority or jurisdiction.

1.02 "*Base Year Value*" for purposes of this Agreement shall mean the assessed value of the Personal Property as of January 1, 2018. Such values shall be determined by the Appraisal District under applicable Texas law and the Appraisal District's determination of value shall be conclusive for purposes of this Agreement.

1.03 "*Business Activities*" for purposes of this Agreement shall mean DEVELOPER'S construction, operation, and maintenance of a 10 megawatt solar farm at the Project site, to include those support service activities necessary to support the business operations of DEVELOPER.

1.04 "*Economic Development Grant*" for purposes of this Agreement shall mean an annual grant of funds equal to the specifically identified percentage of the actual amount of Ad Valorem Taxes received by the COUNTY on the Personal Property exceeding the Base Year Value which the County will then rebate to DEVELOPER in the form of an Economic Development Grant, subject to the terms and conditions herein. The terms, percentage, due dates, and value calculation method of the Economic Development Grants to be provided under this Agreement are more specifically detailed in Article IV.

1.05 "*Economic Development Grant Period*" for purposes of this Agreement shall mean the period beginning on January 1, 2019 and continuing for eight (8) years thereafter through December 31, 2026. The Economic Development Grant Period is established for the purposes of capturing the value of each Economic Development Grant payable under this Agreement and its expiration shall mark the beginning of the Repayment Period (as defined in Article I, Paragraph 1.10 hereof).

1.06 Reserved

1.07 "*Force Majeure*" for purposes of this Agreement shall mean a contingency or cause beyond the control of DEVELOPER, including fire, explosion, or other casualty or accident or natural disaster and not resulting from the intentional act or misconduct of DEVELOPER. The burden to prove the occurrence of an event of Force Majeure shall rest solely with DEVELOPER.

1.08 "*Improvements*" for purposes of this Agreement shall have the meaning assigned by Tax Code §1.04(3).

1.09 "*Real Property*" for purposes of this Agreement shall mean the parcel of land on which the Personal Property is (or will be) located. A legal description of the Real Property is attached as Exhibit "A" and is incorporated herein for all purposes.

1.10 "*Repayment Period*" for purposes of this Agreement shall mean the period beginning upon the expiration of the Economic Development Grant Period and extending for three (3) years thereafter through the end of the Term (as defined in Article III, Paragraph 3.01 hereof).

1.11 "*Personal Property*" shall mean personal property as defined in Section 1.04 of the Texas Tax Code that is located on the Real Property and related to the Project and/or Business Activities.

1.12 The use of the term "days" throughout this Agreement shall refer to calendar days, unless specified otherwise.

ARTICLE II
PURPOSE

2.01 The purpose of this Agreement is to encourage DEVELOPER to undertake development of the Project. The funds provided by way of this Agreement shall be granted as incentive for DEVELOPER to develop the Real Property as more specifically described herein. The provision of the economic benefits contemplated by this Agreement will be a significant contribution toward a broader purpose of stimulating and encouraging business and commercial activity, increasing job opportunities, and building the property tax base.

ARTICLE III
TERM

3.01 The term of this Agreement ("*Term*") shall begin on the Effective Date and continue through December 31, 2030 (a period which includes the Economic Development Grant Period and Repayment Period), unless otherwise terminated on an earlier date in accordance with the terms of this Agreement.

ARTICLE IV
ECONOMIC DEVELOPMENT GRANTS

4.01 Subject to DEVELOPER's continued fulfillment of all the terms, conditions, representations and warranties contained in this Agreement, the COUNTY will provide DEVELOPER with up to eight (8) Economic Development Grants, each calculated and payable in accordance with Paragraphs 4.02 and 4.03. The amount of the first Economic Development Grant shall be based on tax year 2018.

4.02 Each of the annual Economic Development Grants to be provided to DEVELOPER pursuant to this Agreement shall be equal to **ONE HUNDRED PERCENT (100%)** of the amount of Ad Valorem Taxes paid on the increase in the assessed value over and above the Base Year Value and which are actually received by the COUNTY on the Personal Property. DEVELOPER must submit an invoice ("*Invoice*") to the COUNTY thirty (30) days prior to each of the payment dates described in Paragraph 4.03. COUNTY will verify

all amounts due (as reflected on the Invoice) with the Appraisal District or other appropriate COUNTY offices and submit the Invoice internally for payment. If a dispute regarding the Invoice amounts arises, the COUNTY's obligation to submit for payment shall be suspended until such dispute is resolved. Notwithstanding the foregoing, the COUNTY's final determination of any amounts due under this Agreement shall be conclusive.

4.03 Each of the annual Economic Development Grants will be due and payable as soon as reasonably practical after July 31st of the calendar year immediately following the calendar year for which the Economic Development Grant becomes due, provided: i) the COUNTY has actually received the Ad Valorem Taxes assessed against the Personal Property for such calendar year and those Ad Valorem Taxes exceed the Base Year Value; and ii) DEVELOPER has submitted the Invoice for payment to the COUNTY. For clarity, if 2019 were to constitute year one of the Economic Development Grant Period, then the first Economic Development Grant would become due on July 31, 2020 and be payable as soon as reasonably practical following such date.

4.04 In the event the DEVELOPER files a protest or contest of the taxation and/or the taxable value of the Personal Property, the COUNTY's obligation to provide an Economic Development Grant for that tax year shall be abated until a final determination has been made of such protest or contest. In the event DEVELOPER files any protest or motion with the Appraisal District or otherwise contests the taxation of and/or the taxable value of the Personal Property which results in a final determination that changes the taxable value or tax liability after an Economic Development Grant has been paid for such tax year, the Economic Development Grant for that tax year shall be adjusted accordingly (either increased or decreased as necessary) on the following Economic Development Grant payment date. If there are no further Economic Development Grants to be paid, then the Party owed an adjustment must be paid directly by the other Party.

4.05 Notwithstanding anything in this Agreement to the contrary, the Economic Development Grants provided to DEVELOPER pursuant to this Agreement will be paid solely from lawfully available funds that have been appropriated by the COUNTY. Under no circumstances will the COUNTY's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the COUNTY has no obligation or liability to pay any Economic Development Grant unless DEVELOPER has actually paid the Ad Valorem Taxes assessed against the Personal Property.

4.06 None of the COUNTY's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution. Further, the COUNTY shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by DEVELOPER.

4.07 DEVELOPER agrees that during the Term of this Agreement it shall not:

(a) Discontinue, cease or significantly reduce ("***Cessation***") its Business Activities on the Real Property for a period of one hundred and twenty (120) days for any reason,

excepting a Force Majeure event. Should such a Cessation of Business Activities occur, the COUNTY's determination of the date of Cessation shall be conclusive unless DEVELOPER presents credible evidence to clearly indicate an alternate date; or

(b) Utilize a significant portion of the Real Property for any purpose other than the Business Activities for a period of one hundred and twenty (120) days, unless prior written consent has been obtained from Commissioners Court, provided however, that the existing single-family structure on the Real Property may continue to be used for single-family purposes.

4.08 DEVELOPER agrees to pay, before the delinquency date, all of its Ad Valorem Taxes due with respect to any property located in Bosque County. This provision shall not be interpreted as a limitation or prohibition on DEVELOPER'S right to protest and/or contest appraisals on any property located in Bosque County.

4.09 DEVELOPER understands and agrees that the Base Year Value, and the tax levy based on said Base Year Value, shall not decrease, but taxes may increase and that the amount of Ad Valorem Taxes paid by DEVELOPER attributable to the Real Property and Personal Property shall not be less than the amount of taxes attributable to the Real Property and Personal Property paid for the tax year this Agreement was executed. However, DEVELOPER shall have the right to protest and/or contest appraisals over and above the Base Year Value.

4.10 DEVELOPER agrees to furnish the Appraisal District with such information as the Appraisal District determines is necessary for appraisal purposes, as well as any accounting or tax records deemed necessary by the Appraisal District for that purpose, excepting confidential and internal partnership documents of DEVELOPER.

4.11 DEVELOPER agrees to maintain the Real Property and Personal Property in good repair and condition during the Term.

ARTICLE V
CAPITAL INVESTMENT COMMITMENTS

5.01 The Economic Development Grants provided to DEVELOPER pursuant to this Agreement are conditioned on DEVELOPER complying with the capital investment commitments described in this Article V.

5.02 DEVELOPER agrees that its capital investment in the Real Property, Personal Property and public improvements located adjacent to the solar facility on or near the Real Property (all improvements collectively part of the "Project") over and above the Base Year Value is anticipated to be approximately FIFTEEN MILLION DOLLARS ($15,000,000.00), and shall in no event be in an amount less than FOURTEEN MILLION DOLLARS ($14,000,000.00). Construction at the Project site must begin on or before October 1, 2017 and all of the capital investments contemplated by this Paragraph 5.02 must be substantially complete on or before January 31, 2018, subject to Force Majeure.

5.03 DEVELOPER agrees that any improvements made or construction of additional Improvements on the Real Property shall comply with:

(a) all applicable building codes and ordinances, including but not limited to flood, subdivision, building, electrical, plumbing, fire, and life safety codes and ordinances, as amended; and

(b) all applicable city, county, state, and federal laws, rules, regulations, statutes, ordinances, orders, and codes, as amended.

ARTICLE VI
GOODWILL BENEFITS

6.01 DEVELOPER, as an Economic Development Grant recipient, will make a good faith effort to provide goodwill benefits to the COUNTY community. These goodwill benefits may include completed, current or planned benefits which can be in-kind donations, monetary donations or service donations to local non-profits, community organizations, educational institutions or national organizations directly assisting citizens of the COUNTY.

ARTICLE VII
REPRESENTATIONS OF DEVELOPER

7.01 DEVELOPER represents that the execution and performance of this Agreement has been duly authorized by its governing authority and does not require the consent or approval of any other person which has not been obtained. Additionally, the individual executing this Agreement on behalf of DEVELOPER represents, warrants, assures and guarantees that he or she has full legal authority to execute this Agreement on behalf of DEVELOPER and to bind DEVELOPER to all terms, performances and provisions herein contained. In the event that a dispute arises as to the legal authority of either DEVELOPER, or the person signing on behalf of DEVELOPER, to enter into this Agreement, COUNTY shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement.

7.02 DEVELOPER represents that the Project site will be utilized only for the Business Activities described in Article I, Paragraph 1.03, provided, however, the existing single family residence located on the Property may continue to be used for single family residential purposes. DEVELOPER agrees that any change in its Business Activities must have the prior approval (such approval not to be unreasonably withheld or delayed) of the Commissioners Court.

7.03 DEVELOPER represents that there is no litigation pending or threatened against either it or any of its affiliates for any violations under the Occupational Safety and Health Act (29 U.S.C. §§651, et seq.), and agrees to provide COUNTY with notice of such actions if discovered subsequent to execution of this Agreement.

7.04 DEVELOPER warrants that it will conduct its Business Activities in accordance with all applicable federal, state and local laws.

7.05 DEVELOPER represents that no interest in the Real Property or Personal Property related to this Agreement is presently held by or leased to, and warrants that it shall not sell or lease an interest in such property to, a member of the Commissioners Court or any other officer or employee of COUNTY, so long as this Agreement is in effect. The foregoing limitation shall not apply to tenant leases for rental units entered into by DEVELOPER in the ordinary course of business so long as DEVELOPER does so at market rates and on terms and conditions which are equal to those terms and conditions contained in tenant leases entered into by tenants not belonging to the above described groups.

ARTICLE VIII
DEFAULT, TERMINATION, AND REPAYMENT OF GRANT

8.01 During the Term, should COUNTY determine that DEVELOPER has failed to comply with any term or condition of this Agreement, excepting a Force Majeure event, or if any representation or warranty made by DEVELOPER to COUNTY in this Agreement is false or misleading in any material respect (each, a "***Default***"), then COUNTY may declare such Default and terminate this Agreement in accordance with the procedure described herein. If COUNTY provides DEVELOPER with written notice of a Default(s) ("***Default Notice***"), and the Default(s) as identified in the Default Notice is not cured within one hundred and twenty (120) days from the date the Default Notice is sent ("***Cure Period***"), then this Agreement shall automatically terminate effective as of the date of the expiration of the Cure Period ("***Termination Date***"). COUNTY may, in its sole discretion, extend the Cure Period if DEVELOPER commences the cure within the Cure Period and is diligently pursuing such cure. In the event of a termination of this Agreement pursuant to this Paragraph 8.01, DEVELOPER agrees to repay the COUNTY a specified percentage of the value of all Economic Development Grants then paid to DEVELOPER in accordance with the Repayment Schedule set out in Paragraph 8.02 below.

8.02 The amount of the Economic Development Grants to be repaid by DEVELOPER shall be determined by multiplying the total value of all Economic Development Grants as received by DEVELOPER by the applicable percentage, based on the calendar year in which the Default Notice resulting in termination of this Agreement is sent as follows:

REPAYMENT SCHEDULE	
Year in which Default Notice Resulting in Termination is Sent	**Total Value of all Economic Development Grants Received Shall be Multiplied by**
During the Economic Development Grant Period	100%
Year 1 of the Repayment Period	75%
Year 2 of the Repayment Period	50%
Year 3 of the Repayment Period	25%

8.03 DEVELOPER agrees that any amounts which become due and owing under this Article VIII shall be paid to COUNTY within one hundred and twenty (120) days after the Termination Date. It is not, and shall not be construed as, a waiver if COUNTY fails to declare immediately a Default, or delays in taking any action with respect to a Default, or fails to take any action with respect to a Default. Additionally, the remedies contained herein are non-exclusive, and COUNTY shall have any and all remedies it may be entitled to in law or in equity. The exercise of any remedy by COUNTY shall not be deemed as a waiver of any other remedy to which COUNTY may be entitled.

ARTICLE IX
ASSIGNMENT

9.01 No legal or business entity other than DEVELOPER shall be entitled to receive the benefit of the Economic Development Grants provided under this Agreement, including any entity resulting from a merger, reorganization, or any other form of business combination involving DEVELOPER, without the prior written consent of COUNTY, acting by and through the Commissioners Court (such consent not to be unreasonably withheld, conditioned, or delayed). In addition, this Agreement shall not be assigned by DEVELOPER to any other legal entity without the prior written consent of COUNTY (such consent not to be unreasonably withheld, conditioned, or delayed). Any attempted transfer of the rights and responsibilities under this Agreement or the assignment of this Agreement without prior approval of COUNTY (such approval not to be unreasonably withheld, conditioned, or delayed), acting by and through the Commissioners Court, shall be void and this Agreement shall terminate, triggering the repayment provisions of Article VIII.

9.02 In the event of a proposed assignment by DEVELOPER, the assignee, or the assignee's legal representative, must execute a written assignment (approved in writing by both DEVELOPER and COUNTY as parties to the assignment document) agreeing to assume, perform, and be bound by the covenants, obligations, and agreements contained in this Agreement as a condition of the assignment becoming effective.

ARTICLE X
NOTICES

10.01 All notices provided to be given under this Agreement must be in writing, and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid, and addressed to the proper Party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith. All notices given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to COUNTY: Bosque County Judge
110 South Main, Room 100
Meridian, Texas 76665

If to DEVELOPER: TPE Whitney Solar, LLC
747 S Corona St., Suite 100
Denver, CO 80209

with a copy to: Kaufman & Killen, Inc.
100 West Houston Street, Suite 1250
San Antonio, Texas 78205

ARTICLE XI
SEVERABILITY

11.01 In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word contained in this Agreement is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In such event, there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal, and enforceable to effectuate the purpose of this Agreement.

ARTICLE XII
RELATIONSHIP OF PARTIES

12.01 Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third-party as creating the relationship of principal and agent, employer-employee, partners, joint ventures or any other similar such relationship between the Parties and DEVELOPER has complete control of, and sole right to control, the performance of all work performed in connection with the Business Activities of DEVELOPER.

ARTICLE XIII
APPLICABLE LAW

13.01 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles that would require the application of the laws of any other state. Venue for any action brought hereunder (including any action in federal court) will be exclusively in Bosque County, Texas.

ARTICLE XIV
INCORPORATION OF OTHER DOCUMENTS

14.01 The following exhibits are attached hereto and incorporated herein for all purposes:

Exhibit "A" Legal Description of the Real Property

Exhibit "B" Conceptual Project Site Plan

ARTICLE XV
AMENDMENT OF DOCUMENTS

15.01 No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the Parties hereto.

ARTICLE XVI
PRIOR AGREEMENTS SUPERSEDED

16.01 This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreements between the Parties respecting the subject matter within.

ARTICLE XVII
LEGAL EXPENSES

17.01 DEVELOPER agrees to reimburse the COUNTY up to $15,000.00 for the expense of retaining an attorney to advise COUNTY regarding entering into this Agreement, such reimbursement to be made no later than sixty (60) days following COUNTY'S submission of an invoice to DEVELOPER showing the documented expenses.

ARTICLE XVIII
CERTIFICATION

18.01 DEVELOPER, by execution of this Agreement and in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any undocumented workers at the Project site during the Term of this Agreement. If DEVELOPER is convicted of a violation under 8 U.S.C. Section 1324a (f), then this Agreement shall terminate without necessity of the Cure Period, and DEVELOPER shall repay the COUNTY all of the Economic Development Grant funds DEVELOPER has received under this Agreement. The COUNTY shall provide written notice to DEVELOPER of such a breach ("*Violation Notice*") and within one hundred twenty (120) days after the Violation Notice is sent, DEVELOPER shall repay the COUNTY all of the Economic Development Grant funds DEVELOPER has received under this Agreement with interest to be calculated in accordance with the money judgment rate set forth in Section 304.003 of the Texas Finance Code, as may be amended from time to time, from the date of the expiration of the one hundred twenty (120) day period following the Violation Notice referenced above until paid. The COUNTY, in its sole discretion, may extend the period for repayment set forth herein. In addition, DEVELOPER agrees to pay all costs and expenses, including attorney's fees, incurred by the COUNTY in enforcing this provision.

ARTICLE XIX
COUNTERPARTS; DELIVERY BY FACSIMILE OR ELECTRONIC MAIL

19.01 This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument. This Agreement may be executed in any number of counterparts and by

different parties in separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic mail shall be as effective as delivery of a manually executed counterpart of this Agreement, except that any party delivering an executed counterpart of this Agreement by facsimile or electronic mail also must deliver a manually executed counterpart of this Agreement. Notwithstanding the foregoing, failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

ARTICLE XX
COMMISSIONERS COURT AUTHORIZATION

20.01 This Agreement was approved by Order of the Commissioners Court dated June 26, 2017 authorizing the County Judge to execute this Agreement on behalf of COUNTY. The Economic Development Grant provided pursuant to this Agreement is expressly subject to the fulfillment by DEVELOPER of all of the terms and conditions described herein.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals effective this 26 day of June, 2017.

COUNTY OF BOSQUE

By: _____
DON POOL
County Judge

ATTEST:

_____
NATALIE KOEHLER
County Attorney

TPE WHITNEY SOLAR, LLC
a Delaware Limited Liability Corporation

By: _____
JARED SCHOCH
Member & Authorized Representative

Date: 7-3-17

EXHIBIT "A"

LEGAL DESCRIPTION OF THE REAL PROPERTY

PROPERTY DESCRIPTION

A PARCEL OF LAND SITUATED IN THE A.P. THOMPSON SURVEY ABSTRACT 798, COUNTY OF BOSQUE, STATE OF TEXAS, SAID PARCEL OF LAND IS A PART OF THAT CERTAIN 47 1/2 ACRE FIRST TRACT AND 49 ACRE SECOND TRACT DESCRIBED IN A DEED FROM H.G. BRADSHAW ET UX, LILLIAN BRADSHAW TO J.C. STAFFORD ET UX, CECILEEN STAFFORD, RECORDED IN VOLUME 207, PAGE 470 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 5/8 INCH IRON ROD WITH A RED PLASTIC CAP STAMPED "INCE #5175" ON THE NORTH EDGE OF COUNTY ROAD 1145 AT ITS INTERSECTION WITH THE CENTER OF RAYMOND CREEK, FOR THE NORTHEAST CORNER OF THAT CERTAIN 21.342 ACRE TRACT ONE DESCRIBED IN A DEED TO SAMMIE LILLY RECORDED IN VOLUME 511, PAGE 652 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS, FOR THE SOUTHEAST CORNER OF THAT CERTAIN 68.015 ACRE TRACT DESCRIBED IN A DEED TO JENNIFER TEAGUE RECORDED IN VOLUME 543, PAGE 581 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS AND FOR THE SOUTHWEST CORNER OF SAID SECOND;

THENCE ALONG THE CENTER OF SAID RAYMOND CREEK THE FOLLOWING SIXTEEN (16) COURSES:

1) NORTH 17°30'16" WEST, A DISTANCE OF 144.31 FEET;
2) NORTH 47°55'19" WEST, A DISTANCE OF 88.71 FEET;
3) NORTH 23°33'56" WEST, A DISTANCE OF 54.45 FEET;
4) NORTH 02°57'15" EAST, A DISTANCE OF 40.01 FEET;
5) NORTH 24°59'34" WEST, A DISTANCE OF 67.76 FEET;
6) NORTH 56°58'29" WEST, A DISTANCE OF 115.97 FEET;
7) NORTH 72°18'55" WEST, A DISTANCE OF 50.83 FEET;
8) NORTH 41°26'46" WEST, A DISTANCE OF 48.70 FEET;
9) NORTH 56°26'20" WEST, A DISTANCE OF 47.33 FEET;
10) SOUTH 74°06'37"WEST, A DISTANCE OF 29.69 FEET;
11) NORTH 77°19'33" WEST, A DISTANCE OF 71.86 FEET;
12) NORTH 66°04'24" WEST, A DISTANCE OF 215.48 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 68.015 ARCE TEAGUE TRACT AND FOR THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO BROOKS D. BENTLEY RECORDED IN VOLUME 295, PAGE 43 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS;
13) NORTH 26°12'28" WEST, A DISTANCE OF 90.77 FEET;
14) SOUTH 81°40'17" WEST, A DISTANCE OF 44.52 FEET;
15) NORTH 42°02'06" WEST, A DISTANCE OF 197.57 FEET,
16) NORTH 26°16'26" WEST, A DISTANCE OF 219.13 FEET FOR THE SOUTHWEST CORNER OF THAT CERTAIN 108.04 ACRE TRACT DESCRIBED IN A DEED TO TRINITY MATERIALS INCORPORATED RECORDED IN VOLUME 461, PAGE 631 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS, FOR THE NORTHWEST CORNER OF SAID FIRST TRACT, BEING A SET #5 REBAR WITH A YELLOW PLASTIC CAP STAMPED "STAMPADOS RPLS 5393";

THENCE DEPARTING SAID CENTER OF RAYMOND CREEK AND ALONG THE SOUTHERLY LINE OF SAID 108.04 ACRE TRINITY TRACT AND NORTHERLY LINE OF SAID FIRST TRACT, NORTH 57°36'57" EAST, A DISTANCE OF 3120.30 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 108.04 ACRE TRINITY TRACT AND INSIDE CORNER OF SAID FIRST TRACT BEING A FOUND 5/8 INCH IRON ROD WITH AN ALUMINUM CAP STAMPED "VAUGHN SURVEYOR #1807";

THENCE ALONG THE EASTERLY LINE OF SAID 108.04 ACRE TRINITY TRACT, NORTH 32°03'39" WEST, A DISTANCE OF 824.00 FEET, FOR AN INSIDE CORNER OF SAID 108.04 ACRE TRINITY TRACT, FOR THE MOST NORTHERLY NORTHWEST CORNER OF SAID FIRST TRACT, BEING A SET 5 REBAR WITH A YELLOW PLASTIC CAP STAMPED "STAMPADOS RPLS 5393"

THENCE ALONG THE SOUTHERLY LINE OF SAID 108.04 ARCE TRINITY TRACT AND THE PROLONGATION THEREOF, NORTH 62°35'43" EAST, A DISTANCE OF 176.76 FEET FOR THE NORTHWEST CORNER OF THAT CERTAIN 69.5 ACRE TRACT DESCRIBED IN A DEED TO DAVID C HACKLER ET UX, RECORDED IN VOLUME 397, PAGE 687 OF THE OFFICIAL PUBLIC RECORDS OF BOSQUE COUNTY, STATE OF TEXAS, BEING A SET #5 REBAR WITH A YELLOW PLASTIC CAP STAMPED "STAMPADOS RPLS 5393", SAID POINT BEING SOUTH 72°27'00" WEST, A DISTANCE OF 7.52 FEET FROM A FOUND 5/8 IRON ROD WITH AN ILLEGIBLE ALUMINUM CAP (FOR REFERENCEONLY);

THENCE ALONG THE WEST LINE OF SAID 69.5 ACRE HACKLER TRACT AND THE EAST LINES OF SAID FIRST TRACK AND SECOND TRACT, SOUTH 31°52'06" EAST, A DISTANCE OF 2246.54 FEET TO THE NORTH LINE OF SAID COUNTY ROAD 1145, FOR THE SOUTHWEST CORNER OF SAID 69.5 HACKLER TRACT AND FOR THE SOUTHEAST CORNER OF SAID SECOND TRACT, BEING A FOUND 1/2 IRON ROD WITH A RED PLASTIC CAP STAMPED "RPLS 5695";

THENCE ALONG THE NORTH LINE OF SAID COUNTY ROAD 1145 AND THE SOUTH LINE OF SAID SECOND TRACT THE FOLLOWING THREE (3) COURSES:

1) SOUTH 58°49'53" WEST, A DISTANCE OF 534.83 FEET TO A FOUND 5/8 INCH IRON ROD;
2) SOUTH 81°49'45" WEST, A DISTANCE OF 145.97 FEET TO A SET #5 REBAR WITH A YELLOW PLASTIC CAP STAMPED "STAPADOS RPLS 5393;
3) SOUTH 57°26'02" WEST, A DISTANCE OF 2319.21 FEET TO THE **POINT OF BEGINNING.**

CONTAINS 4,465,372 SQUARE FEET OR 102.511 ACRES, MORE OR LESS.

EXHIBIT "B"

CONCEPTUAL PROJECT SITE PLAN

PROPERTY LINE
50' SET BACK ALL SIDES
BLUE LINE STREAM
50' SET BACK
FLOOD ZONE
PIT TO NEW THREE PHASE DISTRIBUTION LINE
ALONG ROAD 1145 POSSIBLY OVERBUILD EXISTING LINE
PIPELINE
EXISTING HOME
NO SETBACK
BLUE LINE STREAM
50' SET BACK
Google earth
TurningPoint Energy
A.1

CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT, dated as of November ___, 2017 (this "Consent"), is entered into by and among the **COUNTY OF BOSQUE**, a political subdivision of the State of Texas ("Contracting Party"), **SEMINOLE FUNDING RESOURCES, LLC**, a Delaware limited liability company ("Lender"), and **TPE WHITNEY SOLAR, LLC**, a Delaware limited liability company ("Borrower").

RECITALS

A. Concurrently with the execution hereof, Lender and Borrower have entered into a construction loan agreement (together with all supplements, exhibits and amendments thereto, referred to as the "Loan Agreement"), pursuant to which Lender has agreed to extend to Borrower a loan (the "Loan") for the purpose of financing certain costs of developing and constructing a solar energy project located in Kopperl, Bosque County, Texas (the "Project").

B. Contracting Party and Borrower have entered into that certain Grant Agreement dated July 3, 2017 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Assigned Agreement").

C. Pursuant to an Assignment of Agreements executed by Borrower to and for the benefit of Lender (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Assignment"), Borrower has agreed, among other things, to assign, as collateral security for its obligations under the Loan Agreement and related documents, all of its right, title and interest in, to and under the Assigned Agreement to Lender.

D. It is a requirement under the Loan Agreement that Contracting Party and Borrower execute and deliver this Consent.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree, notwithstanding anything in the Assigned Agreement to the contrary, as follows:

1. Assignment and Agreement

(a) Consent to Assignment

Contracting Party (a) is hereby notified that Lender has made the extensions of credit contemplated by the Loan Agreement, (b) consents to the collateral assignment under the Assignment of all of Borrower's right, title and interest in, to and under the Assigned Agreement, (collectively, the "Assigned Interests") and (c) acknowledges the right of Lender,

in the exercise of Lender's rights and remedies pursuant to the Assignment, upon written notice to Contracting Party, to make all demands, give all notices, take all actions and exercise all rights of Borrower under the Assigned Agreement.

(b) **Subsequent Owner**

Contracting Party agrees that, if Lender notifies Contracting Party in writing that, pursuant to and in accordance with the Assignment, it has assigned, foreclosed or sold the Assigned Interest, then (A) Lender or its successor, assignee and/or designee, or any purchaser of the Assigned Interests (a "Subsequent Owner") shall be substituted for Borrower under the Assigned Agreement and (B) Contracting Party shall (1) recognize Lender or the Subsequent Owner, as the case may be, as its counterparty under the Assigned Agreement and (2) continue to perform its obligations under the Assigned Agreement in favor of Lender or the Subsequent Owner, as the case may be; provided that Lender or such Subsequent Owner, as the case may be, has assumed in writing all of Borrower's rights and obligations (including, without limitation, the obligation to cure any then existing payment and performance defaults, but excluding any obligation to cure any then existing performance defaults which by their nature are incapable of being cured) under the Assigned Agreement.

(c) **Right to Cure**

If Borrower defaults in the performance of any of its obligations under the Assigned Agreement, or upon the occurrence or non-occurrence of any event or condition under the Assigned Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Contracting Party to terminate or suspend its performance under the Assigned Agreement (each hereinafter a "default"), Contracting Party shall not terminate or suspend its performance under the Assigned Agreement until it first gives written notice of such default to Lender and affords Lender a period of at least 30 days (or if such default is a nonmonetary default, such longer period as may be required so long as Lender has commenced and is diligently pursuing appropriate action to cure such default within such longer period but, subject to clauses (a) and (b) below, in no event more than one hundred eighty (180) days from receipt of such notice to cure such default) from receipt of such notice to cure such default; provided, however, that (a) if possession of the Project is necessary to cure such nonmonetary default and Lender has commenced foreclosure proceedings, whether judicial or non-judicial through exercise of a power of sale or otherwise, Lender shall be allowed a reasonable time to complete such proceedings within such longer period, and (b) if Lender is prohibited from curing any such nonmonetary default by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Borrower, then the time periods specified herein for curing a nonmonetary default shall be extended for the period of such prohibition. In the event the Lender does not cure any such default within such applicable extended cure period, Contracting Party shall continue to have all rights and remedies afforded to it under the Assigned Agreement.

(d) Delivery of Notices

Contracting Party shall deliver to Lender, concurrently with the delivery thereof to Borrower, a copy of each notice, request or demand given by Contracting Party to Borrower pursuant to the Assigned Agreement relating to (i) a default by Borrower under the Assigned Agreement and (ii) any matter that would require the consent of Lender pursuant to Section 1(d) of this Consent. Failure of Contracting Party to provide a copy of any such notice, request or demand or any other notice specified in Section 1(c) hereof to Lender shall not constitute a breach of this Consent and Lender agrees that Contracting Party shall have no liability to Lender for such failure; provided, however, that no cancellation, suspension or termination of the Assigned Agreement by Contracting Party, or any other actions taken by Contracting Party under the Assigned Agreement, shall be binding upon Lender or Borrower without such notice, request or demand (as applicable), if applicable under Section 1(c), the opportunity to cure during the applicable extended cure period specified in Section 1(c) and, if applicable under Section 1(d), consent of Lender.

(e) Transfer

In the event Lender or its designee is substituted for Borrower under the Assigned Agreement pursuant to Section 1(b) or a new agreement entered into pursuant to Section 1(e), then, subsequent to such substitution, Lender shall have the right to assign all of its interest in this Consent and in the Assigned Agreement or such new agreement to any entity; provided that such assignee assumes in writing the obligations of Lender under this Consent or the Assigned Agreement or such new agreement, as applicable. Upon such assignment, Lender shall be released from any further liability under the Assigned Agreement or such new agreement. Contracting Party further acknowledges and agrees that Lender shall have the right, during the term of this Consent, and with or without the occurrence of a Borrower default under the Assigned Agreement, to assign, transfer, and/or participate the Loan, the Loan Agreement, and all related Loan Documents, including this Consent, to an affiliate of Lender; provided that such assignee assumes in writing the obligations of Lender under this Consent. Upon such assignment, Lender shall be released from any further liability under such Assigned Agreement or such new agreement.

2. Miscellaneous

(a) Addresses

Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) sent by overnight express carrier, addressed in each case as follows:

To Lender: Seminole Funding Resources, LLC
c/o Seminole Financial Services
455 North Indian Rocks Road – Suite B

	Belleair Bluffs, Florida 33770 Attn: Tim Fetter
With copy to:	Dykema Gossett PLLC 400 Renaissance Center Detroit, Michigan 48243 Attn: Laura A. Weingartner
To Borrower:	TPE Whitney Solar, LLC c/o ARE RP Ventures, LLC 3414 Peachtree Road, Suite 425 Atlanta, Georgia 30326 Attn: Ms. Lacie Clark
With copies to:	Kowan Cordon The Tower above the Four Seasons 75 Fourteenth Street Suite 2250 Atlanta, Georgia 30309 Attn: Sean C. Honeywill, Esq.
To Contracting Party:	County of Bosque, Texas 110 South Main, Room 100 Meridian, Texas 76665 Attn: Bosque County Judge

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next business day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third business day following the day sent or when actually received.

(b) **Governing Law**

This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, without reference to the choice of law or conflicts of law principles of the State of Texas.

(c) **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.

(d) **Full Force and Effect**

There is no litigation, action, suit, proceeding or investigation pending or (to the best of Contracting Party's knowledge) threatened against Contracting Party before or by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate, could have a material adverse effect on the performance by Contracting Party of its obligations hereunder or under the Assigned Agreement.

(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) **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 Contracting Party, Borrower and Lender.

(g) **Successors and Assigns**

This Consent shall bind and benefit Contracting Party, Lender, and their respective successors and permitted assigns.

(h) **Entire Agreement**

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings between the parties hereto in respect of the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Consent and any such agreement, document or instrument (including, without limitation, the Assigned Agreement), the terms, conditions and provisions of this Consent shall prevail.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto hereby execute this Consent and Agreement as of the day and year first above written.

BORROWER:

TPE WHITNEY SOLAR, LLC, a Delaware limited liability company

By: ARE RP Whitney Solar, LLC, a Georgia limited liability company, its sole member

By: _____
Robin E. Delmer, Executive Director

CONTRACTING PARTY:

COUNTY OF BOSQUE, a political subdivision of the State of Texas

By: _____
Name: _____
Its: _____

Accepted and Agreed to:

SEMINOLE FUNDING RESOURCES, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto hereby execute this Consent and Agreement as of the day and year first above written.

BORROWER:

TPE WHITNEY SOLAR, LLC, a Delaware limited liability company

By: ARE RP Whitney Solar, LLC, a Georgia limited liability company, its sole member

By: _____

Name: _____

Its: _____

CONTRACTING PARTY:

COUNTY OF BOSQUE, a political subdivision of the State of Texas

By: _____
Name: DON L POOL
Its: COUNTY JUDGE

Accepted and Agreed to:

SEMINOLE FUNDING RESOURCES, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto hereby execute this Consent and Agreement as of the day and year first above written.

BORROWER:

TPE WHITNEY SOLAR, LLC, a Delaware limited liability company

By: ARE RP Whitney Solar, LLC, a Georgia limited liability company, its sole member

By: _____
Robin E. Delmer, Executive Director

CONTRACTING PARTY:

COUNTY OF BOSQUE, a political subdivision of the State of Texas

By: _____
Name: _____
Its: _____

Accepted and Agreed to:

SEMINOLE FUNDING RESOURCES, LLC,
a Delaware limited liability company

By: _____

Name: Timothy S. Fetter

Title: Executive Vice President